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Town of North Hempstead
Board of Zoning Appeals
PUBLIC HEARING

Wednesday, May 8, 2024
10:00 a.m.

BOARD MEMBERS PRESENT:

- Leslie Francis, Acting Chairman
- Patricia A. Goodsell, Member
- Daniel Donatelli, Member
- Jay Hernandez, Member

ALSO PRESENT:

- Deborah Algios, Town Attorney
- Virginia Wagner, Secretary
- Steven Perrotta, Planner
- Mariesel Berrios, Stenographer

1 ACTING CHAIRMAN FRANCIS: Would everyone please join
2 Member Goodsell in the Pledge of Allegiance?

3 (WHEREUPON, the Pledge of Allegiance was recited.)

4 ACTING CHAIRMAN FRANCIS: Good morning, everyone. Welcome to
5 the Town of North Hempstead BZA. I'm just going to go over some
6 preliminary matters before we get started. For those of you who
7 haven't been with us before, I'll go through the procedures that we
8 follow.

9 We have a significant number of matters on the Calendar today.
10 The applicant will go first and present their case. If there's
11 anyone who want to speak to the application either for or against,
12 you will have three minutes to do so after the applicant has finished
13 their presentation. I would remind everyone that this is a
14 quasi-judicial proceeding, so we would appreciate it if you keep your
15 conversations to a bare minimum and at a whisper, so it doesn't, you
16 know, it doesn't hamper the court reporter and doesn't hamper us.

17 What else? Oh, phones. Take your phone, put it on silent or
18 vibrate however you make it not ring. And I think that's it.

19 MEMBER GOODSELL: What we do.

20 ACTING CHAIRMAN FRANCIS: Oh, yes.

21 MEMBER GOODSELL: Right?

22 ACTING CHAIRMAN FRANCIS: Yes, so our powers is to -- thank you;
23 to grant the application, deny the application, reserve the
24 application for determination at a later date, or we can continue
25 the application for additional information. Those are the four
26 things that we can do today with regard to your application. And

1 I think with that --

2 MEMBER GOODSSELL: Let's note the absence of the Chairman.

3 ACTING CHAIRMAN FRANCIS: Yes. Our Chairman is not with us
4 today. He has a sickness in the family. Hopefully, he will be back
5 with us next month. We keep him in our prayers until he returns.

6 MEMBER GOODSSELL: Good.

7 SECRETARY WAGNER: Acting Chairman, we have one adjournment
8 today, Appeal #21546, Blue Wave (Wei Yu); 344 Hillside Avenue,
9 Williston Park; Section 9, Block 142, Lot 28; Business-A Zoning
10 District.

11 Variance from 70-103.0 and conditional use 70-126.A to legalize
12 existing work and to construct new interior alterations to convert
13 a former retail space to an existing restaurant (a conditional use)
14 and to legalize a drive aisle that is too narrow. That is adjourning
15 to June 5th.

16 ACTING CHAIRMAN FRANCIS: Okay. So that's on our Commercial
17 Calendar if you are here for that application, it will not be heard
18 today but on June 5th.

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1 SECRETARY WAGNER: The first Appeal, Appeal #21538, Benjamin
2 Brian and Shira Vered Roth; 12 Beverly Road, Port Washington; Section
3 5, Block 20, Lot 7; Residence-A Zoning District.

4 Variances from 70-30.C and 70-31A to construct a foyer and
5 portico too close to the street and to legalize a deck located too
6 close to a side property line and with not enough total (aggregate)
7 side yards.

8 ACTING CHAIRMAN FRANCIS: You've heard Appeal #21538, Benjamin
9 Brian and Shira Vered Roth. Is there anyone interested in the
10 application other than the applicant? Seeing no one, good morning,
11 sir, please give your name and address.

12 MR. CONKLIN: My name is Curtis Conklin, architect. My address
13 is 6270 Northern Boulevard in East Norwich.

14 ACTING CHAIRMAN FRANCIS: Okay. Why don't you tell us a little
15 bit about your application?

16 MR. CONKLIN: My application is to put a portico on an entry
17 foyer that is encroaching on the front yard setback. It's de minimis
18 encroachment. The second part of the application is for an existing
19 deck that is also an encroachment in the side yard.

20 ACTING CHAIRMAN FRANCIS: Okay.

21 MEMBER DONATELLI: Can you give us some specifics? What is the
22 encroachment into the front yard from the vestibule?

23 MR. CONKLIN: It is roughly two feet, and it is -- the idea is
24 to be able to put an aesthetic portico on the front of the foyer,
25 so that we can give the house some depth and some shadow line to the
26 entry of the house.

1 MEMBER DONATELLI: Well, let me give it to you this way. Are
2 you familiar with the Town of North Hempstead regulation that allows
3 for encroachments if they do not exceed 8 feet by 5 feet?

4 MR. CONKLIN: Correct, yes, I do, yes.

5 MEMBER DONATELLI: And does your encroachment exceed 8 feet by
6 5 feet?

7 MR. CONKLIN: It does.

8 MEMBER DONATELLI: So that the 5-foot allowance for the
9 encroachment does not apply.

10 MR. CONKLIN: Correct.

11 MEMBER DONATELLI: Is there a reason why you can't make the
12 encroachment comply with that?

13 MR. CONKLIN: The reason is for, I believe, the amount of room.
14 The house is designed with only 3 feet in front of the stair to the
15 second floor, and this foyer addition is going to give them space
16 for circulation in the house, space for a closet, space for a place
17 to sit as you enter the door, so it's giving them some presence of
18 space at the entry.

19 MEMBER GOODSSELL: Do you mean when you enter the front door
20 now --

21 MR. CONKLIN: It's right -- the stair is right there.

22 MEMBER GOODSSELL: Right there --

23 MR. CONKLIN: Yeah, you walk right into the stairs. It's
24 actually sort of a, you know, it's cumbersome. Circulation is a
25 problem. It's not -- it's just not a comfortable situation. The
26 addition of the foyer and the portico is, you know, it's an aesthetic

1 upgrade to the house, the facade.

2 MEMBER DONATELLI: I did not see any plans for the interior of
3 the portico. I'm not sure if I missed it or it's just not in the
4 plans. What is going to be built inside that vestibule?

5 MR. CONKLIN: A closet and a bench.

6 MEMBER DONATELLI: Do you have that on your plans that were
7 submitted?

8 MR. CONKLIN: Yes, it's on the last page of the plans that were
9 submitted.

10 MEMBER DONATELLI: What page is that?

11 MR. CONKLIN: Oh, A1, I'm sorry. A1.

12 MEMBER DONATELLI: A1?

13 MR. CONKLIN: Yeah, it should be in the lower right corner.

14 MEMBER DONATELLI: Do you have A1?

15 MEMBER HERNANDEZ: The other one is P1.

16 ACTING CHAIRMAN FRANCIS: Yeah, I only have P1.

17 MEMBER HERNANDEZ: We only have P1 on the computer.

18 MEMBER GOODSSELL: Do we have a hard copy?

19 MR. CONKLIN: I have a hard copy, too.

20 MEMBER GOODSSELL: Let's see if it's part of your application.

21 MR. CONKLIN: Sure.

22 SECRETARY WAGNER: Would you like to submit this as Exhibit 1?

23 MR. CONKLIN: Sure.

24 STEVEN PERROTTA: Thank you.

25 MEMBER HERNANDEZ: So you're putting in an enclosed foyer that
26 is -- from D1, I'm reading, okay. And you're saying ten deep.

1 MR. CONKLIN: Overall --

2 MEMBER HERNANDEZ: 12 feet wide.

3 MR. CONKLIN: -- with the portico.

4 MEMBER HERNANDEZ: Okay, with the columns.

5 MR. CONKLIN: Yes.

6 MEMBER HERNANDEZ: And the overhang.

7 MR. CONKLIN: And without the columns, the roof line would have
8 worked, but we want the columns for aesthetic issues. So once we
9 touch the ground, then we, you know, we can't have the encroachment.

10 (WHEREUPON, there was a discussion held amongst the Board
11 Members.)

12 MEMBER GOODSELL: Well, it seems to be upon looking at the
13 property, the whole street is rather privately cute, shaded sort of
14 speak for many of the properties. It seems that many properties
15 including this one, like to kind of shield themselves to the fact
16 that, to my surprise, had two streets. One street to the backyard.
17 One street to the front yard.

18 MR. CONKLIN: Correct.

19 MEMBER GOODSELL: Are there any other houses on the street that
20 have such a portico? I didn't notice them, but again, you see the
21 front and then you see these --

22 MR. CONKLIN: Yeah, it's very hard to see the front of the
23 houses. It's very, very shielded.

24 MEMBER GOODSELL: I'm just gonna go on the Google Earth and see.

25 (WHEREUPON, there was a discussion held amongst the Board
26 Members.)

1 MEMBER DONATELLI: I'm just noticing from the exhibit that you
2 just submitted with Page A1 that had the -- and it's a very small
3 print, but it looks like it protrudes 7 feet, 8.5 inches from the
4 existing facade of the house to the pillars; is that correct?

5 MR. CONKLIN: Yeah, so it's -- we could go 5 feet, but the extra
6 bit for the roof line, which would we have been able to do without
7 columns, but we would like to have the columns.

8 MEMBER DONATELLI: But -- I'm sorry. You would go 5 feet --

9 MR. CONKLIN: There's two setbacks on it. There's one the
10 average setback line, and then one is the primary setback line.

11 MEMBER DONATELLI: Right.

12 MR. CONKLIN: And so the amount that we've gone over is really
13 the overhang of the portico.

14 MEMBER DONATELLI: Right, no, I understand. As one Board
15 Member, my concern is with the fact that it's so large that it does
16 not comply with the 5-foot encroachment, so it makes the encroachment
17 actually worse than it might otherwise be. So if I'm hearing that
18 the applicant is willing to make the encroachment no more than 8 feet
19 by 5 feet, that will go a long way with at least addressing my concern,
20 but if you would please, are you familiar with the Five Factor that
21 you're required to go through?

22 MR. CONKLIN: Yes.

23 MEMBER DONATELLI: Can you run through those, please?

24 MR. CONKLIN: Well, yeah, it's -- okay. Well, I don't believe
25 that the variance would cause an impact on the surrounding
26 properties. You know, it's a de minimis encroachment. I don't

1 think that would have any.

2 MEMBER FRANCIS: Are there other properties with the same
3 configuration in terms of the foyer and the portico?

4 MR. CONKLIN: There are houses that have porticos on the front
5 but there's different setbacks of the houses from the front property
6 line. We have an average setback, and you know, but they're
7 usually -- the ones with the front porticos are a little bit further
8 back.

9 MEMBER GOODSELL: Vice Chairman, Google Earth is taken, there's
10 so much foliage that it's not possible --

11 ACTING CHAIRMAN FRANCIS: To see.

12 MEMBER DONATELLI: I actually drove the area in preparation for
13 today's hearing. I'm very, very familiar with the area. I don't
14 live very far away. I'm just familiar with the area. I did not see
15 any other houses with the similar kind of vestibule and portico, which
16 is not to say that it can't be done, but it is out of context with
17 the other houses in the area. I did not see any other houses in the
18 area that had this. I think this is part of what they call the Eastern
19 Crest neighborhood, and all of those houses were built pretty much
20 by the same developer with the same, you know, two sets of plans.

21 ACTING CHAIRMAN FRANCIS: Yeah.

22 MEMBER DONATELLI: So this was not really in character, but
23 anyway, why don't you continue with the other factors?

24 MR. CONKLIN: Okay. The proposed entry addition portico, I
25 believe from an architectural standpoint, and as an architect that
26 it would bring a higher level of aesthetic to the facade of this house

1 by giving it some depth, giving it some character, and giving it some
2 shadow line. They're, you know, let's see; as far as the deck, the
3 deck is in the existing condition, it's been there for over ten years,
4 and it hasn't been any complaint so far that we know of about the
5 deck. That's an existing condition they inherited when the house
6 was bought, so the existing owner did not do the deck.

7 MEMBER DONATELLI: What is the current side yard encroachment
8 for the deck?

9 MR. CONKLIN: The encroachment is 5.5 feet.

10 MEMBER DONATELLI: So I'm sorry, again, I'm looking at your Page
11 P1.

12 MR. CONKLIN: P1, yes, P1.

13 MEMBER DONATELLI: It's -- it looks like there is 4.3 feet?

14 MR. CONKLIN: That's the remaining. That's the remaining. So
15 the encroachment --

16 MEMBER DONATELLI: Remaining.

17 MR. CONKLIN: Yeah, the encroachment is 5.7 over the sideyard
18 setback line.

19 MEMBER GOODSSELL: The aggregate side yard setback, what's the
20 now current aggregate setback?

21 MR. CONKLIN: The aggregate setback would be 20-foot-7
22 aggregate.

23 MEMBER GOODSSELL: Instead of the required --

24 MEMBER HERNANDEZ: Twenty-one.

25 MR. CONKLIN: Twenty-one.

26 MEMBER DONATELLI: What is the height of the deck?

1 MR. CONKLIN: The deck is -- well it's -- there's an elevation
2 change in the backyard, and the average is 4 feet.

3 MEMBER DONATELLI: Why don't you continue with your Five
4 Factors, please?

5 MR. CONKLIN: Okay. The, you know, the encroachment of the
6 front yard and the deck are -- at least the front yard is a de minimus
7 setback. The sideyard is a little bit more for the deck at 5.7. The
8 physical or environmental conditions of the neighborhood or district
9 will not be impacted negatively. I don't believe so. The owner
10 inherited the deck as part of the, you know, the house that they
11 bought, and the last thing is just, you know, I believe the portico
12 is de minimus as far as the ask.

13 MEMBER DONATELLI: Did I hear you say that the applicant would
14 consider a smaller vestibule?

15 MR. CONKLIN: We would certainly consider it. It's just that,
16 you know, when you think about a portico and the size of a closet
17 then normally in the portico, you know, 6 feet is usually what you
18 would want for the, you know, the entrance for the -- a grand entrance
19 like that to have as far as a coat closet and also a bench. They
20 have dogs and they'd like to be able to take off their shoes and stuff
21 and have like a little bit of space. I can certainly, you know, run
22 it by them, but they really wanted to have that space.

23 MEMBER GOODSSELL: They can --

24 MEMBER HERNANDEZ: Do you not have inside the house what appears
25 to be two coat closets that are being removed right by the entrance,
26 correct? So you're moving it?

1 MR. CONKLIN: We're moving it out because like I said, the stair
2 kind of abuts the front wall of the house, and it's a very
3 uncomfortable circulation issue.

4 MEMBER HERNANDEZ: I'm not questioning the stairs --

5 MR. CONKLIN: Yeah, we are changing --

6 MEMBER HERNANDEZ: If this is drawn to scale, it's not 3 feet.

7 MR. CONKLIN: Right.

8 MEMBER HERNANDEZ: Because it's a lot more than 3 feet if it's
9 drawn to scale. I don't know if it's drawn to scale or not, but you
10 have a closet just to the right of that, and the closet is being
11 removed from the family room side, not from the hallway side.

12 MR. CONKLIN: Right.

13 MEMBER HERNANDEZ: So you're not creating space in your
14 hallway. You're creating space in your other room.

15 MR. CONKLIN: Right, that's correct.

16 MEMBER HERNANDEZ: Okay, so therefore, there really is no
17 need -- you're not improving your work -- your flow inside the
18 cumbersome area by moving your closet outside. You're moving your
19 closet from a side room into the front. Now, adding that closet,
20 it's giving you a 12-foot width in the front to your portico -- oh,
21 I'm sorry, to your cubical that you're building out. It's not a
22 portico. It's the enclosed cubicle. The closet that you're putting
23 on the outside is almost the whole closet that's putting you over
24 the maximum that you're allowed for your encroachment.

25 MEMBER FRANCIS: Right.

26 MEMBER HERNANDEZ: So I don't see how that's helping you.

1 MEMBER DONATELLI: May I suggest this?

2 MR. CONKLIN: Sure.

3 MEMBER DONATELLI: We're trying to help you get to where you
4 want to be, but one of the Factors that we're required to look at
5 as a Board is granting the minimum variance necessary, and frankly,
6 as Mr. Hernandez was kind of intermating, there may be a more
7 efficient way of doing this. If you could bring the enclosed
8 vestibule down to a complaint size of 8 by 5, even if it were to
9 encroach the front yard setback.

10 MEMBER HERNANDEZ: It will be more --

11 ACTING CHAIRMAN FRANCIS: Yeah.

12 MEMBER DONATELLI: It would be a lot easier for us to get to
13 a point where we might say yes. So my suggestion is -- again because
14 we are required to grant a minimum variance necessary, I would ask
15 that the Chairman continue this hearing. Perhaps you can have that
16 conversation with the owners. See if you can reconfigure --

17 MR. CONKLIN: Okay.

18 MEMBER DONATELLI: -- that closest. Bring the enclosed
19 vestibule to a more compliant width and length. Try to get it to
20 8 by 5 so 40 square feet rather than 92 that you're asking for, and
21 then, you know, as one Board Member, I would be much more inclined
22 to grant it.

23 MR. CONKLIN: Okay.

24 MEMBER GOODSELL: Whereas with respect to the deck, it's a
25 substantial piece of property. The aggregate side yard, you know,
26 sits very close to one side. The aggregate side yard is 20.7. The

1 required is 21, so that's less than a foot, so I would be more inclined
2 to move favorably on that. Whether they built it or not. I mean,
3 decks have slipped through for many, many, many years, and I'm sure
4 if they bought it that way, they would like to replace it, so might
5 as well have the application considered. I'm not as concerned about
6 that setback. I would have to agree. We're not an aesthetic board.
7 As absolutely beautiful as this portico looks, we're not considering
8 your house but the neighborhood.

9 MR. CONKLIN: Okay, I understand.

10 ACTING CHAIRMAN FRANCIS: I agree.

11 MEMBER DONATELLI: I'm not concerned with the decking either,
12 but it's the --

13 ACTING CHAIRMAN FRANCIS: It's the portico that we have to focus
14 on.

15 MR. CONKLIN: Okay, all right. Well, I appreciate your time.
16 Thank you.

17 ACTING CHAIRMAN FRANCIS: Thank you.

18 MEMBER DONATELLI: So we'll continue.

19 ACTING CHAIRMAN FRANCIS: Continue, yes.

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1 SECRETARY WAGNER: Next Appeal, Appeal #21539, Wayne King 29
2 Bayview, LLC; 29 Bayview Avenue, Port Washington; Section 5, Block
3 52, Lot 15; Zoned: Residence-A.

4 Variance from 70-100.2(K) to legalize two generators that are
5 located too far away from a home.

6 ACTING CHAIRMAN FRANCIS: You've heard Appeal #21539. Is
7 there anyone interested in the application other than the applicant?
8 Seeing no one, please give your name and address, sir.

