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Town of North Hempstead
Board of Zoning Appeal
PUBLIC HEARINGS

Wednesday, June 26, 2024
10:00 a.m.

BOARD MEMBERS PRESENT:

- David Mammina, Chairman
- Leslie Francis, Vice Chairman
- Patricia A. Goodsell, Member
- Daniel Donatelli, Member

ALSO PRESENT:

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

1 CHAIRMAN MAMMINA: Would you please rise and join Vice Chairman
2 Francis in the Pledge of Allegiance.

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

4 CHAIRMAN MAMMINA: Good morning, ladies and gentlemen.
5 Welcome to the Town of North Hempstead Board of Zoning and Appeals.
6 What I like to do is just take a few minutes at the beginning to go
7 through the way we conduct business here in case you might have
8 appeared before other zoning boards that may do things differently,
9 somewhat, if you've never been to the zoning board before, and if
10 you've never been to a zoning board before, I just ask you to just
11 be real calm when you come up. I like to stay we're just talking
12 across the kitchen table.

13 What will happen is each case will be called by Ms. Wagner, and
14 at that time, we'll ask -- I'll repeat the case, and we'll ask
15 for -- and then the applicant will come forward to the podium. When
16 you get to the podium, you'll give your name and address to our court
17 reporter. This is a quasi-judicial hearing, so therefore, there is
18 a transcript that is made of that. When that part is done, then the
19 podium belongs to the applicant, and you'll put the case onto the
20 record.

21 The Board will ask whatever questions that it sees fit, and then
22 if there is anyone in the audience that will also -- I'll also ask
23 if there's anyone who has an interest in the case, and you'll just
24 put hands up for that, and the Board will then recognize anyone else
25 who wishes to speak. After they put their point of view on the
26 record; they may love it, they may hate it, you know, whatever, the

1 Board will then invite the applicant back up to the podium. The
2 applicant will have the opportunity to support or refute what anyone
3 said, and the Board will have an opportunity then to respond to them
4 or ask its other questions. When that is done, then the hearing is
5 done.

6 We virtually never have a second hearing. So today is the day.
7 And a lot of people ask that question; will I have to come back again?
8 And the answer is no. The Board deliberates in public, so whenever
9 we talk about the case, we talk about, you know, from up here.

10 We are live streaming, so you don't have to come to the Town.
11 If you choose to, you know, that or you can turn us on TV, and there
12 you go. So following that, once the case has been heard and is done,
13 then the Board will do one of four things. We will either approve
14 the application, we will deny the application, or we may continue,
15 which means that there is additional that the Board is looking for,
16 either from the applicant, maybe from the Building Department, maybe
17 from a neighborhood group, or something, so we continue it with a
18 date on that, and you can then respond to that. Everybody gets to
19 see whatever anybody else submits. Or we may reserve the
20 application. If we reserve the application, the Board may want to
21 take a look at it again. We may want to have the Building Department
22 file that we can go through and that sort of thing. So it would be
23 one of four, and after the -- days after the hearing is done, then
24 you can call Ms. Wagner's -- zoning office, and she'll let you know
25 if it's been decided -- well, I guess you could find out today if
26 it's decided one way or another, but that's the way that it works.

1 I'd like to just remind everybody or make everyone understand
2 who doesn't appear before the zoning board, which is very common;
3 that the Board can only consider what is before the Board. If someone
4 is here because the building is too close to the property line or
5 the amount of cars are not there; if that's not the subject of the
6 variance, we can't hear any other information.

7 We're not the Town Board. Nothing that we do here is
8 discretionary. It's based on points of law. Just again, if we got
9 something and everybody saying, oh, my Gosh, the bus stop is right
10 here, you know, if it's side yard variance or rear yard, that's got
11 nothing to do with the bus stop. It's important, you know, if we
12 can try to understand that.

13 We limit testimony to three minutes from anyone who wishes to
14 speak either in support or in opposition. What I'd like to say, you
15 know, at the end of three minutes, we don't chop anybody's head off,
16 but, you know, we do like to try to contain the amount of people
17 because depending on the hearing, we can have ten people who want
18 to speak. We can have one person speak. We can have nobody. So
19 we try to contain the length of the hearing.

20 Did I get everything? Okay, I think we got everything.

21 MEMBER GOODSELL: Turn cell phones off.

22 CHAIRMAN MAMMINA: Oh, yes, I'm sorry. Maybe most important,
23 because I will say, could you imagine if Albert Einstein lived, his
24 head would explode. We just take all stuff for granted, but if you
25 could, put your cell phones onto silent, you know, put on your,
26 whatever you got, onto silent. You don't necessarily have to turn

1 them off. If you have to take a call or make a call, just feel free
2 to stand up, head on out there, and that's okay. If there are people
3 who are not here who may be joining you, if you can remind them to
4 do the same.

5 And then the last thing, which is a very hard thing, is we
6 respectfully request that talking back and forth is zero. The Board
7 has enough trouble trying to do that as well. We have a stenographer
8 here, and she's got to be writing down what everybody is saying. I
9 don't know how they do that job, but they do it, and they do it well,
10 so if you could. Thank you.

11 With that said, Secretary Wagner, could you please call the
12 first case or address the calendar.

13 SECRETARY WAGNER: Chairman, we have a modification on the
14 calendar for Appeal #21564, Julian and Brenda Bailey, 111 Village
15 Road, Manhasset, Section 3, Block 183, Lot 2 in Residence A Zoning
16 District. That will be heard later on in the day.

17 We also have an adjournment of Appeal # 21552, Edward Perlow,
18 2 Kent Road, New Hyde Park, Section 8, Block 294, Lot 20 in Residence
19 B Zoning District. Variances from 70-231 to legalize a professional
20 office in a cellar, which is not permitted. That is adjourned until
21 July 17th.

22 We also have adjournment of Appeal # 21573, Commonwealth O'Leary
23 Real Estate Corporation, 1833 Guilford Avenue in New Hyde Park,
24 Section 8, Block 190, Lot 15 in the Industrial B Zoning District.
25 Variances from 70-103.A(1) an 70-103.B to legalize an interior
26 mezzanine that requires site plan review with not enough parking on

1 site and parking stall sizes that are too small and an appeal for
2 determination that site plan review under 70-219.A(1) is not
3 required. That is adjourned until August 14th.

1 SECRETARY WAGNER: The first appeal on today's calendar is
2 Appeal #21565, Linda Ressa, 12 South Court, Port Washington, Section
3 5, Block C, Lot 100 in the Residence A Zoning District.

4 Variances from 70-30, 70-29, 70-101, and 70-100.2(K) to
5 construct a new dwelling on an existing foundation, which is too big,
6 is located too close to the street with a portico that is located
7 too close to the street and a generator located too far away from
8 the home.

9 CHAIRMAN MAMMINA: You've heard Appeal #21565, Linda Ressa.
10 Is there anyone in the room -- I guess I will ask the applicant to
11 come forward, and if there's anyone in the room who has an interest,
12 just a show of hands, and will have the opportunity then to speak
13 later.

14 MR. RESSA: Good morning, Mr. Chairman, Members of the Board.
15 My name is Stephen Ressa. I'm here on behalf of the applicant,
16 Anthony Ressa and Linda Ressa, who are the owners of 12 South Court,
17 Port Washington in the Bayview Colony section of Port Washington.
18 My clients purchased this property last December, and went and
19 applied and received a building permit to renovate that house. It's
20 an old house and to put an extension on the rear of the premises.

21 Now, the premises, okay, the front wall of the premises are right
22 now not in conformity. It's an existing nonconforming use, the front
23 of the house. The idea was to leave the house the way it was as far
24 as the front yard, however, upon stripping the house down to the
25 studs, it was determined that there's extensive damage and that the
26 front wall should come down and be rebuilt. The rebuilding of the

1 front wall will result in more than 50 percent of the house being
2 altered, and therefore, under Section, I think, it's 209 of the code,
3 a variance is required.

4 I'd like to point out one thing that if the Board denied the
5 variance for the front yard, then my clients would nevertheless
6 rebuild the front wall, however, it's an expensive proposition to
7 do it that way, and we'd like, of course, to forgo that unnecessary
8 expense.

9 CHAIRMAN MAMMINA: Mr. Ressa, question. I don't like to
10 interrupt while you make your presentation. If more than 50 percent
11 of the house is destroyed, then my understanding of the law is that
12 it's a new structure, and you had said it's a nonconforming use. It's
13 not nonconforming use --

14 MR. RESSA: But loses its nonconforming status.

15 CHAIRMAN MAMMINA: It's nonconforming status in terms of
16 setback.

17 MR. RESSA: That's correct.

18 CHAIRMAN MAMMINA: I'm under the impression that you have to
19 conform with all of the setbacks. You're denied for that correctly,
20 and that doesn't mean it won't be granted or whatever.

21 MR. RESSA: Understood.

22 CHAIRMAN MAMMINA: But just for the record, I just want to make
23 sure that that is clear because, in my opinion, but of course, the
24 Building Department establishes that, you can't rebuild that wall
25 unless the Board grants a variance, which is all fine.

26 MR. RESSA: Right, but what I'm saying, Mr. Chairman, is that

1 we will use the existing wall, okay, and will not demolish it, and
2 therefore, it's not going to lose its nonconforming status.

3 CHAIRMAN MAMMINA: Okay.

4 MR. RESSA: With respect to the proposed front yard, existing
5 now is 33.3 feet. The average front yard of houses in the 200 feet
6 from the subject premises is 43.22 feet. What throws this a little
7 askew is one house, which is down the block, okay, 4 South Court,
8 has a front yard of 74.4 feet, all right. So if we took that -- if
9 you took that one house out of the equation, then the average setback
10 of the remaining houses is in the 200 rate is -- square foot radius
11 is 37.22 feet, and we'd only be shy 4 feet in that instance, and less
12 than 2 feet of the required 35 feet minimum.

13 CHAIRMAN MAMMINA: Does that include the front portico?

14 MR. RESSA: There's a small portico, okay, that has a -- we're
15 allowed a five-foot encroachment by code.

16 CHAIRMAN MAMMINA: With a compliant front yard.

17 MR. RESSA: Excuse me.

18 CHAIRMAN MAMMINA: With a compliant front yard.

19 MR. RESSA: Yes.

20 CHAIRMAN MAMMINA: Look, again, just for your clients here.
21 I'm not speaking ill about their application in any way. I just want
22 to make sure that the record is straight because, as I said before,
23 this is a legal proceeding, and whatever we grant here, someone else
24 can come in and point to that and say, well, mine is the same. Whether
25 it is or not, you know, that's for the Board to decide. I just want
26 to get those things onto the record so that should we approve them,

1 when you go back to the Building Department, then, you know, they're
2 not going to say, well, you know, the front portico, you know, you're
3 not entitled to that within the setback, so the whole thing is what
4 we're going --

5 MR. RESSA: Yeah, the proposed front portico is 28.5 feet, okay.
6 The -- because of the houses in the neighborhood, it would be -- the
7 required would be 38, a little bit over 38 feet, however, once again,
8 if we take that one house, 4 South Court, out of the equation, we're
9 down to 32.22 feet with an allowable -- with the allowable five-foot
10 encroachment.

11 I don't think this is a deviation from the neighborhood. On
12 the map with 200-foot radius map that was submitted, there's premises
13 which are immediately adjacent to the east at 14 South Court. They
14 have a nonconforming front yard setback of 32.9 feet. Further, okay,
15 at 16 South Court, okay, also to the east of the property, they have
16 also a nonconforming front yard of 34.3 feet.

17 So we're - this is not a big deviation from what's in the area
18 at this time. And again, we're putting the front wall on the existing
19 foundation, so this is -- this is a -- this -- we haven't knocked
20 down the wall yet because we use our rights to build it, as you know,
21 but we're not increasing an existing front yard setback
22 violation -- well, it's not a violation; an existing front yard
23 setback situation. We're not aspirating it at all.

24 CHAIRMAN MAMMINA: Mr. Ressa, based upon that, are you or your
25 architect have any kind of a concept of what taking that wall down
26 and putting up a new wall back from there would cost your client?

1 MR. RESSA: Well, one of the problems is that because we got
2 a building permit, we've already build -- we've already sunk the
3 foundation in for the rear addition, so it's not -- so it's no longer
4 an alternative really to move the house back. We're kind of locked
5 because of sinking that foundation. Now, we sunk that foundation
6 before we knew that the condition of this front wall. So I --

7 CHAIRMAN MAMMINA: Okay, because, I mean, there's always an
8 alternative, right.

9 MR. RESSA: Huh?

10 CHAIRMAN MAMMINA: There's always an alternative, but the
11 question is, is the alternative practical, and that was kind of where
12 I was going --

13 MR. RESSA: Yeah.

14 CHAIRMAN MAMMINA: -- between that. Cost them a whole bunch
15 of money.

16 MR. RESSA: I understand --

17 CHAIRMAN MAMMINA: Pushing back and dig up that foundation
18 or --

19 MR. RESSA: Yes, if money is no object, there's always an
20 alternative.

21 CHAIRMAN MAMMINA: Okay. Good answer. As they say on
22 whatever show. They usually jump up and down.

23 MR. RESSA: I don't -- I'm too old to jump these days.

24 The next area I'd like to cover is this floor area variance.
25 As I stated before, we're in a Residence A Zoning District. The
26 maximum floor area in the zoning district is 4,000 square feet;

1 however, we've got an oversized lot here. It's 18,280 square feet.

2 There is a provision, okay, in the Residence A Zoning District
3 that allows us to increase our floor area square feet as of right.
4 That provision provides that if you got a lot that has more than 14,000
5 or more square feet of area, then pursuant to Article 3 of the
6 Residence AA, Section 70.19, you can have 31 percent of floor area.
7 31 percent of 18,280, which is again our -- the size of our lot, would
8 give us an allowable floor area of, I think, it's 5,600 -- in excess
9 of 50, yeah, 600. You're capped at 5,200, however, our proposed
10 floor area is \$4,850 -- not \$4,850; 4,850 --

11 CHAIRMAN MAMMINA: That's your fee, right?

12 MR. RESSA: -- square feet.

13 CHAIRMAN MAMMINA: Just one thing on that, just to keep the
14 record straight, if there are any other variances required, then,
15 you know, that forfeits that, we call it the bump up because we don't
16 know what else to call it.

17 MR. RESSA: I understand that's the position of the Building
18 Department. I didn't see that in the code.

19 CHAIRMAN MAMMINA: I guess you could ask for a determination.

20 MR. RESSA: Excuse me?

21 CHAIRMAN MAMMINA: You could ask for a determination, but that
22 has been the way that the Board and the Building Department have
23 looked at, which doesn't mean we're right or wrong.

24 MR. RESSA: Yeah, I didn't see, you know, I looked at the
25 Town -- of the Town Code, the zoning, and I understand that's the
26 position of the Building Department. I respectfully disagree

1 of -- in any event, given the size of our lot, okay, we're 4,850 square
2 feet it fits nicely, okay. It's not an oversized -- it's not an
3 oversized building for that lot.

4 The last item was the accessories, the generator. That -- the
5 generator being too far away from the -- from the dwelling. I think
6 it's -- the plans call for the generator to be 9 feet away from the
7 dwelling. The requirement is no less than 5 feet. We're
8 withdrawing that application -- that part of the application, and
9 we'll be with the applicable code section.

10 CHAIRMAN MAMMINA: Where will that go now? And just for the
11 record here, you're withdrawing that -- well, if you're withdrawing
12 it, then the Building Department will look at it, okay, no problem.

13 MEMBER DONATELLI: So Mr. Ressa, are you familiar with the Five
14 Factors that we're required to consider?

15 MR. RESSA: Yeah.

16 MEMBER DONATELLI: If you can run through those?

17 MR. RESSA: All right, the First Factor is the -- whether an
18 undesired change would be produced in the character of the
19 neighborhood or a detriment to surrounding properties. I think it's
20 clear that that's not the case here. There are other residences that
21 are -- that have an existing nonconforming front yard, and we're
22 not -- again, we're not increasing that front yard setback. That's
23 an existing condition, which we're really just rebuilding.

24 Whether the benefit sought by the applicant can be achieved by
25 some method feasible for the application and pursue other than an
26 area variance. As you said, Mr. Chairman, there's always

1 alternatives, however, I don't -- my clients went out, got a building
2 permit with the intention of leaving that front wall in its present
3 location. We've sat -- we sank the foundation, and I think it would
4 be a hardship for my clients to change their plans.

5 As far as whether the variance is substantial, I don't -- I think
6 the facts -- the facts show that it's not a substantial variance.
7 You're required to have a 35-foot minimum setback. We have -- if
8 you can take out that one house, we have a 33-foot setback. Again,
9 it's -- I can't emphasize this enough that it's an existing condition.

10 The next Factor is whether the proposed variance will have
11 adverse impact on the neighborhood. No, we're not changing. We're
12 not changing the use of the property. It's going to be -- it's in
13 Resident District of one-family. It's an oversized lot. I think
14 the -- my client's plans, which by the architect can share with the
15 drawing will show that we're upgrading the neighborhood by
16 making -- by renovating this existing older house.

17 Finally, whether the alleged difficulty was self-created. I
18 think it's a matter of circumstance how this happened, okay. That
19 we did not know about the condition of the wall until such time as
20 the house was stripped, and before that occurred, we -- we had gone
21 ahead with our building permit -- we had executed the building permit
22 to the extent of putting the foundation in the back of the house.

23 MEMBER DONATELLI: Mr. Ressa, I think just this morning or
24 perhaps last night, we just received three letters from other members
25 of the community. Did you get a chance to review those?

26 MR. RESSA: Mr. Russo showed me an email that somebody sent.

1 Somebody who is opposed to the application was -- mentioned the view
2 of the water. I saw that. I don't know where this house is, you
3 know, in relation to that person's property. I would just mention
4 that the front yard is where -- the front yard setback is remaining
5 where it's always been since this house was built, so I don't -- we're
6 not -- I don't think that we're blocking anybody that hasn't -- their
7 view may be somewhat impaired right now with the existing house.
8 It's not going to change.

9 MEMBER DONATELLI: Just to be clear. You're seeking to rebuild
10 the front of the house on the existing foundation? You will not be
11 moving the structure any closer to the front lot line?

12 MR. RESSA: Exactly, Mr. Donatelli.

13 MEMBER DONATELLI: So it will be built exactly on the existing
14 foundation?

15 MR. RESSA: Yes.

16 MEMBER DONATELLI: And you did withdraw your application for
17 the generator that was in another one of the comments so that
18 presumably the generator will be placed in the compliant space at
19 some point.

20 MR. RESSA: Yes.

21 MEMBER DONATELLI: I would -- is there anything else that you
22 would like to --

23 MR. RESSA: No, I have nothing else.

24 CHAIRMAN MAMMINA: May I suggest --

25 AUDIENCE MEMBER: Wait, hold on.

26 CHAIRMAN MAMMINA: I was going to ask if maybe Mr. Russo you

1 would come up and just point to where the various additions and the
2 things are on the house so we can fully see if there is any more bulk
3 that you would see from the street and just kind of walk us through
4 it. There's a lot of moving parts to the addition. I know Mr. Russo
5 being an excellent architect but --

6 SECRETARY WAGNER: You are submitting this as an exhibit?

7 CHAIRMAN MAMMINA: -- sometimes it's difficult.

8 SECRETARY WAGNER: Chairman, I just want to note for the record
9 that Mr. Russo submitted Exhibit A, which appears to be photographs
10 of the existing home and the work that's being done.

11 MR. RUSSO: Paul Russo, 114 Birch Hill Road in Locust Valley.
12 I just want to quickly go over the project. When I was commissioned
13 to do the work, we went to the house. The house seemed extremely
14 in good shape. The house had concrete facade and very thick plaster
15 walls. It seemed very solid the house. We put the foundation, and
16 then we did demolition work on all the interior walls, and then once
17 we did that and we took this all apart, we realized that the soil
18 condition was higher than the foundation, and that led to termites
19 and rot that basically ate about the majority of the silk plates and
20 surrounding rim boards and studs all the way up to the house, and
21 by doing -- and this was invisible. If we had seen -- if we had known
22 this, we would have certainly took the whole house down and did
23 something differently, but we didn't know this.

24 Once it was completely gutted, because of the damage to the
25 outside walls, the interior found -- the interior walls, the gutters
26 maintaining the whole entire structure of the house, everything

1 failed and everything's compromised. The whole level of the house
2 is about 3 inches out from the front to back. So we have a permit
3 to rebuild it just the way it is. Just as we're rebuilding it now,
4 but it doesn't make any sense to do this, you know. We spent \$30,000
5 already just to selective demolition. If we knew this, you know,
6 we could have part of this whole house away for 20, so we've already
7 lost a lot of money in the selective demolition. And now to fix this,
8 to bring this to code, to do the strapping here, it doesn't exist.
9 We have to painstakingly go in like a surgeon and cut all this -- all
10 these members out to put it back together, when it's easier just to
11 remove it and build it new. So that's why we're here to do that.

12 As Steve pointed out, the wall of the house is not changing.
13 The view doesn't change. Everything is what's existing in that
14 front -- in that picture that I showed, the first one, that's exactly
15 what's gonna go back. It's just being rebuilt in the same exact spot.
16 The height of the house is not changing. The ridge is 29-9. It's
17 still remaining the same. We're just removing it and rebuilding it.

18 It's just a better project for the client. It's easier and more
19 inexpensive and a better job to remove it and to rebuild than to try
20 and fix it. That's why we're here. It shouldn't -- like I said,
21 if we knew this before, we would have took the whole house down, and
22 the whole average setback, and the setback is only, you know, this
23 is a pre-existing. We're not changing. Like I said, what you see
24 is not being changed.

25 MEMBER DONATELLI: Mr. Russo?

26 MR. RUSSO: Yes.

1 MEMBER DONATELLI: Looking at the plans, I see that the -- it
2 appears on the west side and on the east side there will be extensions
3 that are, I guess, they're marked as a rebuild second story deck with
4 porch below, and it's showing that on the west side as well as a new
5 carport on the east side. Are those compliant with the front yard
6 setback?

7 MR. RUSSO: Yeah, I can show you on this plan, which is what
8 you have. On the plot plan, I did this in color so it's visible to
9 the Board. In yellow is the existing dwelling. In yellow on the
10 west side is that existing side porch. In orange that I showed here
11 on the east side of the property is the new carport and the new
12 addition that we're gonna bring back where the foundation has been
13 installed. The new carport that I put on the side of the house is
14 in compliance with the average setback. When we submitted this house
15 with our current permit, this was all compliant 'cause I wasn't
16 removing the house. I wasn't removing 50 percent of it, so by putting
17 these additions on, and then being compliant with all the setbacks,
18 we were fine with all the issues with the Building Department. It
19 was only during the demolition that we discovered that it would be
20 easier if we rebuild this, and that's why we're here.

21 MEMBER DONATELLI: Thank you for that clarification.

22 MR. RUSSO: You're welcome.

23 MEMBER DONATELLI: Anything else?

24 MR. RUSSO: That's all I have.

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

26 CHAIRMAN MAMMINA: I see Deputy Commissioner Niewender is here.

1 We will let him --

2 DEPUTY COMMISSIONER NIEWENDER: Deputy Commissioner
3 Niewender, Building Department. I'm not here to comment on whether
4 a variance should be granted or not. I just want to clarify a few
5 statements that were made earlier regarding the bump up.

6 70-29C1 of the Town Building Code says the lots greater than
7 14,000 square feet development exceeding 4,000 square feet of the
8 gross floor area, shall comply with the regulations of Article 3 on
9 AA. That means, everything on the property has to comply with the
10 higher zoning district.

11 Now, there's also -- to clarify that the commissioner's
12 memorandum that was issued by the commissioner to the Building
13 Department and Planning Department on March 16, 2007, to clarify that
14 that's exactly what that code means. That commissioned
15 memorandum -- the commissioner memorandum had the force of law, and
16 on the Town's website this said, applicants that wish to build on
17 an oversized lot in one of these residential zoning classes and wish
18 to build a larger house than otherwise permitted with the respect
19 to floor area must meet all the zoning restrictions of the zone that
20 they are bumping to. They actually use bumping.

21 So I just wanted to clarify that that's what the code says and
22 that's what the code means.

23 CHAIRMAN MAMMINA: Thank you, Mr. Niewender.

24 DEPUTY COMMISSIONER NIEWENDER: Thank you.

25 MEMBER DONATELLI: So I would just ask Mr. Ressa, do you want
26 an opportunity to address those emails that we just got this morning,

1 or did you -- are you comfortable with the application?

2 MR. RESSA: No, I'm comfortable proceeding without reviewing
3 them.

4 CHAIRMAN MAMMINA: All right, we can continue the application
5 if you want that opportunity, or we can reserve now, which basically
6 closes the case.

7 MR. RESSA: Could I have just a moment?

8 CHAIRMAN MAMMINA: Sure.

9 MR. RUSSO: If I can?

10 CHAIRMAN MAMMINA: Sure.

11 MR. RUSSO: I quickly looked at the emails and the basic concept
12 was everybody as worried about the average setback and us being in
13 compliance with the average setback, and them losing their views.
14 The view is not changing because the wall is not change. We're not
15 going further. It's staying exactly where it is. The height of the
16 house is not changing, so you have been seeing for the past 100 years,
17 is gonna be the same. None of that changes. People just don't
18 understand the application. They get these rejection letters and
19 they just see new, and they just -- they don't know all the factors.
20 They don't know that the house is staying exactly where it is and
21 nothing is being changed. So that basically addresses --

22 MEMBER GOODSELL: Just to --

23 MR. RUSSO: Sure.

24 MEMBER GOODSELL: -- clarify also. One of the objections is,
25 it's a big lot why can't the house just be moved? And we asked you
26 that, and you said the foundation for the addition was already legally

1 poured and in when the termite damage was discovered to the front
2 wall to the house, so it's not as simple as the email makes it sound
3 to simply redesign the house by moving it back.

4 MR. RUSSO: Correct.

5 MEMBER GOODSELL: And that the Board does understand.

6 MR. RUSSO: Okay, thank you.

7 MEMBER DONATELLI: So again, it is the applicant's option to
8 either continue this to be able to respond to that or to just request
9 that we close the hearing and reserve decision.

10 MR. RUSSO: I say we close the hearing.

11 MR. RESSA: Yeah.

12 MR. RUSSO: We're all comfortable with that.

13 MEMBER DONATELLI: So Mr. Chairman, I ask that we reserve
14 decision on this matter.

15 CHAIRMAN MAMMINA: We have a motion from Member Donatelli.
16 Please poll the Board. We need a second? Oh, I'm sorry.

17 SECRETARY WAGNER: We don't need a motion to reserve.

18 CHAIRMAN MAMMINA: Oh, we reserve.

19 MEMBER DONATELLI: We just reserve.

20 MR. RESSA: Can I just make one comment. I listened to Mr.
21 Niewender on what he said, and I think as far as the floor area
22 variance that'll become a new point if you grant the front yard
23 variance.

24 SECRETARY WAGNER: Actually, I don't think that is the way it
25 works. I think the way we're interpreting is that it still would
26 require the floor area variance. It doesn't --

1 MR. RESSA: No, it will require it, yes, okay, but -- well, if
2 we get a variance for the front yard, then it's a compliant house.

3 SECRETARY WAGNER: No.

4 ATTORNEY ALGIOS: No.

5 MR. RESSA: Oh, you need both.

6 MEMBER DONATELLI: I'm confident that we've addressed the
7 issues, and we'll deliberate and we'll reserve decision.

8 MR. RESSA: Thank you.

9 MEMBER DONATELLI: We'll notify the applicant when the decision
10 is reached.

11 MR. RESSA: Thank you, Mr. Donatelli.

12 CHAIRMAN MAMMINA: So we will reserve decision on the
13 application, and we will decide at a later date.

1 SECRETARY WAGNER: Next appeal, Appeal #21566, Wei Wei,
2 10 Belmont Drive South, Roslyn Heights, Section 7, Block 168, Lot
3 45, Zoned in Residence-AA.

