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Town of North Hempstead  
Board Of Zoning Appeals  
PUBLIC HEARINGS

Wednesday, February 14, 2024  
10:00 a.m.

BOARD MEMBERS PRESENT:

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

ALSO PRESENT:

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

MEMBER GOODSSELL:

MEMBER DONATELLI:

ACTING CHAIRMAN FRANCIS:

MEMBER FERNANDEZ:

ATTORNEY ALGIOS:

SECRETARY WAGNER:

## 1 Proceedings

2 ACTING CHAIRMAN FRANCIS: Ladies and gentlemen, good  
3 morning. Please join Member Goodsell in the Pledge of  
4 Allegiance.

5 (Whereupon, the Pledge of Allegiance was recited.)

6 ACTING CHAIRMAN FRANCIS: Welcome to our Town of North  
7 Hempstead Board of Zoning appeals. If you have not been here  
8 before, I will go through with some preliminary information.  
9 The applicant will have the first turn to present their case. If  
10 there is anyone here in support or opposition to the  
11 application, you will go up after the applicant finishes, and  
12 you'll have three minutes to give your remarks.

13 With regard to what we do, we do our best to grant  
14 applications, but sometimes that's impossible to do, so we have  
15 the power to either grant an application, deny an application,  
16 continue an application for more documentation or information,  
17 or to go visit the property or to reserve the application to be  
18 determined at a later date. That's pretty much how we run  
19 things. We ask that if you have a cell phone, and I'm sure all  
20 of us do, that; you put it on vibrate or silent, so it doesn't  
21 go off when someone is giving their -- up at the podium, giving  
22 their information.

23 We have a court reporter, as you can see because this  
24 a quasi-judicial proceeding and a record is being kept, so we  
25 ask also that you keep discussion among yourself to zero.  
26 With that said, I think that's all of your comments. I did the

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2 three-minute rule. Ginny, will you please call the first case?

3 SECRETARY WAGNER: Yes, Chairman. Appeal #21498 -  
4 Yannan Wang; 13 Bayview Court, Manhasset; Section 3, Block 40,  
5 Lot 936; Zoned: Residence-C. Variances from 70-48, 70-29.B,  
6 70-51.A and 70-208.F to construct an addition that is too close  
7 to a side property line, makes the home too big and covers too  
8 much of the lot for a nonconforming home.

9 ACTING CHAIRMAN FRANCIS: You've heard Appeal #21498.  
10 Is there anyone interested in the application other than the  
11 applicant? Seeing no hands, sir, can give your -- oh, I'm  
12 sorry.

13 AUDIENCE MEMBER: We want to speak after.

14 ACTING CHAIRMAN FRANCIS: Yes, okay, fantastic.

15 AUDIENCE MEMBER: The three of us here want to speak.

16 ACTING CHAIRMAN FRANCIS: All right, excellent. Okay,  
17 so I do see people's hands up, and you will have a chance to  
18 speak when he is finished.

19 AUDIENCE MEMBER: Thank you.

20 ACTING CHAIRMAN FRANCIS: Please give your name and  
21 address, sir.

22 MR. COHEN: My name is Marcelo Cohen. My company --  
23 I'm the architect. My company is Delargent Design. It's  
24 located at 2963 Holiday Park Drive in Merrick, New York 11556.  
25 Good morning, Chairman and Members of the Board. I've been  
26 retained by my client, Ms. Yannan Wang, owner of the one-family

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2 residence located at 13 Bayview Court in Manhasset to file an  
3 application for a one-story extension at the rear of the house.

4 Just to give a little history of this property. The  
5 original residence was built back in 1940. It was part of a  
6 cluster of 17 two-family semi-detached dwelling units on 17  
7 zoning lots. According to the available records, that's dating  
8 back to June 1950, those lots were subdivided, and the legal  
9 designation of the houses became 34 one-family residences on 34  
10 zoning lots, therefore, making the original lots much smaller  
11 than they were originally thought of. At the time of  
12 construction, the building was located in the Residence-C Zone,  
13 which is the same zone designation as we have today.

14 As you gather from all the documents that were  
15 submitted; this is a very, very small residence with an  
16 existing footprint of only 551 square feet, having a total  
17 gross floor area of 1102 square feet between the two floors.  
18 My client's family consists of five individuals. Two of them  
19 toddlers. There are two small bedrooms and one bathroom, all on  
20 the second floor of the house. Needless to say that for a  
21 family of five, there's an urgent need to add an additional  
22 bedroom and bathroom to comply with all the needs that they  
23 have.

24 Per today's code for Residence-C District, which was  
25 amended back in 2006, it would be impossible to even build  
26 anything in that lot as long as ours. The code states that a

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2 lot cannot be less than 5,000 square feet, and its width cannot  
3 be less than 40 feet. Our lot is roughly 2,500 square feet,  
4 and it's 27 feet wide only. We understand that the maximum  
5 floor area and lot coverage allowed is depending on the size of  
6 the lot.

7 Section 70-29(B) on the Town of North Hempstead states  
8 that the maximum gross floor cannot exceed 50 percent of the  
9 lot area. Our proposed addition will decrease the gross floor  
10 area by 184 square feet over the maximum allowed by code.  
11 That's roughly the area that you need to add another bedroom  
12 and small bathroom.