9 MR. ALBERTO: Good morning, Chairman and Board Members. John
10 Alberto, architect, 68 Hyland Avenue, Port Washington. I'm here
11 assisting the owners of this property, 29 Bayview, LLC, with this
12 application. One of the owners is here, Mary Bertha if you have any
13 questions.

14 We're here today -- well, it started out as proposed new
15 gas-powered generators. They called it a legalization in the
16 notice. They're supposed to be 5 feet maximum from the house, and
17 they're proposed to 9.83 and 11 feet. So that's what we're here for.
18 Now, they just completed a major renovation to this house, both inside
19 and out. Everything with permits, of course.

20 I'm going to start by showing you a photo of where we would want
21 to permanently place these generators. I have seven copies if that's
22 okay.

23 SECRETARY WAGNER: This will be Exhibit 1.

24 STEVEN PERROTTA: Thank you.

25 MR. ALBERTO: I'll give you a chance to look at that. I'm going
26 to explain why they really have to be placed here. So those are

1 the two generators.

2 MEMBER DONATELLI: The generators are already there; is that
3 correct?

4 MR. ALBERTO: They're there, but they're not connected and
5 working. So this in part, you know, I was their architect on a
6 project. I got a call and they want to put two generators, and I
7 said where do you want to put them? They said, well, right next to
8 the house. I said, well, there are some codes that come into play,
9 and I'll explain those. So this is ultimately where they property
10 should be, but this is a legal two-family, so that's why two
11 generators. I'm going to offer another exhibit of a site plan.

12 SECRETARY WAGNER: Thank you.

13 ACTING CHAIRMAN FRANCIS: Mr. Alberto, notwithstanding that
14 it's a two-family, one generator couldn't handle both levels?

15 MR. ALBERTO: There's two meters, and they act independently.

16 ACTING CHAIRMAN FRANCIS: Oh, okay.

17 MR. ALBERTO: So it would be a very difficult transfer
18 station --

19 ACTING CHAIRMAN FRANCIS: I got you.

20 MR. ALBERTO: -- electrical. So I'm handing out a site plan,
21 and I marked in yellow where the two generators are proposed to be,
22 and if you orient yourself, you'll see Bayview Avenue and Carlton.
23 It's a very large lot. The reason the best place there is because
24 the gas line comes along the driveway to the house. The gasoline
25 is in that area, and the electric panel is in the basement in the
26 northwest corner of the house. So the electric and gas are on that

1 side of the house.

2 But what I want to show you on this map are these little red
3 lines, and those are windows and doors, and there is a building code
4 in New York State that no gas-fire generator could be closer than
5 5 feet to a window because of the gas it omits, and it could be
6 dangerous. When you look around the house, there's nowhere along
7 the west or north side where you can put a generator and comply with
8 that 5-foot to window or door.

9 Furthermore, according to the manufacturer, the direction of
10 the emission should not be to occupy the area. In this case, it's
11 surrounded by a walkway and a patio. So there's really only one place
12 left where these generators can go, and that's where they're
13 proposed. So with that in mind, I'm going to offer one more photo.

14 SECRETARY WAGNER: Thank you.

15 STEVEN PERROTTA: Thank you.

16 MR. ALBERTO: And this is a photomontage. The
17 landscaper -- they're doing landscaping now, and they're proposed
18 to be in some plantings, so this will not be visible from the street.
19 I'm going to go through the five standards quickly.

20 ACTING CHAIRMAN FRANCIS: Before you do that, what is the length
21 of the gas line from the gas source to the generator?

22 MR. ALBERTO: From the street or from --

23 MEMBER HERNANDEZ: You said it's coming up the driveway, right?

24 MR. ALBERTO: Yes.

25 ACTING CHAIRMAN FRANCIS: What is it that?

26 MR. ALBERTO: It's probably around 75 feet if I had to guess.

1 MEMBER HERNANDEZ: Well, you have the kitchen -- I see the
2 kitchen and I'm assuming that the gas meter right by underneath the
3 kitchen and the basement.

4 MR. ALBERTO: It's in that general area.

5 MEMBER HERNANDEZ: In that general area --

6 MR. ALBERTO: Yes.

7 MEMBER HERNANDEZ: -- underneath the basement.

8 MR. ALBERTO: Correct.

9 MEMBER HERNANDEZ: So really looking at the additional gas
10 pipe --

11 ACTING CHAIRMAN FRANCIS: Right.

12 MEMBER HERNANDEZ: -- the plumber would need to lay in, is the
13 distance between their kitchen -- let's call it the kitchen and the
14 basement underneath the kitchen to the roughly 10 feet or roughly
15 11 feet near the two generators.

16 MR. ALBERTO: Correct.

17 MEMBER HERNANDEZ: So to answer your question, it's probably
18 15 feet.

19 ACTING CHAIRMAN FRANCIS: Fifteen feet.

20 MR. ALBERTO: Yes, thank you.

21 MEMBER HERNANDEZ: 'Cause you're going from underneath the
22 kitchen to -- every else is there already.

23 ACTING CHAIRMAN FRANCIS: Right.

24 MR. ALBERTO: So will there be a change in character to the
25 neighborhood? First of all, this is in the rear yard, and it won't
26 be too visible from the street, especially with the plantings. But

1 interestingly, if you look at that site plan, you'll see a dimension
2 to the rear yard is 23 feet, and the dimension to the west property
3 line, the side yard, is 34.5, so these are quite distant from the
4 property line.

5 We don't think there's any impact really to the neighbors, and
6 no issue in terms of the change of character to the neighborhood.

7 I would like to submit one more document. I have consent forms
8 from the three affected properties surrounding.

9 SECRETARY WAGNER: This will be Exhibit 4.

10 MR. ALBERTO: Surrounding this residence. I show a map to show
11 which properties they are. It's the immediate two to the north and
12 to the west. The owners did go around and explain what they're doing
13 and each neighbor agreed that it had no -- they had no problem with
14 it.

15 (WHEREUPON, there was a discussion held amongst the Board
16 Members.)

17 MR. ALBERTO: The second criteria that --

18 MEMBER HERNANDEZ: Please, go ahead.

19 MR. ALBERTO: The second criteria, can it be -- can the proposal
20 be achieved by some other method? The answer is no, unless we end
21 up putting it in the front yard, which would be awful, and in any
22 case, no matter -- we couldn't run a north or west side, so it would
23 be a ton of extra piping, and it just diminishes the value of the
24 machine, so it's really in the best spot.

25 Are there any substantial? 9.8 and 11 versus 5 feet. If you
26 look at the big picture, this is a 15,000-square-foot property, and

1 the side and rear yard are so distant that I think when you look at
2 the big picture, you can say it's not a substantial issue. Now, keep
3 in mind in a Residence-A District, the side yard required a minimum
4 of 10 feet, so if you have standard house, house, in Residence-A,
5 10 feet and 10 feet; houses can be 20 feet apart. If you suddenly
6 add a generator, which could be 5 feet away. Now, a generator could
7 be 15 feet from the neighbor, and where actually 34.5 from the
8 property line, so -- and the house is even further, so we're 40,
9 50 feet from the neighbor, where it could be 15. My point is, it's
10 not a substantial request.

11 There's no environmental impact. And the issue of
12 self-created? The building had all those windows. They aren't new
13 windows and doors, so they didn't create that aspect, but as you know,
14 that specific standard is not a full criteria to judge the entire
15 application.

16 We think it's -- they're in the right place, and we think it's
17 a good application, and we can answer any questions.

18 MEMBER GOODSELL: I just want the record to reflect. One of
19 the Factors that we consider is that the homeowner puts -- does not
20 put the generator so far away that only can hear it and the neighbor
21 too. I think you addressed the point that this is closer to the
22 homeowner. It's a good distance away from the adjoining properties,
23 so I think in that respect, even though technically, it doesn't
24 comply. Mr. Chairman, I don't have any objection to this.

25 MEMBER DONATELLI: So Mr. Alberto, if I can, in reviewing the
26 photograph that you submitted with the proposed plantings. Those

1 plantings are not there now?

2 MR. ALBERTO: I haven't been there. Mary, do you know at all?

3 MS. BERTHA: No.

4 MR. ALBERTO: No, they're not there now. Not yet.

5 MEMBER DONATELLI: So it's just a rendition, and just to be
6 clear, those plantings are going to be on the other side of the steps,
7 not on the generators.

8 MR. ALBERTO: Correct, yes.

9 MEMBER DONATELLI: But still, those plantings will act to
10 screen the generators.

11 ACTING CHAIRMAN FRANCIS: Definitely screen.

12 MEMBER HERNANDEZ: And they're not so close that they will get
13 burned by the generators.

14 ACTING CHAIRMAN FRANCIS: That's the problem of putting it
15 right next to the generator.

16 MEMBER DONATELLI: So Mr. Chairman, I know that we've had
17 several other applications similar to this, and I know that we have
18 been forced to revisit the issue from time to time because of the
19 special circumstances or where the generators would be located
20 because of how the house is situated, and -- so I know that in the
21 past, particularly in Port Washington, we required to make these
22 adjustments, variances from time to time.

23 I also acknowledge that there really is no other possible space
24 to locate this generator without a great deal of expense. The patio
25 is already there. Running the pipes to the other side of the house
26 will probably be out of proportion to the relief that's being sought.

1 I would also note that the garage would act as a further detriment
2 to any noise that might be imminent from the generator.

3 MEMBER HERNANDEZ: A buffer.

4 MEMBER DONATELLI: A buffer, yes. So for that reason, I will
5 make a motion that we grant the application subject to the plantings
6 that were shown on the exhibit that was handed in to us.

7 ACTING CHAIRMAN FRANCIS: All right. We have a motion. Do we
8 have a second?

9 MEMBER HERNANDEZ: Second.

10 ACTING CHAIRMAN FRANCIS: Seconded by Mr. Hernandez. Ginny,
11 please poll the Board.

12 SECRETARY WAGNER: Member Goodsell?

13 MEMBER GOODSSELL: Aye.

14 SECRETARY WAGNER: Member Hernandez?

15 MEMBER HERNANDEZ: Aye.

16 SECRETARY WAGNER: Member Donatelli?

17 MEMBER DONATELLI: Aye.

18 SECRETARY WAGNER: Acting Chairman Francis?

19 ACTING CHAIRMAN FRANCIS: Aye.

20 Application is granted. Thank you.

21 MR. ALBERTO: Thank you.
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1 SECRETARY WAGNER: Next- Appeal, Appeal #21540, Akira and
2 Yasuko Yamaguchi; 19 South Bayles Avenue, Port Washington;
3 Section 5, Block 99, Lot 310; Zoned: Business-A.

4 Variances from 70-100.1B & 70-100.1.A (under 70-208K reviewed
5 in accordance with R-C District) to legalize a detached garage that
6 is located too close to the rear property line and that is too tall.

7 ACTING CHAIRMAN FRANCIS: You've heard Appeal #21540, Akira and
8 Yasuko Yamaguchi. Sorry if I'm messing up your name. Is there
9 anyone interested in the application other than the applicant?
10 Seeing no hands, Mr. Alberto.

11 MR. ALBERTO: Good morning again. John Alberto, 68 Hyland
12 Avenue, Port Washington. I must say, in my 35 years, I've never had
13 two back-to-back cases.

14 ACTING CHAIRMAN FRANCIS: You know, when that happens, we can
15 only grant one of them.

16 MR. ALBERTO: Oh, man. I'll roll the dice, then. I'm here
17 with the owner of 19 South Bayles Avenue, Mrs. Yasuko Yamaguchi, and
18 you might recognize her. She ran a very successful restaurant on
19 Main Street for many years.

20 ACTING CHAIRMAN FRANCIS: Oh, yes.

21 MR. ALBERTO: And this is her property.

22 ACTING CHAIRMAN FRANCIS: Very nice.

23 MR. ALBERTO: And this is a unique case because this project
24 been before this Board before, and I'll explain what happened. The
25 property is in a Residence-A -- I'm sorry, Business-A Zone, and it's
26 a residence.

1 In 2019, you may recall the Town Code changed, whereby any
2 residents in the Business Zone must follow the Residence-C
3 Regulations, so we're kicked into a category.

4 In 1996, Mrs. Yamaguchi received a permit to build a two-car
5 garage, and it was build. At that time, the code required that all
6 buildings in the Business District be a fireproof construction.
7 1996, that means masonry, which is expensive and costly so she came
8 before this Board for a variance to build the garage with wood frame.
9 She received that, and I have a copy of the decision.

10 STEVEN PERROTTA: Thank you.

11 ACTING CHAIRMAN FRANCIS: What year was that, Mr. Alberto?

12 SECRETARY WAGNER: This is Exhibit 1.

13 MR. ALBERTO: That's 1996, and that's Appeal 15554, and it was
14 approved with two conditions, which I'll read, and that is that "The
15 wood frame garage is limited to the occupancy of the premises as a
16 one-family dwelling." Which it is. "And that the Board maintains
17 continuing jurisdiction over the premises, and that any future change
18 in use shall require approval of this Board." We're not here for
19 a change of use, but there are some items that changed, so we're
20 presenting those today to this Board.

21 There are two issues, and that is the garage was built according
22 to plan, but it's 8 inches too close to rear property line, where
23 it should be 3 -- it's 2.7, 7/10th of a foot -- 3/10 of a -- I'm sorry,
24 7/10 of a foot. It's 8 inches, and it's 5 inches too high. So in
25 2023, Mrs. Yamaguchi, learned that the permit was never closed for
26 this application. She renewed the permit. A survey was prepared

1 and that's when she first found out it was too close to the rear
2 property line.

3 I'm going to go over the Five Factors and explain each one. Now,
4 the garage, I'm going to give you a photo of the garage so you have
5 it in front of you. I do have a bunch of copies of that.

6 SECRETARY WAGNER: These will be Exhibit 2.

7 MR. ALBERTO: Yes. So the garage is in the rear of the
8 property. It's about 75 feet from the front property line. So the
9 question of visibility from the street and impact on the
10 neighborhood, you would never know there's rear yard setback issue
11 from the street. It would be very hard to decipher a 5-inch height
12 from that far away. So we don't think from the street view there's
13 any impact. From the only property that's affected by this would
14 be the property to the east, which is 22 South Maryland Avenue, and
15 that is a commercial property. But there is a 6-foot chain link fence
16 with slats, and you can see in the photo it shields most of the garage.

17 The one property that is affected is somewhat screened. As for
18 the height, it's doubtful if any of the neighbors would notice a
19 5-inch difference. I did speak to the neighbor to the immediate
20 north at 19 South Baylor. They did sign a consent form, which I will
21 submit.

22 MR. PERROTTA: Thank you.

23 MR. ALBERTO: So that property actually is an office building
24 looking down. They would probably be the most affected by the
25 visibility, and they had no objection to this application.

26 SECRETARY WAGNER: So the consent forms will be Exhibit 3.

1 MR. ALBERTO: Yes, thank you. So between, you know, where the
2 location is and these minor changes, which are not visibility, we
3 don't think they'll be any change to the character of the
4 neighborhood.

5 Can the benefit be achieved by some other method? Well, permits
6 were granted. Construction occurred. We believe it's builder's
7 error, and this happens. It will be costly to lower the roof. We'd
8 have to rebuild the roof, and it will be very costly to move that
9 wall 8 inches, you know, new foundation, new construction, so it not
10 practical or economically feasible to comply. You know, we have to
11 fire rate that back wall anyway. The New York State building code
12 says any wall that's less than 3 feet to a property line with a
13 one-hour fire rating, so we're going to have to add fire roofing to
14 that wall, so there are some cost involved just to maintain it if
15 this Board approves.

16 Is the variance substantial? Again, because of it's location,
17 we don't believe the 5-inch height issue is recognizable or the 8
18 inch setback is going to -- or anyone really, especially since it's
19 a commercial property behind.

20 Now, you know, this is a Business District, so if this property
21 went commercial, one could put a 40-foot-high structure, so the
22 5-inch height, we don't believe has much impact when you look at the
23 big picture again.

24 Are there any environmental issues? There are none created.

25 Was this difficulty self-created? Well, Ms. Yamaguchi did
26 everything proper. She got a permit and a variance. Hired a

1 reputable contractor. In fact, the precision is partially to the
2 owner and to maintain construction. Mr. McCabe was a very
3 reliable -- reputable contractor in Port Washington.

4 I worked with that firm over the years. Mr. McCabe is no longer
5 here, but it just seems like an honest mistake. If I had to guess,
6 maybe there was no fence he used as a setback that was not on the
7 property line, but it -- we don't know, but --

8 MEMBER GOODSSELL: To go to that, Mr. Alberto. Just looking at
9 the property tax card. It looks like that the garage was built
10 sometime in the 1920s. The tax card was prepared in 1938, and the
11 assessor determined that the garage at that point was approximately
12 15 years old. It was a two-car garage. I don't think that it's
13 self-created. I think it was created --

14 ACTING CHAIRMAN FRANCIS: Right.

15 MEMBER GOODSSELL: And to the fire rating, I watched my
16 neighbor's garage, which was less than three feet from my property
17 line go up in flames. It's pretty scary. It's pretty scary, even
18 though the fire department comes, and they are running through the
19 backyard with the hoses and everything. The fire rating is in fact
20 very important regardless of what --

21 MR. ALBERTO: Right. But this -- I believe this is a new
22 garage.

23 MEMBER GOODSSELL: That may be -- may have been put up where the
24 old --

25 MR. ALBERTO: Oh, they might have used the old --

26 MEMBER GOODSSELL: They might have used the foundation.

1 MR. ALBERTO: That's probably right.

2 MEMBER GOODSSELL: The guideline where the old garage was.

3 MR. ALBERTO: Okay.

4 MEMBER DONATELLI: My understanding is that the town requires
5 a 3-foot clearance. In part, because they want to make sure that
6 the homeowner is able to access the rear to be able to clean up behind
7 the garage to have enough room to be able to clean up, but you know,
8 I -- you -- you guessed my question, which is what the cost might
9 be to reconfigure the garage to make it complaint. I agree it would
10 be prohibitive to be able to take 6 inches off the height of the garage
11 and to move it back .7 or .8. Those are truthful and de minimis.

12 We do, from time to time, have situations where it's a builder's
13 error. Sometimes, it's more egregious than this. So, fortunately,
14 it is not that egregious, but -- I am very familiar with the area.
15 My office used to be 31 South Baylor, so I'm familiar with the area.
16 Again, now, I'm right across the street. I'm very familiar with the
17 applicant as well, so I see no reason why we shouldn't grant the
18 application. I make a motion we grant the motion.

19 ACTING CHAIRMAN FRANCIS: All right. We have motion. Do we
20 have a second?

21 MEMBER GOODSSELL: I'll second.

22 (WHEREUPON, there was a discussion held amongst the Board
23 Members.)