4 Variance from 70-20.C to construct additions that are located
5 too close to the street.

6 CHAIRMAN MAMMINA: You've heard Appeal #21566, Wei Wei. Is
7 there anyone in the room interested in the application other than
8 the applicant? Seeing no one. I think you're just a little shorter
9 than I am, so pull the microphone lower.

10 MEMBER DONATELLI: Thank you.

11 MS. LONG: Good morning, my name is Becky --

12 THE REPORTER: A little closer to the mic, please.

13 CHAIRMAN MAMMINA: Yeah, move forward a little bit.

14 MS. LONG: My name is Becky Long, and I reside on 75 Myrtle
15 Avenue in Jersey City. We're in front of you -- in front of the Board
16 today for zoning violations 70-20C front yard setback.

17 (WHEREUPON, a discussion was held amongst Board Members.)

18 SECRETARY WAGNER: Could you -- give your -- just tell us how
19 you -- are you the applicant? What's the relationship?

20 MS. LONG: I'm the applicant representative. I'm representing
21 the applicant today.

22 ATTORNEY ALGIOS: Are you an expeditor or are you an architect?
23 Are you an attorney? A friend?

24 MS. LONG: I'm part of the architect company.

25 ATTORNEY ALGIOS: Okay.

26 MS. LONG: Yeah, so I work for the architect company.

1 MEMBER DONATELLI: Can I just ask you? I'm sorry.

2 MS. LONG: Yes.

3 MEMBER DONATELLI: I'm having a little difficultly hearing, so
4 if you can --

5 MS. LONG: Speak louder.

6 MEMBER DONATELLI: -- try and project a little bit.

7 MR. PERROTTA: Try and move the microphone back.

8 MS. LONG: Move it back. Is this better?

9 CHAIRMAN MAMMINA: Just slow down a little bit.

10 MS. LONG: Slow down, okay.

11 CHAIRMAN MAMMINA: Yeah, that's all.

12 MS. LONG: We can slow down, okay.

13 VICE CHAIRMAN FRANCIS: Scream at us.

14 MS. LONG: Scream at you, okay.

15 THE REPORTER: A little louder, please.

16 MS. LONG: So the code dictates that the allowed setback for
17 the front yard for existing building, it's the outer setback of the
18 existing building, when 300 feet of either side of the lot or 35 feet,
19 whichever is greater. In our lot the average setback of our
20 neighboring residents are greater at 36.5 feet. So our proposed
21 setback is 35.7 feet, which exceeds the code by 0.8 feet or about
22 9.6 inches. The current setback of the home is at 35.7 feet as I
23 said, and it has been at that location since original construction.

24 We're proposing to maintain this setback and then build that --

25 CHAIRMAN MAMMINA: Slow down one little bit because you're
26 reading, and she's typing.

1 MS. LONG: Oh, okay.

2 CHAIRMAN MAMMINA: It's okay.

3 THE REPORTER: You're doing good. Just a little louder and
4 slower.

5 MS. LONG: We're proposing to maintain the setback and then to
6 build out that porch space to have the whole residence flush against
7 the front yard setback. And then we're proposing to add a second
8 floor addition, which does not exceed the front yard setback, and
9 therefore, should have no negative impact on the neighborhood. The
10 last and -- the 0.8 feet difference is not substantial difference,
11 and the noncompliance is not a self-created hardship by owner, and
12 will create a financial burden to comply.

13 VICE CHAIRMAN FRANCIS: The last point, it's always
14 self-created if you purchase the property, but that's not, you know,
15 that's not a death sentence in terms of what we do here.

16 MEMBER DONATELLI: Are we exceeding the gross floor area with
17 the proposed addition?

18 MS. LONG: No, we're not.

19 MEMBER GOODSELL: And we're not violating side yard setback or
20 rear yard setback?

21 MS. LONG: No, they are compliant.

22 MEMBER GOODSELL: It's really just the -- what is it? Eight
23 inches?

24 MS. LONG: It's 9.6 inches, yes.

25 MEMBER GOODSELL: It's a matter of inches. When I drove the
26 neighborhood, I did not and would not have been able to visually tell

1 you this house is any closer to the street than any other house on
2 the street.

3 MS. LONG: Correct.

4 MEMBER GOODSSELL: So in my opinion, I do agree with you, the
5 setback, while short, technically is negligible.

6 MS. LONG: Thank you.

7 VICE CHAIRMAN FRANCIS: Is that a motion?

8 MEMBER GOODSSELL: I could make that a motion unless someone else
9 wants to comment.

10 MEMBER DONATELLI: We're just squaring off the house, and it
11 does appear to be a minimal front yard setback encroachment, so if
12 you made a motion, I'll second the motion.

13 MEMBER GOODSSELL: I made that motion.

14 CHAIRMAN MAMMINA: Okay, so we have a motion from Member
15 Goodsell, and second from Member Donatelli.

16 Please poll the Board.

17 SECRETARY WAGNER: Member Goodsell?

18 MEMBER GOODSSELL: Aye.

19 SECRETARY WAGNER: Member Donatelli?

20 MEMBER DONATELLI: Aye.

21 SECRETARY WAGNER: Vice Chairman Francis?

22 VICE CHAIRMAN FRANCIS: Aye.

23 SECRETARY WAGNER: Chairman Mammina?

24 CHAIRMAN MAMMINA: I will say, Aye.

25 We are not an aesthetic Board, and maybe I'm not reading the
26 drawings fully but that roof is really wacky, but I just say that

1 as the architect on the Board, but, you know aesthetics are not what
2 we're looking for.

3 MEMBER GOODSELL: Is wacky an architect word?

4 CHAIRMAN MAMMINA: Yes, on the exam for your license, that's
5 one of the questions. Okay, so the application is granted.

6 MS. LONG: Thank you. Have a good day.

7 VICE CHAIRMAN FRANCIS: You too.

8 CHAIRMAN MAMMINA: Thank you.

1 SECRETARY WAGNER: Next appeal, Appeal #21567, Steven
2 Hurwitz, 113 North Court in Roslyn Heights, Section 7, Block 310,
3 Lot 31, in the Residence B Zoning District.

4 Variance from 70-41.A to construct additions that are located
5 too close to the side property line and would make the combined side
6 yards too small.

7 CHAIRMAN MAMMINA: You've heard Appeal #21567. Is there
8 anyone in the room interested in the application other than the
9 applicant? Seeing no one, please give your name and address.

10 MR. COHEN: Hi, good morning. William J. Cohen, AIA. I am the
11 architect of record for Mr. and Mrs. Steve Hurwitz. I am located
12 at 5512 Merrick Road, Massapequa, New York.

13 Thank you for having us. I have the consents of mailings. I
14 don't know who I should give them to.

15 MR. PERROTTA: Right here.

16 MR. COHEN: I got them all here. Here you go.

17 MR. PERROTTA: Thank you.

18 MR. COHEN: All right, good morning. Hurwitz residence 113
19 North Court, Roslyn Heights. It is an existing Cape Cod home. The
20 applicants are looking to construct a one-car garage on the right
21 side of the property as well as a master suite on the first floor.
22 It's a modest home. Homeowners are progressing with age, I guess,
23 as many of us are. They're looking to have a first-floor suite
24 because Mr. Hurwitz has some physical limitations that make
25 traveling the stairs quite difficult for him these days.

26 At this time, we are requesting that with the garage addition

1 that we encroach two feet into the side setback. It was a five-foot
2 minimum on the side. I'm sorry, there's a seven-foot minimum on the
3 side. We're requesting five feet, and the aggregate setbacks
4 combined, we're looking for relief on one additional foot. Right
5 now, it's 23 feet aggregate. We're looking for 22 feet.

6 As of right now, the -- as I mentioned, it's a one and a half
7 story cape. The garage addition that I mentioned is encroaching two
8 feet into the setback that is required. The master suite that we're
9 putting behind it, we tried to be very sensitive to that property
10 line, and we actually set that back over 11 feet. There's no reason
11 to encroach upon that setback. It was just for the garage purposes;
12 just to get a minimum with that garage.

13 Trying to take great care and make sure the addition looks like
14 it's appropriate, and make sure it's properly tied into the home,
15 and looks like it was always intended to be there.

16 CHAIRMAN MAMMINA: The second floor is not increased --

17 MR. COHEN: The second floor is -- there's no additional work.
18 They plan on leaving it as is.

19 MEMBER DONATELLI: Is there a way to configure the new
20 first-floor master suite to configure it so that it is compliant?

21 MR. COHEN: The first floor suite there's -- we're not
22 requesting anything that impacts any of the setback on the suite.
23 It's strictly the garage.

24 MEMBER DONATELLI: Okay.

25 MR. COHEN: The garage addition, which side is 12 feet wide,
26 just to have a minimum for one car to get in and out, and then proper

1 space to access the car.

2 Then, like I said, we made very careful decisions to make sure
3 that once we got beyond the actual setback line of the garage that
4 we pulled back the master suite addition all the way more than I think
5 it's about 11-foot-4, I believe, off that side property line.

6 MEMBER DONATELLI: I'm seeing a garage with 12 feet 4.5 inches.

7 MR. COHEN: Outside dimension to outside dimension. Inside
8 clear would be a foot and a half smaller than that.

9 (WHEREUPON, a discussion was held amongst Board Members.)

10 MR. COHEN: I'll be happy to answer any questions.

11 MEMBER DONATELLI: So the garage will be on the slab?

12 MR. COHEN: Slab on grade, yeah.

13 MEMBER GOODSSELL: I'm just looking to see whether if there was
14 any opposition to this.

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

16 MEMBER DONATELLI: Have any questions?

17 MEMBER GOODSSELL: Right now, the property has a very decent side
18 yard.

19 MR. COHEN: Yes, it's 16 and change on one side and 17 and change
20 on the other side. It's a very deep lot, and the garage addition
21 or that part of the addition, I believe it's a 30-foot setback, and
22 we're setting the addition even 40 feet back, so we're trying to be
23 very sensitive to the neighbors, and in our opinion, it's diminutive.

24 MEMBER DONATELLI: The question really is the side yard
25 setback. Both of those are concerning to the zoning to this Board
26 because, of course, it does create some bulk, which can be seen by

1 the street. On the other hand, having a garage that is really less
2 than 12.5 feet, 12 feet 4.5 inches, you really wouldn't want to get
3 smaller than that because if the Town really considers a parking spot
4 10 by 20, it's probably reasonable to leave at least two feet to be
5 able to get into the car door.

6 MR. COHEN: Not just that. You have eight inches of foundation
7 on each wall also is the -- you lose one foot four just in foundation
8 work. It's a reasonable width.

9 MEMBER DONATELLI: Right. The study is being, I guess,
10 demolished. The existing study --

11 MR. COHEN: Right.

12 MEMBER DONATELLI: -- isn't that where the garage would go?

13 MR. COHEN: No, it's alongside of that.

14 MEMBER DONATELLI: Oh, it's built -- I see.

15 MR. COHEN: It's built alongside of what that study. No, the
16 studies are being reconfigured to his and her study.

17 MEMBER DONATELLI: Oh, there are no dimensions on that.

18 MEMBER GOODSSELL: A his and her study with no connecting door.
19 How private.

20 MR. COHEN: Makes for a happy marriage; like his and her
21 closets.

22 MEMBER GOODSSELL: I think Mr. Donatelli's point is well-taken.
23 That you really can't logically shorten the garage up by a foot
24 because then you're limited to buying smart cars and Mini Coopers.
25 You would not fit --

26 MR. COHEN: Agreed.

1 MEMBER GOODSSELL: -- an average sedan into the garage.

2 MR. COHEN: And then again, you're dealing with a senior who
3 has hip and knee problems that needs to properly open the door without
4 hitting the foundation and get his legs out.

5 MEMBER DONATELLI: I do see on your plans where the two studies
6 exist and the garage is just beyond that.

7 MR. COHEN: Correct.

8 MEMBER DONATELLI: I see that.

9 MR. COHEN: And again, you'll see from the plan that where the
10 master suite is with the proposed suite that we're putting in behind
11 it, we aggressively moved it back to really get it off that property
12 line, so we took great care in that.

13 MEMBER DONATELLI: Are you familiar with the Five Factors that
14 we're --

15 MR. COHEN: Sure.

16 MEMBER DONATELLI: -- required to weight?

17 MR. COHEN: You usually have on the podium here.

18 MEMBER DONATELLI: Yeah, take a look.

19 MR. COHEN: Actually, you don't.

20 VICE CHAIRMAN FRANCIS: There's not one up there?

21 MR. COHEN: No, there's not one here.

22 SECRETARY WAGNER: Hold on.

23 MR. COHEN: Usually have one here. I've been through this
24 before.

25 MEMBER DONATELLI: So let me --

26 MR. PERROTTA: People take it with them. Here you go.

1 MEMBER DONATELLI: So if would you please address those.

2 MR. COHEN: Sure. Number one, whether an undesirable change
3 will be produced in the character of the neighborhood, or a detriment
4 to nearby properties will be created by granting the area variance.
5 Definitely not. We took great care to make sure that the addition
6 has no impact on the neighbors, and it fits well within the community.
7 For Roslyn Heights, again, this is a modest home, even with the
8 addition.

9 Whether the benefit sought by the applicant can be achieved by
10 some other by some method feasible for the applicant to pursue other
11 than the area variance. No, there's no other way. Unless I can put
12 the garage in the back of the house. There's no other way.

13 Number three, whether the request area of variance is
14 substantial. Substantial in what regard?

15 MEMBER GOODSELL: In regard to the required aggregate side yard
16 setback and the proposed aggregate side yard setback.

17 MEMBER DONATELLI: As a percentage of what the requirement is.

18 MR. COHEN: As far as the percentage required, we're asking for
19 a minimal encroached line to the side yard.

20 Whether the proposed variance will have an adverse impact or
21 physical on the environmental conditions in the neighborhood. No,
22 there's no impact.

23 Number five, whether the alleged difficulty was self-created,
24 which is -- which consumes -- sorry, need bifocals. Whether the
25 alleged difficulty was self-created, which consideration shall be
26 relevant to the decision of the Board of appeals that shall not

1 necessarily preclude the granting of the area variance. Is this
2 self-created?

3 MEMBER GOODSSELL: Is this self-created?

4 MR. COHEN: No, it's not self-created.

5 MEMBER GOODSSELL: The answer is 99 percent of the time it is,
6 yes.

7 MR. COHEN: Oh, okay.

8 MEMBER GOODSSELL: That is not determinative of our decision.

9 MR. COHEN: Okay.

10 MEMBER GOODSSELL: It's a factor that we consider.

11 MR. COHEN: Understood. Agreed. Thank you.

12 MEMBER DONATELLI: Was there any other opposition from the --

13 MR. COHEN: Not that we're aware of. We handed in the consent
14 forms. All the mailings went out, so.

15 MEMBER DONATELLI: Mr. Chairman, I do concern myself with side
16 yard setbacks and with aggregate side yard setbacks because, as I
17 said, those go to, in my opinion, very part of what we try to do here
18 on the Board. On the other hand, it is a request for a two-foot
19 variance for the side yard setback and a one-foot variance for the
20 aggregate side yard setback. Under the circumstances, it
21 is -- they're really in my opinion, there's no way to make a thinner
22 garage that will be in any way usable to a homeowner, so I make a
23 motion that we grant the application.

24 MEMBER GOODSSELL: I will second that motion.

25 CHAIRMAN MAMMINA: Motion by Member Donatelli. Second by
26 Member Goodsell.

1 Please poll the Board.

2 SECRETARY WAGNER: Member Goodsell?

3 MEMBER GOODSSELL: Aye.

4 SECRETARY WAGNER: Member Donatelli?

5 MEMBER DONATELLI: Aye.

6 SECRETARY WAGNER: Vice Chairman Francis?

7 VICE CHAIRMAN FRANCIS: Aye.

8 SECRETARY WAGNER: Chairman Mammina?

9 CHAIRMAN MAMMINA: Before I say aye, I will first echo what
10 Member Donatelli said. Aggregate side yard, I agree with that. I
11 always see as very important because that you do see from the street,
12 but what the impact of that is and the garage has been made as smaller
13 as width that's reasonable, and also, if you would take the study
14 and say, okay, we're going to pull the study over five feet, you know,
15 you have a -- excuse me, over two feet, you'll have a study that's
16 about six feet wide when that's hardly a study at that point.

17 I also vote aye.

18 MR. COHEN: Okay.

19 CHAIRMAN MAMMINA: So the application is granted?

20 MR. COHEN: Thank you very much, everybody. Have a good day.

1 SECRETARY WAGNER: Next appeal, Appeal #21568, Vaibhav
2 Kolekar, 31 Jeffrey Place, New Hyde Park, Section 8, Block 256, Lot
3 16, in the Residence A Zoning District.

4 Variance from 70-29.B to construct a second-story addition that
5 would make the house too big.

6 CHAIRMAN MAMMINA: You've heard Appeal #21568, Vaibhav
7 Kolekar. Is there anyone in the room interested in the application
8 other than the applicant? Seeing no one, please give your name and
9 address.

10 MR. PFLUGER: Good morning. My name is Nicholas Pfluger.
11 Spelled P-F-L-U-G-E-R. I'm the architect on the project from Boller
12 Pfulger Architect. We're at 85 East Main Street, Bay Shore, New York
13 11706. As I said, I'm the architect on the project here on behalf
14 of Mr. and Mrs. Kolekar.

15 The existing home is a split-level home, and we are proposing
16 a second-story addition for a master suite above the existing kitchen
17 and living room, which is the one-story portion of the split level.
18 As well as a covered porch on the rear of the home. We are here today
19 requesting relief from the gross floor area requirement. We are
20 proposing a GFA of 39.6 percent instead of the required 36 percent.
21 The 39.6 percent equals 3,394 square feet, where the allowable is
22 3,065 square feet.

23 The addition that we're doing is a very common addition for this
24 type of house where the -- again, the proposed second-story is over
25 the one-story portion of the split level. There are several other
26 second-story additions on the block that, you know, basically, are

1 doing or have done exactly what we are proposing to do. By looking
2 at the Nassau County property website, we saw a couple that had
3 similar square footages that we're requesting. There's 9 Jeffrey
4 Place that's five houses down from our project.

5 CHAIRMAN MAMMINA: I always apologize for interrupting.

6 MR. PFLUGER: Oh, sure.

7 CHAIRMAN MAMMINA: It's similar in what way? Does it have that
8 large -- is there a variance for the floor area, and if so, what is
9 that variance if we're gonna say it's similar.

10 MR. PFLUGER: Sure. So it's similar in the fact that the
11 addition that was done to this property at 9 Jeffery Place is a
12 second-story addition over the one-story portion of the original
13 split level, and looking at the Nassau County property website, and
14 the square feet that it has on there, their square feet is about 350,
15 where we're requesting 3,394, so it's very similar in context, and
16 in the numbers.

17 Now, in terms of the variance granted, that's information that
18 I don't have if they're actually granted a variance for any --

19 CHAIRMAN MAMMINA: Did they apply for a floor area variance?

20 MR. PFLUGER: I'm sorry, say that again.

21 CHAIRMAN MAMMINA: Did they apply for a floor area variance?
22 I don't remember it, but we get lots of applications.

23 MR. PFLUGER: Sure. Yeah, unfortunately, I don't know that
24 information if that particular project, you know, applied for a
25 variance and/or got granted for it.

26 CHAIRMAN MAMMINA: Because your entire variance is based on

1 your floor area.

2 MR. PFLUGER: Correct.

3 CHAIRMAN MAMMINA: And the Board looks very, very carefully at
4 floor area, and are there alternatives, which is what our job is,
5 and your job to demonstrate then why there aren't, and is it in the
6 same location, whatever -- whatever variances were granted there,
7 and also depending on when their house was built. It may predate
8 the requirement for zoning of a maximum area. You know, I don't want
9 to get you off track, you know, from there --

10 MR. PFLUGER: Sure.

11 CHAIRMAN MAMMINA: Before I give any other comments.

12 MR. PFLUGER: Sure. Sure. Yeah, so, yeah, I, unfortunately,
13 don't know exactly when this particular addition was built.

14 CHAIRMAN MAMMINA: Or its size.

15 MR. PFLUGER: I'm sorry, say it again.

16 CHAIRMAN MAMMINA: Or if it's size be -- if it complied or not
17 with the zoning, so what was the variance?

18 MR. PFLUGER: Right, correct. Yeah, I don't --

19 CHAIRMAN MAMMINA: Is the property the same size?

20 MR. PFLUGER: Yes, the property is the same exact size. The
21 original home is the same exact home that the original home was of
22 subject property, so I'm just merely comparing the type of addition
23 in the proposed square footage on the Nassau County website is and
24 comparing it to what we have just to demonstrate that the character
25 of what we're proposing is in line with the rest of the neighborhood,
26 and there's several additions like that. I'm just using 9 Jeffrey

1 Place as one example.

2 MEMBER DONATELLI: Can I just say?

3 MR. PFLUGER: Sure.

4 MEMBER DONATELLI: Many of us, in fact, all of us, drive by the
5 homes that are subject to these hearings. We try to get our own
6 sense. I did see 9 Jeffrey. We can't really rely on something
7 unless we know that its variance has been granted because the
8 standards, of course, change first of all over time, and secondly,
9 we don't -- if what was built there was built legally with a variance
10 or was not, so unfortunately we --

11 MR. PFLUGER: Understood.

12 MEMBER DONATELLI: And whether its gross floor area, whether
13 its fencing, many of the applications that come before us make a
14 statement such as yours, and we really can't rely on that as precedent
15 unless we know that that was something that was granted and the
16 circumstances under which it was granted.

17 I will tell you that in my opinion as one Board Member, asking
18 for 10 percent variance is a very substantial request, and so I'd
19 be very interested in hearing whether or not, as the Chairman said,
20 whether or not there are other alternatives where we achieve this
21 but give a smaller variance or perhaps even better do away with the
22 need for a variance, so if you could address that.

23 If you could tell us whether or not it would be possible to
24 request a smaller variance or do away with the variance and still
25 achieve what it is that the homeowners want.

26 CHAIRMAN MAMMINA: May I just add on to that?

1 MR. PFLUGER: Sure.

2 CHAIRMAN MAMMINA: As I read the drawings, the entire variance
3 is the additional floor being added onto there, and it's a -- it's
4 all a master bedroom other than the little space that's over below --

5 MR. PFLUGER: Correct.

6 CHAIRMAN MAMMINA: -- and I, you know, I don't really like to
7 characterize, you know, that much, but it's huge, and there's a
8 walk-in closet here.

9 MEMBER GOODSELL: Walk-in closet.

10 CHAIRMAN MAMMINA: That's 13 feet by 12 foot 8. A master
11 bedroom is 15, or is it 17 -- oh, it's 17; 11 and a half by 15. I
12 mean, I think the bathroom is the only thing that I could look at
13 and say yeah, okay, you know what? It's big, but it's not so unusual
14 for what people are looking for today. But I mean, just as I look
15 at this, you know, I used to say someone give me my red pencil, but
16 I don't do that anymore. I mean, I can chop a chunk off of that
17 without affecting, I think, in any way, you know, what's up there.
18 That's a second bedroom. A second good-size bedroom, you know, other
19 than the master. I know that's not what they're looking for.

20 MR. PFLUGER: Sure. Sure. Yeah, I mean, we are, you know,
21 lining the new walls with the existing walls below, which, you know,
22 obviously, structurally speaking is, you know, more efficient to
23 do -- do it that way rather than an offset wall from what's below,
24 although, you know, obviously very possible to do that.

25 CHAIRMAN MAMMINA: It's not one of the tests of a variance.

26 MR. PFLUGER: Correct, yes, yes. So I mean, you know, of

1 course, you know, we could, you know, reduce the size of it. That
2 is certainly possible. I think that's obvious.

3 MEMBER GOODSSELL: Mr. Pfluger, I just want to add to what the
4 chairman said. I realize that this is a split level. You're limited
5 to what you can do this with a split level.

6 MR. PFLUGER: Correct.

7 MEMBER GOODSSELL: There's only so many places that you can go.

8 MR. PFLUGER: Right.

9 MEMBER GOODSSELL: And I understand what you're saying about
10 lining up the back walls, but I have to tell you, the walk-in closet,
11 which is truly a walk-in closet, is bigger than the bedroom that I
12 raised two kids in, so I would like to be convinced that it is one
13 of life's necessities to have a walk-in closet that big.

14 MR. PFLUGER: I mean, the only thing that I can really say about
15 that, you know, having done many additions and new houses and so
16 forth, is that, you know, having a large walk-in closet is, you know,
17 becoming more and more a standard when possible. You know, people
18 just have more stuff. They're obviously two people sharing that
19 closet, so, you know, I don't think it's -- they're too substantial
20 or unreasonable, you know. Again, having done many additions in many
21 different areas of Long Island, it's becoming more and more of a
22 standard to have a large walk-in closet.

23 MEMBER DONATELLI: So could I just ask a question because as
24 I look at the south elevation on your page A400, I'm looking at the
25 south elevation, which here is marked as the front elevation. It
26 looks to be like the second floor is not going to be directly above

1 the first floor. The wall of the second floor is going to be slightly
2 in from the first front wall.

3 MR. PFLUGER: Let me just get to it here.

4 MEMBER DONATELLI: Page A400.

5 MR. PFLUGER: Right, so you're looking at the front or the rear
6 elevation?

7 MEMBER DONATELLI: The south elevation front.

8 MR. PFLUGER: Right, so you're -- and you're talking about the
9 side wall, correct?

10 MEMBER DONATELLI: Yes.

11 MR. PFLUGER: Yeah, so the reason why that is seemingly offset
12 is because there's brick on the first floor, so we're actually
13 aligning the new wood frame wall with the existing wood frame wall,
14 so that's why there's a little bit of a difference, about four inches,
15 that it looks like it's offset, but we're actually aligning, for
16 structural reasons, aligning the wood frame walls.

17 MEMBER DONATELLI: Well, I'm not the architect of the Board,
18 the Chairman is, but it just seemed to me that offset is more than
19 the width of the brick, but --

20 MR. PFLUGER: I mean, it's --

21 CHAIRMAN MAMMINA: I agree.

22 MR. PFLUGER: I want to make sure we're looking at the same
23 thing. We're looking at the front elevation, the right side of the
24 front elevation --

25 MEMBER DONATELLI: That's correct.

26 MR. PFLUGER: -- which would be the side wall?

1 MEMBER DONATELLI: That's correct.

2 MR. PFLUGER: I mean it's about four inches, you know. There's
3 a little bit of, you know, trim on the side of the side view, which
4 you might make it look five to six inches, but I assure you, it's
5 about four inches is the offset.

6 MEMBER DONATELLI: There's no way for me to measure it, but it
7 looks substantially -- anyway, I apologize for --

8 MR. PFLUGER: I mean, if you look at the floor plan on page A300,
9 you can actually see, you know, the side wall on the second-floor
10 plan. The side wall of the addition, and then you can see a lighter
11 line right next to the hatched wall that again is four inches away,
12 and that represents the brick below.

13 MEMBER DONATELLI: I see. All right, well, again, it just must
14 be the south elevation that was causing me to question that, okay.
15 I mean, it wouldn't make sense otherwise but --

16 MR. PFLUGER: Correct. There'd be no reason to offset it if,
17 you know, there wasn't a good reason to do it, but yeah, that's the
18 only reason why we offset it. It was to align wood frame to wood
19 frame.

20 MEMBER DONATELLI: Getting back to my original question. Is
21 there some way to fashion this where we reduce or eliminate the need
22 for a variance? Is there somewhere to chop off? You're asking for
23 329 square feet over what is allowed. Is there some way to chop some
24 portion of that?