24 MEMBER DONATELLI: I'm just going to withdraw my motion for a
25 moment. I notice that the prior notice of decision for Case Number
26 1554 says that the wood frame garage is limited to the occupancy of

1 the premises a one-family dwelling, and that the Board maintains
2 continuing jurisdiction of the premises, and any future change in
3 use, shall require approval from the Board. We have coded in place
4 that certainly cover that, and this is just extraneous at this point.
5 So having said that, I now make a motion that we grant the application.

6 ATTORNEY ALGIOS: And to remove the --

7 ACTING CHAIRMAN FRANCIS: And remove the --

8 ATTORNEY ALGIOS: -- prior conditions.

9 MEMBER DONATELLI: And to remove the prior conditions.

10 ACTING CHAIRMAN FRANCIS: Right. All right. We have a
11 motion. Do we have a second?

12 MEMBER GOODSSELL: Second.

13 ACTING CHAIRMAN FRANCIS: Seconded by Member Goodsell. Ginny,
14 please poll the Board.

15 SECRETARY WAGNER: Member Hernandez?

16 MEMBER HERNANDEZ: Aye.

17 SECRETARY WAGNER: Member Goodsell?

18 MEMBER GOODSSELL: Aye.

19 SECRETARY WAGNER: Member Donatelli?

20 MEMBER DONATELLI: Aye.

21 SECRETARY WAGNER: Acting Chairman Francis?

22 ACTING CHAIRMAN FRANCIS: Aye.

23 Application is granted.

24 MR. ALBERTO: Thank you.

25 ACTING CHAIRMAN FRANCIS: Two in a row.

1 MEMBER DONATELLI: We've given out all the approvals that we
2 can. Just kidding.

3

4

5

6 SECRETARY WAGNER: Next Appeal, Appeal #21541, Jeffrey
7 Laureano; 126 St. Marks Place, Roslyn Heights; Section 7, Block H,
8 Lot 518; Residence-C Zoning District.

9 Variances from 70-209(A) and 70-100.1(B) to legalize a
10 pre-existing non-conforming garage that's been damaged more than 50
11 percent that would not be in compliance with Town Code, and that is
12 located too close to the side property line.

13 ACTING CHAIRMAN FRANCIS: You've heard Appeal #21541, Jeffrey
14 Laureano. Is there anyone interested in the application other than
15 the applicant? Seeing no hands, good morning.

16 MS. LASPISA: Good morning.

17 ACTING CHAIRMAN FRANCIS: Give your name and address.

18 MS. LASPISA: Diana LaSpisa with Morano Expediting Services,
19 2938 Hempstead Turnpike, Suite 212, Levittown, New York 11756, and
20 I have here with me today Mr. Laureano.

21 ACTING CHAIRMAN FRANCIS: Laureano, sorry for messing your
22 name.

23 MR. LAUREANO: That's okay.

24 ACTING CHAIRMAN FRANCIS: I'm terrible with names.

25 MS. LASPISA: Good morning. We're here before you requesting
26 permission to maintain a detached garage holding a minimum side yard

1 setback of 2 feet instead of the required 3 feet.

2 To give the Board a little history. Mr. and Mrs. Laureano
3 purchased and resided on this property since 2006. When they
4 purchased the house, the property was improved with a two-car
5 detached garage. In 2021, a utility pole had fallen on the garage
6 completely destroying it, which then resulted in the house going on
7 the fire as well.

8 An application was made to the Building Department to repair
9 the fire damage to the main house, and the permit was issue
10 RBP22-000552. A separate application was made to reconstruct the
11 detached garage, and that permit as well was issued under
12 RBP22-00053.

13 During the review process, it was brought to our attention that
14 the previous garage was non-conforming, and the new garage would have
15 to comply with the zoning. Mr. Laureano opted to relocate the new
16 garage to adhere to the setback in lieu of having to seek variance
17 approval and further delay the construction. However, at some
18 point, during the course of the construction, the garage was built
19 erroneously, and the final survey is when it was depicted that the
20 setback was at 2 feet as opposed to the required three feet.

21 I would note for the record, the garage prior to the fire was
22 holding a 1.5 setback off of the side yard. So the new garage is
23 actually more compliant than the garage that was originally built
24 with the dwelling.

25 This property is a substandard lot in the B-Zoning District,
26 therefore, making it impossible to comply with the setbacks. The

1 property to the north, this is in character with the neighborhood.
2 The property to the north, you can even see it on our survey, shows
3 that their detached garage is holding a 1.7-foot setback. So this
4 is common in the area.

5 We don't feel that this will have any negative impact of any
6 of the neighbors. We do have two letters of consent that we can
7 submit to the Board and some photographs. The property, you know,
8 the garage is more compliant than what previously existed, and you
9 can simply -- had it been the utility pole fell and it was repairable,
10 we wouldn't have to come before the Board. It would of just been
11 as-of-right permit, but the fact that it was completely destroyed,
12 it needed to be rebuilt is what triggered that needing to comply to
13 the new zoning.

14 So I will submit the consents from the neighbors. The
15 difficulty, as you could see, was not self-created.

16 STEVEN PERROTTA: Thank you.

17 SECRETARY WAGNER: This is Exhibit 1.

18 ACTING CHAIRMAN FRANCIS: As Mr. Donatelli pointed out in the
19 prior application, the reason for the 3-foot minimum setback is that
20 you can get behind the garage and clean that area. I'm not so
21 certain -- well, I don't know, whether or not two feet is enough space
22 to clean back there. I'd like to really see pictures.

23 MS. LASPISA: I have the --

24 ACTING CHAIRMAN FRANCIS: Oh, perfect.

25 MS. LASPISA: Yes, so I'm going to submit the pictures.

26 ACTING CHAIRMAN FRANCIS: Perfect.

1 MS. LASPISA: And that is fire-rated as well.

2 ACTING CHAIRMAN FRANCIS: Okay.

3 SECRETARY WAGNER: This will be Exhibit 2.

4 ACTING CHAIRMAN FRANCIS: You read my mind.

5 MEMBER DONATELLI: Can I ask? Was the new garage built on the
6 foundation of the old garage?

7 MS. LASPISA: No, it was a new foundation. So what we think
8 happened, you know, it as a construction error by the contractor.

9 MEMBER GOODSELL: This is a contractor's error?

10 MS. LASPISA: Yes.

11 MEMBER GOODSELL: Owners did not do this?

12 MS. LASPISA: This was the contractor's error. He had a
13 licensed contractor, and I believe what happened was when they -- it
14 was sort of several errors I guess, so when they built the foundation
15 for the garage and they poured, they poured it a foot too short, and
16 when that was discovered, it was okay, so just add a foot, and you
17 know, he wasn't privy to the application process.

18 He was brought in at the end, the contractor for the garage,
19 and unfortunately, when he poured that additional foot, he poured
20 it on the south side of the garage. Had he poured it on the north
21 side, we wouldn't of had the issue. But it just --

22 MEMBER GOODSELL: How big is the garage now? It's a two-car
23 garage?

24 MS. LASPISA: The size of the garage is what it was permitted
25 for.

26 MEMBER GOODSELL: Okay.

1 MS. LASPISA: It's the setback that's non-conforming. It is
2 a two-car garage. It's 18.6 by 24, which is what the house was built
3 with.

4 ACTING CHAIRMAN FRANCIS: What's the refuge behind your garage?
5 I can't tell in the picture.

6 MS. LASPISA: As far as property?

7 ACTING CHAIRMAN FRANCIS: It looks like vacant space.

8 SECRETARY WAGNER: I think it's an office park or an office
9 building, something like that.

10 MS. LASPISA: Yes, and in the topography, it's way further down.
11 The topography is at a much lower elevation, so it's almost like it
12 veers off into a cliff back there and --

13 MEMBER GOODSELL: So the most impact is to the neighbor in the
14 immediate to the west.

15 MS. LASPISA: Correct.

16 MEMBER GOODSELL: And that's one of the consents that you --

17 MS. LASPISA: Yes, we submitted from the north, the south. We
18 didn't, you know, bother with the rear yard for the commercial
19 property.

20 (WHEREUPON, there was a discussion held amongst the Board
21 Members.)

22 MS. LASPISA: And where actually -- where the garage is built
23 now is a half foot further away from that neighbor.

24 MEMBER GOODSELL: I got from your initial presentation.

25 (WHEREUPON, there was a discussion held amongst the Board
26 Members.)

1 MEMBER GOODSSELL: Is there still a wood fence between the garage
2 and the neighbor immediately to the west?

3 MS. LASPISA: I believe -- to the west to the rear?

4 MEMBER GOODSSELL: No, it's the --

5 MS. LASPISA: To the south?

6 MEMBER GOODSSELL: Is it to the southwest, then? The part of
7 the garage that's 2 feet from the property line.

8 MS. LASPISA: I don't believe.

9 MEMBER GOODSSELL: In that 2 feet is there a fence there?

10 MS. LASPISA: I don't believe there is a fence.

11 MR. LAUREANO: No, it burned down.

12 ACTING CHAIRMAN FRANCIS: From the picture, it looks there's
13 enough room --

14 MS. LASPISA: There is.

15 ACTING CHAIRMAN FRANCIS: -- to get back there to clean that
16 area.

17 MS. LASPISA: There is. And there's enough room for you know,
18 if there's a fire to get around. He's actually the chief, the fire
19 chief, so you would know. Ironically.

20 MEMBER DONATELLI: So the chief's house --

21 ACTING CHAIRMAN FRANCIS: Isn't it always like that?

22 MS. LASPISA: It does. It did. Isn't it horrible?

23 MEMBER GOODSSELL: That's terrible.

24 MEMBER DONATELLI: So I'm going to ask you the same question
25 I asked the prior applicant. What would be the cost of putting the
26 garage into compliant space.

1 MS. LASPISA: So according to the -- it would be about \$60,000.
2 It'd have to be shifted to, you know, to the north, and it's gonna
3 be even more costly because it would end up in litigation, you know,
4 because it's not a burden that they should have to bear. It should
5 really fall on the contractor, and unfortunately, this, you know,
6 it's been a challenge, and as you can see, few years for them, and
7 they just kind of wanna put this chapter behind, and they're not able
8 to close out, not even the fire repair permit for the house.
9 Everything is, you know, contingent on the decision from the Board.

10 MEMBER GOODSELL: How long ago was the fire?

11 MS. LASPISA: In '21.

12 MEMBER HERNANDEZ: Only because it's an oddity, there appears
13 to be over 20 feet behind the garage. It's still part of the
14 property -- of this property. I'm assuming the area that's the area
15 where you have sort of like cliff drop-off --

16 MS. LASPISA: Yes. I don't know exactly where the cliff
17 starts --

18 MEMBER HERNANDEZ: But it's somewhere --

19 MS. LASPISA: But it's -- yeah, it's not far.

20 MEMBER HERNANDEZ: That's the reason why the garage is there.
21 That's why it's not further back.

22 MS. LASPISA: Correct.

23 ACTING CHAIRMAN FRANCIS: Right.

24 MS. LASPISA: And the garage --

25 MEMBER HERNANDEZ: It's just that it looks odd and I want to
26 get it on the record.

1 MS. LASPISA: And usually people tuck in the corner, but they
2 were simply looking to rebuild exactly what they bought in 2006.

3 MEMBER DONATELLI: All right, so I'm a streak. I'm gonna go
4 for it.

5 ACTING CHAIRMAN FRANCIS: Go. Go for it.

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

8 ACTING CHAIRMAN FRANCIS: All right. We have a motion. Do we
9 have a second?

10 MEMBER HERNANDEZ: Second.

11 ACTING CHAIRMAN FRANCIS: Seconded by Member Hernandez.

12 MS. LASPISA: Thank you and have a good day.

13 ACTING CHAIRMAN FRANCIS: Well, we --

14 MEMBER HERNANDEZ: Wait, we got to vote.

15 MS. LASPISA: Oh.

16 ACTING CHAIRMAN FRANCIS: Ginny, please poll the Board.

17 SECRETARY WAGNER: Member Hernandez?

18 MEMBER HERNANDEZ: Aye.

19 SECRETARY WAGNER: Member Goodsell?

20 MEMBER GOODSSELL: Aye.

21 SECRETARY WAGNER: Member Donatelli?

22 MEMBER DONATELLI: Aye.

23 SECRETARY WAGNER: Acting Chairman Francis?

24 ACTING CHAIRMAN FRANCIS: Aye.

25 Application is granted. Good luck.

26 MR. LAUREANO: Thank you very much.

1 SECRETARY WAGNER: Next Appeal, Appeal #21542, Gabriel
2 Askarinam; 86 Garden Drive, Albertson; Section 7, Block 93, Lot
3 59; in the Residence-B Zoning District.

4 Variances from 70-40.C and 70-41.A to construct a new dwelling
5 that is located too close to the street and too close to the side
6 property line.

7 ACTING CHAIRMAN FRANCIS: You've heard Appeal #21542, Gabriel
8 Askarinam. Is there anyone here interested in the application other
9 than the applicant? Seeing no one, good morning, Mr. O'Connell,
10 please give your name and address.

11 MR. O'CONNELL: Good morning. For the record, my name is Todd
12 O'Connell, architect. Doing business at 1200 Veterans Highway,
13 Hauppauge, New York. Architect for the Askarinam Family.

14 So just to bring you up to speed. This is actually not a new
15 house from the ground up. This is -- it's just because of the extent
16 of work we're doing. We're being classified as a new house. This
17 is -- there is an existing house on this parcel, which we are removing
18 a substantial part of it, but we are keeping the foundation in place.

19 Unfortunately, the foundation on this house does not comply with
20 the current zoning code. However, we're actually making it better.
21 On the left side of the property, it yields a 5.8-foot side yard
22 setback, which the new house will actually yield a 9.2 side yard
23 setback. However, on the right side of the home, it's still
24 non-conforming. It's 6.8 instead of the required 7. So we're
25 looking for a 2-inch variance to maintain the existing foundation
26 on the right-hand side of the home. The aggregate complies, so it's

1 really we're looking for a de minimus variance of only 2 inches on
2 the east side of the residence.

3 In addition to that, it's an identical issue with the front of
4 the residence. The foundation's there. We're, you know, working
5 with the existing foundation, existing front wall. The existing
6 front wall yields 29.6, where 30-foot is required. Approximately
7 a 4-inch relief. The average is 29.8. We got a 2-inch difference,
8 but we have to maintain the 30, so it's a very, very small relief
9 that we're looking for, and this is specifically because of that's
10 where the foundation is.

11 If there was another way to accomplish our goal without ripping
12 the foundation out of the ground and remove the whole existing first
13 floor deck, which we're keeping, we would have done so. So the, you
14 know, obviously, there's a huge financial benefit to be able to keep
15 the foundation and the existing floor and come before this Board for
16 those minor reliefs.

17 It's not going to have any negative impact on the environment.
18 Really, without removing the foundation, it could not be accomplished
19 in any other way, shape, or form. We feel that, you know, the work
20 that we're doing here is going to benefit the community and the
21 character of the community as, you know, we're building a beautiful
22 new home. We really feel it's, you know, it meets all the other
23 zoning codes in terms of floor area, height, you know, and we feel
24 it's going improve the neighborhood.

25 The case before you is quite de minimis, and I guess with that
26 all said, I'd love to answer any questions the Board may have.

1 SECRETARY WAGNER: Chairman, we did get some notification
2 regarding some residents' concerns about this application. They
3 would like to submit their concerns to the Board.

4 ACTING CHAIRMAN FRANCIS: Okay.

5 MEMBER GOODSELL: Just as a note that before you listen to those
6 concerns. When I drove this area --

7 ACTING CHAIRMAN FRANCIS: They're not here?

8 SECRETARY WAGNER: No.

9 MEMBER GOODSELL: -- it seems to be every single house in this
10 particular block, section of the block, is approximately the same
11 distance from the street. This does not stand out to me as coming
12 so much closer that it's noticeable, and I can certainly appreciate
13 the fact that it's a de minimus request. You have no, just for the
14 record, you have no GFA issues. You have no sky plane issues. You
15 have no overbuild issues. It's really a question of maintaining the
16 setback in the front and slightly improving the side yard setback.
17 Would that be a fair characterization?

18 MR. O'CONNELL: That is absolutely fair.

19 ACTING CHAIRMAN FRANCIS: Mr. O'Connell, be -- is there anyone
20 have anything? Any questions?

21 MEMBER DONATELLI: I would just, I guess, confirm then except
22 for the two items that are the front yard setback and then the side
23 yard setback, that the house is compliant?

24 MR. O'CONNELL: Yes, 100 percent compliant, and those setbacks
25 are just because they're pre-existing.

26 ACTING CHAIRMAN FRANCIS: Mr. O'Connell, you know, I don't know

1 why the neighbors who have an issue are not here today, but we'd like
2 to have a full record.

3 MR. O'CONNELL: Understood.

4 ACTING CHAIRMAN FRANCIS: So we would certainly want to hear
5 from them and not preclude them from participating. I think we
6 should -- well, I think we are going to continue this to the next -- at
7 least until the next hearing date, which is May 22. We won't make
8 a decision on this until we hear what they have to say and then we'll
9 make a decision.

10 MR. O'CONNELL: Right, and I do not need to be here for that.

11 ACTING CHAIRMAN FRANCIS: No, you do not.

12 SECRETARY WAGNER: No, but what we will do provide you with
13 those comments and you will have an opportunity to respond.

14 MR. O'CONNELL: Okay.

15 ACTING CHAIRMAN FRANCIS: Absolutely.

16 MR. O'CONNELL: I think it's just a matter of people seeing a
17 new house going up. They don't understand what's going on.

18 ACTING CHAIRMAN FRANCIS: I'm sure.

19 MR. O'CONNELL: And I'm sure that's why.

20 MEMBER GOODSELL: And that's just it. Some of the concerns may
21 be -- that's the hard copy. Some of the concerns may be that the
22 house is oversized, but as you just established on the record, it
23 complies with the GFA and does not violate skyplane.

24 MR. O'CONNELL: No, not at all.

25 ACTING CHAIRMAN FRANCIS: Right. Okay.

26 MEMBER GOODSELL: We should listen to the concerns.

1 ACTING CHAIRMAN FRANCIS: No, I agree. We definitely should.

2 MR. O'CONNELL: Absolutely.

3 ACTING CHAIRMAN FRANCIS: I won't make any comment for or
4 against at this point.

5 MR. O'CONNELL: Okay.

6 MEMBER GOODSELL: I make a motion to continue this.

7 ACTING CHAIRMAN FRANCIS: Yes, we will continue this.

8 MR. O'CONNELL: Absolutely, and thank you very much for your,
9 and have a wonderful day.

10 ACTING CHAIRMAN FRANCIS: Pleasure, you too.

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1 SECRETARY WAGNER: Next Appeal, Appeal #21543, Richard and Alba
2 Pagan; 95 Primrose Drive, New Hyde Park, Section 8,
3 Block 308, Lot 14; in the Residence-B Zoning.

4 Variance from 70-42.6 to legalize an expanded driveway (paving)
5 that covers too much of the front yard.

6 ACTING CHAIRMAN FRANCIS: You've heard Appeal #21543, Richard
7 and Alba Pagan. Is there anyone interested in the application other
8 than the applicant? Seeing no one, Mr. Munisteri, please give your
9 name and address.

10 MR. MUNISTERI: Good morning to the Board. My name is Mark
11 Anthony Munisteri, architect. My office is located at 1563 Bellmore
12 Avenue in Bellmore, and this morning, I'm representing Mr. and
13 Mr. Pagan, who are the owners and occupants of 45 Primrose Drive in
14 New Hyde Park.

15 ACTING CHAIRMAN FRANCIS: Okay.

16 MR. MUNISTERI: I just want to submit in case anyone didn't get
17 a chance to pass by, just a front shot.

18 ACTING CHAIRMAN FRANCIS: Sure.

19 SECRETARY WAGNER: This will be Exhibit 1.

20 MR. MUNISTERI: My clients are looking to maintain a paver
21 driveway that is over the permitted lot coverage. My clients would
22 like to be able to park two cars side by side on their property off
23 the street and not back-to-back. So they hired a Masonry contractor
24 and installed the new wired driveway, and of course at the time, the
25 contractor did not tell my clients that they would require a permit
26 for the masonry work, and they also did not know the specific codes

1 required. The total lot coverage permitted is 45 percent. This
2 driveway is only 21 feet wide.

3 My client's property is a non-conforming property with 4,929
4 square feet, and only 55, -- excuse me, 50 feet wide in this RB Zone,
5 which should be 6,060 feet wide. Our only request is to increase
6 the front yard pavers in the maximum permitted of 45 to 49, which
7 is a 4 percent overage or 197 square feet. We like to state that
8 if this property wasn't 60 wide, this would only be a 41.7 percent.

9 My clients are also installing more than ample drainage and
10 drive offs to retain all water and runoff on the property. That's
11 our case.

12 ACTING CHAIRMAN FRANCIS: In terms of the parking right now,
13 what is the parking configuration? Is there a car -- well, let me
14 show you. Is there a car being parked in front of the steps? How
15 is that?

16 MR. MUNISTERI: So there is -- kind of yes just to the right
17 of the steps but in front of the steps, yes. Previous to that, they
18 just went back to back --

19 ACTING CHAIRMAN FRANCIS: Right.

20 MR. MUNISTERI: In front of the --

21 MEMBER GOODSSELL: Excuse me, sir.

22 MR. MUNISTERI: Yes.

23 MEMBER GOODSSELL: There is a one-car garage at the end of the
24 driveway.

25 MR. MUNISTERI: Yes.

26 MEMBER GOODSSELL: Where theoretically you can kind of park.

1 MR. MUNISTERI: Yes, 100 percent.

2 MEMBER GOODSSELL: Like everyone else, by the time they finish
3 pulling the --

4 MR. MUNISTERI: To the leverage, yeah --

5 MEMBER GOODSSELL: -- necessary things, the car doesn't fit
6 unless it's a Smart Car. So is it possible to park two cars and end
7 between the garage and the street?

8 MR. MUNISTERI: So they've had done that previous to having this
9 done, so they did, yes.

10 MEMBER GOODSSELL: So the answer is yes?

11 MR. MUNISTERI: Yes, the answer is yes.

12 MEMBER GOODSSELL: Right, so theoretically, the way the house
13 was built, there would be room for three cars; one in the garage,
14 one in front of the garage, and one between the garage and the street.

15 MR. MUNISTERI: The way it was originally built, I think you
16 said.

17 MEMBER GOODSSELL: Yes.

18 MR. MUNISTERI: Then you are correct.

19 MEMBER GOODSSELL: Yes, and before the driveway was widened by
20 pavers there was -- what was there? Was it a grass strip?

21 MR. MUNISTERI: No, it was concrete. Actually, if you look at
22 my drawing, it will show you what was actually there. The strip that
23 was there was right down the center, and right up to the garage. Just
24 about 10 feet wide.

25 MEMBER DONATELLI: Unfortunately, from my point of view, this
26 an extremely visible, and so part of the reason why people come to

1 Nassau County in my view is because front yards are not excessively
2 paved. I can point to areas in Queens where the parking pads sort
3 of directly in front where a lawn might be. It really lends an
4 entirely different character and urbanization of the area.

5 So while I understand the desire to want to put two cars side
6 by side, and while 4 percent doesn't sound like a whole lot, this
7 something that really gets to the heart of the 40 percent coverage
8 and exceeding the 40 percent coverage. It really hit you over the
9 head. It's not like 2 inches or 3 inches on the side of the -- height
10 of the garage as we just heard this morning. On the other hand, I
11 understand the applicant's desire to put the cars side by side.

12 When was this area paved?

13 MR. MUNISTERI: About two years ago. Two and a half years ago.

14 MEMBER DONATELLI: And that was done without a permit.

15 MR. MUNISTERI: Yes, sir.

16 MEMBER DONATELLI: Was it done by this particular homeowners?

17 MR. MUNISTERI: Yes. So I want to add to that.

18 MEMBER DONATELLI: By a contractor? With a contractor?

19 MR. MUNISTERI: Well, the contractor hired in a masonry
20 contractor, subcontractor.

21 MEMBER GOODSSELL: But it's not the homeowner themselves out
22 putting the pavers?

23 MR. MUNISTERI: No. I would like to just add just in some of
24 those brief comments you gave, which I do make sense in what you said.
25 There's also a portion of this and be noted it's only 21 feet wide,
26 which also pertains to a walkway up to the stairs.

1 MEMBER DONATELLI: And it's --

2 MR. MUNISTERI: This is a natural portion. And then the
3 opposite side where the bushes are, so even at a 20-foot driveway,
4 even when you park next, -- it's not intended to be excessively wide
5 or picked up. It is a lesser front yard of only 50 feet. So if was
6 this 60, this would be a different story.

7 Additionally, part of that front yard goes from where the
8 forward front of the house is or where it starts at the step, but
9 it steps back twice to where the garage is, so that is a large of
10 portion. I think that if the garage was forward, we probably
11 wouldn't be here today for this. If that makes sense.

12 MEMBER DONATELLI: No, I understand. I guess, the problem from
13 a visible point of view, the problem jumps out because there appears
14 to be one sea of pavers because of the proximity of the front steps
15 to the garage or the driveway, so it appears all that's one, even
16 though I understand --

17 MR. MUNISTERI: Yes.

18 MEMBER DONATELLI: -- it's the specific function of the access
19 to the steps.

20 ACTING CHAIRMAN FRANCIS: Right.

21 MEMBER DONATELLI: What would the cost of removing the pavers
22 and making this an area compliant now.

23 MR. MUNISTERI: So if I had to take an estimate on knowing the
24 removal and then repair of the edges, my guess would be -- it wouldn't
25 be the west side because there's a retaining wall there. I think
26 that would be more expensive. It would be to the east side and let

1 me just see if this -- my guesstimate would be about the \$6,000 or
2 \$7,000 range.

3 MEMBER DONATELLI: And for our record to be complete --

4 MR. MUNISTERI: And I apologize. And that's my estimate. I'm
5 taking a few feet off of -- I just wanna be clear where it, right?
6 Taking that right-hand side off and setting it back, and do
7 understand, I'm an architect. I am not a contractor.

8 MEMBER DONATELLI: I understand. But you know that's one of
9 the Factors that we're looking --

10 MR. MUNISTERI: Of course.

11 MEMBER DONATELLI: Would you please run through the Five
12 Factors?

13 MR. MUNISTERI: Sure can, absolutely. So, as far as a change
14 in the character of the neighbor, if you were by the house, obviously,
15 everybody has a driveway. It's very similar homes, but directly
16 south of this property, you'll see a driveway, where you may also
17 be able to see it on Google Earth that's actually substantially larger
18 than this one. Whether it has a permit or not I'm not actually sure.

19 MEMBER GOODSSELL: I noticed that one.

20 MR. MUNISTERI: It's kind of around like dead-end curb.

21 MEMBER GOODSSELL: And there's another one in the neighborhood
22 as well.

23 MR. MUNISTERI: Yes.

24 MEMBER GOODSSELL: Where I am absolutely convinced they did not
25 get a permit because --

26 MR. MUNISTERI: Just a guess.

1 MEMBER GOODSSELL: -- it's just about the entire front yard is
2 paved with pavers, and until I sat on this Board, I would not have
3 known that was not legal. I don't think the neighborhood objected
4 because I don't think the neighborhood understands you can't do that.

5 MR. MUNISTERI: So with the funny thing of it and I learned it
6 from all of my clients over the years that homeownership does not
7 come with a set of instructions.

8 MEMBER GOODSSELL: No.

9 MR. MUNISTERI: You know, especially when it comes to a driveway
10 or a shed or some of those sillier things that we just take for granted
11 as homeowner that we realize what we have to do.

12 MEMBER GOODSSELL: That is right so --

13 MEMBER DONATELLI: I think kids should come with a set of
14 instructions.

15 MEMBER GOODSSELL: Yes.

16 MR. MUNISTERI: I don't know if that'll be worth it.

17 MEMBER DONATELLI: An owner's manual.

18 MR. MUNISTERI: I don't think anyone would have any then.

19 MEMBER GOODSSELL: That is true.

20 MR. MUNISTERI: Can it be done in another method? So in essence
21 of what you discussed, although this an existing, of course, it could
22 have been done in a different method meaning that, it could have been
23 slightly tailored in, but they were really trying to -- at least my
24 belief is following the aesthetics of the side walkway along the
25 garage out to the street, and then in line with the steps off of the
26 front stoop. I actually don't think it's substantial at just 4

1 percent of 197 square feet. Because of the drainage, if anything,
2 we're actually taking away any environmental impact because
3 everything will be contained. There's a codec system going in the
4 back and dry wells in the front.

5 As far as self-created and I've thought about this one. I don't
6 think it's self-created. Although my client did hire someone to do
7 it, I gave them some basic instructions on what they were looking
8 to do. I think it's partially self-created.

9 MEMBER GOODSSELL: Basically, about a foot and a half.

10 MR. MUNISTERI: Yes.

11 MEMBER GOODSSELL: Just not paved, the foot and a half on the
12 eastern side, they would be compliant.

13 MR. MUNISTERI: And that --

14 MEMBER GOODSSELL: Just looking on Google Earth.

15 MR. MUNISTERI: Right, and that --

16 MEMBER GOODSSELL: That's the property you're referring.

17 MR. MUNISTERI: And that's the tricky edge, of course, because
18 it's all cemented in.

19 ACTING CHAIRMAN FRANCIS: Right.

20 MR. MUNISTERI: Whereas the field of it actually, it's just set
21 on a loose bed.

22 MEMBER GOODSSELL: I pass this property all the time. I'm a
23 long-time member of the Notre Dame Church in the Notre Dame section
24 because where I come from, and I come around the --

25 MR. MUNISTERI: Right.

26 MEMBER GOODSSELL: It does, Mr. Chairman, it does not stand out

1 like a sore thumb the way there are other properties, and it certainly
2 does not stand out the way -- it's approximately a block away, someone
3 has paved virtually the front and backyard, which code enforcement
4 should clearly have issued a violation on. I am reluctant, but I
5 am reluctantly suggesting that due to the cost of removing a foot
6 and a half of the pavers that we grant the application subject to
7 the proper drainage, which must be on the driveway like this.

8 MR. MUNISTERI: It's also part of the application.

9 MEMBER GOODSSELL: Yes.

10 ACTING CHAIRMAN FRANCIS: So I'm going to take that is motion.

11 MEMBER GOODSSELL: That is a motion.

12 MEMBER HERNANDEZ: I will second, but I will make the following
13 comment because I don't like large paving areas in the front, but
14 given the way you and you're not a builder, you're an architect. I've
15 built a lot of things in my life. That's what I've done because of
16 my second career. What you said would make you comply, which is
17 taking away roughly 2 feet of the other side of the -- the outside
18 of the driveway, would visually make absolutely no impact on how you
19 see this house because all you have is a little strip of grass over
20 left field somewhere. You will still see this -- essentially the
21 same.

22 MR. MUNISTERI: It's actually a planting bed on that side.

23 MEMBER HERNANDEZ: Exactly, it will just be a bigger planting
24 bed. That's all it would be. So we're not really accomplished what
25 concerns us the most, which is the fact that you have a field, and
26 it would make you comply, so to make your client go through the expense

1 of removing that to make a bigger planting field over there, when
2 it doesn't really do anything for the visual of the driveway, doesn't
3 make any sense. So based on that, I would second the motion.

4 ACTING CHAIRMAN FRANCIS: All right. We have a motion that was
5 second by Member Hernandez. Ginny, please poll the Board.

6 SECRETARY WAGNER: Member Hernandez?

7 MEMBER HERNANDEZ: Aye.

8 SECRETARY WAGNER: Member Donatelli:

9 MEMBER DONATELLI: Aye.

10 SECRETARY WAGNER: Member Goodsell?

11 MEMBER GOODSSELL: Aye.

12 SECRETARY WAGNER: Acting Chairman Francis?

13 ACTING CHAIRMAN FRANCIS: Aye.

14 Application is granted.

15 MR. MUNISTERI: Thank you all. Enjoy the afternoon.

16 ACTING CHAIRMAN FRANCIS: You too.

17 MR. MUNISTERI: Thank you.

18 ACTING CHAIRMAN FRANCIS: Okay, that concludes the Residential
19 Calendar --

20 SECRETARY WAGNER: No, we have one more.

21 ACTING CHAIRMAN FRANCIS: Oh, we have one more? Oh, I'm sorry,
22 I didn't see that. Oh, yeah, I didn't see you raise your hand either.

23 SECRETARY WAGNER: I'm sorry, okay. Then should we then resend
24 the --

25 ATTORNEY ALGIOS: You can --

26 ACTING CHAIRMAN FRANCIS: No, he's in the back. Mr. Munisteri?

1 MR. PERROTTA: Mr. Munisteri?

2 SECRETARY WAGNER: Mr. Munisteri?

3 MR. MUNISTERI: Yes, sorry.

4 SECRETARY WAGNER: We have someone who wants to comment on this
5 last one.

6 MR. MUNISTERI: Oh, I apologize.

7 SECRETARY WAGNER: We apologize too.

8 ACTING CHAIRMAN FRANCIS: We apologize as well.

9 MR. MUNISTERI: Didn't realize it. I'm sorry, go ahead.

10 MS. BERNA: It's okay.

11 ACTING CHAIRMAN FRANCIS: Just give your name and address.

12 MS. BERNA: So my name is --

13 SECRETARY WAGNER: Do you want to vote to reopen?

14 ACTING CHAIRMAN FRANCIS: Yes, so wait.

15 ATTORNEY ALGIOS: Let them just vote to reopen.

16 ACTING CHAIRMAN FRANCIS: We need a motion to reopen the last.

17 MEMBER GOODSSELL: I'll move to reopen this based upon the
18 presence of a witness that we did not realize was here.

19 ACTING CHAIRMAN FRANCIS: Okay, and second?

20 MEMBER HERNANDEZ: Second.

21 MS. BERNA: Hi, so my name is Barbara Berna. I am representing
22 Josephine Pornatello, who resides in the lot that's on the five shape
23 corner property that's right next door that's actually on the east
24 side of the pavers.

25 Actually, I just want to be sure that the property line is where
26 it's supposed to be at this point because when the neighbor came to

1 me to ask if she could take out the 60-year-old hues that many of
2 my dad had planted. She said they were on the property line, and
3 she wanted to remove them and -- now, I'm thankful that I didn't agree
4 to it, but I allowed her to shave them back, and basically half of
5 it is gone, and it's bald on her side. So I assumed that her pavers
6 were in the proper place at that point. And I would just like to
7 know for my clarification since what's done is done at this point,
8 if the shrubs are on my mom's property? How much soil is allowed
9 on -- like how does it work? Like what could the neighbor go up to
10 on their side without -- -

11 ACTING CHAIRMAN FRANCIS: We're not surveyors.

12 MS. BERNA: Right.

13 ACTING CHAIRMAN FRANCIS: So I don't know whether or not we can
14 get into whether that's legal or illegal or whether it's on the
15 property or off the property. I think that's beyond our scope of
16 power to determine at this point.

17 MS. BERNA: Okay.

18 MEMBER GOODSSELL: However, Mr. Chairman, the applicant does
19 submit a current survey, which you are welcome to look at. Does your
20 mother have a survey, even an old one?

21 MS. BERNA: Well, I have this.

22 MEMBER GOODSSELL: That's a survey.

23 MS. BERNA: Right.

24 MEMBER GOODSSELL: That is correct. If you compare that with
25 the current survey, which is part of this application, and perhaps
26 if we continue this for a few minutes and take the next case.

1 ACTING CHAIRMAN FRANCIS: Yeah.

2 MEMBER GOODSELL: You can speak to the applicant outside and
3 have your question answered.

4 MS. BERNA: Meaning the architect that's right there?

5 ACTING CHAIRMAN FRANCIS: Yeah, Mr. Munisteri has a copy of the
6 survey. He'll be happy to share with you.

7 MR. MUNISTERI: Of course.

8 MS. BERNA: Okay.

9 MR. MUNISTERI: You want to step outside real quick?

10 MS. BERNA: Okay.

11 MR. MUNISTERI: Thank you.

12 ACTING CHAIRMAN FRANCIS: Sure, absolutely.

13 MS. BERNA: Thank you.

14 ACTING CHAIRMAN FRANCIS: You're welcome.

15 SECRETARY WAGNER: We're going to call the next case?

16 ACTING CHAIRMAN FRANCIS: Yes.

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1 SECRETARY WAGNER: The next Appeal, Appeal #21544, Julian
2 Mejias; 132 Bethel Road in Albertson; Section 9, Block 112, Lot 14;
3 in the Residence-C Zoning.

4 Variance from 70-51.H to legalize a cellar entrance within four
5 feet of the side property line that does not have horizontal grating.

6 ACTING CHAIRMAN FRANCIS: You've heard Appeal #21544, Julia
7 Mejias. Is there anyone interested in the application other than
8 the applicant? Seeing no one, please give your name and address.

9 MR. RUPPERT: Peter David Ruppert, PE, 44 Union Avenue in
10 Amityville, New York 11702.

11 I'd like to enter this as Exhibit 1. It's a consent form from
12 the neighbor who abuts the cellar entrance on that side, and also
13 four copies of Nassau County Gradience Map to show.