25 CHAIRMAN MAMMINA: And if I may?

26 MR. PFLUGER: Yes.

1 CHAIRMAN MAMMINA: Add to that, as your client has his hand up;
2 and of course, he can speak, but counsel has shown us on the house
3 you're pointing to, they were denied for floor area. Not what they
4 built. Not on --

5 MR. PFLUGER: Sure.

6 CHAIRMAN MAMMINA: -- but they --

7 MR. PFLUGER: Understood.

8 CHAIRMAN MAMMINA: -- were denied.

9 MR. PFLUGER: Okay. Would you like to say something?

10 MR. KOLEKAR: Yes.

11 MR. PFLUGER: I would like to hand it over to Mr. Kolekar.

12 MEMBER DONATELLI: Name and address.

13 MR. KOLEKAR: Hello. Vaibhav Kolekar, 31 Jeffrey Place, New
14 Hyde Park, New York. Thank you for giving me an opportunity to speak.
15 Just want to give you a bit of context in terms of what the ask is.
16 I realize that we're asking for a second master suite, but to give
17 you a bit of context. So we have three bedrooms existing right now
18 on the main living area. It's two of us and three kids currently,
19 so me and wife take the current master, and one person gets one bedroom
20 and two kids are sharing. Me and my wife work. The kids go back
21 to school. Two bathrooms on that floor. Getting ready in the
22 morning is a big hassle, so that's one of the reason. The other thing
23 is we do have a spare lower-level room. Technically, you could take
24 that, okay, one person could use that, and that's space you don't
25 really have to build an addition.

26 The additional context is, me and wife are both the eldest

1 children, and my sister is eight years younger. My bother-in-law
2 is 12-and-a-half years younger than my wife. They're both just
3 starting off in their life, which unfortunately means that the
4 responsibility for caring for our elder parents is both me and my
5 wife. So I'm in the process of actually moving my elder parents who
6 are about 80 years of age and had a couple of decent surgeries into
7 the house, and they will take the lower room, and even though the
8 situation with my wife's family is not as immediate, we do expect
9 that in the three or four years my mother-in-law comes to stay with
10 us. So what you will be looking at effectively is a house which has
11 five plus three, eight people in there, and that's the reason why
12 we're asking for the additional bedroom.

13 Now, in terms of the size of the walk-in closet. What we're
14 hoping to do as a convenience thing is maybe add a washer, dryer in
15 there. With my parents being of the age they are, and there's certain
16 things they need. They need some privacy, and there's accidents that
17 can happen. We would like to have two sets of washer and dryer. One
18 below existing in the basement right now, and one upstairs with the
19 five of us that we can hopefully make our life a little bit easier,
20 so I do understand the consensus. It's definitely more of a
21 requirement for us; unfortunately, at this point, given what our
22 personal situation is.

23 I realize that the addition is going to be 640 square feet total.
24 The new addition that we're building. The variance about 300, so
25 if you were to try and comply, it would effectively be reducing it
26 to 300 square foot master addition, which really probably doesn't

1 really fit our purpose, so we're hoping that you can look favorable
2 upon the request. That is what I wanted to say.

3 CHAIRMAN MAMMINA: Just a couple of things. First of all, it's
4 about 400 and -- I believe, 329, so we'll go with about 300, but I
5 count four bedrooms on the plan, so that's here. There is one on
6 the half level down, which is a legal bedroom, and then you got three
7 other bedrooms on the floor above of which one of those is a fairly
8 substantial size. I'm not saying that could necessarily be chopped
9 into two, but maybe, and, you know, then as I look at that master
10 suite -- look, everybody wants a nice master suite, and, I, you know,
11 and I get that, but that other -- if we were able to grant that, I
12 mean, that other walk-in closet, you know, and I see how it can give
13 you a washer and dryer.

14 I mean I do a lot of apartment buildings, and I'm not saying
15 you should do that, but in an apartment building, I put that washer
16 and dryer into three-foot by three-foot closet, and they have a washer
17 and dryer. I can see very simply in the master bedroom, but just
18 adding a wall, you know, that would go -- I'm just looking at
19 vertically. In there, you create a courtier that goes to the walk-in
20 closet, and it's another bedroom, and then in there, even if we were
21 to put in a washer and dryer, it just looks very, very big, and
22 especially in light that we did deny the other one. I think
23 something's got to go here.

24 It's a -- again, we look very careful at floor area variances,
25 and -- not that we don't look at everything carefully at everything,
26 but floor area is something that the Town Board instituted I believe

1 in 1980, and then it was made more restrictive in, I think it was
2 2004, so something like that, so it's obviously very important to
3 the Town Board, and it's our job to then see where variances might
4 be appropriate.

5 MEMBER DONATELLI: And let me just add that as I look at the
6 survey, this is a property that is 65 feet wide, so that is fairly
7 narrow width even though it runs 131 feet long, the house will occupy
8 a large portion of the lot.

9 Before I continue, Debra, can I just ask you a question?

10 ATTORNEY ALGIOS: Yes.

11 MEMBER DONATELLI: Just give me one moment, please.

12 MR. KOLEKAR: Sure.

13 (WHEREUPON, a discussion was held amongst Board Members.)

14 MEMBER DONATELLI: Was there anything else you wanted to add,
15 or do you to want consult with your client?

16 MR. PFLUGER: Yes, so it may necessarily help with the point
17 that the Board made on the 9 Jeffrey Place, but there is another
18 property that, you know, also is -- has the same lot area. It a has
19 very large footprint, but again, we don't have, you know, the records
20 to see if there was a variance on that particular property.

21 ATTORNEY ALGIOS: Which property is that?

22 MR. PFLUGER: It is 150 Robbie Lane, which is just one block
23 over, but, you know, like less than 100 feet from the subject
24 property.

25 CHAIRMAN MAMMINA: I'm not a scolder, so please don't take it
26 that way, but as an architect, research is so important.

1 MR. PFLUGER: Sure.

2 CHAIRMAN MAMMINA: It's something like this to find those
3 comparative things because that's really character of the
4 neighborhood, and what's been granted before, is really our charge
5 here.

6 MR. PFLUGER: Right.

7 VICE CHAIRMAN FRANCIS: Mr. Pfluger, you submitted responses
8 to the Five Factors.

9 MR. PFLUGER: Yes.

10 VICE CHAIRMAN FRANCIS: You only provided a rationale for
11 number two. You didn't provide any rationale for four of the five
12 factors, so I'd like you to go through that and do that now, if you
13 would?

14 MR. PFLUGER: Okay, so number one, whether an undesirable
15 change will be produced in the character of the neighbor or a
16 detriment to neighbor properties will be created by the granting of
17 the area variance. I would say an undesirable change would not be
18 produced against since there are a lot of other projects that would
19 not be standing variances or granted for them or not, but just in
20 terms of the character, there's a lot of other properties that have
21 this same exact addition that we're proposing.

22 CHAIRMAN MAMMINA: You're sure it's the same exact addition?

23 MR. PFLUGER: In terms of the way that it's presented on the,
24 you know, from the street I should add, but in terms, you know, again,
25 visually, it's gonna present the same character as many of the homes
26 on the block.

1 CHAIRMAN MAMMINA: And you're pointing to the attached garages
2 and several have additions. Some of which are much larger than this,
3 so. Your job is to produce much larger ones and to provide that --

4 MR. PFLUGER: Sure.

5 CHAIRMAN MAMMINA: Yes, the bigger houses get and the Town Board
6 specifically was trying limit what is referred to as McMansion. I
7 don't particularly like that --

8 MR. PFLUGER: Sure.

9 CHAIRMAN MAMMINA: -- term, but, you know, there were many
10 community groups that participated in that zoning change for maximum
11 floor area, so it's something that we also look -- that's our job
12 is to look at it and grant whatever it may be.

13 MR. PFLUGER: Understood. Get to number two, whether the
14 benefits sought by the applicant can be achieved by some method
15 feasible for the applicant to pursue other than an area variance.
16 I would say that since the existing home is already approaching the
17 maximum GFA, almost anything that we would do for the home to get
18 this benefit also would require some kind of gross floor variance.

19 MEMBER GOODSELL: What is the current square footage of the
20 house now?

21 MR. PFLUGER: So the current square footage is 1,909 square feet
22 for the existing building. Let me just turn to it here. For the
23 first floor, it's 1,901 square feet. For the second floor, it is -- I
24 have a total of 1,492 square feet; that's with the addition.

25 MEMBER GOODSELL: I'm sorry, 1,000?

26 MR. PFLUGER: 492. That's with the addition. So just some

1 quick math here. It's about eight square feet existing for the
2 second floor, so that would bring us to about 2,750 for the existing
3 square footage total.

4 MEMBER GOODSSELL: So what you're telling us is that it's not
5 possible to put this addition on for 314 square feet in order to stay
6 within GFA?

7 MR. PFLUGER: Anything -- 314 square feet; I mean, it's really,
8 you know, for what the client wants to achieve, and the benefit that
9 they would. It's not, you know, really enough square footage.

10 MEMBER GOODSSELL: But is it --

11 CHAIRMAN MAMMINA: I know that for what the client wants to
12 have, is not a test of zoning, and I don't mean this in this case,
13 but there is a previous board member who sat here who's now a judge,
14 not that has anything to do with anything, but who frequently would
15 say sometimes, it's time to move. You know, that might sound harsh,
16 but there's just so much that the zoning can absorb --

17 MR. PFLUGER: That's understood.

18 CHAIRMAN MAMMINA: -- before you can't get what you want.

19 MR. PFLUGER: I mean, when you --

20 MEMBER GOODSSELL: Is it --

21 MR. PFLUGER: Go ahead.

22 MEMBER GOODSSELL: -- possible to discuss with your client that
23 they can still have an addition within the master bedroom and a master
24 bath and a smaller walk-in closet that does not go 329 square feet
25 over the allowable limit? Because, again, you can assure the
26 client -- I'm sure if you built it this way, it's going to be

1 beautiful, but we are not an aesthetic board.

2 MR. PFLUGER: Sure.

3 MEMBER GOODSELL: And this particular house on a piece of
4 property, which is maybe three or four feet wider, wouldn't even be
5 in front of us.

6 MR. PFLUGER: Right.

7 MEMBER GOODSELL: You're stuck with what you have.

8 MR. PFLUGER: Yes.

9 MEMBER GOODSELL: Is it possible to do this to accomplish these
10 goals, point number two, without this large addition; without this
11 large overage GFA?

12 CHAIRMAN MAMMINA: I would also ask you to demonstrate one that
13 shows in complaint because your task is to show how it's -- based
14 on what we're saying now, how it's absolutely not compliant.

15 MR. PFLUGER: Yeah, so --

16 CHAIRMAN MAMMINA: That's not -- we're here to grant variances,
17 but we need to make sure that it's the minimum variance that is
18 absolutely needed --

19 MR. PFLUGER: Understood.

20 CHAIRMAN MAMMINA: -- for this. I'd like to say, I'd like to
21 drive a Porsche or a Maserati, too, but it's not in the cards.

22 VICE CHAIRMAN FRANCIS: Right.

23 MR. PFLUGER: Excuse me. One thing I would like to mention
24 before I answer that question is that we do have the rear covered
25 porch that we're also proposing, so that is one thing that we could
26 remove from the application, and I just briefly discussed that with

1 my client.

2 CHAIRMAN MAMMINA: That's not that floor area.

3 MR. PFLUGER: That's counted in the GFA, no? A covered porch?

4 CHAIRMAN MAMMINA: That's not my job.

5 MR. PFLUGER: I mean, that -- that's what the Building
6 Department, you know, technically counted it.

7 SECRETARY WAGNER: How many sides are enclosed? Is it more
8 than 50 percent?

9 MR. PFLUGER: It's right at 50 percent because there's two
10 sides open and two sides enclosed because it's up against the inside
11 corner of the house.

12 SECRETARY WAGNER: So are you saying that was included in your
13 GFA? Are you sure that it was? Is it showing on your --

14 CHAIRMAN MAMMINA: You're not showing it that way in your
15 diagram. Well, no, I'm sorry, you are.

16 MR. PFLUGER: It's on there.

17 CHAIRMAN MAMMINA: And if --

18 MR. PFLUGER: Right, so then --

19 CHAIRMAN MAMMINA: But you say it's zero --

20 MR. PFLUGER: Right, it was discounted.

21 CHAIRMAN MAMMINA: You also say it's zero.

22 MR. PFLUGER: It was in the list that was discounted.

23 CHAIRMAN MAMMINA: Yeah.

24 MR. PFLUGER: Again, my apologies on that.

25 CHAIRMAN MAMMINA: Also, I thought that it had to be open on
26 three sides, so that would bump your number even more --

1 MR. PFLUGER: Right, but it's not -- right.

2 CHAIRMAN MAMMINA: -- but I'm not sure.

3 MR. PFLUGER: Gotcha. Gotcha.

4 MEMBER DONATELLI: We're trying to help you.

5 MR. PFLUGER: Yes.

6 MEMBER DONATELLI: We're trying to find a way if there isn't
7 a way that you can achieve your client's goals and request a smaller
8 variance, which we're tasked to by law.

9 MR. PFLUGER: Right.

10 MEMBER DONATELLI: We're required to give the smallest
11 variance, so it just seems to me that there must be a way for you
12 to achieve this and to not request a variance that is so large.

13 (WHEREUPON, a discussion was held between Mr. Pfluger and his
14 client, Mr. Kolekar.)

15 CHAIRMAN MAMMINA: Can I interrupt you for a second?

16 MR. PFLUGER: Yes.

17 CHAIRMAN MAMMINA: My suggestion, you know, is -- because we've
18 gone back and forth at this point; reserve the application and --

19 ATTORNEY ALGIOS: Continue.

20 SECRETARY WAGNER: Continue.

21 CHAIRMAN MAMMINA: Continue, thank you. And then you can
22 create alternate plans.

23 MR. PFLUGER: Okay.

24 CHAIRMAN MAMMINA: It's not -- again, I don't want to sound
25 harsh. It's not Let's Make a Deal.

26 MR. PFLUGER: Right.

1 CHAIRMAN MAMMINA: You know, it's you demonstrating --

2 MR. PFLUGER: Something more --

3 CHAIRMAN MAMMINA: -- your professional capabilities that you
4 can't fit something that's complaint and this is what I propose to
5 the Board. I don't know. I'm making a number, maybe 50 feet, maybe
6 it's 100 feet. I don't know.

7 MEMBER DONATELLI: Right.

8 MR. PFLUGER: Understood.

9 MEMBER GOODSELL: But if you continue it, it is certainly the
10 applicant's right to say, no, I can't do this any other way. I want
11 to have the Board consider what I'm doing, but I think you can see
12 what direction we're leaning.

13 MR. PFLUGER: Yes.

14 MEMBER GOODSELL: So perhaps I agree with the Chairman
15 continuing it for reconsideration, and then simply submitting it to
16 us again, or we will continue this, and you don't need to come back.

17 CHAIRMAN MAMMINA: Also, that's not binding because you submit
18 it, you know you don't --

19 MR. PFLUGER: Understood.

20 CHAIRMAN MAMMINA: -- well, there it is and now you have to do
21 that.

22 MR. PFLUGER: Okay.

23 MEMBER DONATELLI: Let me also suggest this. Again, if
24 you -- because we always try and deal with the context of the
25 neighborhood. That's part of what we're tasked to do.

26 MR. PFLUGER: Yes.

1 MEMBER DONATELLI: So if you do site a property; I understand
2 that the other property perhaps is a mother/daughter, so that's
3 non-analytic to your situation.

4 MR. PFLUGER: Understood.

5 MEMBER DONATELLI: This property, they had a variance, they've
6 been denied, so if you want us to consider other properties in the
7 area that you think are similar, then please research that and make
8 sure this Board has granted that variance, or that it was done at
9 a time prior to the zoning regulations.

10 MR. PFLUGER: Understood. Okay. All right, yeah, so we would
11 like to continue.

12 CHAIRMAN MAMMINA: That would be my suggestion.

13 MR. PFLUGER: Yes, thank you.

14 CHAIRMAN MAMMINA: This doesn't reflect on anybody that -- you
15 didn't do a bad job or anything. That's all okay.

16 MR. PFLUGER: Sure.

17 CHAIRMAN MAMMINA: That's all fine.

18 MR. PFLUGER: Thank you.

19 MEMBER DONATELLI: So we'll continue this --

20 CHAIRMAN MAMMINA: Yes, we'll continue this application.

21 SECRETARY WAGNER: For revised plans.

22 CHAIRMAN MAMMINA: For revised plans.

23 MR. KOLEKAR: Just one question, please. So when we resubmit
24 is the -- when do we have to come back?

25 MEMBER DONATELLI: No.

26 CHAIRMAN MAMMINA: No. There's no coming -- you don't need to

1 come back. You would submit those to the Zoning Board not the
2 Building Department?

3 SECRETARY WAGNER: Well, eventually -- so it'll be a conceptual
4 plan that the Board would say whether they like it or they don't like
5 it.

6 MR. PFLUGER: Understood.

7 SECRETARY WAGNER: And then if they want you to proceed forward,
8 then you would have to submit, probably upload the plans to the
9 Building Department. We usually like --

10 MR. PFLUGER: Revised, yes.

11 SECRETARY WAGNER: -- to check with them to see whether the
12 numbers all worked out and everything is okay, but first, we'll let
13 them take a look at what you come up with.

14 CHAIRMAN MAMMINA: Thank you.

15 MR. PFLUGER: Thank you very much.

16 CHAIRMAN MAMMINA: You're welcome.

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SECRETARY WAGNER: Next appeal, Appeal #21569, Samuel and Iliana Pau, 158 Birchwood Drive, New Hyde Park, Section 9, Block 529, Lot 41, in the Residence-C Zoning District.

Variances from 70-100.2.A(4) & 70-100.2.A(4) (a) to construct fences exceeding the permitted height.

CHAIRMAN MAMMINA: You heard Appeal #21569, Samuel and Iliana Pau. Is there anyone in the room interested in the application other than the applicant?

MS. PAU: Yes.

CHAIRMAN MAMMINA: Are you the applicant also?

MS. PAU: He's my son.

MR. PAU: I'm the son.

MS. PAU: He's here. He's going to help me.

CHAIRMAN MAMMINA: So you're both here to --

MS. PAU: Yes.

CHAIRMAN MAMMINA: Okay, I got it.

MEMBER DONATELLI: Yeah.

MR. PAU: Can I speak too?

CHAIRMAN MAMMINA: You're not going to say I think the same --

SECRETARY WAGNER: Not together.

VICE CHAIRMAN FRANCIS: Not at the same time.

SECRETARY WAGNER: So if you want to speak first, or he wants to go second.

MS. PAU: Yes.

SECRETARY WAGNER: You want to speak first, okay.

1 CHAIRMAN MAMMINA: You can put yourself on the record,
2 and -- when you come up. Wherever you want to.

3 VICE CHAIRMAN FRANCIS: Pull the microphone down just a little
4 bit.

5 MS. PAU: Because I'm short.

6 SECRETARY WAGNER: Speak loud and slowly.

7 VICE CHAIRMAN FRANCIS: Name and address first.

8 MS. PAU: Hello everyone. Can you hear me?

9 MEMBER DONATELLI: Yes.

10 MS. PAU: Okay, my name is Iliana Pau of 168 Birchwood Drive,
11 New Hyde Park, New York 11040. I'm here, me and my son, Matthew to
12 request a six-foot fence along our property line for the following
13 reasons.

14 Mainly, privacy and security of my property. We're required
15 the fence for privacy especially concerning our neighbor of 162
16 Birchwood Drive. A six-foot fence will help us deter any
17 encroachment, such as planning and moving items onto our property,
18 which has been an issue for many years. The fence is essential for
19 preventing similar problems in the future.

20 Also, safety for our pets. I have a couple of pets. We have
21 two emotional support dogs that you need additional safety measures.
22 The taller fence will help protect them from raccoons and possums
23 that they're always around my area and feces all over that is really
24 bad for the pets, frequently seen in the area, preventing potential
25 injuries for them.

26 Proximity to busy roads, cul-de-sac that is next to me. Our

1 property is near Marcus Avenue, busy roads with high traffic going
2 through. The fence would provide necessary privacy and security
3 from the road. Additional, the cul-de-sac next to our attract
4 children playing and random cars parking in the area making us uneasy
5 about using our back yard for family gathering without a fence.

6 Also, precedent. A similar variance of BZA 18644 was approved
7 in 2009 for a neighbor of 162 Birchwood Drive; allowing a six-foot
8 fence on the property line shared with us of 158 Birchwood Drive.
9 This precedent supports our request for the same accommodation.

10 Matthew, would you like to add anything?

11 MEMBER GOODSSELL: Ms. Pau?

12 MS. PAU: Yeah.

13 MEMBER GOODSSELL: You're in my neighborhood.

14 MS. PAU: Okay.

15 MEMBER GOODSSELL: I, for 40 years lived just a few blocks away,
16 so I know your neighborhood. I know Marcus Avenue. I know the cars
17 speed down there. Let me ask you. You live on a kind of a short
18 block where your house is. In fact, if you're standing in the street
19 looking at the front door of your house, there's a house on either
20 side.

21 MS. PAU: Yes.

22 MEMBER GOODSSELL: That's correct.

23 MS. PAU: Yes.

24 MEMBER GOODSSELL: The house to the left doesn't face Birchwood,
25 it faces another street; is that correct?

26 MS. PAU: My house to the --

1 MEMBER GOODSSELL: Not your house. When you're standing in the
2 street and you're looking at the house to the left of you --

3 MS. PAU: To the left, okay.

4 MEMBER GOODSSELL: That house doesn't face your street. That
5 house faces another street.

6 MS. PAU: Yeah, the cul-de-sac, yes.

7 MEMBER GOODSSELL: So that six-foot fence that they have that
8 comes along your property line, that's actually their backyard fence;
9 is that correct?

10 MS. PAU: Right.

11 MEMBER GOODSSELL: And when you're standing at your house and
12 you're looking at your house from the street, you have a back yard
13 that we automatically allow you to have a six-foot.

14 MS. PAU: That's correct, yes.

15 MEMBER GOODSSELL: Talk to me about the house to the right of
16 you.

17 MS. PAU: That's the --

18 MEMBER GOODSSELL: What direction does that face?

19 MS. PAU: That's the right side; 162.

20 MEMBER GOODSSELL: Right-hand side.

21 MS. PAU: The right-hand side in the corner, and then it's my
22 house, and then there's the other one, so I'm in the middle of two
23 houses, right.

24 MEMBER GOODSSELL: You're in the middle house, but what I'm
25 trying to point out is, I think, that those two houses on either side
26 of you face other streets.

1 MS. PAU: Correct.

2 MEMBER GOODSSELL: Is that correct?

3 MS. PAU: Yes.

4 MEMBER GOODSSELL: So --

5 MR. PAU: Can I say something?

6 MS. PAU: Yes.

7 MEMBER GOODSSELL: Does your son wish to speak?

8 MS. PAU: Yes.

9 MEMBER GOODSSELL: Good ahead, please.

10 VICE CHAIRMAN FRANCIS: Name and address.

11 MR. PAU: Hi, my name is Matthew Pau, 158 Birchwood Drive. So
12 that house to my right is actually the front door facing Birchwood
13 Drive.

14 MEMBER GOODSSELL: It is facing the Birchwood Drive.

15 MR. PAU: Yes.

16 MEMBER GOODSSELL: And do they currently have a fence between
17 their property and your property?

18 MR. PAU: Not currently constructed, but they do have a variance
19 that was approved that was mentioned by my mother. The BZA 18644
20 that was precedent to this, so in 2009, they approved that.

21 VICE CHAIRMAN FRANCIS: For what height?

22 MEMBER GOODSSELL: For what height fence?

23 MR. PAU: For a six-foot fence.

24 VICE CHAIRMAN FRANCIS: And under what circumstances?

25 MR. PAU: I believe their reasoning was privacy of some sort.
26 This document doesn't say their reasoning, but it does say that it

1 was approved for a variance, if you guys would like to see?

2 CHAIRMAN MAMMINA: It was a what? I'm sorry?

3 MS. PAU: It was approved for a variance.

4 VICE CHAIRMAN FRANCIS: It had to be a really specific reason
5 as to why we would give them a six-foot fence on the side of their
6 property. Other than privacy and security. There had to be another
7 reason having to do either with the residents of that property or
8 some other physical attribute of that property that will allow us
9 to do that because we don't do that.

10 MR. PAU: Yeah, I'm not too sure but --

11 SECRETARY WAGNER: Would you like to submit that as an exhibit?

12 MR. PAU: Yes.

13 SECRETARY WAGNER: So we'll submit this as Exhibit 1. This is
14 the variance for the neighboring property.

15 MEMBER DONATELLI: May I ask another question? What is -- why
16 do you need a six-foot fence as opposed to a four-foot fence or a
17 five-foot fence.

18 MS. PAU: Okay, the main reason also is because I've been having
19 so many issues with the neighbor, 162. Police involved and the
20 mother, elderly person come and plant some trees. She came over and
21 she took my trees from my property. I have pictures. Matthew can
22 show. Things like that, so it's been so many problems, issues
23 because there is no -- I used to have a fence, a wooden fence there
24 that they came -- when you guys approved the six-foot for them, they
25 came, fence -- Rose Fence came, and they cut with a saw. They cut
26 my wood and my wooden fence because they want to put their fence of

1 six-foot you approved on my property, so it was a big issue that I
2 fight with them, so that's the reason they don't have a fence there,
3 the six feet.

4 MEMBER DONATELLI: Well --

5 MS. PAU: They want to put on top of my fence, which is wrong.

6 MEMBER DONATELLI: Fence companies sometimes put fences in
7 places where they shouldn't.

8 MS. PAU: Yes.

9 MEMBER DONATELLI: We all have deeds. We all have surveys.
10 The fence company should put a fence on your side of the property
11 line, not on someone else's side. I've no idea what may have
12 happened.

13 MS. PAU: Right.

14 MEMBER DONATELLI: Why Rose Fence came and remove or took away
15 the fence. My question is another. The law allows four-foot fence,
16 not forward of the building line facing the street; five feet of fence
17 along the side yard; and six feet of fence along the back.

18 MS. PAU: Right.

19 MEMBER DONATELLI: And you've mentioned a bunch of reasons why
20 you'd like a fence, and it's unfortunate that maybe you're not getting
21 along with your neighbor, but my question is, why do you need a
22 six-foot fence rather than a four-foot fence in front or a five-foot
23 fence on the side? What difference will an extra foot or two make?

24 MR. PAU: So our neighbor who was -- we were dealing with, 162,
25 she's elderly, and she tends to, you know, be very nosey, and so a
26 taller fence would help prevent any sort of involvement with her.

1 She's -- they -- they're just, I guess, nosey, and they have -- I
2 actually have another photograph I would like to submit.

3 VICE CHAIRMAN FRANCIS: Unfortunately, that --

4 SECRETARY WAGNER: This will be Exhibit 2.

5 VICE CHAIRMAN FRANCIS: That reason is not a zoning issue.
6 That's a civil matter with regard to your neighbor.

7 MR. PAU: But then that also leads to the height of the fence,
8 though.

9 VICE CHAIRMAN FRANCIS: Right, exactly. Instead of fencing,
10 why not evergreen plantings that you could grow 12 feet high?

11 MS. PAU: Which I have, but it's not working. Which I have.
12 If you see my pictures, I have. I put it, but she keeps coming through
13 since the --

14 VICE CHAIRMAN FRANCIS: As I said, that's a civil matter. You
15 can take up on the civil side of the law. That's not something that
16 we can handle. That's not something we do. We don't get involved
17 in disputes between neighbors.

18 MEMBER GOODSELL: What I'd like to note on the record, is that
19 when your side yard is somebody else's back yard, and they could put
20 a six-foot fence up because it's their back yard, then kind of helps
21 you out a little bit because if you were gonna give one side permission
22 for a six-foot, we would be more inclined to give you permission for
23 a six-foot because it's the same property line. One case is your
24 neighbor's case, and one case is yours, but what the Chairman and
25 Mr. Francis is asking on the other side where there's apparently,
26 either no fence or a limited fence, five-foot would be the rule. We

1 allow you, as of right, to have a five-foot fence, so six in the back,
2 six on one side, five on the other. That's what Mr. Francis was
3 asking you. Why is a five-foot fence, which you could put up as of
4 right now; why isn't that going to work for you?