14 SECRETARY WAGNER: Are they together?

15 MR. RUPPERT: There's four copies.

16 SECRETARY WAGNER: But I'm saying that -- so it will be
17 Exhibit 1 and the consent forms go with the survey? Is that what
18 you --

19 MR. RUPPERT: Yes, all Exhibit 1.

20 SECRETARY WAGNER: Okay.

21 MR. RUPPERT: Historically, I was on this job in 2010 with the
22 original owner, Sam Norvell, and Sam Norvell and I got almost to the
23 point of coming the Zoning Board. Apparently, he had some financial
24 trouble and we never made it that far. So I had all of these items
25 on record. The cellar entrance was put in 1958. The same year that
26 the dormer was put in on the house.

1 It's my professional opinion that the cellar entrance can be
2 maintained as such. It's not intrusive. If you go on Google Earth,
3 you will not see it. If you pass by the house on the street, you
4 will not see it. It's only accessible from a rarely traveled area,
5 which is the property in between the two properties setbacks. It's
6 my professional opinion as it was 14 years ago, that clients can
7 maintain this.

8 MEMBER HERNANDEZ: So the access to that basement access is from
9 the concrete walkway coming in from Ashford Place, correct?

10 MR. RUPPERT: From the south. From the south of the property.

11 MEMBER HERNANDEZ: It looks like it's --

12 MR. RUPPERT: It's not -- it's really not accessible from the
13 actual place because there's a railing around it. So there's
14 1.3 feet between the property line and the foundation wall, where
15 it's normally not accessed from there. It's accessed from the
16 backyard.

17 MEMBER HERNANDEZ: So that concrete walkway leads up to, what?
18 A fence that blocks the stairs? I'm just looking at the drawings
19 whoever made the drawings. It says that from Ashford leading there's
20 a concrete wall connecting Ashford Place sidewalk to the -- opening,
21 let's call it that.

22 MR. RUPPERT: Well, that's not -- that the area was paved, and
23 there were shrubs there, so it's normally not accessed from the front.
24 There was never any room.

25 MEMBER HERNANDEZ: So it's accessible from Bethel Road, via the
26 brick patio -- concrete patio?

1 MR. RUPPERT: That is correct.

2 MEMBER DONATELLI: If you take a look at the photographs in the
3 file, there's one dated 2/25/2022 and 10/29.

4 ACTING CHAIRMAN FRANCIS: Yeah.

5 MEMBER DONATELLI: And it shows the rear -- or actually, I think
6 for all intensive purposes, the rear of the house, and on the left
7 side of the photograph you actually can see the staircase going down
8 into the basement.

9 ACTING CHAIRMAN FRANCIS: Oh, yeah.

10 MEMBER DONATELLI: You see it?

11 ACTING CHAIRMAN FRANCIS: Yeah, you can see that from the front.

12 MEMBER DONATELLI: Yeah. So my understanding is that the
13 reason why the Town Code provides for a grate is to prevent somebody
14 from falling down the steps.

15 ACTING CHAIRMAN FRANCIS: Right.

16 MEMBER DONATELLI: Is there any kind of mitigation from the rear
17 yard? Is there a gate, or is there a fence or something preventing
18 somebody from falling down the steps?

19 MR. RUPPERT: Well, as of now, my client is parking his cars
20 back there, and it would only be used by people who literally are
21 familiar with the house. It's not like it's off of the sidewalk.
22 The landscapers who have a problem, and it's clearly visible.

23 MEMBER DONATELLI: Is there a reason why the applicant could
24 not install a grate?

25 MR. RUPPERT: Well, he can install a grate. It would have been
26 to be something that would have to be either lifted up every time

1 or a gate on the back end. The gate probably be something that he
2 could easily put on.

3 MEMBER GOODSSELL: Is that cellar entrance used by the
4 homeowner?

5 MR. RUPPERT: Infrequently because interestingly enough, when
6 I first got on this case, I was legalizing a finished basement, which
7 I put on in the 1950s, and when Mr. Meijias bought the house in 2022,
8 he removed that finished cellar. So they normally access the
9 house -- the cellar from the inside of the house.

10 MEMBER GOODSSELL: So it seems like it's an antiquated feature
11 from the 1950s.

12 MR. RUPPERT: It's a vestigial feature that it's been there
13 since the 1950s. He came in handy when he was getting his heating
14 system renovated, things like that. But it's just something that
15 if, you know, we do have a propensity to put a gate on the back of
16 it.

17 MEMBER DONATELLI: Yeah, given the location of the staircase
18 and the lack of space between the lot line and the house and the
19 staircase, that might be the best way to go.

20 ACTING CHAIRMAN FRANCIS: I agree.

21 MEMBER GOODSSELL: Not a grate but a gate?

22 MR. RUPPERT: Yes, a gate.

23 MEMBER HERNANDEZ: So no one can accidentally just walk back
24 there and go --

25 MR. RUPPERT: I haven't heard of anybody doing that.

26 MEMBER HERNANDEZ: No?

1 MR. RUPPERT: I've heard of other entrances where that
2 happened, but not --

3 ACTING CHAIRMAN FRANCIS: Anything is possible.

4 MR. RUPPERT: Yeah.

5 MEMBER DONATELLI: It may not even be somebody who has
6 permission.

7 ACTING CHAIRMAN FRANCIS: Right.

8 MEMBER HERNANDEZ: To be there.

9 ACTING CHAIRMAN FRANCIS: The person can be a trespasser and
10 fall down those stairs and still have a lawsuit against your client.

11 MR. RUPPERT: Well, that opens up a whole different can of
12 worms.

13 MEMBER GOODSELL: I think if it's possible to install some sort
14 of gate --

15 ACTING CHAIRMAN FRANCIS: Yeah.

16 MEMBER GOODSELL: -- and not a grate, I think that would
17 certainly satisfy me because I am not -- I don't object to the presence
18 of this because it's from the 1950s.

19 ACTING CHAIRMAN FRANCIS: Right.

20 MEMBER GOODSELL: And I don't think we had the same code. It's
21 possible this house predates the house next door, where at one point,
22 it might have been one full lot. Again, it's just hard to know in
23 1958 what the thinking was, but it's there, and clearly, the homeowner
24 didn't put it in.

25 ACTING CHAIRMAN FRANCIS: All right so --

26 MEMBER DONATELLI: It may be prudent, however, for us to require

1 the gate to be self-close.

2 ACTING CHAIRMAN FRANCIS: Definitely.

3 MEMBER DONATELLI: As opposed to just a gate that can remain
4 open.

5 ACTING CHAIRMAN FRANCIS: Swings.

6 MEMBER DONATELLI: Yeah, so if that's acceptable, I make a
7 motion --

8 ACTING CHAIRMAN FRANCIS: You want to be heard, sir?

9 MEMBER DONATELLI: Oh, I'm sorry.

10 ACTING CHAIRMAN FRANCIS: Mr. Mejias?

11 MR. MEJIAS: No, I'm the homeowner.

12 ACTING CHAIRMAN FRANCIS: Yes, come forward.

13 MR. MEJIAS: I do have a question, so you guys --

14 ACTING CHAIRMAN FRANCIS: You have to give your name and address
15 first.

16 SECRETARY WAGNER: Sir, put your name and address.

17 MR. MEJIAS: Julian Mejias, 132 Bethel Road, Albertson, New
18 York 11507. Are you guys talking about putting a fence on the walkway
19 from Ashford? That's what you're talking?

20 ACTING CHAIRMAN FRANCIS: No.

21 MEMBER DONATELLI: What I'm suggesting is you have a gate that
22 around the deep part of the staircase and around the side of the
23 staircase. What I'm suggesting is that you put a gate in front of
24 the staircase, so that you would have to open the gate to go down
25 the steps.

26 MR. MEJIAS: Okay, so you guys aren't worried about that

1 walkway?

2 MEMBER GOODSSELL: The walkway from?

3 MR. MEJIAS: From Ashford.

4 MEMBER GOODSSELL: From the parking side where you park your cars
5 or the walkway from the front of the house across the grass?

6 MR. MEJIAS: From the front of the house.

7 MEMBER GOODSSELL: From the front of the house?

8 MR. MEJIAS: Yeah.

9 MEMBER GOODSSELL: All right, so if I was standing -- I won't
10 even say front because it looks like --

11 MR. MEJIAS: The side.

12 MEMBER GOODSSELL: The side of your house. On Ashford Place,
13 if someone were coming to your house from Ashford Place and coming
14 down your side yard, what would be to prevent from falling into the
15 cellar?

16 MR. MEJIAS: There's a railing.

17 MEMBER HERNANDEZ: There's a railing there. They have this.

18 MR. MEJIAS: Yeah.

19 MEMBER HERNANDEZ: They have that. What we're suggesting is
20 put a gate that swings --

21 MEMBER DONATELLI: Right.

22 MEMBER HERNANDEZ: -- down here, so that if you need to use it,
23 you open the gate, go down, but no one can accidentally just walk
24 down --

25 MR. MEJIAS: Okay.

26 MEMBER HERNANDEZ: -- fall into the --

1 MEMBER GOODSSELL: Dogs, children, guests.

2 ACTING CHAIRMAN FRANCIS: Right.

3 MR. RUPPERT: For the record, this gate is gonna be the same
4 height as the surrounding area.

5 ACTING CHAIRMAN FRANCIS: Yeah, absolutely.

6 MEMBER HERNANDEZ: Absolutely.

7 ACTING CHAIRMAN FRANCIS: And self-closing.

8 MEMBER DONATELLI: And just for the record, so in other words,
9 right now, you have the staircase enclosed with a railing on two
10 sides, right? And then the house is on the third side.

11 MEMBER HERNANDEZ: Correct, right.

12 MEMBER DONATELLI: So now what we're suggesting is the railing
13 be on the third side so that it be fully enclosed.

14 MEMBER HERNANDEZ: And no one can fall in.

15 MEMBER DONATELLI: And no one can fall in.

16 SECRETARY WAGNER: So there's a railing on the other side?

17 MEMBER HERNANDEZ: Yes, there's a railing there.

18 SECRETARY WAGNER: Adding a gate to --

19 ACTING CHAIRMAN FRANCIS: All right. Can we have a formal
20 motion based on those conditions?

21 MEMBER DONATELLI: I'll make at motion that we grant subject
22 to the insulation of a self-closing gate on that side.

23 MEMBER HERNANDEZ: On the open side.

24 MEMBER DONATELLI: On the open side.

25 ACTING CHAIRMAN FRANCIS: Okay, we have a motion. Do we have
26 a second?

1 MEMBER HERNANDEZ: Second.

2 ACTING CHAIRMAN FRANCIS: Seconded by Member Hernandez.

3 Ginny, please pole the Board.

4 SECRETARY WAGNER: Member Goodsell?

5 MEMBER GOODSSELL: Aye.

6 SECRETARY WAGNER: Member Hernandez?

7 MEMBER HERNANDEZ: Aye.

8 SECRETARY WAGNER: Member Donatelli?

9 MEMBER DONATELLI: Aye.

10 SECRETARY WAGNER: Acting Chairman Francis?

11 ACTING CHAIRMAN FRANCIS: Aye.

12 Application is granted.

13 MR. RUPPERT: Thank you.

14 ACTING CHAIRMAN FRANCIS: Thank you.

15 MEMBER DONATELLI: Good luck.

16 MR. RUPPERT: Thank you.

17 ACTING CHAIRMAN FRANCIS: We are now finished with the

18 Residential Calendar.

19 SECRETARY WAGNER: No, not yet. We got to recall.

20 ACTING CHAIRMAN FRANCIS: Mr. Munisteri?

21 SECRETARY WAGNER: Yeah, we have --

22 ACTING CHAIRMAN FRANCIS: Oh, okay.

23 SECRETARY WAGNER: So let me call this case again.

24 ACTING CHAIRMAN FRANCIS: Yeah, call it again.

25

1 SECRETARY WAGNER: Appeal #21543, Richard and Alba Pagan; 95
2 Primrose Drive, New Hyde Park, Section 8, Block 308, Lot 14; in the
3 Residence-B Zoning District.

4 Variance from 70-42.6 to legalize an expanded driveway (paving)
5 that covers too much of the front yard.

6 ACTING CHAIRMAN FRANCIS: You've heard Appeal #21543, Richard
7 and Alba Pagan. We are reopening this case for additional comments,
8 so please give your name and address.

9 MS. BERNA: Barbara Berna, 4 Beechwood Lane, New Hyde Park, and
10 I have no further objections.

11 ACTING CHAIRMAN FRANCIS: Excellent.

12 MS. BERNA: And thank you.

13 ACTING CHAIRMAN FRANCIS: Very good.

14 MEMBER GOODSELL: We pull up Google Earth, and you can see the
15 hues that you said your father planted. And again, I hate to cut
16 down any kind of tree, living anything, but on occasion, it has to
17 be done. You're satisfied with where the property line is?

18 MS. BERNA: I am.

19 ACTING CHAIRMAN FRANCIS: Excellent, very good.

20 MS. BERNA: Thank you.

21 ACTING CHAIRMAN FRANCIS: Mr. Munisteri, thank you for taking
22 the time to straighten that out?

23 MR. MUNISTERI: Good?

24 ACTING CHAIRMAN FRANCIS: Yes.

25 MR. MUNISTERI: Thank you, all.

26 SECRETARY WAGNER: Let's revote.

1 ACTING CHAIRMAN FRANCIS: Oh, we need to revote?

2 ATTORNEY ALGIOS: Need to revote.

3 SECRETARY WAGNER: Patricia, you're going to make a motion?

4 MEMBER GOODSSELL: I will make a motion as I did before that we
5 grant the application.

6 ACTING CHAIRMAN FRANCIS: We have a motion. Do we have a
7 second.

8 MEMBER HERNANDEZ: I'll make a second like I did the last time,
9 the same commentary.

10 SECRETARY WAGNER: Member Hernandez?

11 MEMBER HERNANDEZ: Aye.

12 SECRETARY WAGNER: Member Donatelli?

13 MEMBER DONATELLI: Aye.

14 SECRETARY WAGNER: Member Goodsell?

15 MEMBER GOODSSELL: Aye.

16 SECRETARY WAGNER: Acting Chairman Francis?

17 ACTING CHAIRMAN FRANCIS: Aye.

18 Application is granted for a second time.

19 MR. MUNISTERI: Thank you, all. Truly appreciate it.

20 SECRETARY WAGNER: We can take a five-minute --

21 ACTING CHAIRMAN FRANCIS: I was going to suggesting we take a
22 two-hour break for lunch. We'll take five minutes.

23 MEMBER HERNANDEZ: Five minutes it is.

24 (WHEREUPON, a recess was taken at this time.)

25

1 SECRETARY WAGNER: Next Appeal, Appeal #21545, HR Port Tennis
2 Owner, LLC; 100 Harbor Road in Port Washington; Section
3 5, Block A, Lot 333; Business-A Zoning District.

4 Variances 70-133, 70-196(J) (1) (b), 70-196(J) (1) (f),
5 70-196(J) (2) (a), & 70-196(J) (2) (c) to install HVAC equipment too
6 close to a side property line; wall signs that are too tall, too big,
7 and too high above grade; and more than one ground sign on a property
8 and ground signs that are too close to a property line.

9 ACTING CHAIRMAN FRANCIS: You've heard Appeal #21545, HR Port
10 Tennis Owner, LLC. Is there anyone interested in the application
11 other than the applicant? Seeing no one, please give your name and
12 address.

13 MR. ANZALONE: Good afternoon, Mr. Chairman, honorable members
14 of the town's zoning Board of Appeals. John Anzalone for Harris
15 Beach, PLLC, located at 333 Earle Ovington Boulevard, Suite 901,
16 Uniondale, New York 11553, attorney for the applicant.

17 ACTING CHAIRMAN FRANCIS: Good morning.

18 MR. ANZALONE: Thank you for the opportunity to make this
19 presentation. I'm here today with respect to HR Port Tennis Owner,
20 LLC's application for a sideyard setback variances to install new
21 HVAC equipment at the property along with various new signage.

22 As a matter of housing, we filed the applicant's mailing and
23 postal in advance with this hearing along with all other exhibits
24 that we'll be relying on during our presentation. The Port
25 Washington Tennis Academy is located at 100 Harbor Road in Port
26 Washington. The property is overall 5.268 acres. The entire site

1 is presently zoned Business-A after having received a change of zone
2 approval from the Town Board on September 22, 2022. East of the
3 property are multi-family apartments. To the north across Harbor
4 Road are various commercial and industrial properties. South are
5 the Lions Youth field, and to the west is the Port Washington Sewer
6 Treatment Plant. The property has been operating as a tennis
7 training facility for several decades and is a well-established part
8 of the Port Washington community.

9 The proposed air conditioning heat pumps and HVAC unit require
10 variances because the existing building was designed with
11 noncompliant side yard setbacks as granted by this Board decades ago.
12 The units must be located in this area to function properly and are
13 necessary to modernize the existing facility. The proposed area of
14 leap is solely for intrusions related to the installation of HVAC
15 equipment, and there is no additional floor area being added to the
16 building.

17 The requested variance relief is not necessarily different from
18 the existing setbacks maintained by the building. The western side
19 yard setback needs to be a regular western lot line, which creates
20 pinch points where the proposed equipment is to be located.
21 Moreover, the HVAC unit setback will be greater than the existing
22 building setback to the western property line at certain points. And
23 the variances for the setback for the Port Washington Sewage
24 Treatment Plant. Given the nature of that use, the sewage treatment
25 plan use, no noise or other impacts are anticipated with this
26 variance.

1 Along the eastern side of the variances are for wall-mounted
2 heat pump units that people are able to walk underneath. There's
3 a sidewalk on this area. There's are wall-mounted. The proposed
4 setback for the heat pump is 10 feet 9 inches. Based on the
5 manufactured specification sheet which was filed with this
6 application as an exhibit. The A-weighted decibel or dBA at the
7 point of source is 80. At 10 feet the sound reduces to 62. Based
8 on the Yale University decibel level comparison chart, this is
9 equivalent to the typical sound of a normal conversation, 60 to 70
10 or a business office of 60 to 65. The neighboring residential complex
11 is setback approximately an additional 7 feet from the shared
12 property line for a total setback of approximately 27 feet 9 inches.
13 The specification sheet prior for the dBA 15 feet and 50 feet. The
14 sound attenuating works at 6 dBA for every doubled, so at 20 feet, the
15 dBA is 56. While at 30 feet, the dBA is 53, so the estimate the dBA
16 at 27.9 feet conservatively, the dBA will be around 50 dBA, which
17 is the equivalent to a household refrigerator. To mitigate the
18 sound, the applicant is proposing to use sound blankets. Sound
19 blankets reduce the dBA by approximately half, so at the property
20 line, the dBA is a little less than 31 dBA, which is equivalent to
21 a suburban area at night, which is 40 dBA.

22 For additional reference, OSHA lists 30 dBA as the measurement
23 at the north rim of the Grand Canyon. At 27.9 dBA, the dBA will be
24 about 27 or affect the equipment to whisper, which is 25 dBA. In
25 any event, it's less than the typical ambient 40 dBA at night in the
26 suburban area, such as the area surrounding the tennis center.

1 Accordingly, the heat pumps will not have environmental impact or
2 adverse impact on neighboring parcels, and the proposed relief is
3 not substantial in nature.

4 There are five proposed signs of the property. The main wall
5 sign, which is Sign A in the packet is direct replacement of the Port
6 Washington Tennis Academy sign that been on the building for decades.
7 The signage is limited to a non-illuminating circle level of steel
8 channeling lettering of the same character and scale of what has
9 existed for day -- that exists today has existed for many years. The
10 sign is also setback approximately 180 feet from the road, which
11 requires a greater size.

12 As can be seen in the pictures filed in support of this
13 application, the existing sign is not overbearing on the neighborhood
14 and for much of the roadway front it's blocked by existing street
15 trees excepting the intersection of Harbor Road and Valley Road.

16 The first ground sign is Sign B, is a direct replacement of an
17 existing sign that's present at this site for decades. The applicant
18 is proposed realized with this location with a lollipop sign that
19 stood and replaced with an identical sized sign. Moreover, based
20 on the longstanding site plan design of the property, the grass area
21 between the parking area and the road is only about 10 feet wide where
22 that sign is located. Accordingly, in order to place a ground sign
23 at a compliant location, it would need to be replaced in the existing
24 parking stop.

25 Finally, given the curve in the road and the close proximity
26 of the home at the intersection of Harbor Road and Valley Road,

1 approaching the driving entrance from south, a sign setback at a
2 compliant location would not be visible for the car with merely at
3 the driveway requiring a quick turn into the property.

4 The second ground sign, Sign C, proposed to be located where
5 an existing out directional sign is located. The reason for this
6 location is not just for -- because the current location of the
7 directional sign and to match the existing setback of the ground sign.
8 As can be seen in the photographs following this application,
9 surrounding the add directional sign are mature street trees. If
10 the sign was put back at 10 feet, it would require a removal of some
11 of these current blossoms to be dissipated. When you look at the
12 actual sign area combined, the ground signs measure 24.48 square
13 feet, which only 18 square feet are for advertising purposes, where
14 a single ground sign is permitted at 24 square feet as of right.

15 As such, the variance permit these two ground signs too close
16 to the road instead of one compliant sign is not substantial. For
17 the commercial properties located across Harbor Road involve both
18 signs and as can be seen in the site plan. The property owns both
19 the Tennis Pro Housing at the site and the house respectively to the
20 east and west of the driveway. Accordingly, there are no light
21 impact on the residence from the signs.

22 The second wall sign is a new sign, which is Sign D in the pack.
23 The scale of the sign is relative to both the setback in the roadway
24 in which it is visible from and the scale of the building elevation
25 phase. The sign is set back 209 feet from the roadway. It's only
26 visible without obstruction from near the Valley Road and Harbor Road

1 intersection. The large setback is a the reasonable size and height
2 at the sign. The sign is also not illuminated, so there is no
3 lighting concerns associated with the sign.

4 The final sign is Sign E, which is a wall sign, that faces the
5 parking at Lions Field. At the request of the Port Washington Youth
6 Activities, the property owner recently painted the back of the
7 building, which is why there's a color difference in the back of all
8 the photographs including the sign in each plan. As you can see in
9 such plan, the sign is small in comparison to the size of the overall
10 building elevation. The sign is also not illuminated.

11 For these reasons, the variances are in keeping with the
12 existing scale and location of the signs. And improvements
13 currently at the property will not adversely affect the health,
14 safety, or general welfare of the public.

15 While the variances are partially self-created, the location
16 of the HVAC equipment are due to the existing building design and
17 construct, which among other things, does not allow the support the
18 weight of the HVAC units, and are already encroachment to the side
19 yard, along with the lot an irregular shape.

20 As such, the applicant has no viable alternative location in
21 order to modernize the building.

22 Further, the sign variance are partially self-created, however,
23 three of these signs, locations match with the existing locations
24 of the signs at the property. The size and height of the variances
25 are for wall signs are also necessary to affectively advertise the
26 business keeping the large front setback along Harbor Road and mature

1 street shrubs to be maintained.

2 MEMBER GOODSSELL: So if I can interrupt you for a moment.

3 MR. ANZALONE: Yes.

4 MEMBER GOODSSELL: I've been through all those cards. How many
5 of those are illuminated? Are any of them?

6 MR. ANZALONE: The two ground signs are illuminated.

7 MEMBER GOODSSELL: Two ground signs, not the lollipop signs?

8 MR. ANZALONE: The lollipops are the ground signs. Those are
9 the only --

10 MEMBER GOODSSELL: The lollipop are the --

11 MR. ANZALONE: The only ground signs, yes.

12 MEMBER GOODSSELL: So I would take it that the hours of the Tennis
13 Academy in the wintertime will extent after dark.

14 MR. ANZALONE: That's correct.

15 MEMBER GOODSSELL: That's the reason for the illumination.
16 During the day, they'll be visible.

17 MR. ANZALONE: Correct.

18 MEMBER GOODSSELL: And I actually went and visited with the
19 property there is the sign that clearly indicates this is the entrance
20 and this is the exit --

21 MR. ANZALONE: Yes.

22 MEMBER GOODSSELL: -- to be able to get in and out. There is
23 a lollipop sign. There's also a circular sign currently on the
24 building above --

25 MR. ANZALONE: Correct.

26 MEMBER GOODSSELL: -- Port Washington Tennis Academy, but it's

1 indistinguishable. Does that circular ornament sign doesn't say
2 anything?

3 MR. ANZALONE: That sign right now says Port Washington Tennis
4 Association. It's sort of an embossed -- very hard to see from the
5 roadway, or even --

6 MEMBER GOODSELL: It is hard to see from the roadway. It does
7 not --

8 MR. ANZALONE: It's proposed to be replaced with a new sign
9 that's also going to be non-illuminated, and it would say SPORTIME,
10 which is the operator facility.

11 MEMBER GOODSELL: And the wording that's being changed from
12 Port Washington Tennis Academy being changed to the John McEnroe
13 Tennis Academy. The size of the lettering, is that higher, larger
14 than what was currently existing, or the same size as it currently
15 exists?

16 MR. ANZALONE: I will refer to the architect on that, but it's
17 my belief that it's either, if not identical in size, virtually
18 similar, I believe, compared to photographs of the simulation versus
19 the existing scale, it's basically identical.

20 MEMBER DONATELLI: My impression is actually quite different.

21 MR. ANZALONE: Okay.

22 MEMBER DONATELLI: My impression is that the new lettering is
23 to be substantially larger, even though it appears to be still be
24 within the same space. It just looks to me like it's substantially
25 larger. We're talking about Sign A than what was originally there.
26 So I would like some clarification as to the size of the old letters

1 and the size of the new letters.

2 MEMBER HERNANDEZ: Let's keep in mind, this is not a new
3 facility by any means. This place has been here a lot longer than
4 I can remember I think. Under different management I understand.

5 MR. ANZALONE: Yes.

6 MEMBER HERNANDEZ: But it's certainly not a new facility that
7 needs to draw traffic to itself --

8 ACTING CHAIRMAN FRANCIS: No.

9 MEMBER HERNANDEZ: -- for the first time. Everybody knows Port
10 Washington Tennis Academy. Anybody that plays tennis anyway.

11 MR. ANZALONE: So the proposed sign is at -- the lettering is
12 1 foot 10 and a half inches in height. I don't think we have -- I
13 don't think we had -- anybody's been up there to measure it, right?

14 AUDIENCE MEMBER: No.

15 (WHEREUPON, there was a discussion held amongst the Board
16 Members.)

17 MEMBER GOODSELL: So the new sign on the building is certainly
18 contained within the same area.

19 MEMBER HERNANDEZ: Same area.

20 MR. ANZALONE: Same area, yeah.

21 ACTING CHAIRMAN FRANCIS: Yeah.

22 MEMBER GOODSELL: Than the old sign, but I agree it looks
23 slightly larger. There's a lot of wording to put in there. The logo
24 that appears above SPORTIME, John McEnroe Tennis Academy, is that
25 going to be illuminated?

26 MR. ANZALONE: No, it's steel lettering. Steel channel

1 lettering.

2 MEMBER HERNANDEZ: So it's 10 and a half.

3 MEMBER DONATELLI: It seems taller, and that's just my visual
4 comparison of the proposed sign versus the existing sign.

5 MR. ANZALONE: The only way I can really scale it is by looking
6 at from where it is essentially less lower than the sort of the -- I
7 don't want to sconces -- they're not sconces. It's almost like
8 planters that kind of pop off the building.

9 MEMBER DONATELLI: Yeah.

10 MR. ANZALONE: You can see this when you look at the Sign
11 B -- Sign A plan. You can see the separation basically pretty
12 similar there in terms of their height and from the setback how -- low
13 set below that. And then you got to scale it from -- essentially
14 from the windows and there's a course of more -- it's more visible
15 on the proposed sign.

16 There's a brick course above the window that you kind of see
17 where the SPORTIME sign goes down to. And I would say that you are
18 correct in that it is slightly larger going down closer towards that
19 concourse, that brick concourse.

20 MEMBER DONATELLI: It just seems too large, and of course, we're
21 not aesthetic Board, but it seems that it is overpowering compared
22 to what was there. I was there actually just yesterday afternoon
23 in preparation for today's hearing, and this strikes me as being out
24 of proposition to what is there as to Sign A. So I think that at
25 the outset I would like to know what the size of existing lettering
26 is so that we can compare it.

1 MEMBER HERNANDEZ: Yeah, one is 22 and a half inches. It's
2 almost 2 feet high. It's very, very large lettering.

3 MEMBER DONATELLI: Yeah. And I just don't believe -- I mean
4 I could be wrong, but I just believe that the existing --

5 MEMBER HERNANDEZ: No, it's nowhere near that.

6 MEMBER DONATELLI: Can I also turn your attention, I personally
7 as one Board Member, I have no problem with the Sign B and C, and
8 I think that where the trees are located and certainly to add the
9 flow of the traffic, it's very important giving it --

10 ACTING CHAIRMAN FRANCIS: Yeah.

11 MEMBER HERNANDEZ: -- that particular parking lot dedicated to
12 the entry, and the signs that are there are not very visible, so this
13 would actually be an improvement. As to -- that's B and C. As to
14 sign D, is there some particular reason why that sign SPORTIME and
15 pickleball needs to be as large as it is?

16 MR. ANZALONE: The only reason for that sign being as large as
17 it is because it's set back from the roadway 209 feet. That also
18 can only be visible from the intersection of Valley Road and Harbor
19 Road, which is depicted in one of the photographs submitted, which
20 is here.

21 MEMBER DONATELLI: If I recall correctly, that's really
22 blocked.

23 MR. ANZALONE: It still needs -- it is visible when you're at
24 the portion where the existing lollipop sign is. It's only visible
25 really for a small portion, but you are correct in that.

26 MEMBER DONATELLI: Right, and again, we're not an aesthetic

1 Board, but it's not going to be visible from Harbor Road because of
2 the Power 10 Fitness Club that is directly in front of it. So that
3 the only place that it's really gonna have any visibility from this
4 is gonna be from the parking lot of the tennis academy.

5 MR. ANZALONE: Well, you can see -- and I'll show -- I'll submit
6 the photograph, which I submitted electronically, but I have it here
7 as well. You can see from the intersection of Valley.

8 SECRETARY WAGNER: This is Exhibit 1?

9 MR. ANZALONE: Exhibit 1. That is the intersection of Valley
10 Road and Harbor Road looking into it from actually from across the
11 street, and you can see that frontage of that building -- the facade
12 of that building, which is the blue building, is visible from Harbor
13 Road. Obviously, from there, it's far more than 209 feet; 209 feet
14 is from the setback where -- past the fitness club, which obviously
15 does block it directly in front of it.

16 MEMBER DONATELLI: Is the pickleball, is that new?

17 MEMBER HERNANDEZ: Yeah.

18 MR. ANZALONE: Yeah.

19 MEMBER DONATELLI: It is. And as to sign E --

20 MR. ANZALONE: Yes.

21 MEMBER DONATELLI: -- you indicated that the back of the
22 building was painted so that -- what appears on the photograph is
23 paint light blue, so it's not the exposed brick anymore?

24 MR. ANZALONE: It's no longer that -- so the back of the building
25 was -- you can see it in Sign E. It's actually two photographs of
26 the existing condition. One is an overlay, and the existing

1 condition, I think it shows it as a white building, however, there's
2 an additional overlay that shows it as a blue color, and that blue
3 color is what it has -- I actually have it right here.

4 MEMBER DONATELLI: So it is now painted blue?

5 MR. ANZALONE: It was painted blue at the request of the Youth
6 Activity, yes, because they -- it was not particularly good looking
7 from behind.

8 MEMBER DONATELLI: My kids are 33 and 30, so it's been probably
9 20 years since I've been to Lions Field, so changes that have occurred
10 in the last 20 years in Lions Field are beyond the interscope. You
11 know, that to me as one Board Member, Sign E is less offensive because
12 it is more or less in keeping with the blue color because of that
13 distance from the fields because I mean, it's inconceivably
14 erratically minded to -- it's gonna be interesting what is now going
15 to hang there on that building.

16 MEMBER HERNANDEZ: Right.

17 MEMBER GOODSSELL: And it's non-illuminating?

18 MR. ANZALONE: Correct:

19 ACTING CHAIRMAN FRANCIS: Right.

20 MEMBER HERNANDEZ: You're basically identifying what that big
21 blue building is?

22 MR. ANZALONE: Yeah.

23 MEMBER DONATELLI: My concerns really go to the size of the
24 lettering of sign A and on Sign D.

25 MEMBER HERNANDEZ: And again, I would also like to just pointing
26 out the name of the academy itself as being 22 inches and a half

1 lettering, we also could not miss that the big circle above it, is
2 4 feet 4 inches square, so it's a huge sign. It's 52 inches high.
3 It's probably the average size of a woman.

4 MEMBER DONATELLI: Well, let me check and see --

5 MEMBER HERNANDEZ: No, I'm talking about the height, you know.
6 That's a big, big sign on top of big, big lettering, so the fact that
7 we see from that --

8 ACTING CHAIRMAN FRANCIS: I don't even know how to comment.

9 MEMBER HERNANDEZ: If it was 6 feet, I'd say as a man. If you
10 look at the signs now, the lettering is not only much bigger but also
11 that circle that we can't decipher what it says.

12 MR. ANZALONE: Well, that circle is not any bigger than it was
13 'cause it's within the brick concourse. It can't exceed the brick
14 concourse. That's a brick concourse circle that goes around that
15 sign. It can't exceed that.

16 MEMBER GOODSSELL: To be honest, when I saw it?

17 MEMBER HERNANDEZ: Sure does not look like it's the same size.

18 MR. ANZALONE: It's 'cause you have to understand, you're
19 looking at it from two different -- can I -- yes.

20 ACTING CHAIRMAN FRANCIS: Yes.

21 MEMBER HERNANDEZ: Give your name on the record, please.

22 MR. ANZALONE: This is Chris Lahey, he's the operator.

23 ACTING CHAIRMAN FRANCIS: Okay.

24 MR. LAHEY: Yes, hi, I represent SPORTIME. My name is Chris
25 Lahey.

26 ACTING CHAIRMAN FRANCIS: And you want to give the address of

1 the tennis academy.

2 MR. LAHEY: Sure, it's 100 Harbor Road in Port Washington, New
3 York. That's a cement medallion that is just affixed. Like a tin
4 cover on it.

5 MEMBER HERNANDEZ: Right.

6 MR. LAHEY: And that, we're not changing the size of that.
7 That's staying exactly the way it was. I believe, I think you said
8 it was like 42 inches or something like that.

9 MEMBER HERNANDEZ: It's 52 inches; 4 feet 4 inches.

10 MR. LAHEY: So yes, it's not changing.

11 MEMBER HERNANDEZ: Okay.

12 MR. LAHEY: And as far as for the Lions Field, the color, they
13 had asked us to change it because the baseball, they were losing the
14 ball in the --

15 MEMBER HERNANDEZ: Oh, yeah, in the white --

16 ACTING CHAIRMAN FRANCIS: Yeah, definitely.

17 MEMBER DONATELLI: That's to Sign E.

18 MR. LAHEY: The whole back of the -- I don't know -- you said
19 you went a long time ago. That was all overgrown and stuff like that.
20 We worked with the park to make that more modern and protective and
21 cleaned up the whole area over there.

22 MEMBER HERNANDEZ: Good. Excellent.

23 MEMBER DONATELLI: And to your credit, it's wonderful. We do
24 appreciate good neighbors, and I do recall that it was overgrown years
25 ago, so it's certainly an improvement. And as I say, in terms of
26 the size of the scope, I really have no particular problems with E

1 because it is a natural thing, and you're far enough away from people.
2 My concern is really with Signs A and Sign D.

3 We understand that there are certain circumstances under which
4 people might want a larger sign than what is otherwise permitted.
5 I know that we have granted in the past some applications where
6 buildings are setback 200 feet, 150 feet, 300 feet, and so there is
7 a certain visibility there. We've granted circumstances where
8 somebody might want two signs on one wall, so for example, as a logo
9 on this SPORTIME John McEnroe.

10 So we understand that there're allowances to be made, but again,
11 while we're not on aesthetic board, we don't want something being
12 out of character with the rest of the neighbor or with what's there.
13 So again, I see the brick course that you're talking about in terms
14 of the round logo and I think that probably is the same size as what's
15 there.

16 ACTING CHAIRMAN FRANCIS: Yeah.

17 MEMBER DONATELLI: But I do believe the SPORTIME John McEnroe
18 Tennis lettering is larger than what is there right now.

19 So I would like to know the difference in size and conceivably,
20 even though you're saying more, whether or not you can bring the size
21 down to the existing size sign -- size of the sign -- sign -- well,
22 you know what I mean.

23 MR. LAHEY: Sure.

24 MEMBER DONATELLI: So that we can compare.

25 MR. ANZALONE: I don't see why we can't do that.

26 MR. LAHEY: Yeah, we'll get that information for you.

1 MEMBER DONATELLI: And is there some way that you can make Sign
2 D smaller?

3 MR. LAHEY: I believe we can work with that. You know, it's
4 now, it's 24 square feet normally.

5 MR. ANZALONE: That's a ground sign. The wall sign is a little
6 different.

7 MR. LAHEY: Okay.

8 MR. ANZALONE: The wall sign is -- Sign B -- 2 feet as of right.

9 MR. LAHEY: Yeah, I know ownership would of liked to see a little
10 bigger, so we can see -- yes, I think accommodate -- it's mostly
11 visible by our parking lot for our members 'cause we're -- it draws
12 you to that facility. It's been a long-term tennis club, for -- I
13 played there as a kid and stuff like that maybe 40 years ago, so.
14 And it is -- was one of the first training camps of the country, so.