5 MS. PAU: For aesthetics as well. It would just -- it wouldn't
6 make sense to have one-foot fence taller than the fence when they're
7 right adjacent to one another. It just would make sense to they're
8 even. Makes the neighborhood look better.

9 MEMBER GOODSELL: But that's the rule. The rule is four feet
10 on the front, five feet on the side, six feet in the back. That's
11 the Town rule. Let me take a look at the pictures.

12 (WHEREUPON, a discussion was held amongst Board Members.)

13 MEMBER DONATELLI: So the photograph that you submitted
14 showing, I think, it's some vegetation in between your yard, and is
15 it 162 Birchwood?

16 MS. PAU: Yes.

17 MEMBER DONATELLI: What is that; wall or a fence? What is that?
18 It does not have vegetation?

19 MR. PAU: That's a shed that belongs to 162, and there's some
20 vegetation growing there and then -- so right now, with the civil
21 issue with us, we're having trouble with the property line. We're
22 trying to distinguish whether - 'cause they want to take some of our
23 property line, so that's a whole other issue.

24 MEMBER DONATELLI: So that -- you're absolutely right that
25 that's a whole other issue.

26 MR. PAU: Right.

1 MEMBER DONATELLI: And you know if there is -- and I'm one of
2 three attorneys on this Board. We're not giving you legal advice,
3 but I will tell you that putting a fence is not going to determine
4 your property. You want to consult with a surveyor. I know
5 surveyors can put stakes in the ground.

6 MS. PAU: We do have.

7 MR. PAU: We do actually have that in 2020.

8 MS. PAU: Yeah, the actual survey. We just did it.

9 MEMBER DONATELLI: Because you know --

10 SECRETARY WAGNER: So hold on just -- let's back up a little
11 bit. So you handed me several more photographs, so you want to submit
12 these as exhibits?

13 MS. PAU: Yes.

14 MR. PAU: Yes.

15 SECRETARY WAGNER: So this will be Exhibit 3 additional
16 photographs -- or actually, it was part of Exhibit 2 because that
17 was photos.

18 MS. PAU: Yes.

19 SECRETARY WAGNER: So these photos will be part of Exhibit 2,
20 and then this?

21 MS. PAU: The new survey.

22 SECRETARY WAGNER: You're trying to show a survey?

23 MS. PAU: The new survey.

24 MR. PAU: 'Cause we were just discussing the survey that we --

25 SECRETARY WAGNER: But this is the same plan that we have.

26 MR. PAU: Oh, you guys have this?

1 SECRETARY WAGNER: We have this plan.

2 MEMBER DONATELLI: Are you saying that when the surveyor came
3 and they put stakes in the ground, that your neighbor doesn't
4 recognize --

5 MR. PAU: They just -- they don't think it's right, and they're
6 trying to do their own survey.

7 MEMBER DONATELLI: Again, we're not -- I'm not giving you legal
8 advice, but it seems to me but that your problem is not going to be
9 solved by a fence.

10 MR. PAU: Correct, and then we are in discussion with the -- one
11 of their property owners there; the son, who is more lenient with
12 us, where he likes to discuss things, so we're trying to like delegate
13 whether in a specific area or not, but we're in talks with them.
14 After we have a decision whether we can put a fence up, which is what
15 we want to do, we're going to distinguish with him whether we're going
16 to take a little bit or he's going to take a little bit; whatever
17 it is.

18 MEMBER GOODSELL: Okay, but that's only as to the location of
19 the fence.

20 MS. PAU: Right, yes.

21 MEMBER GOODSELL: That's not -- he cannot consent that you can
22 have a six-foot fence.

23 MR. PAU: Oh, yeah, of course.

24 MS. PAU: Of course, yeah, yeah, of course.

25 MEMBER DONATELLI: So my question then again is, is there some
26 reason why you cannot build with a compliant fence; four feet in

1 front, five feet along the sides, six feet in the back. I understand
2 about the nosey neighbor, and I understand about bad feelings, but
3 as Mr. Francis said, why can't you then plant arborvitae on your side
4 of the fence so that you stop anyone from peering over your fence.
5 There's no requirements as to how tall your vegetation can be.

6 VICE PRESIDENT FRANCIS: There are also evergreens that have -- I
7 don't want to say thorns, but they have -- I don't remember them
8 on -- sharp edges on the leaves. That would certainly preclude or
9 prevent from nosiness.

10 MR. PAU: Are we -- can we do like a retainer wall and then put
11 a fence up?

12 MS. PAU: Yes.

13 MEMBER GOODSELL: No, then that'll --

14 SECRETARY WAGNER: Then it would be even higher.

15 VICE CHAIRMAN FRANCIS: It would be even higher, right. And
16 because you mentioned an emotional support dog --

17 MR. PAU: Two.

18 VICE CHAIRMAN FRANCIS: I just want to make -- draw a
19 distinction between an emotional support dog and a service or therapy
20 dog. Service and therapy dogs are key to a disability of the owner
21 and an emotional support dog is really just there for your own
22 emotional support. That's nothing to do with a disability.

23 MS. PAU: Yes.

24 VICE CHAIRMAN FRANCIS: I have a mini Poodle and I consider my
25 emotional support dog. I can't watch television without her sitting
26 next to me.

1 MS. PAU: Right.

2 VICE CHAIRMAN FRANCIS: But that doesn't get you any legal
3 standing with regard to the dog itself. A therapy dog, on other hand,
4 because it's keen to some type of disability, that would be a
5 different situation, but that's not your situation.

6 MR. PAU: We were just trying to tell you like many of the
7 reasons why to consider even giving us that six-foot foot.

8 VICE CHAIRMAN FRANCIS: I get it.

9 MS. PAU: And the gate they have is falling apart, and I see
10 raccoons and possums going in there, and it's falling apart and fall
11 on my property, so that's an issue, too.

12 VICE CHAIRMAN FRANCIS: Well, you don't like these neighbors
13 anyway, so I would call 311 or report --

14 MS. PAU: No, I just want the -- can you allow me nine feet?
15 Taller the better.

16 VICE CHAIRMAN FRANCIS: Call 311 and report it.

17 MS. PAU: I did.

18 VICE CHAIRMAN FRANCIS: Say this is a dangerous situation, and
19 this shed is liable to fall down; number one. Number two, it's
20 directly on your property line, and it should be three feet away from
21 your property line.

22 MS. PAU: Right.

23 VICE CHAIRMAN FRANCIS: So you have reasons to call and complain
24 about it.

25 MS. PAU: And they have a retainer on my property; pavers or
26 bricks on my property that fell. Yeah, that's another issue.

1 MEMBER DONATELLI: That's a separate issue.

2 VICE CHAIRMAN FRANCIS: Right.

3 MEMBER DONATELLI: We're trying to tell you that there are tools
4 available to help you that do not involve putting up a fence. In
5 fact, if you don't deal with the root issue of the problem, then you're
6 just gonna have continued problems. They'll think you're putting
7 your fence on their land, and they take it off again. I see in one
8 of the photographs that you submitted that there was police officer
9 called.

10 MS. PAU: Yeah, three times already. Three times, and she told
11 me I hit the mother, and that's not true, so it's going to be issues.
12 That's what I'm worried about. It's a little crazy people.

13 MEMBER DONATELLI: I understand that. A six-foot fence versus
14 a five-foot fence is not necessarily the solution. You -- because
15 as you heard from the other applications here this morning, we are
16 in power to grant certain variances, but when we do, we have to give
17 the minimum variance necessary, and what we do in one case might
18 really be used as precedent in another case, and we have to be very,
19 very careful. Unfortunately, not all neighbors are nice and
20 friendly, but we can tell that a fence in this situation won't really
21 solve your problem anyway, so you.

22 MS. PAU: But you approve.

23 MEMBER DONATELLI: There are other --

24 MS. PAU: You approve the 168 six-foot already, so what can,
25 you know, say approve already to them.

26 VICE CHAIRMAN FRANCIS: But there had to be extenuating

1 circumstances as to why we did that, and we don't have that in front
2 of me right now, so I can't tell you what it is.

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

4 VICE PRESIENT FRANCIS: Hello, Mr. Niewender. Just one
5 moment. Go right ahead, sir.

6 MR. NIEWENDER: John Niewender, Deputy Commissioner of the
7 Building Department. I listened to these online. I read the
8 decision from 2009. It was the typical 4,5,6 approval of the Board
9 of Zoning Appeals, which was later -- the code was changed, so if
10 they filed for that now because the yard between the -- the side lot
11 line between the applicant's property and 162 Birchwood is actually
12 the rear yard of 162 Birchwood, so you had granted a variance for
13 a six-foot fence on the rear yard on 162 Birchwood, which was
14 typical --

15 SECRETARY WAGNER: Is this the rear yard?

16 MR. NIEWENDER: Yes. Which is typical, the code was changed,
17 they never put it up as far as a 2017 application -- I mean, as an
18 inspection report goes, but if they reapplied for it now, it wouldn't
19 even be coming to the Board of Zoning Appeals.

20 SECRETARY WAGNER: Right, it would be allowed.

21 MR. NIEWENDER: So it's an, as of right, six 6-foot fence for
22 162 Birchwood. Once again, I'm not here to comment on whether the
23 variance should be granted. I just wanted to clarify. That there
24 was a long discussion going on.

25 VICE CHAIRMAN FRANCIS: Thank you very much.

26 MEMBER DONATELLI: Thank you.

1 (WHEREUPON, a discussion was held amongst Board Members.)

2 SECRETARY WAGNER: Well, at this point, it was allowed up to
3 here.

4 VICE CHAIRMAN FRANCIS: Right.

5 SECRETARY WAGNER: But I think it would probably be allowed up
6 to there.

7 (WHEREUPON, a discussion was held amongst Board Members.)

8 CHAIRMAN MAMMINA: I think what we're going do on this, because
9 there's a lot of information here and good information, is let us
10 look at all of these factors now, and come to a decision because it
11 does appear that where your neighbor is, while the house fronts on
12 Birchwood -- maybe front on Circle -- Park Circle West, that still
13 would be considered their rear yard, and rear yard permits a
14 single -- excuse me, a six-foot fence, but to the owners of the
15 property on Park Circle West, so we want to take a look at it. There
16 have been incidents where we've looked at it and said, well, okay,
17 it's a rear yard on the other property, so the next-door neighbor
18 can have that fence. I don't know if that's hard to understand,
19 maybe.

20 MR. PAU: I think I understand.

21 CHAIRMAN MAMMINA: So let us -- let us continue this, so that
22 we can, you know, take a look at that and clarify, you know everything
23 that's going to --

24 ATTORNEY ALGIOS: Reserve.

25 MEMBER GOODSSELL: Reserve.

26 CHAIRMAN MAMMINA: Reserve it.

1 SECRETARY WAGNER: Are we going to close the record?

2 CHAIRMAN MAMMINA: We'll close the record. Never mind, we're
3 doing all of that anyway, okay? So that's what we'll do.

4 MR. PAU: So when will we --

5 CHAIRMAN MAMMINA: You can -- it won't be at this meeting, but,
6 you know, then you can call Ms. Wagner after our next hearing, and
7 just see if we've come to a decision.

8 SECRETARY WAGNER: The next hearing is not until July 17th.

9 ATTORNEY ALGIOS: It would be on July 17th or after. The
10 earliest it would be decided is July 17th.

11 MR. PAU: So we would come to the BZA?

12 SECRETARY WAGNER: No, you don't have to come back.

13 MS. PAU: You send us an email?

14 ATTORNEY ALGIOS: Once it gets decided, then we'll tell you --

15 SECRETARY WAGNER: You can call us and we'll tell you what --

16 CHAIRMAN MAMMINA: Just call.

17 MR. PAU: Okay.

18 MS. PAU: All right, thank you.

19 CHAIRMAN MAMMINA: Thank you. Appreciate it.

1 SECRETARY WAGNER: So now we're returning back to the
2 beginning of the calendar. Appeal #21564, Julian and Brenda Bailey,
3 111 Village Road, Manhasset, Section 3, Block 183, Lot 2, in the
4 Residence-A Zoning District.

5 Variances from 70-29.C & 70-30.C to construct additions that
6 would make the house too big and are located too close to a street.

7 CHAIRMAN MAMMINA: You heard Appeal #21565, Julian and Brenda
8 Bailey. Is there anyone in the room interested in the application
9 other than the applicant? Seeing no one, please give your name and
10 address.

11 MR. BUTT: Good evening, Mr. Chairman and Members of the Board.

12 CHAIRMAN MAMMINA: Don't say good evening.

13 MR. BUTT: Well, is it -- yeah, it's afternoon. My name is
14 Edward Butt. I'm the architect representing Julian and Brenda
15 Bailey, located at 111 Village Road. My office is located at 499
16 Jericho Turnpike in Mineola. Good afternoon. I have some paperwork
17 here I just want to submit.

18 SECRETARY WAGNER: This just mailings?

19 MR. BUTT: Just mailings, okay. And secondly, if I may, I have
20 this board here, but I kind of broke the -- broke it down into sort
21 of hand pamphlet kind of thing so that everybody can look at it a
22 little closer. There's seven copies here.

23 SECRETARY WAGNER: Is this just the plans you submitted?

24 MR. BUTT: No, that's this board, which has some other
25 information on it that might be helpful for the --

26 SECRETARY WAGNER: So this will be Exhibit 1.

1 MR. BUTT: My clients have owned this house since 1986. This
2 house was built back in late 1940s, and purchased by them in 1986.
3 They have done -- and I got a copy of the deed is actually part of
4 the submission to the Board at the time.

5 The applicant is requesting -- or has come to me to request to
6 do some additions and alterations to the house and change the actual
7 outside look of the house by doing -- adding a squared off portion
8 of the front of the house, and also, to add a garage, where the garage
9 currently exists. We're proposing to knock that garage down, slide
10 it to the right, and then slide it back further, and add a basement
11 under the garage.

12 The reason why we're adding that basement is because this house
13 is an old Levitt house, so there is no basement under this house,
14 so the only place they would have storage at this point, would be
15 under the garage, and in keeping with the thoughts of the zoning and
16 so on, we chose to move the garage back and in compliance 'cause
17 currently, it's not in compliance with the current required aggregate
18 setback of the house that is there now.

19 And then also, the front of the house with the way we're -- or
20 proposing to do this is squaring off an area to create a kitchen.
21 In addition to that there is a -- if you look at the -- let me see
22 if I can get to that so we can be on the same page here. If you go
23 to sheet -- let's go to sheet two for a second. If you look at the
24 existing -- the second-floor plan. You see sort of like an attic
25 space right there. Well, that space also goes out to the front
26 building line. The new proposed area, which we'll call it an

1 exercise room is being pushed out, so that actually is being brought
2 into compliance as well to meet the setback.

3 The only area we're seeking is a small piece of corner of the
4 front kitchen area to receive that. And if I may, if you look at
5 the -- if you go back to the sheet number four, you'll see we sort
6 of superimposed an aerial photograph of our proposed house and where
7 it is in relationship to the other houses. It almost looks as though
8 it's setback further than the other houses, but it went through
9 research and actually aggregate setback through the surveyor, we
10 found out that this is actually about 2.5-foot encroachment into the
11 front yard.

12 So that being said -- also, a very insignificant factor, if you
13 go to the last page, which is page five, you'll see an aerial
14 photograph. This house is incredibly shielded by trees surrounding
15 both sides of the house. This house also, its rear yard backs up
16 to the Americana Shopping Center, so it -- basically, the back yard
17 is virtually unusable, and they have, just basically have a forest
18 back there of trees to just sort of act as a shield to the shopping
19 center. Their actual outdoor space is used on the left side where
20 they have a deck that they utilized that space over there.

21 And then in addition to that, the only area that we're looking
22 to really sort of add where it's creating this additional square
23 footage is the bedroom now we're proposing over the garage. Again,
24 this house is designed as a flat-roof house, so there really is no
25 attic in this house, and we have no basement, so there really is no
26 area that we can use as sort of like an overflow, so we have, we're

1 calling this a bedroom, but this is gonna be bedroom and may actually
2 act as a closet as well for that matter. We show a relatively large
3 closet on -- in between the exercise room and some of the bedrooms
4 on the second floor. That space is, again, the only space we have
5 that's available to us for conditioned space and storage.

6 So the request that we're actually asking for -- oh, and one
7 other thing; because of the house and its volume, if we go to sheet
8 three, we can see the existing house and all of that shaded pushed
9 in area above it, and also on the proposed, is the area of the
10 allowable heights of the house that could be. We're about -- we're
11 about six -- about eight feet lower than the highest point that would
12 be allowable in this house. It's not the idea to create a very large
13 volume of house here. It's actually to create a house that they have.
14 A vision and a design floor, which you can see is sort of a modern
15 contemporary design house, and really, that's sort of a choice that
16 they're making with regard to this, but it does not allow them much
17 space as far as but, like I said, added space or basement space.

18 That all being said, and the -- if I can, I'll go through the
19 Five Factors of why we believe this is not a severe variance, if I
20 can. Whether the undesirable change will produce or weaken the
21 character of the neighborhood or a detriment to the nearby property
22 will be created. As you can see, this house is completely engulfed
23 in trees, so I don't think anybody can really see this from any side
24 of house. So what we're doing here will not even be noticed as far
25 as volume is concerned or a larger space.

26 Whether the benefit sought by the applicant be achieved by some

1 other method feasible for the applicant to pursue other than a
2 variance. I can start to dig out the basement in this house and spend
3 millions of dollars to try and give them some more square footage
4 and more area, but it just doesn't make economical sense to do so,
5 and frankly, with the height of the space, it's practically a 1.5
6 story height building. It's not even a full two stories. I don't
7 think there really is another way to achieve what we have to achieve
8 to get the additional square footage that they'd like to have for
9 the purposes that anybody who had a normal basement would be able
10 to have and/or attic, which they also don't have.

11 Whether the request is substantial. Well, one of the things
12 that I looked at is if you look back at that code when they purchased
13 the house, this house would have been able to be built to
14 approximately 6,000 square feet based on the code at the time. We're
15 not even going close to that. We're really just asking to fit under
16 the requirements of the 36 percent, and not go beyond that. It's
17 just that there is a caveat in the code that requires you if your
18 square footage exceeds 4,000 square feet to have to maintain that
19 4,000. We believe, in this case, that's relatively minor in the
20 request, knowing that this house could have been bigger at some point
21 in time, even to the point that it is right now.

22 And then, whether the proposed variance has an adverse effect
23 on the impact of the physical environment of the neighborhood.
24 Clearly, this is not an issue in this particular case, but completely
25 covered by trees, and no one can actually make visual contact with
26 the house. If you look at the last photographs, you can see you could

1 barely see the house now. That's gonna stay the same. We're not
2 looking to take any trees down at all in this particular case.

3 And obviously, the -- whether the difficulty is self-created.
4 Of course, it is. We're aware of that and understand that, but we
5 believe that there's no other way to achieve what we're looking to
6 achieve here.

7 In conclusion, I believe that what we're asking for is not
8 significant in any way. It's actually a benefit. We're actually
9 bringing portions of the non-conforming into compliance, which is
10 the second floor, which was noncompliant before, and also, the
11 garage, which was also noncompliant, which will now be in compliance
12 as well. And we're also pushing off the garage back even further,
13 not that was ever an issue before. So all of those factors, I believe
14 that we -- our application should be considered for approval, and
15 thank you for your time.

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

17 MEMBER GOODSSELL: Mr. Butt, would you be so kind as to give me
18 the dimensions of the proposed new bedroom over the proposed garage?
19 It doesn't look that big, but it doesn't look like a little courtier
20 and then a new bedroom.

21 MR. BUTT: It's approximately 15 by 15 the bedroom itself, and
22 then there's a hallway about four feet wide, and that goes
23 approximately 15 feet to the main portion of the house.

24 MEMBER DONATELLI: As I drove through the area in preparation
25 for this hearing, I was in awe of what appeared to be the size of
26 some of the surrounding houses. Did you do any kind of survey as

1 what the size of other houses are in the area?

2 MR. BUTT: I just put it under the category of erroneous. I
3 didn't really -- it just in comparison to ours, I just felt as though
4 it's probably maxed-out. If I could guess it, it's like both of those
5 houses might have been developer created houses, and it's like they
6 sort of maxed-out on height and volume and everything else.

7 MEMBER GOODSELL: They do stand out.

8 MR. BUTT: They're quite large, yes.

9 CHAIRMAN MAMMINA: Just as a point, you know, in the narrative,
10 you know, I will respectfully disagree with the owner that because
11 they bought the house at 1996, they're entitled to what they would
12 have built in 1996. You can only conform with what the zoning is
13 now and I'm sure that's simple enough to --

14 MR. BUTT: Understood.

15 CHAIRMAN MAMMINA: -- to understand.

16 MR. BUTT: I understand that.

17 CHAIRMAN MAMMINA: I'm just saying that for the record.

18 MR. BUTT: Understood.

19 CHAIRMAN MAMMINA: On the first floor, though, there's a recess
20 in there where there are two air-conditioning units, and I think
21 you're -- that -- that's being included in the body of additions?

22 MR. BUTT: Yes. I'm sorry, what you don't see here, that's
23 being moved out to the rear of the property.

24 CHAIRMAN MAMMINA: Okay.

25 MR. BUTT: Yes. I show it kind of in the middle of it. That's
26 really -- that's incorrect.

1 CHAIRMAN MAMMINA: All right. It's -- because I guess where
2 I was going with that is that, is that area in there counted as floor
3 area that --

4 MR. BUTT: It is.

5 CHAIRMAN MAMMINA: -- is completely buried within the footprint
6 of the building?

7 MR. BUTT: No, that's actually considered floor area.

8 CHAIRMAN MAMMINA: Oh, no, I know that it is, but, you know,
9 the point that I'm making helps your -- would help your argument that
10 if that's now being filled in, I mean, that's -- no one can possibly --

11 MR. BUTT: Yes.

12 CHAIRMAN MAMMINA: -- you know, see that.

13 MR. BUTT: Yeah, yes.

14 CHAIRMAN MAMMINA: And the floor area is about bulk. Do you
15 know how big that is in relation --

16 MR. BUTT: Yeah, I can tell you what that is.

17 CHAIRMAN MAMMINA: -- to what --

18 MR. BUTT: Yeah, sure.

19 CHAIRMAN MAMMINA: -- we're asking for?

20 MR. BUTT: It's actually a big leaf catcher now, so.

21 CHAIRMAN MAMMINA: Oh, probably. I'm sure that the --

22 MR. BUTT: It's about -- it's about 7 by 25.

23 CHAIRMAN MAMMINA: Okay, yeah, right, I guess, it is about
24 seven, maybe eight.

25 VICE CHAIRMAN FRANCIS: Six feet eight inches.

26 CHAIRMAN MAMMINA: Consider seven feet.

1 VICE CHAIRMAN FRANCIS: Yeah.

2 MR. BUTT: I got six eight and a quarter by -- probably the
3 length of the garage.

4 CHAIRMAN MAMMINA: Twenty-five feet?

5 MR. BUTT: Yeah, 25 feet. It's probably 200 square feet, 250
6 square feet.

7 CHAIRMAN MAMMINA: Well, my point being that if we're looking
8 for 312, and if that's 200 feet, you know, in there, essentially,
9 you're just filling in a notch --

10 MR. BUTT: Right.

11 CHAIRMAN MAMMINA: -- you know, at the back of the building.
12 I know that the roof continues up, but --

13 MR. BUTT: Yes.

14 CHAIRMAN MAMMINA: -- okay, it's a roof.

15 MR. BUTT: It's one story, too.

16 VICE CHAIRMAN FRANCIS: Right.

17 CHAIRMAN MAMMINA: Yeah, one story.

18 MR. BUTT: Yeah.

19 CHAIRMAN MAMMINA: So that's what I'm saying is, you know,
20 perhaps just, you know, in our discussion of this, or if that
21 is -- whatever it is. If it's 200 square feet or 175; whatever it
22 might be, you know, it takes a bite, you know, into the 312. Because
23 the Board has granted those kinds of in felts.

24 MR. BUTT: Got you.

25 CHAIRMAN MAMMINA: In the backs of buildings that have
26 absolutely no impact, you know, visually to the neighbor or, you know,

1 to the street, especially, that these houses are all pushed so far
2 back.

3 MR. BUTT: Yeah, you know, I mean, and it's -- these other
4 houses, if you really look at the front, the side of this house, the
5 entire building facade is at that property line. We only have a
6 portion of it really coming to the edge of the property. The rest
7 is all within recessed back.

8 CHAIRMAN MAMMINA: My technical term is, I mean it. These
9 houses must cost a bundle.

10 MR. BUTT: Yeah.

11 CHAIRMAN MAMMINA: You know, and you basically just have a big
12 front lawn.

13 MR. BUTT: Yeah. I guess, it's got some value to it. I don't
14 know.

15 CHAIRMAN MAMMINA: I mean, I have seen that in parts of
16 Manhasset that Levitt had developed.

17 MR. BUTT: If you got a big back yard it works great.

18 CHAIRMAN MAMMINA: Some of them had a rear yard of 15 feet.

19 MR. BUTT: Yeah, it's crazy.

20 CHAIRMAN MAMMINA: On some of the Manhasset ones that are around
21 here because you wanted that look of a big green back yard.

22 MR. BUTT: Yeah.

23 CHAIRMAN MAMMINA: Who knows?

24 (WHEREUPON, a discussion was held amongst Board Members.)

25 CHAIRMAN MAMMINA: I think what we're gonna do is we are going
26 to -- I reserve it, or I'll continue it?

1 VICE CHAIRMAN FRANCIS: Reserve it.

2 CHAIRMAN MAMMINA: Okay, reserve decision on, you know, this
3 application. Member Hernandez is not here, you know, today, plus
4 as I'm doing a little of digging, you know, in here and saying you
5 know what might diminish this substantially; maybe it's by two-thirds
6 or half, I mean, all of those arguments become valid, so we'll reserve
7 decision.

8 MR. BUTT: Okay.

9 CHAIRMAN MAMMINA: And probably won't be decided at the next
10 hearing, but probably the one after that might be, and you could
11 always check with the Zoning office.

12 MR. BUTT: Okay, we'll do that. Thank you for your time.

13 CHAIRMAN MAMMINA: Thank you very much.

14 SECRETARY WAGNER: We're going to take a 15-minute break before
15 we hear the commercial appeals.

16 (WHEREUPON, there was a recess taken in the proceeding.)

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SECRETARY WAGNER: Next appeal, Appeal #21570, Manhasset Northern Enterprises, LLC, 999-1009 Northern Boulevard, Manhasset, Section 2, Block 189, Lot 27, in the Business-A and Residence-C Zoning District.

Conditional Use 70-126.D and variance from 70-103(O) and 70-231 to permit the interior alteration to a commercial building for the sale, storage and parking of automobiles for sale (a conditional use) with parking spaces that are too small.

CHAIRMAN MAMMINA: You've heard Appeal #21570, Manhasset Northern Enterprises, LLC. Is there anyone in the room interested in the application other than the applicant? Seeing one hand up. Thank you.

MR. MIGATZ: Normally, you say proceed.

CHAIRMAN MAMMINA: Proceed. Normally, name and address is what I normally say.

MR. MIGATZ: There you go.

CHAIRMAN MAMMINA: So you're right.

MR. MIGATZ: For the applicant, Bruce W. Migatz with Albanese & Albanese. 1050 Franklin Avenue, Garden City.

Good afternoon, Members of the Board, Counsel, and Secretary. Let me at the outset hand in pre-marked Exhibits 1 through 4 that I have in a binder. I have one for each member of the Board and one for the record and one for counsel.

MR. PERROTTA: Thank you.

MR. MIGATZ: The subject building of this application was first built in 1929. Prior to the first zoning code. It has a prior

1 non-conforming off-street parking.

2 Exhibit 1 is the Certificate of Existing Use that was granted
3 in 1994 for six stores with three apartments above. That was issued
4 when the current owner and applicant purchased the property.

5 Exhibit 2 is the decision -- two decisions and prior appeals.
6 The Chairman and the Vice Chairman were members of the board at that
7 time. Appeal #19553, and that was renewed in Appeal #19553A, and
8 at that time, it was explained to the Board that the -- due to the
9 very narrow driveway that the existing building had, and if you would
10 refer to the first photo in Exhibit 3, that is what the existing
11 building looked like back in 2013. And Exhibit -- in photograph two,
12 shows that there was a very narrow driveway on the east side of the
13 building. And the next two pictures in Exhibit 3, show you the
14 minimal parking area that was in the rear of the building at that
15 time.

16 So the applicant came before this Board to spend a lot of money
17 to improve the building by removing a portion of the west side of
18 the building to create a 20-foot wide access isle. And if you look
19 at Exhibit 4, the first photograph is how the outside of the building
20 looks now, and you can see the driveway between
21 Antonio's -- Antonino's Restaurant and the building in the next
22 photograph is a close-up of that 24-foot wide driveway that was
23 created to improve access to the parking lot.

24 And the next two photographs show the retaining wall that was
25 constructed in order to enlarge the parking area in the rear. So
26 the Board approved that application and it provided for 16 parking

1 spaces in the rear with a 24-foot wide compliant driveway, and three
2 of those parking spaces were 9 by 18.

3 Today's code and the code in 2013 would have required 34 parking
4 spaces, but the applicant was actually increasing -- decreasing the
5 non-conforming by building more parking spaces, so a variance was
6 not required, and it was the benefit for the property and for the
7 adjacent properties.

8 Construction was delayed for several reasons, but the
9 construction now has been substantially completed, and the owner has
10 located what we think is an ideal tenant for this location, which
11 is an automobile showroom. The initial tenant would be the operator
12 of Gold Coast Maserati and Alfa Romeo. They're located at 732
13 Northern Boulevard. They were before you for signs at that location.
14 That operator previously was down further west in Great Neck on the
15 corner of Buttenwood Road and Northern Boulevard. They were before
16 you at that time for signs as well.

17 They moved to 732, and they need more room to store automobiles.
18 So this would be an adjunct dealership location for them for the
19 storage and sale of additional inventory that they can't locate at
20 732 Northern Boulevard. No services -- no car service would be
21 performed. Strictly in storage and sale of automobiles. There is
22 no loading zone. The automobiles will be brought, either driven
23 there or brought by single flatbed trucks.

24 The application for any automobile showroom for storage and of
25 sale automobiles is a conditional use. Let me go through those
26 standards. First is the purposes of zoning, that's set forth in the

1 Town law. The Town law of this village permits automobile showrooms
2 as a conditional use, and as I have said time and time again, case
3 law holds that a conditional use is tantamount to a permitted use.

4 Whether the purpose use obstructs the character, size,
5 location, desire site layout will be appropriate to and in harmony
6 with the surrounding property. Once again, the courts upheld that
7 by making a use a conditional use, the Town Board is deeming that
8 use is harmonious with the other uses in the district. Further,
9 moreover, there are several automobile dealerships within a half a
10 mile of either direction of this site on Northern Boulevard to the
11 west within the half mile in addition to Gold Coast Maserati and Alfa
12 Romeo, there is North Cadillac being fort to the east of the subject.
13 Within a half mile there is Honda of Manhasset. There used to be
14 Infiniti of Manhasset. They left -- they moved out. I saw a sign
15 there some time ago for a Manhasset Super Store. I'm not sure what
16 they did, but that sign is off. I still see cars stored there. I
17 don't really know what's going on there, but that also was an
18 automobile dealership.

19 And most recently Appeal #21348, decided by this Board on March
20 22, 2023, a conditional use permit was granted to BMW of Manhasset
21 for an automobile showroom at 1285 Northern Boulevard. So this is
22 a Miracle Mile of automobile showrooms. Within that one mile there
23 are about six automobiles showrooms, and this is certainly compatible
24 and in harmony with those other uses.

25 Third, whether the use will provide a desirable service to the
26 community. Who doesn't want to buy a Maserati. It certainly is

1 desired by everyone. We can't all afford it, but it is a desired
2 service to have a Maserati dealership, but seriously, the sale of
3 automobiles, of course, is a desired service no matter what type of
4 automobile it is.

5 Four, whether the use will be hazardous or conflicting or in
6 congress to the neighborhood by reason of excessive traffic. This
7 Board has heard testimony by numerous traffic engineers and it can
8 take judicial notice that an automobiles showroom is one of the least
9 generators of traffic that could go into this site. This is a -- it's
10 approved for retail stores. You can have many, many, many retail
11 stores, as a right do. That would generate far more traffic than
12 an automobile showroom of this size. And as the Chairman has said
13 and Bob Mershra (phonetic), the dreaded nail salon could go in there
14 as of right and generate tremendous amount of traffic, so this -- we
15 submit to you, this is really an ideal use for this building at that
16 this location.

17 Lastly, whether the use will be objectionable to nearby dwelling
18 by reason of noise, lights, vibration, or other factors of impact.
19 A car showroom doesn't generate any of those other -- any of those
20 impacts or any other impacts. It is a very low traffic generator,
21 low people generator, that will come in and look at cars and buy a
22 car without any noise on the impacts. The closest residences are
23 at the top of the hill. Look at the photographs, that retaining wall,
24 the closest residences are 100 feet or more beyond the level of the
25 dealership.

26 The applicant is also seeking a variance to increase the 9-by-18

1 parking spaces. This Board approved three of the 16. The plan
2 before you, all 16 are proposed to be 9 by 18. The reason for that,
3 the retaining wall, due to cost factors was redesigned, and the
4 redesign inadvertently that parking area become a little bit smaller.
5 You can still fit in the 16 spaces, and actually, the 9-by-18 spaces
6 now is 17 spaces. But in order to maintain the 16 spaces, we are
7 asking that they all be 9 by 18.

8 Nine-by-18 spaces will not produce any undesirable change in
9 the character of the neighborhood. They're only used by people
10 coming to that facility, which is not that many, and the people who
11 live in the apartments. There are now three apartments instead of
12 six. There are three apartments there that require six parking
13 spaces. And the 9-by-18 space is bigger than what you have in your
14 driveway and in your house, so it's not going to be detrimental to
15 the tenants of that apartment.

16 This benefit cannot be achieved by any other means that are
17 feasible. Nine-by-18 spots do not have an adverse impact on the
18 environment, and the difficulty as a matter of law is self-created
19 because this owner brought the property subject to the code, but
20 that's only one factor to be considered. So weighing all the
21 factors, and I know this Board has granted 9-by-18 spaces quite often,
22 and I know for a fact that some of the Town municipal parking spaces
23 are 9-by-18 in Port Washington, so it's quite common. Most other
24 towns permit 9-by-18 as of right. I know you might have heard that
25 testimony many times. So bouncing that factors, we think the
26 variance for 9-by-18 parking spaces are warranted, and the

1 conditional use permit is probably one of the best uses for this
2 property.

3 Board have any questions?

4 CHAIRMAN MAMMINA: Quick question. How do the cars come in and
5 out of the showroom?

6 MR. MIGATZ: There's a wide door in the rear of the building.

7 CHAIRMAN MAMMINA: I see it there. I thought that was a window.

8 MEMBER DONATELLI: Do you anticipate bringing cars there by
9 18-wheeler, by car carrier, or individually?

10 MR. MIGATZ: No. No, I said previously, Mr. Donatelli, they
11 would be either driven there, or they'd be brought by a single-car
12 flatbed truck.

13 MEMBER DONATELLI: And in terms of the, I guess, the existing
14 space for Maserati right now, would they continue -- I mean,
15 how -- what is the interplay between the proposed space and the
16 existing dealership?

17 MR. MIGATZ: It's common ownership. They have suggested an
18 additional showroom to store and show cars. They're not moving out
19 of 732 by any means.

20 MEMBER DONATELLI: So it's just a second showroom.

21 MR. MIGATZ: Yes.

22 CHAIRMAN MAMMINA: I know, on Northern Boulevard close to here
23 in Town Hall, and your observation is correct that car dealerships
24 tend to be in one area if you look at Hempstead going south, there
25 you get every dealership on either; Queens Boulevard, Riverhead, you
26 know, that's just they all kind of get together, but I know, that

1 in the area next to here, cars being brought in, new cars, where you
2 got them on a car carrier or on a flatbed have caused traffic problems
3 on Northern Boulevard, and a lot of them stay on the stripes or the
4 middle or some areas where it gets wider. In terms of dropping off
5 and picking up, you know that sort of thing, would that happen in
6 an off-hours kind of scenario?

7 MR. MIGATZ: Well, I can't -- we can't commit to that. They're
8 either being driven there like any other car would drive into that
9 parking lot or they would be on a flatbed truck that would drive into
10 the parking lot like the other truck. If this was a retail store
11 and you'd be getting deliveries all the time, so you'd be getting --

12 MEMBER DONATELLI: So the flatbed -- I'm sorry, I didn't mean
13 the interrupt. I guess, a flatbed certainly could fit into that
14 area.

15 MR. MIGATZ: Right, certainly.

16 CHAIRMAN MAMMINA: You also see these truck drivers who drive
17 their trucks like Maserati in terms of their ability to maneuver,
18 so.

19 MR. MIGATZ: So if there's a Maserati on the back of the flatbed
20 that driver better be careful.

21 CHAIRMAN MAMMINA: That's for sure.

22 VICE CHAIRMAN FRANCIS: You're not kidding.

23 CHAIRMAN MAMMINA: That's for sure.

24 MR. MIGATZ: And that driveway is 24-feet wide.

25 CHAIRMAN MAMMINA: Yeah, that's what I'm saying, it's 24-feet
26 wide.

1 MEMBER GOODSSELL: I have to say, when this building was built,
2 it was probably a prime location. It had a row of stores, six parking
3 above. With the evolution of that intersection, this has been one
4 of the most difficult to come to a stop and make a right-hand turn
5 into that driveway -- I've driven past that building. I can't tell
6 you how many times, and the speed only East Shore Road. People go
7 quickly around the corner. There's no access to this building. If
8 there is another use for this building today, I can't think of what
9 it would be. Simply because the general public accessing, even with
10 the wide driveway, it's a hairpin turn, and it's very low visibility
11 coming out of that driveway. You have to use the lights to help get
12 out of the driveway.

13 MR. MIGATZ: Well, the driveway is now on the west side of the
14 building. It used to be on the east side.

15 MEMBER GOODSSELL: I remember that.

16 MR. MIGATZ: You're right, that was an accident waiting to
17 happen.

18 MEMBER GOODSSELL: Correct.

19 MR. MIGATZ: I've been in and out of this driveway, and the
20 visibility is quite good.

21 MEMBER GOODSSELL: Is it quite good?

22 MR. MIGATZ: Yes.

23 MEMBER GOODSSELL: It's difficult to tell. I mean, as I was
24 looking at the property in anticipation of today's hearing, I passed
25 it and it was behind me before, you know, I got a look at it.

26 MR. MIGATZ: And the traffic light gives you also a lot of time

1 to exit. There's no right turn permitted on the red if I recall,
2 and I've been there numerous times recently during this application,
3 and I never encountered a problem. You can't make a left-hand turn,
4 which is a little bit annoying.

5 MEMBER GOODSSELL: Yes.

6 MR. MIGATZ: You have to go out --

7 MEMBER GOODSSELL: You must go all the way up the hill --

8 MR. MIGATZ: Right.

9 MEMBER GOODSSELL: -- to another traffic light to kind of back
10 around.

11 MR. MIGATZ: Right.

12 MEMBER GOODSSELL: There are three apartments above this
13 building. Are they occupied right now?

14 MR. MIGATZ: As far as I know, yes.

15 MEMBER GOODSSELL: They are.

16 AUDIENCE MEMBER: Two are occupied.

17 MR. MIGATZ: Two are occupied. One empty presently.

18 MEMBER GOODSSELL: So you mentioned before that each one needs
19 two parking spaces.

20 MR. MIGATZ: Yes.

21 MEMBER GOODSSELL: That really leaves ten parking spaces for
22 Maserati, its employees, and its guests.

23 MR. MIGATZ: Well, that's assuming that each tenant has two
24 cars.

25 MEMBER GOODSSELL: That's true.

26 MR. MIGATZ: The code says two cars, but they are relatively

1 small apartments. I would doubt that they each would have two cars.

2 MEMBER GOODSELL: It's certainly not walking distance of public
3 transportation, so it's possible but --

4 MR. MIGATZ: That would be the case whether you had the dreaded
5 nail salon or whether you have an automobile showroom.

6 MEMBER GOODSELL: The dreaded nail salon with in and out all
7 day long.

8 MR. MIGATZ: Right.

9 CHAIRMAN MAMMINA: We got a young lady with her hand up.

10 MR. MIGATZ: Yeah.

11 CHAIRMAN MAMMINA: Why don't we hear from her and her position
12 on this. Please come on up and give name and address. And I will
13 say again, you too are shorter than I am -- well, I shouldn't say
14 that. Just pull that microphone down.

15 MS. MADAN: Vertically challenged.

16 CHAIRMAN MAMMINA: Name and address.

17 MS. MADAN: My name is Ruchira Madan, R-U-C-H-I-R-A, M-A-D-A-N,
18 10 Valley View Road. I'm at the top of the hill there. I drive
19 through that intersection many times a day. There's very little
20 visibility when you're coming around that corner. I thought this
21 was just an application for a variance for 17 stalls instead of 34,
22 but also the stalls are too small. I just want to make sure that
23 I am addressing this that they're asking for a variance for half as
24 many stalls that are actually required?

25 CHAIRMAN MAMMINA: Also, conditional use. As a car dealership
26 you need a conditional use.

1 MS. MADAN: Right. So first off, I mean, I understand variance
2 for one or two spaces, maybe three or four spaces, but 17. So I agree
3 with those whole thing about, wow, six spaces. I mean, we have zoning
4 for a reason. Two per apartment at a minimum that should be required.
5 Everybody's got more and more cars these days.

6 To address the spots, I didn't realize they were actually
7 smaller parking spaces than they're actually required. Cars are
8 getting bigger. People are driving Suburbans. They're driving
9 Escalades. What is even the turning radius inside that parking lot
10 to get into a spot? If there's a Suburban parked toward the front,
11 is anybody getting around it? I really, I really cannot fathom that.
12 And yeah, so ten parking spaces left for commercial use. You've got
13 at least five or six employees, and you've got to devote those spaces
14 to the residents.

15 I think the lack of parking spaces on the property will also
16 make the intersection feel more like Queens with people constantly
17 trying to parallel park on Northern Boulevard. There is already poor
18 visibility. People back out at Antonino's, and then people are
19 coming from East Shore Road to get onto -- to merge in. They're
20 looking back at Northern Boulevard. People making left turns to go
21 around that same spot, so I actually -- I mean, I'm not sure
22 what -- what imagine you have over there, but I have something from
23 Google Maps that just kind of shows this intersection and where it
24 would be.

25 SECRETARY WAGNER: You're looking to name this as an exhibit?

26 MS. MADAN: Sure.

1 MR. MIGATZ: May I see that Ms. Wagner?

2 MS. MADAN: People around town are very entitled in general.
3 People double park all the time. If they're trying to get in
4 here -- and actually just now, as I was coming through, all the spaces
5 in front of this building were taken, and there's nothing in that
6 building right now.

7 I can't imagine allowing 17 -- a variance for 17 fewer parking
8 spaces. I find it hard to understand how they can get smaller and
9 smaller over time as everyone is driving SUVs and larger cars. It's
10 already a dangerous intersection. Imagine the delays or accidents
11 that could be caused here, and what that would do for ambulances
12 trying to get to North Shore and Northwell from the northeast and
13 the west. Fire trucks anywhere in the vicinity, so it's -- and even
14 if it's a single-car flatbed truck to make that turn, even if it's
15 24 feet wide. There're cars parked all the way to the intersection.
16 You are making a hairpin turn. It's going to slow down traffic
17 further, so -- and in relation to the use, I don't know what there
18 could be, so, yeah, maybe --

19 MEMBER GOODSELL: I was just going to ask you that, if I can,
20 Mr. Chairman. Have you lived on Valley View Road for a long time?

21 MS. MADAN: Over 20 years.

22 MEMBER GOODSELL: Have there been other tenants in that
23 building?

24 MS. MADAN: In --

25 MEMBER GOODSELL: Have there been other tenants previously?
26 In previous years, have you seen other uses of this building?

1 MS. MADAN: No -- I mean it was Sleepy's a long time ago. I
2 never knew there were apartments there.

3 MEMBER GOODSELL: I didn't either until I looked at the plans.

4 MS. MADAN: Right.

5 MEMBER GOODSELL: So I'm just wondering if what -- what the
6 parking and the traffic situation was with previous tenants to this
7 building. If you've been there for 20 years, I'm sure, you've seen
8 a few.

9 MS. MADAN: Yeah, I mean, it's -- no one's been in there for
10 a while. When it was Sleepy's, it was okay. It wasn't so bad, so
11 that was -- it was Sleepy's. It was Mattress Firm for a while, and
12 that wasn't crazy, but with far more cars on the roads, post Covid,
13 and cars keep getting bigger.

14 So that's, you know, just to address the parking spots getting
15 smaller, and I'd like to see the turning radius of clients getting
16 those parking spaces in that parking lot. So, so many issues.
17 Northern Boulevard itself is dangerous. There are people making
18 U-turns on Northern Boulevard just past Antonino's up the hill, so
19 the location is just dangerous. I don't know what other use would
20 work there, but it's the variance for the spaces that really gets
21 to me, and where all those cars gonna go, and are they gonna take
22 spaces from other businesses in the front on that area.

23 CHAIRMAN MAMMINA: It's a tough one.

24 MS. MADAN: Yeah, it is, but thank you for your time.

25 CHAIRMAN MAMMINA: Thank you. Appreciate you coming down.

26 Mr. Migatz?

1 MR. MIGATZ: We are not seeking a parking space variance.
2 We're only seeking a variance for size of the spacing. This building
3 is prior non-conforming as to parking that has not been cited in this
4 disapproval notice. We are not seeking a reduction of the required
5 number of parking spaces.

6 Any user that goes into this building, as I said, is gonna make
7 that same turn or have the same traffic; the same everything. Other
8 users, Sleepy's, they move out. They're also a low traffic
9 generator, but they're truck generators to bring in mattresses, bring
10 in furniture. This automobile showroom will not have any truck
11 traffic. It is an ideal use for this.

12 Parking on the street is a result of those other buildings are
13 also prior non-conforming as to parking. That restaurant has maybe
14 six parking spaces that you can't even get in and out of, so they
15 park on the street. The other buildings, the older buildings in that
16 corner also have insufficient parking, and they park on the street.

17 Now, Cameron Melancon, who is here, who is the principal has
18 spent a ton of money to improve this property to make this better;
19 to make the driveway better, safer to increase the parking. We spent
20 a lot of money to do that and he has found what we think is an ideal
21 tenant for this corner, this location. You couldn't find a better
22 use. The backup aisle, the 24 feet, which is the same of each code,
23 the Building Department has not cited that as an issue.

24 Nine-by-18 parking spaces are quite common. I haven't measured
25 the parking spaces in the lot in Town Hall, but I'll bet you they're
26 not 10 by 20. I'll bet you lunch, not a Maserati, but I'll bet you

1 lunch that they're not 10 by 20 'cause I know other town lots don't
2 have 10-by-20 parking spaces, so that's not unheard of.

3 So you know, the -- I think the last comment from that speaker
4 was, I don't know. What else could go in there. I think that's what
5 she said. Something to that effect. Well, this is what can go in
6 there, and this is perfect for this location.

7 CHAIRMAN MAMMINA: Is there a loading space requirement with
8 an application?

9 MR. MIGATZ: No, 'cause again, it's prior non-conforming. No
10 loading zone.

11 CHAIRMAN MAMMINA: I mean, it's problematic and there were
12 things that were built long before zoning.

13 MR. MIGATZ: If you look at the before and after pictures. Look
14 at the pictures in Exhibit 3, the before pictures. Look at the
15 picture in Exhibit 4, the way it is now. This owner has spent a lot
16 of money to improve this property, and he deserves to be commended
17 for that quite frankly.

18 MEMBER DONATELLI: Do you anticipate -- I know you were talking
19 before about this being an ancillary site, a secondary site. Do you
20 anticipate, let's say you -- someone were to decide to go into a
21 Maserati showroom, would there be a primary showroom or is it just
22 whatever happens to catch his eye.

23 MR. MIGATZ: Well, the prior main showroom is 732 Northern
24 Boulevard, but, you know, zoning runs with the land, not the user,
25 all right. Maserati may be there for a long time, or some other
26 dealership may be there. The dealership on the Miracle Mile, they

1 have changed dealerships, you know, so that used to be Honda is Ford
2 and Honda is of course, you know. They change dealership, so you're
3 granting a dealership. The initial tenant is Maserati, so whatever
4 dealership that comes in there, they have the floor plans that were
5 approved, and if they want to change that floor plan, that site plan,
6 they have to come back to you.

7 MEMBER DONATELLI: Do we anticipate any repairs being done on
8 this site?

9 MR. MIGATZ: No repairs.

10 MEMBER DONATELLI: Washing of cars?

11 MR. MIGATZ: No washing of cars.

12 MEMBER GOODSSELL: Test drives?

13 MR. MIGATZ: Cars are, I am told by the people in the business,
14 very rarely do they test drive cars these days. When they do, it's
15 sporadic. I know that a condition you put on BMW 'cause I think that
16 question was asked by you, Ms. Goodsell, as a matter of fact. I read
17 the transcript, and the condition you put on no test drives in the
18 residential community, and that's certainly a condition that this
19 owner can --

20 MEMBER GOODSSELL: There is no way to access the residential
21 commercial from this property.

22 MR. MIGATZ: That's what I'm giving away, snow in the
23 wintertime.

24 MEMBER GOODSSELL: That helps.

25 MR. MIGATZ: But no, seriously, that's a condition that is
26 certainly acceptable to this; there's no test drives through the

1 residential neighborhood.

2 CHAIRMAN MAMMINA: Mr. Migatz, how many employees would you
3 project would be in the premises?

4 MR. MIGATZ: Sometimes, none, and at the most, one or two.

5 CHAIRMAN MAMMINA: Any other questions?

6 MEMBER GOODSELL: No other questions.

7 VICE CHAIRMAN FRANCIS: Mr. Migatz, just one point. The only
8 people I can think of who do not want to buy Maseratis is Corvette
9 owners.

10 MR. MIGATZ: Thank you, Mr. Vice Chairman, but I'm not happy
11 with the new Corvette. It looks like they're trying to become a
12 Ferrari and it didn't quite make it.

13 VICE CHAIRMAN FRANCIS: It didn't quite make it.

14 MR. MIGATZ: Yeah, I'll stick with my C7.

15 CHAIRMAN MAMMINA: I agree with you.

16 VICE CHAIRMAN FRANCIS: I disagree with both of you.

17 MR. MIGATZ: You like your C8?

18 VICE CHAIRMAN FRANCIS: I like it.

19 CHAIRMAN MAMMINA: I think we'll reserve decision on this. The
20 next hearing is on the 17th of July. Maybe it will be decided then,
21 or maybe it won't, but you will know. Keep in touch with the Zoning
22 Board.

23 MEMBER GOODSELL: If the owner doesn't mind, I may make a turn
24 into that driveway just to see how accessible it really is.

25 MR. MIGATZ: Sure, but just again, bear in mind, whatever store
26 is there, is the same driveway. It's the same turn.

1 VICE PRESIDENT FRANCIS: It's true.

2 MR. MIGATZ: Thank you very much.

3 VICE CHAIRMAN FRANCIS: Thank you.

4 CHAIRMAN MAMMINA: And thank you, ma'am for coming down and
5 expressing that. It's a difficult problem.

6 SECRETARY WAGNER: Dan? You're excusing yourself from the
7 next case, right?

8 MEMBER DONATELLI: Yes. Mr. Chairman, I am going to recuse
9 myself from the next matter.

10 CHAIRMAN MAMMINA: Okay.

11 SECRETARY WAGNER: Deborah, should he put that on the record?

12 ATTORNEY ALGIOS: Yes.

13 MEMBER DONATELLI: I just did.

14 SECRETARY WAGNER: You got it?

15 THE REPORTER: Yes.

1 SECRETARY WAGNER: Next appeal, Appeal #21571, Port Land
2 Development Corp., 510 Plandome Road, Manhasset, Section 3, Block
3 69, Lot 61, in the Business-A/Residence-B Zoning District.

4 Conditional Use 70-126(A) and variance from 70-103(A)(1) to
5 expand an existing food use (a conditional use) with not enough
6 off-street parking.

7 CHAIRMAN MAMMINA: You've heard Appeal # 21571, Port Land
8 Development Corp. Is there anyone in the room interested in the
9 application other than the applicant? Seeing no one, please give
10 your name and address.

11 MR. BUTT: Good afternoon, Mr. Chairman, Members of the Board.
12 My name is Edward Butt from the firm Edward Paul Architect. Office
13 located at 499 Jericho Turnpike in Mineola, New York. Good
14 afternoon. I'm here this afternoon to seek relief for parking spaces
15 that are required for this particular facility. Just so that you
16 understand what's happened here. This bagel store, Manhasset
17 Bagels, have been here for a very long time, and have been in ownership
18 with the owners that currently occupy the space for the last five
19 years, and they have been given an opportunity to occupy the carpet
20 store, which is right next to the space.

21 The carpet store is on the left of the space. It's the same
22 building, and into the left of that it's actually a gas station. The
23 carpet place has gone out of business. They closed up their shop,
24 and the space became available. I was approached by the owner to
25 look at the feasibility and possibility of expanding the space to
26 allow for better circulation and actually, a little more space for

1 casually seating, not tables and chairs for service, but just for
2 someplace to actually have a bagel or sit down and have to some coffee
3 before actually heading out.

4 The other problem with the space there's always been a
5 circulation problem. Certainly, as you're aware bagel stores have
6 a tendency to be crowded early in the morning, especially the
7 wintertime, you start to get an overflow out onto the street on
8 occasion. With this new design and this new planning, it allows for
9 a lot more queuing within inside the space, so therefore, we felt
10 that a new arrangement by sliding over the whole operation to the
11 left gave us more space in the front. They're looking to put in all
12 brand new equipment in the space, and also, in the rear of
13 the -- they're putting all new equipment and a larger kitchen to
14 service their clients better.

15 So the actual increase in the volume certainly from an aspect
16 of vehicular traffic is basically a little to none from what was
17 previously granted. The previous application that was granted was
18 a 20-car variance for that particular space back in, I believe in
19 '07.

20 My notes here -- hold on for a second. They have an opportunity
21 to have a 10-year lease with a five-year renewal, just so you know.
22 We have a report that was submitted by VHB, a traffic report.
23 Unfortunately, the traffic engineer was unable to make this due to
24 a conflict of scheduling; however, if you have any questions about
25 the report, I've been briefed on the report myself. It shows a
26 substantial amount of available parking. Certainly, as a bagel

1 store it does not -- it's a morning demand. The store is actually
2 closed right now, so there is no real afternoon or evening traffic
3 throughout the space.

4 The back area that has the four or five cars in it would only
5 be used for employees anyway, and everything else would be people,
6 you get -- there's a lot of traffic, foot traffic, that come to this
7 store from the local neighborhood, Plandome Heights, and the
8 surrounding areas, and frankly, the availability of parking both on
9 the street and then even the adjoining available parking lots is
10 expressed in the traffic report, and it shows the substantial amount
11 of availability.

12 So based on the -- even though we are increasing the square
13 footage of the space, the intention really here is to create a better
14 environment. One of the other factors too is that we are also adding
15 two handicap bathrooms, which there was none before, so from a service
16 standpoint to the community, that will serve as a benefit to the
17 community. And secondly, we're putting in a full Nassau County
18 approved fire alarm system for that building, which didn't have one
19 before. Now is required, and again, being next to a gas station,
20 always a good idea to have a little extra protection, and certainly
21 bringing it up to the current, 2020 building code standards.