15 With that said, yeah, I think that's what we were looking to
16 get it a little bigger so that from the parking lot and possibly when
17 you're heading east on Harbor Road you can see it from there.

18 MEMBER DONATELLI: Yeah, I would like to continue this if we
19 can, so we can see revised plans. I very much appreciate your
20 flexibility. I would like to think this more as a dialog dice when
21 we can, and we can work with the owner, and as I said make certain
22 allowances. I would like see revised plans with the smaller signs.
23 And -- there was something that I was going to add, but, you know,
24 if we can see those.

25 We understand businesses want to be visible. We want
26 businesses to succeed. We understand that baseball is part of that.

1 We understand that pickleball is new to it, so -- but if you can assist
2 with that, I think we'll be able to assist you with what we can assist
3 you with.

4 Now, I don't have any -- yes, thank you for reminding me. With
5 respect to the five air-condition units, I think that that's pretty
6 much where they would need to go, so even though as a number of
7 variances appear to be substantial percentage of what is allowed,
8 it's actually -- they're more than 40 feet away from the homes, and
9 they're really in a place that's going to make sense. It's a lot
10 area that is mostly Port Washington, so I have no problem with the
11 location of those five AC units.

12 MEMBER HERNANDEZ: And you did mention that they were wall
13 hangings, so it would not bother the walkway --

14 MR. ANZALONE: Right.

15 MEMBER HERNANDEZ: -- things like that.

16 MR. LAHEY: They're up high, and there's some trees blocking,
17 so they can't even really --

18 ACTING CHAIRMAN FRANCIS: Can't even see them.

19 MR. LAHEY: I don't even think you'll even know it's there.

20 ACTING CHAIRMAN FRANCIS: Right.

21 MEMBER DONATELLI: Terrific.

22 MEMBER HERNANDEZ: Much more efficient.

23 ACTING CHAIRMAN FRANCIS: Unless you have anything else, we're
24 going to continue this for the revised plans.

25 MR. ANZALONE: Okay, we'll get you the requested revised plans
26 and the measurement of the existing sign.

1 ACTING CHAIRMAN FRANCIS: Excellent, thank you.

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6 SECRETARY WAGNER: Next Appeal, Appeal #21547, JNP Holdings
7 Inc. (Jonathan's Restaurant); 3000 Jericho Turnpike, New Hyde Park;
8 Section 9, Block 612, Lot 50; Business-A Zoning District.

9 Variance 70-196(J)(1)(b) to legalize wall signs that are too
10 tall and too big.

11 ACTING CHAIRMAN FRANCIS: You've heard Appeal #21547, JNP
12 Holdings. Is there anyone interested in the application other than
13 the applicant? Seeing no one, please give your name and address,
14 sir.

15 MR. MEHMETI: Good afternoon. My name is Enik Mehmeti,
16 architect, 567 Broadway, Massapequa, New York 11758.

17 ACTING CHAIRMAN FRANCIS: Okay, sir, tell us about your
18 application.

19 MR. MEHMETI: The reason why we're here, the new operator had
20 the inspection concern. It turned out that they left another comment
21 which had to do with the signs, and then the new operator that took
22 this place, Sport Partners in 2019 --

23 ATTORNEY ALGIOS: Can you speak directly into the mic?

24 MR. MEHMETI: In 2019, realized the signs that were there were
25 equipped without a permit. At which time, we filed an application
26 a legalize existing signs. And we got the comments that the signs

1 are a bit oversized based on the planner examiners review.

2 We did some calculations, and we have an interpretation of
3 what's in there, and the final decision which you have to ask for
4 a variance. So the sign the way that it sits and the way it's done,
5 it's aesthetically pleasing. They come and statement
6 (unintelligible) and taking out and putting up a much smaller size,
7 which will be less visible from the street.

8 Is this a self-made? It's a -- the previous owner gave the
9 business to -- for new partners in 2019, and those partners did not
10 know what was right, what was not, so they're trying to solve this
11 and some other problems, which is not part of this hearing.

12 The character of the sign stands for the neighborhood. It
13 basically channel lettering, and as far as the environmental impact,
14 we do consider that to be based proper, and there is no impact on
15 the neighborhood.

16 So we're asking respectfully to consider what we have here, and
17 hopefully get an approval for those signs to remain in place. If
18 anybody has any questions, I will be more than happy to answer those.

19 MEMBER GOODSSELL: Let me put on the record that I lived 42 years
20 four blocks away from here, and I remember when the sign went in,
21 but I was not sitting on the Board and I had no clue about signs or
22 anything like that. I have been to Jonathan's many times. I'm very
23 familiar with it.

24 Let's put on the record the sign itself. It is a red lettered
25 sign. The red letters are backlit; is that correct?

26 MR. MEHMETI: They're internally lit.

1 MEMBER GOODSSELL: They are internally lit. They're against a
2 gold background; is that correct?

3 MR. MEHMETI: Correct.

4 MEMBER GOODSSELL: The gold background itself while reflective
5 is not lit; is that correct?

6 MR. MEHMETI: It's not lit directly but --

7 MEMBER GOODSSELL: How is it indirectly lit?

8 MR. MEHMETI: There's a channel that it has two vertical sides
9 on the top and that has LED lights.

10 MEMBER GOODSSELL: It has a floodlight? A couple of what I would
11 call -- all right, you're calling the channel lights, so in effect
12 at night, the red Jonathan's is visible because it's internally lit.

13 MR. MEHMETI: Correct.

14 MEMBER GOODSSELL: And then the gold is visible because there
15 is channel light, which shines down or reflect off the gold
16 background.

17 MR. MEHMETI: Correct.

18 MEMBER GOODSSELL: Are both signs identical?

19 MR. MEHMETI: Yes.

20 MEMBER GOODSSELL: Are they identical in size?

21 MR. MEHMETI: Yes.

22 MEMBER GOODSSELL: And just for the record, one side faces
23 Jericho Turnpike.

24 MR. MEHMETI: Correct.

25 MEMBER GOODSSELL: What does the other side face?

26 MR. MEHMETI: The parking lot. The west side.

1 MEMBER GOODSELL: Mr. Chairman, I would like to point out that
2 this a not the billboard-type sign that we have objections to. We
3 have considered many, many signs. In fact, the case in front of you
4 was a sign case as well. And what we are looking to do is to minimize
5 the large, oversized LED sign that dwarfs everything else. And in
6 my opinion, and as just one Board Member, I don't find this to be
7 of that sign of that. It is large, but I don't find it as overpowering
8 as some of the other applicants that asked for oversized signs.

9 The other comparison that I would like to make, we do have in
10 front of a Target, Lake Success Shopping Center, and we did ask them
11 to cut the sign down, which they did, and they are now a white Bullseye
12 sign with a red building. I could compare the back of this sign to
13 the building itself. Yes, it's done in gold tile, but it is not -- it
14 is not lit up from within.

15 It is not the billboard that we so object to, and even though
16 there are two signs, there is only one position that you can stand
17 in even remotely see both sides at the same time, so as one Board
18 Member, I -- they're stretching.

19 I can understand why the Building Department would turn them
20 down for this sign, but I don't find that this is the kind of sign
21 that we would vehemently objected to.

22 MEMBER HERNANDEZ: Let me say something that I think will
23 emphasis what you're driving at. This sign could easily be reduced
24 by probably 40 percent, 45 percent as a definition of a sign is if
25 all you do is repaint that lower 40 percent of your sign that gray
26 color that you have on your walls because now that becomes part your

1 sign the wall -- a gold wall, so you can shrink the sign dramatically
2 just by painting it gray because then it would be like the wall behind.
3 It wouldn't be part of the sign anymore.

4 So I'm agreeing with you that although that this an oversized
5 sign. It is oversized because of the background.

6 ACTING CHAIRMAN FRANCIS: Right.

7 MEMBER HERNANDEZ: Not because of the sign --

8 ACTING CHAIRMAN FRANCIS: Not because of the lettering.

9 MEMBER HERNANDEZ: Not because of the sign itself, the
10 lettering. It is actually -- and again, we're not an aesthetic
11 board, but it actually goes well with the whole structure of the
12 building. So I also have no objection.

13 ACTING CHAIRMAN FRANCIS: Just so we have a complete record.
14 What would it cost to make the sign compliant or signs compliant?

15 MR. MEHMETI: Five times what it cost them in 2008, which it
16 goes up.

17 ACTING CHAIRMAN FRANCIS: And how much would that be?

18 MR. MEHMETI: I would say between both, maybe \$20,000.

19 ACTING CHAIRMAN FRANCIS: Okay. Are you familiar with the Five
20 Factors?

21 MR. MEHMETI: I tried to go through those when I did the
22 presentation.

23 ACTING CHAIRMAN FRANCIS: Maybe I missed that.

24 MEMBER GOODSELL: We understand, but I will ask you the
25 questions again.

26 ACTING CHAIRMAN FRANCIS: Yeah, let's just go through them

1 again.

2 MR. MEHMETI: Yes.

3 MEMBER GOODSSELL: Will an undesirable change be produced in the
4 neighborhood by granting this variance? This is a commercial
5 section of town; is this not?

6 MR. MEHMETI: Yeah.

7 MEMBER GOODSSELL: And by granting this variance will this
8 change the character of the commercial section of town?

9 MR. MEHMETI: By changing the sign, I don't think it will have
10 because making the sign bigger or smaller is just a matter of size.
11 It will be the same sign, so I would say we're good as far as height
12 goes but it will not as far as what is presented on the sign.

13 MEMBER GOODSSELL: As far as visually?

14 MR. MEHMETI: Yeah.

15 MEMBER GOODSSELL: Can the benefit sought by the applicant be
16 achieved by some other way?

17 MR. MEHMETI: I would say no to that.

18 MEMBER GOODSSELL: Well, I think the answer is yes, but go to
19 the expense of changing that.

20 ACTING CHAIRMAN FRANCIS: Right.

21 MEMBER GOODSSELL: It would be expensive to comply.

22 MR. MEHMETI: Yeah, it can be achieved because you can reduce
23 it, but the expense is -- sized up.

24 MEMBER GOODSSELL: Is the variance substantial?

25 MR. MEHMETI: If I am to look at this one in two ways. If you
26 look at actual lettering, considering the distance between the two

1 letters, both signs do comply.

2 MEMBER GOODSSELL: That is correct.

3 MR. MEHMETI: But the way that the sign is split up and the way
4 of the design, which I wish -- I wish I had credit for that. I did
5 not design it because it's nicely done. It's a -- it's a
6 noncompliance because of the way it was done, but if you look at the
7 numbers, the Jonathan's itself, the restaurant and the catering, all
8 the lettering, comes out to less than -- I did the calculation. Let
9 me double check. It was less than 24 square feet.

10 MEMBER GOODSSELL: Which is why if you look at the gold
11 background as an architectural feature of the building rather than
12 as part of the sign, then the lettering complies.

13 MR. MEHMETI: Correct.

14 MEMBER GOODSSELL: It's only because of it has this gold
15 background, which as I said, I recall when it was added. I remember
16 making a note of it. Will the proposed variance have an adverse
17 impact on the physical or environmental conditions of the
18 neighborhood? Does it impact the environment?

19 MR. MEHMETI: If you consider the lighting to be excessive then
20 yes, but I don't see in this.

21 MEMBER GOODSSELL: Well, there's no lighting with an overhead
22 spotlight, right?

23 MR. MEHMETI: Correct, that's what I'm saying.

24 MEMBER GOODSSELL: The way that the lighting is done, there's
25 no light that extends up into the sky; is there?

26 MR. MEHMETI: Correct and nothing hits you in the eye.

1 ACTING CHAIRMAN FRANCIS: And nothing reflects out onto Jericho
2 Turnpike.

3 MR. MEHMETI: Correct.

4 ACTING CHAIRMAN FRANCIS: Right.

5 MEMBER GOODSSELL: Was this difficulty self-created? It's not
6 a determining factor.

7 MR. MEHMETI: The previous owner did it.

8 MEMBER GOODSSELL: Yes.

9 MR. MEHMETI: The new operator it's the one that inherited.
10 He's trying to do it right. I'm trying to help him by doing it right,
11 but you guys have the last word.

12 ACTING CHAIRMAN FRANCIS: You're doing a good job.

13 MEMBER GOODSSELL: In light of all the factors that we
14 considered, Mr. Chairman, I make a motion that we grant the
15 application.

16 ACTING CHAIRMAN FRANCIS: We have a motion. Do we have a
17 second?

18 MEMBER HERNANDEZ: Second.

19 ACTING CHAIRMAN FRANCIS: Second by Member Hernandez. Ginny,
20 please poll the Board.

21 SECRETARY WAGNER: Member Goodsell?

22 MEMBER GOODSSELL: Aye.

23 SECRETARY WAGNER: Member Donatelli?

24 MEMBER DONATELLI: Aye.

25 SECRETARY WAGNER: Member Hernandez?

26 MEMBER HERNANDEZ: Aye.

1 SECRETARY WAGNER: Acting Chairman Francis?

2 ACTING CHAIRMAN FRANCIS: Aye.

3 Application is granted.

4 MR. MEHMETI: Thank you for your time.

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9 SECRETARY WAGNER: Next Appeal, Appeal #21548, Rike Tech
10 Associates, LLC (Uno Mexican Grill); 490 Westbury Avenue,
11 Carle Place; Section 10, Block 19, Lot 28; Business-B Zoning
12 District.

13 Conditional Use 70-126(A) and Variance from 70-103(A) (1) to
14 operate a new restaurant, a conditional use, with not enough parking.

15 ACTING CHAIRMAN FRANCIS: You've heard Appeal #21548, Rike Tech
16 Associates, LLC, doing business as Uno Mexican Grill. Is there
17 anyone -- well, no one is here. Please give your name and address.

18 MR. SOSA: Yes, my name is Idelfonso Sosa, for Rike Tech
19 Associates, LLC, 37 Foxcroft, Albertson, New York 11507.

20 ACTING CHAIRMAN FRANCIS: Tell us about your application.

21 MR. SOSA: Yes, so we're filing to enlarge an existing
22 restaurant, and the only issue is that we don't comply with the
23 parking. We don't have enough space for parking.

24 SECRETARY WAGNER: And you need the condition use.

25 MR. SOSA: Yes, thank you.

26 ACTING CHAIRMAN FRANCIS: Is this restaurant in the same

1 location as the former Portuguese restaurant?

2 MR. SOSA: Yes.

3 MEMBER HERNANDEZ: Restaurant to a restaurant.

4 (WHEREUPON, there was a discussion held amongst the Board
5 Members.)

6 SECRETARY WAGNER: Do you want to introduce your consultants?

7 MR. SOSA: Yes, I want to send my engineer for the traffic
8 engineer.

9 ACTING CHAIRMAN FRANCIS: Okay.

10 MR. MULRYAN: Good afternoon. Shlomo Mulryan, Mulryan
11 Engineering, 425 Franklin Avenue in Garden City, New York.

12 So yes, this was a former restaurant. We're looking to continue
13 it as a new restaurant. The applicant would like to expand the
14 footprint of the existing restaurant somewhat. Obviously,
15 restaurant business is a challenging one. There are numerous
16 restaurants on Westbury Avenue. I know that the Board is familiar
17 with Westbury Avenue.

18 Just to give a brief overview of its location relative to other
19 restaurants. There are restaurants just past Cherry. Westbury
20 Avenue runs parallel to Old Country Road. If you travel from this
21 site just to the west, you wind up on Glen Cove Road. In my personal
22 opinion, there is no shortage of places to eat within that general
23 area.

24 ACTING CHAIRMAN FRANCIS: None.

25 MR. MULRYAN: Regardless of which road you're on.

26 ACTING CHAIRMAN FRANCIS: Right.

1 MR. MULRYAN: So again, the applicant is coming forward looking
2 to make some expansions to the existing business. The business has
3 been closed for some time. That requires a parking variance. There
4 is a parking lot on the subject site. We provide 17 parking spaces;
5 however, based on the current zoning code, 43 parking spaces are
6 provided. We looked at the parking surrounding the subject site.
7 As the Board may be aware, there is a municipal parking lot just to
8 the west, as shown on this earlier photograph, and there's parking
9 on Westbury Avenue. And again, there are --

10 MEMBER DONATELLI: Sorry to interrupt. How many feet is the
11 municipal parking from the subject property?

12 MR. MULRYAN: It's a few hundred feet. I'd say within
13 400 feet, so a short walk from the subject site, and there's also
14 parking along Westbury Avenue.

15 ACTING CHAIRMAN FRANCIS: What's the location of that municipal
16 parking?

17 MR. MULRYAN: So it is not highly visible from the street as
18 you drive by, but I actually put down the address in my report to
19 answer that particular question. It's between 450 and 470 Westbury
20 Avenue.

21 SECRETARY WAGNER: Is it on there?

22 MR. MULRYAN: So it's this lot right here. So the firehouse
23 is on the block to the south, but it's in between two commercial
24 buildings, and it's a narrow lot. They had one of the police -- the
25 white police --

26 ACTING CHAIRMAN FRANCIS: Oh, now I understand.

1 MR. MULRYAN: -- kiosk building.

2 MEMBER HERNANDEZ: That's the property behind --

3 ACTING CHAIRMAN FRANCIS: Now, I know where it is.

4 MR. MULRYAN: In the front there.

5 ACTING CHAIRMAN FRANCIS: Yeah.

6 MR. MULRYAN: So yeah, it's a narrow lot, but it is available
7 on Westbury Avenue.

8 ACTING CHAIRMAN FRANCIS: Okay.

9 MR. MULRYAN: If you're driving by, you might drive passed it
10 and not see it because it's not that large, but it does have parking.
11 It avails itself to the businesses within the area many of which do
12 not have off-street parking. We actually looked at right on Rushmore
13 Avenue and Westbury Avenue a few years ago, a dance studio, which
14 also needed to come in for a parking variance in our parking study,
15 not only did we look at the parking on Westbury Avenue, but also,
16 on the main commercial -- in the main residential roads to the north
17 and south.

18 We found no evidence that the existing businesses on Westbury
19 Avenue were bleeding over or spilling over into the residential area.
20 Some proof of that may be that there are no residences here today
21 opposing the proposed application. We found that based on the
22 location of the municipal parking lot and the on-street parking that
23 was available in the subject area that there was sufficient parking
24 to accommodate the proposed use. We believe that the applicant is
25 looking to move forward with a restaurant in a location that a
26 restaurant previously existed.

1 So we do not believe there will be an undesirable change in the
2 neighborhood.

3 MEMBER HERNANDEZ: They did mention that they wanted to expand.
4 Do you know how much more they want to expand?

5 MR. MULRYAN: Yes, so the existing restaurant is -- based on
6 my understanding of the plans 2011 square feet with an upstairs
7 apartment that's 656 square feet. The apartment use is gonna be
8 discontinued, and the square footage that's being proposed for the
9 restaurant is 3190 square feet so roughly a little over 1000 square
10 foot increase.