22 So I think all-in-all it's a better building after it's all said
23 and done with this. We're sure gonna be looking into connecting into
24 the sewer system so that way we clean that portion of it up as well,
25 and I think the overall building will be an improvement, but I don't
26 think it will have any effect as far as traffic or any impact on the

1 local community or neighborhood.

2 I'm going to answer any questions if you have them.

3 MEMBER GOODSSELL: I'm like the next person. I think bagels are
4 absolutely wonderful. I'm looking at the plans and it seems like
5 they're actually going to make the bagels on the premises.

6 MR. BUTT: They have been making them on the premises before
7 but because of volume, sometimes, they have to bring some additional
8 bagels in. This new store, and I'll have someone speak on behalf
9 of that, is pretty serious produce of bagels.

10 MEMBER GOODSSELL: That is news to me that bagel stores actually
11 get their bagels from other bagel stores.

12 MR. BUTT: Well, he has three stores. This is -- this machine
13 that he's putting in here, he does have a bagel-producing machine
14 now, and the new one will produce almost double the quantity of
15 bagels. They're all made on-site.

16 MEMBER GOODSSELL: So how are the supplies then delivered? Are
17 they delivered early in the morning, the night before? I mean, this
18 has got no parking whatsoever.

19 MR. BUTT: Well, I can actually have the owner of the store come
20 up and discuss and explain to you what that is.

21 MR. AGGARWAL: Sure, Hi.

22 MEMBER GOODSSELL: Thank you. Name and address.

23 MR. AGGARWAL: My name is Rajeed Aggarwal. My address is 510
24 Plandome Road.

25 SECRETARY WAGNER: Spell your last name, sir, for the court
26 reporter.

1 MR. AGGARWAL: A-G-G-A-R-W-A-L.

2 MEMBER GOODSELL: So how are you going to get your supplies
3 delivered?

4 MR. AGGARWAL: There is a small driveway in the back that we've
5 been using for the last four years. The truck easily can back into
6 it, and they're there between the hours between 9:00 and 2:00. I
7 have no issues with them. No complaints from the people that are
8 behind me.

9 MEMBER GOODSELL: Did you ever have any issues with the carpet
10 store next door vying for parking spaces or space to get deliveries?

11 MR. AGGARWAL: None at all. No. 'Cause there was only one
12 lady working that was working there, and they had a van parked there
13 for years, which they never moved, but I didn't care, even though
14 we had to use the cesspool in the back, we were able to move it a
15 little and go through it.

16 MEMBER GOODSELL: So are your hours of operation changing at
17 all?

18 MR. AGGARWAL: No, I cannot 'cause the thing is, it's a morning
19 and afternoon. If I put in another shift that means I have to employ
20 another set of employees to bring in, which is an impossible thing
21 these days.

22 MEMBER GOODSELL: So what are your current hours?

23 MR. AGGARWAL: 6:00 A.M. to 3:00 P.M., and Sundays will be
24 closing 6:00 to 2:00.

25 CHAIRMAN MAMMINA: If I go there, where am I parking my car?

26 MR. AGGARWAL: Parking is on the street. That's what it's been

1 like 'cause the thing is, my business mostly I'm done with my business
2 80 percent by 10:00, 10:30 and nobody else is open in town, so the
3 street is completely empty, so my parking was never an issue with
4 people to come in and do 'cause I don't like that much lunch. I
5 basically rely on -- if I do, let's say, 400 customers a day; I'm
6 done with 275 to 300 by 10:00, so I don't have that big of a crowd.
7 That's the reason I wanted to expand and put little chairs, so I can
8 make a little more business. I don't know if it's gonna happen, but,
9 you know, it's a long shot too.

10 MEMBER GOODSSELL: Well, if your business is doing well with no
11 parking spaces now, it means people are making an effort to park and
12 come to you.

13 MR. AGGARWAL: Yes, ma'am. They come from actually Port
14 Washington. I have a good product. Thank God, and I'm keeping up
15 with it, and it -- I don't know if you guys knew the old owner, they
16 were no good to the customer. Me and wife were there every day, and
17 I work very hard to make, you know, so to run three stores now, I
18 have my brother and my father. They help me out, so you know, it's
19 a 4:00 in the morning every day on your feet 13, 14 hours a day, you
20 know, so it's not an easy thing.

21 VICE CHAIRMAN FRANCIS: How many employees do you have now?
22 And how many do you anticipate when you expand?

23 MR. AGGARWAL: Right now, I have 15 employees. Some of them
24 are part time. I probably add one more employee. The only reason
25 I would add that employee would be to clean the tables outside 'cause
26 are messy and they will leave mess behind. Other than that, I'm fully

1 staffed. I don't have room to add another employee.

2 VICE CHAIRMAN FRANCIS: And that's between the hours of 6:00
3 to 2:00?

4 MR. AGGARWAL: Yes.

5 VICE CHAIRMAN FRANCIS: Thank you.

6 MEMBER GOODSELL: Thank you very much.

7 MR. AGGARWAL: Thank you.

8 SECRETARY WAGNER: I got to say they have the best bagels.

9 MR. AGGARWAL: Thank you so much.

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

11 CHAIRMAN MAMMINA: Anything else, Paul?

12 MEMBER GOODSELL: I have no other questions, but --

13 MR. BUTT: No, I completed my presentation at this point. I
14 think we have an opportunity here that is a vacant store might remain
15 vacant in my opinion because I don't know what else you could possibly
16 put there. I think the expansion of this is really an advantage to
17 the community if anything else, and as far as its operations, I've
18 gone there Sunday mornings, Saturday mornings, you can park right
19 in front of the place for the most part or right across the street,
20 so the parking concern is nil.

21 CHAIRMAN MAMMINA: Thank you.

22 VICE CHAIRMAN FRANCIS: Thank you.

23 MEMBER GOODSELL: Reserve.

24 CHAIRMAN MAMMINA: We'll reserve decision on this. Maybe make
25 it at the next hearing.

26 MR. BUTT: Great. Thank you very much.

1 SECRETARY WAGNER: Next appeal, Appeal # 21572, Fifth Avenue
2 of Long Island Realty, LLC (Max Mara Signs), 2102 Northern Boulevard,
3 Manhasset, Section 3, Block 183, Lot 12, in the Business-A/Parking
4 District.

5 Variances from 70-196(J) (1), 70-196(J) (1) (a) to erect wall
6 signs that do not face a public street or a parking area, are not
7 parallel to the wall, with too many signs for one store.

8 CHAIRMAN MAMMINA: You heard Appeal # 21572, Fifth Avenue of
9 Long Island --

10 MEMBER GOODSELL: Let's bring Mr. Donatelli in. We're not
11 giving him the afternoon off.

12 CHAIRMAN MAMMINA: Okay, I'm just going to call it again. You
13 heard Appeal #21572, Fifth Avenue of Long Island Realty, LLC, Max
14 Mara signs.

15 MS. PREVETE: Good afternoon, Mr. Chairman, Members of the
16 Board. My name is Diana Prevete. I'm an attorney in the law office
17 of Albanese & Albanese, 1050 Franklin Avenue, Garden City, New York.

18 I'm here today representing the tenant Max Mara who is the
19 existing tenant at the Americana Shopping Center. Max Mara has
20 recently preferred in renovation and completed them of both the
21 interior and exterior of the store. The store is located at 2102
22 Northern Boulevard. With me today also is the sign fabricator and
23 installer, Ted Eve of Tee Pee Signs, so if you have any questions
24 specifically about the signs that I can't answer, Mr. Eve is here
25 to answer those questions.

26 The variances we're seeking today are for two signs. Section

1 70196J is a variance J1, to permit installation of wall signs. Now,
2 there's two of them. Max Mara, which is on the north elevation and
3 cafe on the west elevation that do not face a public street or a
4 parking area. These signs are in the walkway between stores. If
5 you're familiar with Americana, which I'm sure you are, there are
6 a couple of walkways that separates the buildings within the shopping
7 center.

8 The second variance is from section 7196J1A to permit
9 installation of the Max Mara sign on the north face of the canopy,
10 which is within the walkway because that sign is not parallel to the
11 wall. It's actually perpendicular. I'll give you some photographs
12 and you can see what we're talking about here.

13 Section 7196J1A is the third section that we're seeking a
14 variance from to permit installation of the Max Mara sign and the
15 cafe sign because those are two additional wall signs, where only
16 one wall sign is permitted on the wall. Max Mara store is facing
17 the parking area in the Americana. To the east is Todd Snyder. To
18 the west is a walkway between the two buildings. To the north is
19 Cartier, which faces Northern Boulevard.

20 Max Mara has been located in Americana for approximately
21 15 years. After the renovation, they applied for new signs, and they
22 did receive permits two of three of the signs that are currently
23 located on the building. These signs have not been installed yet,
24 obviously, because they require variances. The store is
25 approximately 2,000 square feet and has a basement for storage also.

26 As the Board is familiar with Americana, there's a long standard

1 tradition and reputation of being quality, upscale retail
2 operations, and that includes the Max Mara store. The renovations
3 actually are very aesthetically pleasing, and it looks very nice,
4 and it complements the rest of the stores.

5 I do have photographs so that the Board can see the existing
6 signs that received permits, and also, the areas where the signs will
7 be located.

8 MR. PERROTTA: Exhibit 1.

9 MS. PREVETE: Yes.

10 MR. PERROTTA: Thank you.

11 MS. PREVETE: Once they're marked into the record, you take a
12 look at the sign, you'll see the signs that are permitted and already
13 are on the building, and then you'll see pictures of the walkway.
14 There's a canopy that comes out into the walkway. One of the Max
15 Mara signs is gonna be located on that canopy perpendicular to the
16 wall, and then there's an area which has like a wooden facade, which
17 is going to have a cafe sign above it. The size of the signs -- oh,
18 also, I just want to put in the record, we have a copy of the tax
19 map, so we can put that in the record, and also a copy of the zoning
20 map. This is located in the Business A District. I will just hand
21 those up; two and three.

22 MR. PERROTTA: Thank you. The tax map will be two.

23 MS. PREVETE: Yes, and the zoning map will be three.

24 These are not large signs. The Max Mara sign is only 1.44 square
25 feet. The size of the cafe sign is four square feet, so they're
26 small. The cafe sign is a new addition to the premises. There's

1 going to be cafe space within the new Max -- newly renovated Max Mara
2 store. The cafe area is approximately 150 square feet. They sell
3 pre-made pastries, coffee, tea, beverages. There's no cooking or
4 baking in the cafe; just warming and they brew coffee and tea
5 obviously. This cafe area has been approved by the Town Building
6 Department and Nassau County Department of Health; however, the cafe
7 area is limited to a maximum capacity of ten people and flute tables,
8 and that's all been approved. So this cafe sign is going to help
9 and patrons of Max Mara coming in to locate the location of the cafe
10 area. There's also gonna be a couple of chairs just right outside
11 this cafe area where the sign is. If someone wants to sit outside
12 and just get a cup of coffee or a cup of tea. The cafe will only
13 be open when the Max Mara store is open, and actually, the cafe hours
14 are gonna be shorter than the actual store hours. The store hours
15 of Max Mara are 10:00 A.M. to 6:00 P.M., except Sunday, when the hours
16 are 12 noon to 5:00 P.M.

17 I know the Board has had many applications before with respect
18 to signs at Americana. Variances have been granted for Tiffany under
19 Appeal #19267; Brooks Brothers under Appeal #17277; Cartier Appeal
20 #19426; J Crew Appeal #19447; Scott Jewelers Appeal #19643; and Gucci
21 America Appeal #20627, and that's just some of them, which have been
22 granted variances.

23 With respect to the elements that must be demonstrated in order
24 for the variances to be granted: Whether an undesirable change will
25 be produced in the character of the neighborhood or a detriment to
26 nearby properties if a variance is granted. We believe no one

1 undesirable change will be produced in the character of the neighbor
2 or a detriment to nearby properties. This is a commercial area. The
3 Max Mara signs we're talking about are located in the walkway between
4 the two buildings, and really are not visible to any residential area.

5 The cafe sign faces the walkway, and the other retail building
6 on the other side of the walkway. In addition, the Board has granted
7 many other variances within Americana for additional wall signs
8 because we are seeking a variance for these two signs on the wall.

9 J Crew Appeal #19447, was granted a variance because it had more
10 than one wall sign. The Cartier, Appeal #19426, exceeding permitted
11 number of signs, and that case there were five wall signs that were
12 not permitted. Scott Jewelers, again, Appeal #19643, also exceeding
13 the number of permitted wall signs.

14 You notice in the photographs that I took, I also took
15 photographs of Cartier and Chanel, which had multiple wall signs.
16 Again, in this walkway area.

17 Whether the benefit sought by the applicant can be achieved by
18 another feasible method other than the variance. It's really not
19 feasible or practical to limit the signs totally. Max Mara sign in
20 the walkway identifies the store for pedestrians that are walking
21 through from either the parking area to Northern Boulevard or
22 Northern back to the parking area. The cafe sign is needed because
23 now we have a new area, which houses the cafe. It will identify for
24 customers.

25 Whether they requested variance is substantial. We don't
26 believe that these variances are substantial. We are seeking three

1 variances, but they're for the same two signs basically, and I believe
2 as the Board is familiar with, you can't just look at the number of
3 variances, but you have to look at basically is a practical and a
4 common sense approach. Are these variances going to have a
5 detrimental effect and if they're not, it's really not going to be
6 a substantial variance.

7 Whether the proposed variance will have an adverse impact on
8 physical or environmental conditions. Well, the only environmental
9 impact would be visual, and as you can see, there really is no
10 substantial negative visual impact. They're two small signs.
11 They're in a walkway, and they're basically for identification of
12 the premises.

13 Whether the alleged difficulty is self-created. The
14 difficulty may be partially self-created, but most of the difficulty
15 results from the location of the Max Mara store adjacent to the
16 walkway. As the Board is aware, the existence created difficulty
17 with respect to area variance does not warrant the denial of an area
18 variance.

19 If we balance the benefit of the applicant against the detriment
20 to the community, health safety and welfare; we believe there is no
21 detriment to the community, and therefore, we feel that the benefit
22 outweighs any detriment to the community. Based upon on all of the
23 foregoing, we respectfully request that the application be granted.

24 MEMBER GOODSELL: It seems having a cafe in the store is the
25 latest trend.

26 MS. PREVETE: Yes.

1 MEMBER GOODSSELL: Pretty soon law offices are going to have a
2 cafe.

3 MS. PREVETE: A little espresso. A little cappuccino.

4 MEMBER GOODSSELL: A little espresso. A latte, perhaps. The
5 sign on the wall, I think that because of the shape of the Max Mara
6 building is complicated that when you're standing in a particular
7 place, you cannot see the Max Mara sign above the doorway.

8 MS. PREVETE: No, you can't.

9 MEMBER GOODSSELL: So the number of signs does not trouble me.
10 Now, that we're springtime and the trees on the arbor in that walkway
11 are in full bloom, it's kind of hiding some of the signs.

12 MS. PREVETE: Yes.

13 MEMBER GOODSSELL: Mr. Chairman, I do not have an objection to
14 these signs.

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

16 MEMBER DONATELLI: Second.

17 CHAIRMAN MAMMINA: Motion by Member Goodsell. Second by
18 Member Donatelli. Please poll the Board.

19 SECRETARY WAGNER: Member Donatelli?

20 MEMBER DONATELLI: Aye.

21 SECRETARY WAGNER: Member Goodsell?

22 MEMBER GOODSSELL: Aye.

23 SECRETARY WAGNER: Vice Chairman Francis?

24 VICE CHAIRMAN FRANCIS: Aye.

25 SECRETARY WAGNER: Chairman Mammina?

26 CHAIRMAN MAMMINA: Aye. The application is granted. I plan

1 on driving my Maserati from the showroom right there.

2 MS. PREVETE: And get a cafe.

3 CHAIRMAN MAMMINA: There you go.

4 MS. PREVETE: Thank you very much.

1 SECRETARY WAGNER: Next appeal, Appeal #21554, Mohinder Singh,
2 2000 Hillside Avenue, New Hyde Park, Section 8, Block 211-14, Lot 607,
3 in the Business-B Zoning District. Variance from 70-50(A) to convert a
4 funeral home to a place of worship that is too close to the street.

5 CHAIRMAN MAMMINA: You heard Appeal #21554, Mohinder Singh.
6 Is there anyone in the room interested in the application other than
7 the applicant? Seeing one hand up; you'll have an opportunity to
8 speak after the presentation. Thank you.

9 MR. IANONE: Chairman Mammina, Members of the Board, good
10 afternoon. On behalf of the applicant, this is James Ianone, 421
11 Willis Avenue, Williston Park, New York 11596.

12 Members of the Board and Chairman Mammina, we're here today
13 requesting a variance for the property that is the result of a prior
14 non-conforming piece. The variance that we're seeking -- first off,
15 the property currently is a defunct, out of business funeral home.
16 It is located on at 2000 Hillside Avenue in New Hyde Park. It is
17 in Zoning Business B, and with respect to the variance that we're
18 seeking. We're seeking it because the building as constructed,
19 which currently is over 50 years old, was built with a -- originally
20 with a 10-foot setback, which is customary for the properties around
21 it in Business B. The property immediately to the west of it located
22 at 1998 Hillside, which is a current roofing and siding also has a
23 10-foot setback. The houses immediately to the west of those are
24 in a neighborhood that is separated by a six-foot fence, which is
25 within that 10-foot setback, and even therefore -- after, there is
26 a three-foot concrete retaining wall to the edge of the setback, which

1 is less than the setback.

2 All the other properties to the east in Business B, to
3 get -- now, we all have 10-foot setbacks with res -- with exception
4 of the newer CVS, which was probably constructed after the code
5 changed, and they're all commercial buildings. The applicant has
6 been pursuing this application for several years. They're looking
7 to take the defunct funeral home and build a Sikh Temple Worship.

8 The plans that they have submitted and the construction that
9 they're seeking to do is all in compliance within the code. They're
10 looking to take, if I may approach the plan. This is already
11 existing, this 10-foot area. This front section is part of the
12 funeral home. What they're looking to do is they're looking to
13 construct a second and third story on the property, which is
14 permitted. It would be setback 25 feet so that in and of itself that
15 construction is not seeking a variance.

16 The property for the zoning requirements for a religious
17 building in that area, which is, by the way, permitted, is 6,000
18 square feet. The actual lot area is 25,700 square feet, and the
19 maximum lot coverage for this type of building is 35 percent of lot
20 area, which would translate to 8,995 square feet. The actual lot
21 coverage for what we're proposing is 4,115.93 square feet. So far
22 short of what is the maximum lot coverage.

23 As far as the front yard, that's what we're here for. The
24 property when it was constructed was constructed at 10 feet. It's
25 a prior non-conforming use, and now zoning requires 25 feet. The
26 second and third floor as constructed that my applicant would like

1 to construct is here asking for the variance for what would comply
2 to the 25-foot setback.

3 As far as the side yard, the requirement is 20 feet. The
4 existing side yard on one side is 36 feet, and on the other side is
5 137 feet, so we comply with that; no problem whatsoever.

6 As far as the rear yard setback, it's 25 feet is required. We
7 have an existing rear yard setback of 38 feet, and not proposed amount
8 of parking that is needed for a building what we're looking to build,
9 we would need 40 spaces. We're actually providing 43 spaces, and
10 also that parking requirement is generated by needing 31.5 spaces,
11 which I rounded up to 32, and for eighty employees, which we will
12 never have eighty employees.

13 This house of worship will only be open on Sundays between 8:00
14 A.M. and 2:00 P.M. for congregates' worship. There is no set
15 service, so there's no 10:00 or 10:30 service where you have an
16 intense use at that time. People come and pray at their desired time
17 during those hours. The only other hours that this temple will be
18 open would be on Friday nights, 7:00 to 10:00 P.M., and that would
19 be just for the people who run the temple to prepare for the Sunday
20 morning service, so we wouldn't even have that Monday through Friday.
21 Monday, Tuesday, Wednesday, Thursday, with the exception of those
22 three hours on a Friday, no Saturday, and that Sunday that I told
23 you, would be the -- we wouldn't have anyone. As opposed to the
24 current use, yes, it is defunct, the current use is for a funeral
25 parlor, which as everyone knows, can be any time that people are
26 attending to wake, and depending on the person who passed away or

1 how many services, it could be far more intense use than this usage.

2 The premises in the rear of what's Town of North Hempstead
3 property. My clients have apprised me that due to the extensive time
4 and preparation that they've gone through with site plan review that
5 the Building Department has advised that the environmental buffer
6 zone is not needed because this property abuts the golf driving range,
7 and there's no backdoor neighbor, so we're even to alleviate any
8 potential concerns of parking issues. We would be putting the extra
9 additional parking, which is additional, not what is required.
10 We're not seeking a variance. We're just looking to further more
11 parking in -- just to make it easier. We have really no neighbors,
12 so in that, we don't have a backdoor neighbor that will be disturbed
13 at all. It's a golf driving range. You can see from the back the
14 very high netting for terrible golfers like me to shank balls all
15 over the place when they have the opportunity to go.

16 So we're not looking to intensify the use. We're looking to
17 allow people seek faith, to have a place to gather to pray, to worship
18 in conformity to their tradition, it's a very light usage. The
19 building will be far nicer than it is now. Slightly an eyesore.
20 It's defunct. It's closed. It doesn't have any utility to anyone.

21 The whole reason we're here is because the building was built
22 the way it was, and we're not looking -- we're not here to expand
23 upon that. It's the way the building was.

24 Members of the temple are here. My architect is here should
25 you have any questions. Going over the factors for an area variance.

26 First factor is, whether an undesirable change will be produced

1 in the character of the neighborhood or to the detriment to nearby
2 properties will be created by the granting of an area variance. I
3 respectfully submit that it will not be. This is Hillside area.
4 This is not a residential area. This is probably the most traffic
5 busy thoroughfare in western Nassau, along with Jericho Turnpike in
6 northern Nassau County. It is a commercial area right now. As I
7 explained, commercial buildings all have the same prior
8 nonconforming zoning with the exception of CVS. There's no
9 residents that's going to be effected. It's a very, very light
10 usage. I would submit, in fact, that this will be an improvement
11 upon a vacant funeral home that is presently there.

12 The second criteria is whether the benefits sought by the
13 applicant can be achieved by some other method feasible for the
14 applicant to pursue other than the area of variance. I respectfully
15 submit that it can't. We're taking a building that we purchase.
16 We're making it nicer. We're not asking to make a nonconformity.
17 A nonconformity exists, and we've -- over a period of several years,
18 my clients have tried to very thoughtfully comply with everything
19 and build a house of workshop for their members in conformity with
20 all the other zoning requirements. It's just a structural issue of
21 how this building was built in the first place.

22 Whether the requested area variance is substantial. On the
23 face of it, it potentially could be argued that it is because it's
24 10 feet is what is the set. What the building has is 25 now, but
25 I'm -- what I'm saying to you, respectfully, it is not because
26 everything else we're looking to do is looking to be done in

1 conformity with the zoning requirements. We comply with the
2 parking. We comply with the rear yard setback. We comply with the
3 side yard setback. We're providing additional parking, even above
4 what we need. Because of the usage of this property, which will
5 really only be used six hours a day by congregates on a Sunday for
6 worship, it is just about the least intensive use of a property that
7 I can imagine. We have 168 hours in a week, and we're talking about
8 using a property for six hours a week, and three on a Friday to prepare
9 for a service on Sunday between 8:00 and 2:00, which also would be
10 probably just about the least traffic times on Hillside Avenue, which
11 is almost always at other times, especially during rush hour, Monday
12 through Friday. Anyone who's driven in that area knows that it is
13 a somewhat of a traffic conundrum. So it is a very less intensive
14 use. I submit to the Board the only less intensive use that we could
15 have is its use now, which is no use of whatsoever; an empty building,
16 which does nothing for the community.

17 The fourth Factor is whether the proposed variance will have
18 an adverse effect or impact in the physical or environmental
19 conditions in the neighborhood or district. I submit to you, this
20 Board, it will not. It will take a property that is defunct, kind
21 of an eyesore at this point, not in use, an empty building and turn
22 it into a beautiful place of worship where congregates can come on
23 Saturday morning till 2:00 P.M. -- Sunday morning from 8:00 A.M. to
24 2:00 P.M. I wanted to correct that. I said Saturday. And come and
25 worship and practice their faith, and as I said, there is no -- the
26 way this temple works is there's not set service. People come on

1 their own, and they leave on their own, so we're not going to have
2 a situation where it's like a mass service at like 11:00 P.M., where
3 you have a very intense use at that time.

4 And then the final factor, which as the Board knows is not
5 necessarily determinative to conclude the granting of area
6 variances; whether the alleged difficulty was self-created. Which
7 as one of the Board Members noted, almost 99 percent of these area
8 variances are self-created. I would submit this one might not be
9 in that this was already a prior non-conforming use. My client's
10 not looking to expand this. He's not looking to build up and make
11 it, the second and third floor 10 feet to expand on the
12 non-conforming, and make this building look monstrous. In fact, my
13 applicant is actually moving it back. He's just seeking to minimize.
14 The applicants are seeking to minimize the cost of what would be
15 involved in destroying what's already there. I don't even believe
16 it's a self-created hardship because it was not a hardship created
17 by him, by my applicant.

18 If the Board has any questions for me, just let me know. Again,
19 like I said, my applicant members are here as well as my architect.

20 VICE CHAIRMAN FRANCIS: I'm pretty familiar with Sikh Temples
21 in that I used to represent a church near the one on 106 in Hicksville,
22 and I know that in addition to Sunday service for members, there are
23 several festivals throughout the year that are celebrated primarily
24 at least to the one in Hicksville on Saturdays, and I would ask whether
25 or not your applicant plans to do or promote the same festivals and
26 weddings.

1 Name and address, sir.

2 MR. SINGH: Good afternoon, my name is Jatinder Singh. I am
3 resident of Town of Hempstead as well.

4 SECRETARY WAGNER: Could you spell --

5 CHAIRMAN MAMMINA: A little slower an --

6 VICE CHAIRMAN FRANCIS: Back up a little.

7 THE REPORTER: Spell your first name, please.

8 MR. SINGH: J-A-T-I-N-D-E-R. So yeah, you're absolutely
9 right. We do have people get married, and they have some functions,
10 and we have religious functions. Most of them, they're on weekends,
11 even though, let's say, there's some religious things that falls on
12 weekday, but we do not celebrate them on the weekdays. We postpone
13 them to celebrate them on the weekends usually; Saturdays and
14 Sundays, but it's very rare that we do on Saturday because in -- these
15 members that belong to this temple, they are probably, we all working
16 Mondays through Saturday. Sundays are the only day that we're gonna
17 be at the temple, but the weddings, they always happen Saturdays and
18 Sundays, which is you never know how many weddings a year probably.
19 We are about 100 members, so give or take probably four or five
20 weddings a year. That could be a Saturday. We cannot tell people
21 do your wedding on Sunday. Wedding could be a Saturday, yes. That's
22 only thing, but most of the religious days that we celebrate, that
23 would be on Sunday.

24 VICE CHAIRMAN FRANCIS: With regard to the festivals -- I don't
25 know if there are holidays or how it's structured, but I know that
26 the Sikh Temple in Hicksville for some of those festivals they apply

1 for permits to close off the streets, and some of the festivals also
2 involve floats, which go down 106 and kind of make a U-turn and come
3 back to the temple. Are you envisioning anything to that extent?

4 MR. SINGH: No, we are not actually. That temple you're
5 talking is a much bigger community. That is, you know, there's
6 probably 300 to 400 members there in that community. We are only
7 probably 100 at the max. We are not looking to celebrate or festival
8 to that extent that we've to close the Hillside Avenue or any of those
9 streets around it. We want to keep it compact to what it is.

10 VICE PRESIENT FRANCIS: And also, keeping in -- on that same
11 theme. Would there ever be any evening or nighttime use of the
12 property?

13 MR. SINGH: Only Friday night. We'll be there like five to
14 seven people that prep only for Sunday services, but other than that,
15 we don't see anything that happens in the evening. Our services are
16 usually in the morning like 8:00, 9:00 to 2:30, 3:00, the latest on
17 Sunday, and people do come and out there. There's no set time for
18 that prayer. Anyone can come any time. It's actually open for the
19 whole community. It's not just for the Sikh people. Anyone is
20 welcome there.

21 VICE CHAIRMAN FRANCIS: So in addition to the member -- 100
22 members --

23 MR. SINGH: Right.

24 VICE CHAIRMAN FRANCIS: -- it's possible that you can get people
25 visiting from other areas that are not necessarily members?

26 MR. SINGH: No, actually that is -- I don't think that's true.

1 That will -- people -- we have few temples, you know, every two miles
2 or three miles, there's a Sikh temple, so people go to the one they're
3 close to. They don't just -- if I'm living in Hicksville, I will
4 not go to -- I wouldn't come to New Hyde Park. I'd stay in Hicksville.
5 And there's ones in Queens. There's another one on Cherry Lane on
6 Jericho Turnpike, so there's quite a few there.

7 VICE CHAIRMAN FRANCIS: Okay.

8 MEMBER DONATELLI: I actually have some --

9 VICE CHAIRMAN FRANCIS: No, go right ahead.

10 MEMBER DONATELLI: I actually have a question, and you see your
11 rendering here on the easel and that is also in a file that we have
12 before us. I'm just trying to make sense of how the building will
13 be situated on Hillside Avenue because that's a very idealized,
14 stylized depiction. Where is Hillside Avenue in comparison to that
15 rendering.

16 MR. IANONE: I'll ask my architect to come up.

17 MR. SINGH: This is Hillside area here. This is facing west.
18 The front of the --

19 MEMBER DONATELLI: So the front of the building will be facing
20 the parking lot?

21 MR. SINGH: Yeah, existing front was on Hillside Avenue, but
22 we change it because it's gonna be very close to the street so we
23 change it to the main entrance now will be in the parking lot. East
24 side -- I'm sorry, west side.

25 MEMBER DONATELLI: I understand, okay.

26 MR. IANONE: So right now, the way this looks here is the doorway

1 to enter the funeral parlor --

2 MEMBER DONATELLI: Right.

3 MR. IANONE: -- from the street, park, and then walk on the
4 sidewalk, and walk into what would have been the entrance to the
5 funeral parlor, but now, what they're doing is keeping this area and
6 putting an entrance here, which is depicted, which is western facing
7 but, you know --

8 MEMBER DONATELLI: Facing west.

9 MR. IANONE: Facing parallel, I guess, to Hillside would be kind
10 of the entrance. People walk through the parking lot here instead
11 of now walking around, walking to the sidewalk area here, and going
12 through.

13 MEMBER DONATELLI: And the flow of traffic will be -- well, I
14 guess, I'm seeing a new curb cut here?

15 MR. IMRAN: Yeah.

16 MEMBER DONATELLI: Well, there's an existing curb --

17 MR. IMRAN: This --

18 VICE CHAIRMAN FRANCIS: Sir, give your name and address.

19 MEMBER DONATELLI: And if I -- go ahead, please.

20 MR. IMRAN: My name is Mohammad Imran, and I'm from the
21 architect office, Architectural Concept, and the address is 1227
22 Tulip Avenue, Franklin Square.

23 MEMBER DONATELLI: My question is; I see an existing curb cut.
24 I see a new proposed curb cut, I would imagine, and then I see traffic
25 flow depicted by the arrow that will essentially be guiding traffic
26 around the building to exit on, I guess, an existing curb cut to the

1 east; is that correct?

2 MR. IMRAN: Well, all three curb cuts are these things. The
3 reason we mention these three curb cuts is because we're changing
4 the location. We're changing slightly the location of that curb cut.
5 That's the reason why we mention the curb cut; otherwise, the existing
6 curb cut's already there.

7 MEMBER DONATELLI: Well, I understand, but it's -- if it's being
8 new, don't we need State approval for that because Hillside Avenue,
9 I believe, is a State road.

10 MR. IMRAN: Yes.

11 MEMBER DONATELLI: Okay, so in terms of the flow of traffic,
12 you anticipate that flow comes around the building and exiting at
13 an existing curb cut.

14 MR. IMRAN: Right. Another reason we're relocating the curb
15 cut to minimize (inaudible) --

16 THE REPORTER: I'm sorry, I can't hear him.

17 MR. IANONE: Could you speak louder?

18 MEMBER GOODSSELL: Say that again.

19 MR. IMRAN: I said the reason we are recreating the curb is to
20 minimize the traffic load on the left-hand side curb cut, so these
21 curb cuts you can utilize traffic in and out.

22 MEMBER DONATELLI: Well, you got in and out but forgive me,
23 though. You got in and out, but you're showing cars on the left side
24 of the drive aisle.

25 MR. IMRAN: Yeah. That's side curb cut out only.

26 MEMBER DONATELLI: Yeah, my point is another. The arrows

1 typically should be on the other side, right? You go in on the right;
2 you come out on the left. It's -- it just doesn't make sense the
3 way the arrows are situated.

4 VICE CHAIRMAN FRANCIS: Correct.

5 MR. IMRAN: The direction of traffic.

6 MEMBER DONATELLI: Yeah. I understand what you're doing with
7 the traffic flow. My point is that traffic passes left to left so
8 your arrows show the opposite.

9 VICE CHAIRMAN FRANCIS: And even here, where's this traffic
10 going once it gets in here?

11 MEMBER DONATELLI: Here, it's got a curb cut here.

12 VICE CHAIRMAN FRANCIS: Oh, I couldn't see that.

13 MEMBER DONATELLI: In other words, this arrow should be here.

14 VICE CHAIRMAN FRANCIS: Should be the opposite way, right.

15 MEMBER DONATELLI: Should be the opposite.

16 VICE CHAIRMAN FRANCIS: Right.

17 SECRETARY WAGNER: So the traffic coming in, and it's going to
18 the back of the site, that arrow should be to the right of the arrow
19 where it's showing --

20 MEMBER DONATELLI: Exactly.

21 SECRETARY WAGNER: -- coming down, yeah. Do you see what he's
22 saying?

23 MR. IMRAN: Yeah.

24 MEMBER DONATELLI: Unless we're in the UK.

25 SECRETARY WAGNER: So this arrow should go there and that arrow
26 should be on the other side, so when it comes in and goes back.

1 MR. IANONE: I understand. And I understand, I'm not -- this
2 is also Hillside Avenue area as well according to -- is two lanes
3 of traffic east and west, and there's really -- to come into the lot,
4 can only go one direction on Hillside Avenue to get in.

5 MEMBER DONATELLI: No, I understand.

6 MR. IANONE: I understand what's wrong. These arrows are
7 reversed.

8 CHAIRMAN MAMMINA: It's graphic, but it does matter. If you
9 haven't filed with the State, I think you need to but I could be wrong.
10 I would suggest you do it as quickly as possible. It's a process.

11 MEMBER DONATELLI: I think it's a 239B or A.

12 CHAIRMAN MAMMINA: It's 239F.

13 MEMBER DONATELLI: It's 239F.

14 MR. SINGH: We have verified.

15 MR. IMRAN: We have verified.

16 MR. SINGH: We already verified with the State.

17 MEMBER DONATELLI: You have filed.

18 MR. IANONE: But I think what Member Donatelli is suggesting
19 is that if you're pending, you might want to just send the pending
20 to the Planning Department. It's just -- this will be very simple
21 to correct the arrows.

22 MR. SINGH: Sure.

23 MR. IANONE: And submit it as an amended file as an amendment.

24 MEMBER DONATELLI: Yeah.

25 MEMBER GOODSSELL: Yeah.

26 MR. IANONE: Minor thing, but it should be -- I appreciate the

1 insight.

2 VICE CHAIRMAN FRANCIS: It would be correct if we were in the
3 UK, but last time I checked, we're not.

4 MR. IANONE: Yes.

5 MEMBER DONATELLI: So the other question is getting to Mr.
6 Francis's point about the festivals. Do you anticipate having any
7 festivals outside on the parking lot or anything of that nature?

8 MR. SINGH: I'm sorry, repeat that again.

9 MEMBER DONATELLI: Do you anticipate having any festivals in
10 the parking lot?

11 MR. SINGH: No, sir, we are not. We are not having any -- we're
12 not planning to have any festivals in the parking lot. Parking lot
13 is just for the cars. That's it. 'Cause we have sufficient space
14 inside the building. If there's any wedding or anything, that can
15 be inside the building.

16 CHAIRMAN MAMMINA: We have one gentleman who put his hand up.
17 Would you like to speak, sir?

18 MR. CHIPETINE: I would.

19 CHAIRMAN MAMMINA: Please come forward and that way any other
20 questions --

21 MR. CHIPETINE: Thank you. Jeffrey Chipetine,
22 C-H-I-P-E-T-I-N-E; ABC Rental Center, 2016 Hillside Avenue, New York
23 Park.

24 CHAIRMAN MAMMINA: Good afternoon.

25 MR. CHIPETINE: Next door neighbor to our Sikh friends.
26 Straight away --

1 MEMBER DONATELLI: East or west side?

2 MR. CHIPETINE: We're to their immediate east and literally
3 next door neighbors. Straight away, our Sikh neighbors came across
4 immediately upon buying the building. They've been absolutely
5 nothing but forth front, and I fully support the idea of them taking
6 that building over. It's a beautiful location making a good purpose
7 use of it. It's a positive thing for the community. Everyone I talk
8 to over there has been absolutely righteous, and I'm glad to have
9 them for neighbors.

10 VICE CHAIRMAN FRANCIS: Very nice.

11 MR. CHIPETINE: It's a privilege to do that because we're always
12 afraid when something major is going on next door to your place of
13 business.

14 My concerns are obviously about parking. I run a business that
15 is open Monday through Saturday, and we're 6:30 to 4:30 P.M. I'm
16 very pleased to understand that the intension is to have Sunday
17 services only with the occasion few cars on Friday night. With that
18 proviso, I have no reservations about their occupancy or their
19 improvement on the building.

20 I am concerned about one little thing and that's the third floor.
21 The third-floor proposal is somewhat out of place for the community.
22 There are no three-story commercial buildings there. Those of you
23 who are familiar with the area are aware of that. I worry about the
24 community's overall look, and a third-story building in that place,
25 I can't say that's out of place. I'm not an architect. I leave that
26 the committee. You guys are far better judges of that. Their

1 intention is to use that for quarters for a priest, which is perfectly
2 fine. I just don't know if this is the right place for the third
3 floor -- a three-story building. However, it is -- as I understand,
4 cleared for that under the current code.

5 CHAIRMAN MAMMINA: We don't set those standards either. The
6 Town Board does.

7 MR. CHIPETINE: I don't even know that --

8 CHAIRMAN MAMMINA: They've been through the Town Board process.
9 Just so you understand, I don't want to say it's rare when people
10 come and speak in favor, but we always appreciate that. If neighbors
11 come down on both sides. It's important that everybody has a voice.

12 MR. CHIPETINE: And we all want to be good neighbors. That's
13 the biggest thing. So if that issue is not before the committee --

14 CHAIRMAN MAMMINA: Exactly.

15 MR. CHIPETINE: -- you have my opinion, and my support, and I
16 appreciate the three minutes of time, not wanting to abuse your time
17 either. I appreciate my new neighbors.

18 MEMBER DONATELLI: Can I just ask a quick question? How long
19 have you been in your location?

20 MR. CHIPETINE: I'm there 36 years going on 37 in October. I'm
21 starting to get really good at what I do.

22 MEMBER GOODSSELL: I have rented from you, but it's been a while.

23 MR. CHIPETINE: That's good news.

24 MEMBER DONATELLI: That's like the attorneys; say we practice
25 law, one day we'll really get good at it. Well, thank you for coming
26 down.

1 MR. CHIPETINE: I appreciate these people, and what they're
2 trying to do, and what that also that -- I can also offer an
3 affirmation to the setback. That pre-existing 10-foot setback same
4 as my building with the exception of CVS as the one conforming
5 building in the current area. Everything that was said previously
6 is absolutely 100 percent true. I appreciate everyone's time.

7 VICE CHAIRMAN FRANCIS: Thank you.

8 MR. IANONE: Unless, there are no other questions, I would rest
9 on the application. The only thing I just want to make clear also
10 that my client did say there is the possibility that there would be
11 the occasional wedding, and that could possibly happen on a Saturday
12 or Saturday evening. It would not conflict if there was a Saturday
13 evening with his ABC Rental business. Again, it's a non-intensive
14 use of the business -- of the premises. I think it would actually
15 enhance the surrounding area. Of course, every applicant that comes
16 up says that, but I believe it to be true in this case. I have -- it's
17 been a pleasure representing them as well.

18 VICE CHAIRMAN FRANCIS: All right. Mr. Chairman, I think we've
19 really had a really good discussion with regard to this application
20 and ferried out some information, and based on that, I move that we
21 grant the application.

22 CHAIRMAN MAMMINA: We have motion.

23 MEMBER GOODSSELL: I will second that motion.

24 CHAIRMAN MAMMINA: Second from Member Goodsell. Please poll
25 the Board.

26 SECRETARY WAGNER: Member Donatelli?

1 MEMBER DONATELLI: Aye.

2 SECRETARY WAGNER: Member Goodsell?

3 MEMBER GOODSSELL: Aye.

4 SECRETARY WAGNER: Vice Chairman Francis?

5 VICE CHAIRMAN FRANCIS: Aye.

6 SECRETARY WAGNER: Chairman Mammina?

7 CHAIRMAN MAMMINA: Aye. The application is granted.

8 MR. SINGH: Thank you.

9 MR. IMRAN: Thank you.

10 MR. IANONE: Thank you very much.

1 SECRETARY WAGNER: Next appeal, Appeal #21574, Lake
2 Success Shopping Center (Target Drive Up Sign), 1400 Union Turnpike,
3 New Hyde Park, Section 8, Block 235, Lot 56, in the Business-AA Zoning
4 District.

5 Variances from 70-196.J(2) (a) and 70-196.J(2) (d) to construct
6 a ground sign with no open space between the bottom of the sign and
7 the ground and exceeding the number of permitted ground signs on site.

8 CHAIRMAN MAMMINA: You've heard Appeal #21574, Lake Success
9 Shopping Center, Target drive up sign. Is there anyone in the room
10 interested in the application other than the applicant? Seeing no
11 one, give your name and address again.

12 MS. PREVETE: Good afternoon, Mr. Chairman and Members of the
13 Board. My name is Diana Prevete. I'm an attorney with the law firm
14 of Albanese & Albanese, 1050 Franklin Avenue, Garden City, New York.

15 I'm here representing the lessee of the property who is also
16 the applicant, Target Corporation, seeking variances to erect beacon
17 monument sign for the Target drive up area for customer pickups, which
18 is located in the parking area on the west side of the building. With
19 me today is Allison Mathern. She's the senior portfolio and
20 development manager for Target, and also today with me is Robert Peck,
21 who's also here on behalf of the owner Lake Success Shopping Center.
22 As the Board knows, Target has been before the Board several times.
23 The shopping center was constructed in 1949. The building occupied
24 by Target was previously occupied by Sears, and there were a number
25 of other tenants before Sears.

26 Just to go over a little history, and put it in the record. On

1 February 5, 2020, this Board granted a Target conditional use permit
2 under Appeal #20841 to permit interior alternations to the first
3 floor and cellar on existing retail building for a new Target store.

4 On December 15, 2021, the Board granted approval for Target to
5 amend the previously granted conditional use permit, so that the
6 permit use of the second floor as well as the first floor and the
7 basement. That was under Appeal #21157.

8 On January 19, 2022, the Board granted variances for five signs
9 under Appeal #21102, and then most recently on April 3, 2024, the
10 Board granted a variance permitting Target to install car corrals
11 that do not have a protective roof. That was under Appeal #21530.
12 I'll just put in the last two decisions of the Board. The one for
13 the signs that was granted and also the car corrals.

14 SECRETARY WAGNER: These will be Exhibit 1 prior appeals?

15 MS. PREVETE: Yes. As the Board knows Target opened on April
16 14, 2024. It's located in the most western end of the shopping
17 center. Property is known on the Nassau County Land and Tax Map,
18 Section 8, Block 235, Lot 56. This property is located in the
19 Business AA District. I have for the Board a copy of the tax map,
20 and also the zoning map showing the location of the Business AA
21 District, which I'll hand up as Exhibits 2 and 3.

22 MR. PERROTTA: Thank you.

23 MS. PREVETE: The subject property, the shopping center is
24 improved with buildings containing over 350,000 square feet. The
25 total area of the shopping center is 17 acres, which includes the
26 parking areas. The shopping center has approximately 2,100 linear

1 feet along Union Turnpike.

2 Just a little background on Target. The Target's a public
3 corporation selling primarily retail and dry goods and has been doing
4 business for approximately 50 years. Initially, it was a division
5 of Dayton Hudson Corporation, whose predecessor corporation dates
6 back to the early 1900s. Its parent company was renamed Target in
7 the year 2000. As of today, Target has approximately 1,956 stores
8 domestically throughout the USA. Some of the closest Targets other
9 than the one in Lake Success are Westbury on Corporate Drive, which
10 is approximately eight miles away, and then there's a small format
11 Target, which is located in Port Washington, Soundview Marketplace
12 Shopping Center.

13 The variances we seek today are for a beacon monument sign.
14 It's a ground sign, which according to Section 7192J2A, only one
15 ground sign is permitted at the shopping center, and this shopping
16 center has five other ground signs, so this would be the sixth.

17 This beacon monument sign also requires a variance of Section
18 of 7196J2D, and that section requires three feet of open space between
19 the bottom of the sign and the ground. This beacon sign is a monument
20 sign. It has no space between the bottom and the ground.

21 Just a little bit about why Target needs this beacon sign. The
22 proposed beacon sign is requested to identify the privacy drive up
23 area for online orders. Customers can order online from Target. A
24 customer will go online, use the Target application, and put in an
25 order. The online application will then give the customer the option
26 to select order pickup, which means the customer goes into the store,

1 goes to the customer pick up, and picks up the order that it ordered
2 online, or the customer can select the option of ordered drive up,
3 which means the customer goes to the drive up area in the parking
4 lot, and pulls into a numbered space in the drive up area. The beacon
5 sign directs the customer, who selected ordered drive up to these
6 numbered spaces. Customer pulls into the numbered space, and then
7 uses the online application to notify employees in the store that
8 the customer is parked in a numbered space and gives the number of
9 the space that they're parked in.

10 VICE CHAIRMAN FRANCIS: So Ms. Prevete, not to cut you off. So
11 the sign, it's only one sign. It's not a sign per space.

12 MS. PREVETE: No, one --

13 VICE CHAIRMAN FRANCIS: Because that's the way it is in
14 Hicksville.

15 MS. PREVETE: It's one beacon sign, and then on each numbered
16 space, there is also a little sign that comes up that has the number
17 on it. Those signs are already installed.

18 VICE CHAIRMAN FRANCIS: Okay.

19 MS. PREVETE: I have photographs, which show the drive up area
20 with those signs installed, which I'll hand up to the Board.

21 VICE CHAIRMAN FRANCIS: I was confused by that because it
22 didn't seem to me when I first looked at it.

23 SECRETARY WAGNER: So this will be Exhibit 4.

24 MS. PREVETE: Yes. You can see photographs of this drive up
25 area without the beacon sign.

26 VICE CHAIRMAN FRANCIS: Okay.

1 MS. PREVETE: But with little signs with numbers on them for
2 each parking space, so that when the driver pulls up, the sign is
3 right in front and has the number on it.

4 VICE CHAIRMAN FRANCIS: Gotcha. That makes sense.

5 MEMBER DONATELLI: I also apologize for interrupting. The
6 drive up area will that be, I guess, it looks like it's 10 or 12 stalls?
7 That area that's directly adjacent to the beacon sign?

8 MS. PREVETE: Yeah, I didn't count the exact number of stalls
9 but that's approximately what I saw when I was there.

10 MEMBER DONATELLI: I'm sorry, one other question. Will be some
11 sort of a crash barrier or something for the cars that are parking
12 right next to the Target store as they back up?

13 MS. PREVETE: I'm not sure I --

14 MEMBER DONATELLI: I'm looking at -- there's across hatch area
15 and the beacon is placed right at the edge of that parking area.

16 MS. PREVETE: Yeah, but the --

17 MEMBER DONATELLI: But there are parking spaces to the opposite
18 end. Right on --

19 MS. PREVETE: Yeah, the beacon is just going to give a general
20 locator for the area. The stalls --

21 MEMBER DONATELLI: That's my question. What will happen if
22 somebody backs up --

23 MS. PREVETE: The beacon itself?

24 MEMBER DONATELLI: Yes.

25 MS. MATHERN: (Inaudible).

26 CHAIRMAN MAMMINA: Come up.

1 THE REPORTER: Please repeat what you said.

2 MS. PREVETE: Just give your name.

3 MS. MATHERN: I just said the same thing would happen if
4 somebody backed into a light pole. I mean, it's really -- it's
5 smaller, but it's the same kind of, you know, placement in parking
6 lot. It's in a stripe island.

7 MEMBER DONATELLI: Okay, so there won't be bollards or
8 something rather?

9 MS. MATHERN: No, again, it's -- there's a small concrete base,
10 and then the pole itself is just aluminum 1-foot by 1-foot sign.

11 MS. PREVETE: Why don't you just give your name and address for
12 the record.

13 MS. MATHERN: Allision Mathern, Target Corporation; address is
14 1000 Nicolette Mall, Minneapolis, Minnesota 55403.

15 MEMBER GOODSELL: If I can just interrupt you for a second. Do
16 you see how popular Target is?

17 MS. MATHERN: Yes, I was there today.

18 MEMBER GOODSELL: You see how packed the parking lot is?

19 MS. MATHERN: Yes.

20 MEMBER GOODSELL: It's like Christmas every day.

21 It's -- everybody had asked me when is Target coming. It looks like
22 you are doing just fine.

23 MS. MATHERN: Yeah, I did go in and speak to the store employees,
24 and they did say that they are having issues with folks knowing where
25 to go for the drive up parking spaces. That a lot of them are parking
26 on the other side, which obviously, this will not solve that problem

1 necessarily.

2 MEMBER GOODSELL: No, this needs to be on the western side of
3 the parking lot.

4 MS. MATHERN: Right.

5 MEMBER GOODSELL: Because the Target crowd is extending into
6 the remaining of the Lake Success Shopping Center, and it's crowded.

7 MS. MATHERN: Yes.

8 MEMBER GOODSELL: It's very crowded.

9 MS. MATHERN: Well, I was there today, partly the parking lot
10 is being milled and repaved, so it's causing even more chaos, but,
11 yes, I mean, that is pretty typical of a newly open Target store,
12 but, yes.

13 The point of this, to the earlier comment, is to really to -- and
14 that's why it's as tall as it is, is to show customers where those
15 numbered drive up stalls are because they need to park in those
16 stalls. There are 23 stalls, but they are head-to-head, so there's
17 one on one, so to your point, they're about 11 long, and there's one
18 on, you know.

19 CHAIRMAN MAMMINA: So is the Target or the app or whatever going
20 to tell me what space? I'm just curious.

21 MS. MATHERN: No, you pull into the space, and that's why
22 they're numbered, and once you arrive, you tap the button. It says
23 I've arrived, and there's a space to put in what stall number you
24 are in, and then they bring it out to your car.

25 MEMBER DONATELLI: And this was very helpful actually seeing
26 one of these beacons. When I hear beacon, I hear light. Is there

1 a light here?

2 MS. PREVETE: Yes.

3 MEMBER DONATELLI: Search light or something?

4 MS. MATHERN: I literally did one of these on Monday and they
5 were like beacon lighthouse? No. It is a -- there's a solar panel
6 on top, so it's illuminated by solar. The only thing that is
7 illuminated is the white lettering that says drive up, and the small
8 white square at the top that has the drive up icon, and it's again,
9 it's solar powered, so it's not, you know, bright. It's not a search
10 light.

11 MEMBER DONATELLI: It's not going to be a lighthouse.

12 MS. MATHERN: It's just to say to come here, you know. You can
13 spot it from afar or any freak for the parking spaces. Yeah, maybe
14 we need to come up with a better word -- name for it.

15 VICE CHAIRMAN FRANCIS: And Ms. Prevete, you did not need any
16 variance for the number of signs in terms of signs?

17 MS. PREVETE: No, those were installed. We weren't required
18 to get any variances for those.

19 VICE CHAIRMAN FRANCIS: Okay.

20 MS. PREVETE: The Building Department looked at it, and I guess,
21 understood that those were the drive up spaces, and they didn't want
22 to create an issue with people not being able to figure out what space
23 they were in. The idea here is to get people in or out within around
24 ten minutes.

25 VICE CHAIRMAN FRANCIS: Right.

26 MS. PREVETE: You know, to make it as easy as possible so that

1 they're meandering around making circles in all the aisles while
2 people are coming in and out.

3 VICE CHAIRMAN FRANCIS: I hate the numbers when they have the
4 numbers in the parking spaces.

5 MS. PREVETE: Yes, it's very hard to see once you're there.

6 VICE CHAIRMAN FRANCIS: Exactly, right, so this is a much better
7 idea.

8 MS. PREVETE: So those signs were granted by the Building
9 Department without any additional permits.

10 VICE CHAIRMAN FRANCIS: Good.

11 MS. PREVETE: Requirement. So as Allison had said, this is
12 really intended to get rid of as much confusion as possible about
13 where to go when you select, you know, drive up and have the order
14 brought out to you. Give them the number, they come out, and the
15 goal is to get it down as quickly as possible and as safely as possible
16 without, you know, confusion as to where to go.

17 You will see in the photographs, I just took the Google pictures
18 from Westbury. That's what the beacon sign, for a lack of better
19 word, is going to look like. It is solar powered. It is almost 12
20 feet high with the solar panel on top.

21 As far as the other ground signs within the center 'cause we
22 are seeking a variance because this is like the sixth ground sign.
23 You'll see also in the photographs the other ground signs are
24 completely unrelated to Target. They're for the Lake Success
25 Shopping Center; Enter, Exit. There's only one other ground sign
26 that actually is advertising a tenant, which is HSBC, down at the

1 eastern end of the shopping center. It's roughly in front of the
2 HSBC Bank close to the Union Turnpike, so that cars can see that
3 there's a bank in there.

4 So basically, just to go through the elements. Now, that you
5 kind of have a picture of what you're seeking as far the actual sign.
6 Whether an undesirable change will be produced in the character of
7 the neighborhood or a detriment to nearby properties. Well, we don't
8 believe any undesirable change will be produced in the character of
9 the neighborhood or to nearby properties. Again, it's really, you
10 know, it's 1-foot wide each of the four-sided panels. It is 12 feet
11 high, but again, it's not a tower sign or anything of that nature.
12 It's not gonna be facing any residential areas. It's very minimally
13 lit, just so the drive-up letters are lit, so we don't believe it's
14 going to be any detriment to the neighborhood or nearby properties.

15 Whether the benefits sought by the applicant can be achieved
16 by some another feasible method other than a variance. Well,
17 this -- again, is not advertising Target, so we're not seeking to
18 yet another sign to advertise Target. This is just merely a
19 directional type sign. And we do want to avoid any extra confusion
20 as Ms. Goodsell pointed out, you know, the shopping center can get
21 crowded. We want to direct people to the west side where it's less
22 intense, and you're not getting cars parking for all the other stores,
23 and we believe that this is the best way to achieve, you know, safe
24 and in and out, and quick in and out for pick up.

25 Whether the requested variance is substantial. We're only
26 seeking a variance because it doesn't have the required space between

1 the ground and because it's an additional ground sign, but as I
2 stated, we don't believe it's substantial because all of those other
3 ground signs are completely unrelated to Target and for the shopping
4 center, and again, one tenant HSBC Bank.