11 MEMBER HERNANDEZ: All up on the second floor?

12 MR. MULRYAN: The first floor is going to expand.

13 MEMBER HERNANDEZ: As well.

14 ACTING CHAIRMAN FRANCIS: Right.

15 MEMBER DONATELLI: So when you said first floor is going to
16 expand, the footprint of the building will actually expand.

17 MR. MULRYAN: That's my understanding, yes.

18 MEMBER DONATELLI: Okay. And what is the --

19 MEMBER HERNANDEZ: There's no inside parking --

20 ACTING CHAIRMAN FRANCIS: Yeah.

21 MEMBER DONATELLI: What will be made of the second floor?

22 MR. MULRYAN: I'm going to turn that over to our architect. My
23 understanding is that it's an accessory use.

24 MR. SOSA: Yes.

25 MEMBER DONATELLI: I don't want to interrupt your flow.

26 MEMBER HERNANDEZ: Yeah, finish your time.

1 MEMBER DONATELLI: We'll address that later.

2 MR. MULRYAN: Okay, all right. So again, as proposed
3 restaurant, we don't believe it will change the character of the
4 neighborhood. It was previously used as a restaurant. There is no
5 feasible method to achieve the benefit being sought other than at
6 parking variance.

7 Whether the request is substantial? This is an existing
8 restaurant with a surrounding area that is full of restaurants, so
9 anyone that is the area looking to eat is probably already there,
10 so we don't believe that it will have a substantial impact to the
11 neighborhood, and based on our traffic and parking study, it will
12 not have an adverse impact on the traffic conditions or parking in
13 the subject area.

14 As with most applications this is self-created in that the
15 applicant is looking to come forth, make improvements on the subject
16 site, and expand the restaurant. However, as the Board is well aware
17 that is not detrimental necessarily to the application.

18 That is a summary of the report that was submitted to the Board.
19 I'll be here to answer any questions that may come up, and I will
20 hand the microphone over to the architect, who will discuss the use
21 of the upstairs area.

22 ACTING CHAIRMAN FRANCIS: Good.

23 MR. MULRYAN: Thank you very much.

24 ACTING CHAIRMAN FRANCIS: I notice from the plans the kitchen
25 is remaining on the first floor. The second floor has a food prep
26 area.

1 MR. SOSA: Yes.

2 ACTING CHAIRMAN FRANCIS: What's the distinction? Why is food
3 prep going on upstairs when you have a kitchen downstairs?

4 MR. SOSA: The owner have intention for some different food like
5 a -- I don't know -- different food. I cannot tell you exactly what
6 different, what food.

7 ACTING CHAIRMAN FRANCIS: I guess I don't understand why you
8 need areas for food presentation in a restaurant of this size.

9 MR. SOSA: We call it for accessory storage if that will grant
10 permission instead of food preparation.

11 MEMBER GOODSELL: Is going to be continued as an apartment?

12 MR. SOSA: No, not anymore.

13 MEMBER GOODSELL: Not anymore.

14 MR. SOSA: Right.

15 MEMBER GOODSELL: How are you going to access the second floor?

16 MR. SOSA: We have stairs.

17 MEMBER GOODSELL: Internal or external.

18 MR. SOSA: We have external and we can include internal. We
19 can move --

20 MEMBER GOODSELL: Can do, but are you -- do your plans show an
21 internal stair?

22 MR. SOSA: Right now, no.

23 MEMBER GOODSELL: So if it's going to be used for food prep,
24 someone will go out of the restaurant, go to the external stairs,
25 go up the external stairs, prep the food, come down the external
26 stairs, and around to the entrance of the building, and come into

1 the kitchen. Does that make sense to you?

2 MR. SOSA: Yeah, my understanding it's not for the instant like
3 somebody order food. It's not for that case. It's for preserve
4 food.

5 MEMBER GOODSSELL: Okay? Preserve food.

6 ACTING CHAIRMAN FRANCIS: So is there refrigeration on the
7 second floor?

8 MR. SOSA: No, it will delivered down to the basement.

9 ACTING CHAIRMAN FRANCIS: I don't get it.

10 MEMBER GOODSSELL: I'm questioning that second floor as well.
11 If it was an internal staircase, the internal staircase only, it would
12 indicate to be not gonna be used as an apartment.

13 SECRETARY WAGNER: Well, it's not going to be used as an
14 apartment because they chose not to go for -- they would of needed
15 a use variance. Right, Steve? To the apartment.

16 MR. PERROTTA: Yes, they would of needed a use variance.

17 SECRETARY WAGNER: So they --

18 MEMBER HERNANDEZ: They just want to make use of the space for
19 whatever they can use it for.

20 SECRETARY WAGNER: Right, I guess they can turn it into
21 something else.

22 MR. PERROTTA: Originally, the application was --

23 MEMBER HERNANDEZ: To keep it.

24 MR. PERROTTA: They did original work on the apartment up there,
25 but rather than go for use variance, they're opting to use it as more
26 storage for the restaurant.

1 ACTING CHAIRMAN FRANCIS: All right.

2 MEMBER HERNANDEZ: Or leave it vacant.

3 MEMBER DONATELLI: That actually makes it -- would make it more
4 compliant than having an illegal apartment.

5 MR. PERROTTA: But it also does drive up the parking.

6 ACTING CHAIRMAN FRANCIS: Right.

7 MEMBER DONATELLI: Right. How many -- and I see that the plans
8 provides seating 42 persons.

9 MR. SOSA: Right.

10 MEMBER DONATELLI: The existing restaurant, the Portuguese
11 restaurant, how many seats did that have? Do you know?

12 MR. SOSA: No. Maybe 30.

13 MEMBER HERNANDEZ: If they haven't increased the footprint of
14 the restaurant.

15 ACTING CHAIRMAN FRANCIS: It's a small restaurant.

16 MR. SOSA: Between 24 and 30 I believe so.

17 ACTING CHAIRMAN FRANCIS: The former restaurant also had a bar.

18 MR. SOSA: Yes.

19 ACTING CHAIRMAN FRANCIS: Is there a bar in this restaurant?

20 MR. SOSA: No.

21 MEMBER GOODSELL: (Inaudible).

22 MEMBER DONATELLI: It's on -- I have them here, Page A002.00.

23 ACTING CHAIRMAN FRANCIS: Yeah.

24 MEMBER DONATELLI: Will there be -- will there -- will the
25 applicant using pickup and drop-off food services?

26 MR. SOSA: Yes, sir.

1 MEMBER DONATELLI: And where will those cars be operating from?

2 MR. SOSA: Oh, no, I misunderstood. No, it's only pickup
3 and -- pickup order.

4 MEMBER DONATELLI: Pick up orders.

5 MR. SOSA: Yeah.

6 MEMBER DONATELLI: So people will be coming to the restaurant
7 to pick up their own orders.

8 MR. SOSA: Correct, no delivery.

9 MEMBER DONATELLI: So presumably, they won't be -- the
10 applicant does not anticipate using DoorDash or Uber Eats or
11 something like that?

12 MR. SOSA: Not to my knowledge, yes.

13 MEMBER DONATELLI: And am I reading the plans correctly; that
14 there will be folding doors to the sidewalk? Is that what I'm seeing?

15 MR. SOSA: Yeah, they're not going to be straight on the
16 sidewalk. They're going to be set back about 10 feet.

17 MEMBER DONATELLI: But in other words, there will be no walls.
18 There will be folding doors.

19 MR. SOSA: Yes, correct.

20 MEMBER DONATELLI: To open the restaurant to the sidewalk.

21 MR. SOSA: Correct, yes.

22 MEMBER DONATELLI: Are the dimensions to the restaurant on
23 the -- I'm sorry. Are the dimensions to the kitchen on the first
24 floor are those dimensions changing at all?

25 MR. SOSA: Are those dimensions, what?

26 MEMBER DONATELLI: Are the dimensions of the first-floor

1 kitchen, are those changing from what is there now currently
2 existing?

3 MR. SOSA: Yes, sir.

4 MEMBER DONATELLI: They are changing?

5 MR. SOSA: Yes.

6 MEMBER DONATELLI: So how are they changing? Is the kitchen
7 being made larger?

8 MR. SOSA: Yes, it's enlarged, yes, to the back.

9 MEMBER DONATELLI: It's making it a bit larger?

10 MR. SOSA: Yes.

11 MEMBER DONATELLI: And will the applicant refrigerated garbage
12 on site?

13 MR. SOSA: Yes, correct.

14 (WHEREUPON, there was a discussion held amongst the Board
15 Members.)

16 MEMBER DONATELLI: There are internal stairs.

17 ACTING CHAIRMAN FRANCIS: Yeah.

18 MEMBER HERNANDEZ: The one on the right is going from the second
19 floor to the outside.

20 ACTING CHAIRMAN FRANCIS: Right.

21 MEMBER DONATELLI: And again, if I'm reading the plans
22 correctly, it looks like the applicant will be adding, one, two,
23 three, four -- four new dry wells?

24 MR. SOSA: That's correct.

25 MEMBER DONATELLI: And there are no dry wells now --

26 MR. SOSA: No.

1 MEMBER DONATELLI: Do you know?

2 MR. SOSA: No.

3 (WHEREUPON, there was a discussion held amongst the Board
4 Members.)

5 MR. SOSA: May I say something?

6 MEMBER HERNANDEZ: Yes, of course. The floor is yours.

7 MR. SOSA: DoorDash and that, I don't think -- this kind of food
8 they're going serve is to eat right away because of the tacos and
9 things, and by the time that --

10 MEMBER HERNANDEZ: Doesn't travel well.

11 MR. SOSA: Right, correct, so I don't think they gonna have that
12 service.

13 ACTING CHAIRMAN FRANCIS: Well, I know there's a restaurant in
14 Westbury next to the restaurant called Little Mexico, and I know they
15 use Uber Eats and they use DoorDash for deliveries within Westbury.

16 MR. SOSA: Close to it.

17 ACTING CHAIRMAN FRANCIS: So that may change in the future, and
18 that's one of the concerns that I have, but we'll address that when
19 we get to -- when we get there.

20 MR. SOSA: Okay.

21 ACTING CHAIRMAN FRANCIS: I can't make a motion, so.

22 MEMBER HERNANDEZ: I don't see a problem.

23 ACTING CHAIRMAN FRANCIS: Standard restaurant conditions and
24 Uber Eats and whatever else gets --

25 ATTORNEY ALGIOS: Let's do that.

26 (WHEREUPON, there was a discussion held amongst the Board

1 Members.)

2 MEMBER HERNANDEZ: Mr. Chairman, given our discussion and the
3 fact that it is a restaurant going into where there was a restaurant,
4 the fact that they're doing away with what could have been an illegal
5 apartment upstairs is also a plus. I move that we grant the
6 application with standard restaurant conditions.

7 We see the refrigerated garbage already shown in the kitchen,
8 but all restaurant conditions, and also the added condition that
9 should there be any type of Uber Eats, delivery service, DoorDash
10 or whatever that those pickups and drop offs done from the parking
11 lot and not from the street side.

12 ACTING CHAIRMAN FRANCIS: We have a motion. Do we have a
13 second.

14 MEMBER DONATELLI: Second.

15 ACTING CHAIRMAN FRANCIS: Second by Member Donatelli. Ginny,
16 please poll the Board.

17 SECRETARY WAGNER: Member Goodsell?

18 MEMBER GOODSSELL: Aye.

19 SECRETARY WAGNER: Member Hernandez?

20 MEMBER HERNANDEZ: Aye.

21 SECRETARY WAGNER: Member Donatelli?

22 MEMBER DONATELLI: Aye.

23 SECRETARY WAGNER: Acting Chairman Francis?

24 ACTING CHAIRMAN FRANCIS: Aye.

25 Application is granted.

26 MR. SOSA: Thank you.

1 SECRETARY WAGNER: We have to adopt SEQRA and then have one
2 other item we want to do on the record.

3 MEMBER DONATELLI: I make a motion that we adopt SEQRA.

4 MEMBER GOODSSELL: And I second that motion.

5 SECRETARY WAGNER: Dan made motion. Pat, seconded. All in
6 favor?

7 BOARD MEMBERS: Aye.

8 SECRETARY WAGNER: There was a request to amend Appeal #21496
9 to amend the plans. You should have it on Teams. It was the starry
10 stone 66 Bayview Avenue in Manhasset. They, you know, there was a
11 condition to remove the canopy.

12 MEMBER HERNANDEZ: Yes.

13 MEMBER DONATELLI: Yes, yes, yes.

14 SECRETARY WAGNER: But there's like a little corner --

15 MEMBER HERNANDEZ: Of the canopy that's like an overhang.

16 ATTORNEY ALGIOS: -- of the canopy.

17 SECRETARY WAGNER: No, no, not that. It's like --

18 MEMBER HERNANDEZ: In the middle at the end.

19 SECRETARY WAGNER: Oh, okay, you're right.

20 ACTING CHAIRMAN FRANCIS: Oh, yeah.

21 MEMBER HERNANDEZ: Yeah, it makes perfect sense.

22 SECRETARY WAGNER: So to keep that because -- bless you.

23 ACTING CHAIRMAN FRANCIS: Thank you.

24 SECRETARY WAGNER: -- because it's part of the building.

25 MEMBER DONATELLI: Right.

26 MEMBER HERNANDEZ: What I don't remember seeing a column to hold

1 up that corner. So if they remove the rest of the canopy they need
2 to put a column there. Let me look at the picture.

3 SECRETARY WAGNER: So you did get it?

4 MEMBER HERNANDEZ: Yeah, I did see it.

5 ATTORNEY ALGIOS: Well, that's to the --

6 MEMBER HERNANDEZ: Yeah, because otherwise, you're gonna have
7 basically an overhung roof with no support, and when it was built,
8 it was built with support from the other -- basically, you have the
9 building, and you had the other little building on the side. They're
10 taking down the canopy in the middle.

11 ATTORNEY ALGIOS: Yeah.

12 MEMBER HERNANDEZ: And the building on the side, is the one that
13 has the little overhang. Now, it's missing that support holding that
14 corner roof.

15 ATTORNEY ALGIOS: But the Building Department can tell them --

16 MEMBER HERNANDEZ: And then the -- whomever is taking it down,
17 will say.

18 ATTORNEY ALGIOS: Yes, of course.

19 MEMBER HERNANDEZ: All of it is coming down because if we take
20 this off --

21 SECRETARY WAGNER: Well, I think that the reason that they're
22 keeping it because they said that removing it would impact the
23 structural integrity of the roof.

24 MEMBER HERNANDEZ: Of that little building on the side. The
25 thing is that you have like a -- you have the big building, and then
26 you have like a little structural building on the side would probably

1 be -- and then the -- it wasn't an overhang. It was basically a roof
2 connecting those two, and they can cut it this way, but if they cut
3 this way and remove the overhang, that little building will
4 have -- the roof will be chopped off. A piece of the roof will be
5 chopped off, if I remember the picture correctly.

6 SECRETARY WAGNER: I think it was part of the main building.

7 ATTORNEY ALGIOS: That's what I thought.

8 MEMBER HERNANDEZ: Let me look at it from the other side. You
9 emailed that to us, right?

10 MEMBER DONATELLI: Yes.

11 SECRETARY WAGNER: Thank you for answering that.

12 MEMBER DONATELLI: Yes, you did.

13 MEMBER HERNANDEZ: I remember seeing it.

14 ACTING CHAIRMAN FRANCIS: You said 66 Bayview?

15 SECRETARY WAGNER: Yes.

16 ACTING CHAIRMAN FRANCIS: Yes, I got it.

17 ATTORNEY ALGIOS: Where's the photo?

18 SECRETARY WAGNER: That's in here too, but I'll show him on the
19 site plan. It's this corner.

20 MEMBER HERNANDEZ: Right.

21 SECRETARY WAGNER: And then --

22 MEMBER HERNANDEZ: And but see this corner here, is the one they
23 want to leave up.

24 SECRETARY WAGNER: Yeah.

25 MEMBER HERNANDEZ: Right? That corner needs to be supported.

26 SECRETARY WAGNER: Right.

1 MEMBER HERNANDEZ: But that's up to them. They're gonna do it.
2 They got to put something there to hold it up because that corner
3 is not being supported by the building on the other side.

4 SECRETARY WAGNER: So it's --

5 MEMBER HERNANDEZ: See.

6 SECRETARY WAGNER: -- right here put something.

7 MEMBER HERNANDEZ: Exactly. See, this is being supported by
8 this structure here. So when they cut it -- make the
9 move -- actually, they may bring it out to the column or slide the
10 column a little bit. Slide the column there to support it because
11 otherwise, it will collapse, so there is a column they can move.

12 SECRETARY WAGNER: Plans might show --

13 MEMBER HERNANDEZ: That's fine. They -- this
14 isn't -- structurally they know they just can't cut that off without
15 supporting it because it will come down. Just like they say they
16 don't want to remove it, they can't leave it unsupported.

17 SECRETARY WAGNER: So we want to make a motion?

18 MEMBER HERNANDEZ: I'll make a motion --

19 SECRETARY WAGNER: Oh, wait, did Patricia leave?

20 MEMBER HERNANDEZ: I think we have our quorum.

21 ACTING CHAIRMAN FRANCIS: She did leave.

22 MEMBER DONATELLI: She's in the restroom.

23 MEMBER HERNANDEZ: So I make the motion to --

24 ATTORNEY ALGIOS: Amend it --

25 MEMBER HERNANDEZ: Amend, as per their request.

26 MEMBER DONATELLI: Do we need to reopen?

1 ATTORNEY ALGIOS: No.

2 MEMBER HERNANDEZ: No, we're not reopening. Were just
3 amending --

4 SECRETARY WAGNER: Just amending it.

5 ATTORNEY ALGIOS: The decision refers to the old plans, so we
6 like it all to just be -- we'd like done so now the Board approves
7 the new plans so now the decision will be attached to the plans.

8 ACTING CHAIRMAN FRANCIS: Okay.

9 MEMBER HERNANDEZ: So I make a motion.

10 SECRETARY WAGNER: Okay. Second?

11 MEMBER DONATELLI: Yes, second.

12 SECRETARY WAGNER: Poll the Board?

13 ACTING CHAIRMAN FRANCIS: Yes.

14 SECRETARY WAGNER: Member Hernandez?

15 MEMBER HERNANDEZ: Aye.

16 SECRETARY WAGNER: Member Donatelli?

17 MEMBER DONATELLI: Aye.

18 SECRETARY WAGNER: Acting Chairman Francis?

19 ACTING CHAIRMAN FRANCIS: Aye.

20 SECRETARY WAGNER: Amendment is granted.

21 (WHEREUPON, the Proceeding concluded at 1:10 P.M.)

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C E R T I F I C A T E

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STATE OF NEW YORK)

SS.:

COUNTY OF NASSAU)

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 10th day of June, 2024.



MARIESEL BERRIOS