5 Whether the proposed variance will have an adverse impact on
6 physical or environmental conditions in the neighborhood. Again,
7 the real environmental impact, if any, would be visual. If you could
8 see the one in Westbury, it's not a huge sign. It is tall, but it
9 needs to be tall. So we don't believe there's any environmental
10 effect.

11 Whether the alleged difficulty is self-created. Yes,
12 obviously, it's partially self-created, but again, we believe it's
13 necessary to direct people in and out of the shopping center for this
14 particular drive up area. And again, as you know, self-created does
15 not warrant the denial of a variance, area variance. Based upon all
16 the foregoing, if the rest of the Board has any additional questions,
17 we respectfully request that the variance be granted.

18 MEMBER DONATELLI: I think I'd like to add one other comment,
19 which is the Town of North Hempstead does require these sort of
20 monument signs to be three feet off the ground. I think in large
21 part for visibility concerns to make sure that you can see anything
22 that might be lurking behind a sign. This is eight inches wide so
23 this is really not going to function in any way that presents
24 visibility problem that it might otherwise. And this is also wholly
25 within the parking lot stripe area. So I would distinguish that from
26 some of the other -- many of the applications for this type of sign.

1 MEMBER GOODSSELL: I'm also impressed it's going to be powered
2 by solar power. We're beginning to see more and more of that. It's
3 very environmentally responsible.

4 CHAIRMAN MAMMINA: It's also within the height permitted.

5 MS. PREVETE: Yes, it doesn't require a height variance.

6 MEMBER GOODSSELL: I will make a motion again that Target having
7 been before us three or four other times.

8 MS. PREVETE: At least.

9 MEMBER GOODSSELL: I make a motion that we grant this latest
10 application for a monument drive up sign.

11 CHAIRMAN MAMMINA: We have a motion from Member Goodsell. Do
12 we have second?

13 MEMBER DONATELLI: Second.

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

16 SECRETARY WAGNER: Member Goodsell?

17 MEMBER GOODSSELL: Aye.

18 SECRETARY WAGNER: Member Donatelli?

19 MEMBER DONATELLI: Aye.

20 SECRETARY WAGNER: Vice Chairman Francis?

21 VICE CHAIRMAN FRANCIS: Aye.

22 SECRETARY WAGNER: Chairman Mammina?

23 CHAIRMAN MAMMINA: Aye. Your application is granted.

24 MS. PREVETE: Thank you very much.

25 MEMBER GOODSSELL: If I could make one other comment. They
26 could use another curb cut on Union Turnpike, if they would consider

1 that because the traffic does tend to back up and in and has
2 become -- because you're so popular, getting in and out.

3 MS. MATHERN: We are leasing our building so it's --

4 MEMBER GOODSELL: My suggestion is another curb cut.

5 MEMBER DONATELLI: Would you like to tell her the State form?

6 MEMBER GOODSELL: I'll put that on my hotline for you.

7 AUDIENCE MEMBER: It's a tough one.

8 MS. MATHERN: Yep.

9 CHAIRMAN MAMMINA: It is.

10 MS. PREVETE: The State is very difficult.

11 CHAIRMAN MAMMINA: The things that are open --

12 MEMBER GOODSELL: Let them shop at Target as part of the
13 application.

14 MS. PREVETE: Thank you.

15 MS. MATHERN: Thank you very much.

16 VICE CHAIRMAN FRANCIS: Thank you.

1 SECRETARY WAGNER: Next appeal, Appeal #21575, Garden
2 City Trans-Mix Corp. (Renewal), 196-198 Atlantic Avenue, Garden City
3 Park, Section 33, Block 159, Lot 426, in the Industrial-B Zoning
4 District.

5 Renewal of conditional use 70-187.B to maintain a
6 non-conforming concrete business and variance from 70-203.J to
7 legalize a rolling vehicle entry gate that is too close to the street.

8 CHAIRMAN MAMMINA: You've heard Appeal #21575, Garden City
9 Trans-Mix Corp. (Renewal).

10 MR. GUARDINO: Good afternoon, Mr. Chairman, Members of the
11 Board. My name is Anthony Guardino. Partner with the law firm of
12 Farrell Fritz in Hauppauge. I have a couple of things I'd like to
13 hand up.

14 CHAIRMAN MAMMINA: Please.

15 MR. PERROTTA: Sure.

16 MR. GUARDINO: I believe the affidavits have been submitted
17 already, right? You have everything?

18 SECRETARY WAGNER: You mean affidavits of mailing?

19 MR. GUARDINO: Yes, I believe you have that.

20 MR. PERROTTA: Yes.

21 MR. GUARDINO: Thank you. I had a copy just in case.

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

23 MR. GUARDINO: Shall I proceed?

24 VICE CHAIRMAN FRANCIS: Yes, thank you.

25 MR. GUARDINO: Again, good afternoon. I represent, as you
26 know, Garden City Transit Mix, which owns the property located at

1 196-198 Atlantic Avenue, Garden City Park. This property is leased
2 to Universal Ready Mix and operates as a ready mix concrete plant.
3 Pursuant to approvals that were unanimously granted by this Board in
4 2014, and then again in 2017, but inadvertently not renewed when it
5 expired in 2020, which was during the height of the pandemic. So
6 we apologize for that.

7 I have with me with Mark Kruse, the architect of record, and
8 Frank Zeppieri, who's the principal of Garden City Ready Mix or
9 Transit-Mix, I should say. They're here in case the Board has any
10 questions.

11 So essentially, this is renewal of a conditional use permit that
12 was granted in 2014, and there was a renewal in 2017, and that was
13 to maintain a nonconforming concrete business and a variant. We're
14 also now for a variance to legalize a rolling security gate that is
15 not set back the required 18 feet from the street. With the exception
16 of the security gate, this plant operates in compliance with all other
17 prior variances that were granted by this Board, and the applicable
18 mentioned are the parking requirements.

19 The property is a little over half an acre in size. It's located
20 in an Industrial B Zoning District. As it was stated at the public
21 hearings, the 2014, the 2017, the premises has been used as a ready
22 mixed concrete plant since 1948. The property is improved with a
23 building that is 6,778 square feet in size, and there's also equipment
24 that goes along with a concrete business.

25 The surrounding properties are all industrial in nature. You
26 have, like, a substation to the northeast. You have a body shop to

1 the east. Long Island Rail Road, there are the three tracks of the
2 main line. There's actually a fourth track that was back there that
3 almost looks like a siding, and that separates the residential uses
4 that are further to the south. They're quite a distance away.

5 With respect to the variance for the rolling gate, we believe
6 that granting this relief is justified because the benefit to the
7 applicant can be mainly to secure its property, outweighs any
8 detriment to the neighborhood. We don't believe there's any
9 detriments in the neighborhood. As the Board knows in making its
10 decision, it has to apply the Five Factors, and I just will have them
11 very quickly.

12 We don't believe that there'd be any adverse impact on the
13 character of the surrounding neighborhood because of the
14 installation of the rolling security gate on the front property line
15 of this industrial zoning property that previously received
16 approvals by this Board in 2014 and 2017. It's consistent with the
17 other improvements that have long existed on this property, and there
18 are no residential uses in the immediate area. Like I said, the
19 closest residential uses are to the south and across the main line
20 of the railroad. We don't believe there will be any adverse impact
21 on any of the properties in the area.

22 Whether the variance is substantial. Again, the variance only
23 relates to a rolling security gate, 6-foot high. It is a minor
24 accessory structure that's installed really to protect the vehicles
25 and your equipment at night, so they pull the trucks in and they close
26 the gate; just that the gate is on close to the street line, and the

1 reason that it's on the street line is because it's the only way it
2 can be functional because quite frankly, it's a nonconforming
3 structure. Most of the structures are on the street line, so if you
4 put the gate back, you're not really protecting some of the property.

5 Can the benefit be achieved by some feasible alternative?
6 Again, many of the pre-existing improvements on the site were
7 improved in 2014 and 2017, are located on this front property line.
8 So again, the gate will not be functional if you complied, you know,
9 with the -- or relocated the gate, I should say, to comply with zoning.

10 Will there be any adverse environmental impact to the physical
11 environment or conditions of the neighborhood of the district? And
12 this site is fully developed. I mean, you can see in the photograph.
13 It's not environmentally sensitive in any way, and again, it's just
14 the rolling security gate, so I don't believe that's gonna have an
15 impact on the physical and environmental conditions.

16 Lastly, whether difficulty is self-created. It's always
17 self-created when you come here. Most of the stuff is self-created.
18 When you come here you're charged with the knowledge of the code as
19 the Board knows. The security gate, quite frankly would not be
20 functional if it was setback the required 18 feet from the property,
21 and as the Board knows, that one finding of the self-created hardship
22 cannot be dispositive in any way.

23 That concludes my presentation. Happy to answer any questions.
24 I have Mark Kruse, the architect here, and also Frank Zeppieri if
25 the Board has any questions. I don't know if there's anyone in the
26 public that are here.

1 VICE CHAIRMAN FRANCIS: When was the rolling gate installed?

2 MR. GUARDINO: A couple of years ago.

3 MR. ZEPPIERI: Several years ago.

4 MR. GUARDINO: I'm sorry, what was that?

5 MR. ZEPPIERI: Several years ago.

6 MR. GUARDINO: Several years ago, and I will tell you -- and
7 that's Frank Zeppieri. The gate was installed, it's part of
8 this -- been working this for a while. There was the extension of
9 Cornelia Avenue or Street.

10 MR. ZEPPIERI: Avenue.

11 MR. GUARDINO: Avenue. That was paver street, and we were
12 working with the Town at the time. We got to the easements for the
13 encroachments on Atlantic, and the Town sold that dead-end of
14 Cornelia to the Zeppieris, and the Zeppieris purchased it, and so
15 that created an area now that they had been using in conjunction with
16 the ready mix, so they put the gate up when the property became theirs,
17 and that was --

18 MR. ZEPPIERI: I'd say four or five years ago.

19 VICE CHAIRMAN FRANCIS: So, definitely after our last grant.

20 MR. GUARDINO: Yes, it was. Absolutely, yes. Yeah, it would
21 have been picked up, I'm sure, in 2017.

22 VICE CHAIRMAN FRANCIS: That's why I was wondering.

23 MR. GUARDINO: Yes, exactly.

24 CHAIRMAN MAMMINA: I think that, you know, for the Board, we're
25 well familiar with the site. For me, as a Mineola High School
26 graduate, and I took my road test there as well. I remember it very

1 well. I do recommend, but some of the comments that we've had just
2 now while informally chatting, you'll never know that thing is back
3 there. I think that's part of what contributes in my mind positively
4 that uses like this have to go somewhere.

5 MR. GUARDINO: Right.

6 CHAIRMAN MAMMINA: You know this one is really buried back in
7 there, and I do know that that there was some concern, you know,
8 regarding the overflow of potentially in the street of product and
9 that sort of thing, so I think Member Goodsell if you want to put
10 forward any of the things that were mentioned before.

11 MEMBER GOODSELL: I'm the New Hyde Park person. I've spent my
12 entire life in New Hyde Park. I lived in New Hyde Park for 40 years.
13 I can truthfully say I've never been down this street, so this -- and
14 I kind of knew this was here when I passed the other day. It was
15 buzzing. It was humming. There were concrete mixers going
16 everywhere. It was a busy place. Interestingly, I did observe
17 someone sweeping. I was not here on the Board the last time the
18 renewal came by, so this is all new to me, and I have to say, for
19 as messy a business as this is, it wasn't terribly dirty. It was
20 being at least kept up a little bit. Could you tell me a little about
21 the maintenance of what this was?

22 MR. GUARDINO: Sure.

23 MEMBER GOODSELL: And what the last conditions was from 2017?

24 MR. GUARDINO: Well, I can tell you that in 2014 and 2017, there
25 wasn't as much sweeping going on, so when we came before the Board,
26 that was a concern, and you know, it was just unacceptable. There

1 was the dust and the concrete. It was spilling out into the street.
2 My client and the tenant both made there a very -- there was an effort
3 made to solve the problem. So there is sweeping. There's constant
4 sweeping. The tenant actually bought a street sweeper to clean up.
5 I mean, so that's how committed he was to just solving this problem.
6 So he owns a street sweeper, and they sweep, and then my client started
7 the practice of because -- not to air dirty laundry, there was also
8 a catch basins were being filled with the dust, so -- the concrete.

9 My client started the practice of having the catch basins
10 cleaned regularly, and now that has shifted to the tenant who is doing
11 that as well. So I think it's quarterly is what I was told. I think
12 it's quarterly cleaning the catch basins to ensure that, you know,
13 so that's the back story, and that's what you saw. I'm glad you got
14 to see somebody sweeping because that means they're doing what they
15 said they would do.

16 MEMBER GOODSELL: For all I know, they were sweeping up their
17 lunch that they spilled. I don't know. There was a man with the
18 broom. And truthfully, that was kind of surprising. I do know this
19 is a very messy --

20 MR. GUARDINO: It's a messy business.

21 MEMBER GOODSELL: But honestly, what goes on in that industrial
22 area, Long Island Railroad is not going to complain.

23 MR. GUARDINO: Right. LIPA substation.

24 MEMBER GOODSELL: Other industries on that street, are probably
25 doing just as much.

26 MR. GUARDINO: Exactly. As you mentioned, Mr. Chairman,

1 industrial uses have to go somewhere, and you know, the use seems
2 to work there. It's tucked in against the railroad, you know, and
3 you mentioned it's busy because this service is needed, you know.
4 People need concrete.

5 MEMBER GOODSELL: What are the hours of operation?

6 MR. GUARDINO: Let me find out.

7 MR. ZEPPIERI: 8:00 to 4:00, sometimes 7:00 to 4:00, 8:00 to
8 4:00. The last --

9 MR. GUARDINO: Why don't you come up?

10 VICE CHAIRMAN FRANCIS: Give your name and address.

11 MR. ZEPPIERI: Frank Zeppieri. I would say --

12 VICE CHAIRMAN FRANCIS: And the address of the business.

13 MR. ZEPPIERI: 196 --

14 MR. GUARDINO: 196-198.

15 MR. ZEPPIERI: 196-198 Atlantic Avenue. I would say typically
16 the first load goes out 8:00 in the morning, typically. Sometimes,
17 maybe, a half hour earlier, and then the last loads of concrete
18 probably go out 3:30 because by the time it's -- it's a three hour
19 on average round trip, so we want to be back by 5:00, 6:00, so around
20 3:00-ish probably, so. And I just want to comment. My parents --

21 VICE CHAIRMAN FRANCIS: Take your time.

22 MR. ZEPPIERI: My father passed away two years ago. They were
23 very conscience and respectful of being good neighbors in the Town
24 of North Hempstead, and Carlo and Milo and names in the past. Bob,
25 Bonnie.

26 CHAIRMAN MAMMINA: Sure.

1 MR. ZEPPIERI: So we're very respectful of being good neighbors
2 to you guys.

3 MEMBER GOODSSELL: Since 2017, have there been any complaints
4 filed with the Town?

5 MR. ZEPPIERI: Not that I'm aware of. We just rented it. It's
6 been rented since 2010.

7 MR. GUARDINO: Yeah, it's been about that long. It's always
8 been rented since I --

9 MR. ZEPPIERI: Right, so.

10 MEMBER GOODSSELL: And I give you credit. I know how much
11 trouble it is to actually buy a paver street. Having had a client
12 who did it many years ago. I would say it took us about five years
13 to buy a paver street. And it was the same thing a dead end.

14 MR. GUARDINO: Right.

15 MEMBER GOODSSELL: And there was no possible way that the street
16 was going to be extended. There was no possible way the Town was
17 ever going to use. It still took about five years to buy it, so I'm
18 sure your father is very pleased when that took place.

19 MR. ZEPPIERI: Yeah, I can just tell you he was -- he was very
20 cognizant of keeping the street cleaned. He would go there every
21 day make sure it's being done, and then my brother, who lives in the
22 area of New Hyde Park also goes there and makes sure that the street
23 is being cleaned. We want to be good neighbors to our surrounding
24 tenants as well.

25 MEMBER GOODSSELL: There's nothing you can do on a hot dry month
26 where dust is everywhere. I get that, and -- but I do see that, you

1 know, I don't go and visit concrete plants every day. I just thought
2 it was a reasonably well-maintained building.

3 MR. ZEPPIERI: Thank you.

4 MEMBER GOODSSELL: So you're seeking another three-year
5 renewal?

6 MR. GUARDINO: As long as possible, but yeah, that's what we're
7 working with, then that's what we would ask for.

8 VICE CHAIRMAN FRANCIS: One of the things that -- there's a sand
9 and gravel in New Castle, but it's directly across a residential area,
10 and all around the perimeter of this place, they have a spray system
11 that sprays water up in the area, and I'm guessing it's to keep the
12 dust down because I've never heard of anybody in a residential area
13 complaining of dust. Your situation is a little different. You
14 don't have any residential properties anywhere near it.

15 MR. GUARDINO: Correct.

16 VICE CHAIRMAN FRANCIS: So just in terms of the mill-rating
17 review, dust in the air. I don't know if that's something you ever
18 thought about?

19 MR. GUARDINO: Well, I will tell you we do have a certificate
20 that I guess it was the EPA or the DEC. There was a certification
21 that we do get tested from time to time to make sure that there's
22 not too much --

23 MR. ZEPPIERI: There's a dust collector on the plant itself.

24 MR. GUARDINO: On the plant itself.

25 VICE CHAIRMAN FRANCIS: Okay.

26 MR. ZEPPIERI: So as the product is going to the truck -- I'm

1 sorry.

2 MR. GUARDINO: Yeah, sorry.

3 MR. ZEPPIERI: But thank you, by the way. There's a dust
4 collector that has the powdered cement, so it's sand and gravel and
5 stone and then cement and water. As the powdered cement goes into
6 the truck that's spinning, there's a dust collector that's right
7 there at the same place that's sucking whatever air.

8 Also, regarding the -- and I'm not sure with this tenant. I
9 can verify that. What we used to do also is when you're done
10 sweeping, we place water on the street.

11 VICE CHAIRMAN FRANCIS: Okay.

12 MR. ZEPPIERI: To keep the temp any dust that may have come,
13 so you're absolutely right about the water.

14 VICE CHAIRMAN FRANCIS: Okay.

15 ATTORNEY ALGIOS: I just have one comment. There had been an
16 issue with the concrete going into the catch basin in the street.
17 And I know there were talks with the Town Attorney's office and you
18 guys took care of that.

19 MR. ZEPPIERI: Yes.

20 ATTORNEY ALGIOS: And you had that cleaned up.

21 MR. ZEPPIERI: Yes.

22 ATTORNEY ALGIOS: So that's all done now?

23 MR. ZEPPIERI: Yes, and it's exceeding successful, and now we
24 had such great success, that we insist that it gets done quarterly,
25 so that's a new thing that, you know, again, because in case with
26 the excessive rain now because of what's going on in the environment,

1 you see larger amounts of rain going, so then the drainage is more
2 important than ever. We don't inadvertently create excessive water
3 on the street.

4 MEMBER DONATELLI: What I might suggest and ask if you would
5 accept this as a condition of the approval that we just condition
6 that upon your continued sweeping and your continued cleaning the
7 catch basins quarterly.

8 MR. ZEPPIERI: Absolutely, yes.

9 SECRETARY WAGNER: How often would you want the street swept?

10 MEMBER DONATELLI: How often is it done now?

11 MR. ZEPPIERI: It should be done every day. Sweeping the
12 street should be done every day.

13 MEMBER DONATELLI: With the street sweeper?

14 MR. ZEPPIERI: That would be checked --

15 MR. GUARDINO: That I don't know.

16 MR. ZEPPIERI: We'd check with the tenant, but we know, at the
17 very least, he has a person designated in the afternoon to come and
18 start on one end and literally go from side to side.

19 MEMBER DONATELLI: I don't know what to suggest.

20 MEMBER GOODSELL: Sweeping frequency.

21 ATTORNEY ALGIOS: It has to be specific.

22 SECRETARY WAGNER: Because when the code enforcement goes to,
23 they have to have a specific.

24 CHAIRMAN MAMMINA: If we said weekly, would that be reasonable.

25 MR. GUARDINO: I think that's fine, yes.

26 MEMBER DONATELLI: That we clean the catch basins at least

1 quarterly and street sweeping at least weekly.

2 SECRETARY WAGNER: Now, Deborah, regarding --

3 ATTORNEY ALGIOS: I'm sorry. Do you mean sweeping, hand
4 sweeping or with the street --

5 MEMBER DONATELLI: Hand sweeping.

6 MEMBER GOODSELL: Street sweeping.

7 MEMBER DONATELLI: And/or actually.

8 ATTORNEY ALGIOS: They don't go back on a daily thing. By the
9 end of the week, that might be pretty bad.

10 CHAIRMAN MAMMINA: I think it was what we said was that the
11 sweeping of the street, the sidewalks would be a daily thing.

12 SECRETARY WAGNER: Didn't you say you had a machine?

13 MR. GUARDINO: Well, they have a machine. They have a machine,
14 and they do it by hand as well, but the only thing is, though, to
15 say it has to be done daily, I don't know if it needs to be done daily.
16 I mean, I don't want to be in a position where someone has to go out
17 and sweep. I mean there's always dust on the street. I would think
18 that it would be reasonable at least weekly or as needed. Something
19 like that. So if it's needed more, then they'll do it.

20 MR. ZEPPIERI: Because during the winter, it's seasonal
21 obviously.

22 MR. GUARDINO: Yeah, it's seasonal in the winter, so you don't
23 have as many deliveries, so you then I don't have to sweep it every
24 day. I don't think you have to sweep it every day.

25 MEMBER DONATELLI: Well, certainly we're -- if we go for
26 additional three years, we'll have an opportunity to review this

1 three years from now and to see whether or not it's adequate. I don't
2 think we should require daily because conditions do change from day
3 to day, but certainly I suggest perhaps weekly. I don't think that's
4 overly erroneous.

5 SECRETARY WAGNER: Machine or by hand?

6 CHAIRMAN MAMMINA: Either or.

7 SECRETARY WAGNER: I mean, what is the result -- how do we --

8 ATTORNEY ALGIOS: From an enforcement standpoint, if our
9 inspectors go out there and that street is a mess, with dust all over
10 it, and they say, well, we swept it yesterday and per the decision,
11 we only have to do it weekly.

12 MEMBER DONATELLI: So your point --

13 MR. GUARDINO: But the problem is there could be dust in the
14 street from other things that we're not responsible for. The streets
15 could always be swept. They could be swept three times a day.

16 SECRETARY WAGNER: I think it's pretty clear that's it's coming
17 from the cement.

18 ATTORNEY ALGIOS: I think it's pretty clear also. I've spoken
19 to the --

20 SECRETARY WAGNER: You can see the difference between what's.

21 MR. GUARDINO: What's concrete and what's just --

22 ATTORNEY ALGIOS: I'm just trying to think of clear language
23 that --

24 MR. GUARDINO: I hear you, Deborah.

25 ATTORNEY ALGIOS: -- won't jam your guys up and makes it clear
26 for our inspectors.

1 MR. GUARDINO: No, I understand. I understand. I just don't
2 want to agree to something that's just, you know, somebody can come
3 in and say, I gotcha.

4 SECRETARY WAGNER: But it's the dust from the cement when it
5 gets wet from the rain and that run off, that's what's clogging the
6 drains, so preventing that dust from being on the street, it's not
7 going to solidify and then flow into the drain and subsequently, so
8 preventing that from --

9 MEMBER DONATELLI: I think Vice Chairman Francis has his
10 suggestion.

11 VICE CHAIRMAN FRANCIS: Daily, as needed. That way if code
12 enforcement shows up on Tuesday, and it is filthy, then you know that
13 it wasn't done on Monday, and they get issued a ticket. I think
14 that's specific enough to give them the room to make the
15 determination.

16 SECRETARY WAGNER: Do you to want speak to --

17 ATTORNEY ALGIOS: We can't make a decision --

18 MR. GUARDINO: My client is fine with that condition, by the
19 way.

20 VICE CHAIRMAN FRANCIS: Daily, as needed.

21 MR. GUARDINO: Daily, as needed. I think that's fair.

22 VICE CHAIRMAN FRANCIS: Yeah, and I don't want to lock it into
23 the street sweeper because we don't have any control over --

24 MR. GUARDINO: Exactly, they may say, look, it's not that dirty.
25 I don't need the sweeper or the sweeper can't get in certain areas.

26 VICE CHAIRMAN FRANCIS: Right.

1 SECRETARY WAGNER: So we determined --

2 ATTORNEY ALGIOS: Just leave it daily.

3 SECRETARY WAGNER: Daily, okay.

4 MR. GUARDINO: Daily as needed, I think is fine. It's good for
5 us.

6 MEMBER DONATELLI: We appreciate your voluntary efforts at this
7 point and certainly I don't think the condition that we're talking
8 about it imposes erroneous because you guys were already doing it,
9 but as you said, to be a good neighbor is really wonderful, so we
10 appreciate your efforts.

11 MR. GUARDINO: And also to your point, three years is a blink,
12 you know, so if it's not working.

13 SECRETARY WAGNER: So that's what you're gonna put the three
14 year?

15 MEMBER DONATELLI: I would suggest.

16 VICE CHAIRMAN FRANCIS: And the older you get, three years goes
17 by quicker.

18 MR. GUARDINO: Even faster.

19 SECRETARY WAGNER: And then what about the rolling vehicle?

20 MEMBER GOODSELL: Yeah, I make a motion that we grant the
21 application.

22 SECRETARY WAGNER: They need a variance for the rolling --

23 MEMBER DONATELLI: The rolling gate, yes.

24 CHAIRMAN MAMMINA: And I think if we want to task something onto
25 that because the intent of the 18-foot setback is virtually not
26 applicable here because of the fact that the dead end is gone as well.

1 The intent was when somebody was backing up, they're not in the
2 streets.

3 MR. GUARDINO: Can I just clarify just to avoid the problem we
4 had last time that the variances, though, are not three years, right?
5 The variance is with the land because the conditional use is what --

6 SECRETARY WAGNER: And we corrected that this time around.

7 MR. GUARDINO: I know you did. I appreciate that.

8 MEMBER GOODSELL: I made motion with respect to the gate. I
9 make a motion that we grant the variance with respect to the six-foot
10 rolling gate, and that we grant the renewal for another three years
11 conditioned on the daily, as needed cleaning, sweeping of the street.

12 SECRETARY WAGNER: And the cleaning of the catch basin.

13 MEMBER GOODSELL: Yes, it would quarterly cleaning of the catch
14 basins. I make that motion.

15 CHAIRMAN MAMMINA: Okay, motion from Member Goodsell.

16 VICE CHAIRMAN FRANCIS: Second.

17 CHAIRMAN MAMMINA: Second by Vice Chairman Francis. Please
18 poll the Board.

19 SECRETARY WAGNER: Member Goodsell?

20 MEMBER GOODSELL: Aye.

21 SECRETARY WAGNER: Member Donatelli?

22 MEMBER DONATELLI: Aye.

23 SECRETARY WAGNER: Vice Chairman Francis?

24 VICE CHAIRMAN FRANCIS: Aye.

25 SECRETARY WAGNER: Chairman Mammina?

26 CHAIRMAN MAMMINA: Aye. Application is granted.

1 MR. GUARDINO: Thank you so much. I appreciate it. Good to
2 see you all.

3 MR. ZEPPIERI: Thank you.

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SECRETARY WAGNER: SEQRA.

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

VICE CHAIRMAN FRANCIS: I second.

CHAIRMAN MAMMINA: SEQRA is adopted.

SECRETARY WAGNER: All in favor?

BOARD MEMBERS: Aye.

(WHEREUPON, the Proceedings concluded at 3:18 P.M.)

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C E R T I F I C A T E

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 20th day of August, 2024.



MARIESEL BERRIOS