13 Section 70-48 of the Town of North Hempstead states  
14 that the lot coverage cannot exceed 35 percent of the lot area.  
15 Our proposed addition will increase the lot coverage by only  
16 0.3 over the maximum allowed by the code. Section 70-51(A) of  
17 the Town of North Hempstead's code states that there should be  
18 two, five-foot minimum side yard.

19 In the Town of North Hempstead's code, there's no  
20 mention -- in the Town's code, there's no mention whatsoever of  
21 zoning requirement involving semi-detached houses in  
22 Residence-C District. As of now, our building abuts the  
23 adjacent building right at the property line. Our intension is  
24 to extend the building at its property line and on the other  
25 side, maintain the one existing side yard of seven-feet-five,  
26 eight inches. By building at the lot line, we will provide the

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2 appropriate fire grading separation required to comply with all  
3 the applicable regulations for lot line construction.

4 In conclusion, we believe that the addition of a  
5 one-story extension of the rear of the existing house will not  
6 represent the negative impact whatsoever in any of the  
7 neighboring properties, as it will not affect the physical  
8 characteristics of existing or will not create an adverse  
9 effect on the neighborhood.

10 I thank you for your time and look forward to a  
11 positive determination. Thank you.

12 ACTING CHAIRMAN FRANCIS: Are you familiar with the  
13 Five Factors that we have to weigh in granting or denying your  
14 application.

15 MR. COHEN: Well, the lot area -- the fact that we  
16 already -- the coverage the five -- the fact that we have --

17 ACTING CHAIRMAN FRANCIS: Ginny, is it up there?

18 SECRETARY WAGNER: Did you put it up there?

19 MR. PERROTTA: Yes, the Five Factors are right  
20 there.

21 ACTING CHAIRMAN FRANCIS: If you can go through those  
22 Five Factors.

23 MR. COHEN: Oh, okay. So this is what you mean, okay.  
24 Yeah, okay, I see them. First of all, I -- number one, I see  
25 that --

26 ACTING CHAIRMAN FRANCIS: Read it, and then give us

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2 your response to it.

3 MR. COHEN: Okay. Read the questions out loud.

4 ACTING CHAIRMAN FRANCIS: Yes.

5 MR. COHEN: Number one, it says, "Whether an  
6 undesirable would be produced in the character of the  
7 neighborhood or a detriment to nearby property." I believe  
8 that our -- what we're proposing on doing does not have any  
9 undesirable effects in any of the neighboring properties.

10 ACTING CHAIRMAN FRANCIS: But your construction is  
11 going to put that too close to the side property line; is that  
12 not the case?

13 MS. COHEN: Right, well, the thing is that, like I said  
14 before, this is a -- it's a semi-detached -- originally, it was  
15 a semi-detached house, and that there were two families and  
16 they subdivided the lots in the house, and they made them  
17 one-family residence in one zoning lot, much smaller than it  
18 was originally built. I also stated that in the codes, there's  
19 no mention anywhere about any semi-detached houses in  
20 Residence-C, so when the --

21 SECRETARY WAGNER: (Inaudible).

22 ACTING CHAIRMAN FRANCIS: Yes, yes, right, it's going  
23 to affect the other side.

24 MR. COHEN: Originally, these houses were built in the  
25 Residence-C Zone, which is the same as we have now, and,  
26 obviously, they complied when they were built, but right now,

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2 since they were subdivided legally, we are not -- we don't  
3 comply with anything pretty much, and so in order to do  
4 anything, we will require variances. Like I said before, we  
5 are make line -- there are five people in the family. Their  
6 house is very, very small, and they need to have an additional  
7 bathroom and bedroom in there.

8 ACTING CHAIRMAN FRANCIS: Why don't you continue with  
9 the Factors.

10 MR. COHEN: The second one says, "Whether the benefits  
11 sought by the applicant can be achieved by feasible alternative  
12 to the variance." I don't think so because if the only way we  
13 could comply with the current code without going for a variance  
14 will be like making like a 50 square feet addition, which does  
15 nothing for us. We require to have additional floor area to  
16 achieve what we want.

17 Number three, "Whether the requested variance was  
18 substantial." Well, in my opinion, it may look a little  
19 substantial due to the size of the lot. It's a very small lot,  
20 and a very small house. We are planning on extending, you  
21 know, the -- in terms of the -- in relation to the size of the  
22 lot, we're planning -- it looks like it's a large addition, but  
23 it's really not. It's just one bedroom that we're adding. The  
24 size of one large bedroom.

25 "Will the variance have an adverse impact on the  
26 physical and environmental condition of the neighborhood. None



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2 whatsoever. I mean, this is only a one-story extension in the  
3 back. It's not something that will be visible from the streets  
4 from anybody, and it will not have any impact on anybody else.  
5 And the last question is, "Whether the alleged difficulty was  
6 self-created?" I don't know how to answer that.  
7 Self-created.

8 ACTING CHAIRMAN FRANCIS: It's always self-created if  
9 you are doing construction.

10 MR. COHEN: I don't have any impact on how many people  
11 live in the house, and how many members in the family are, so if  
12 they are in the need of extending the living quarters, you  
13 know, that's what I'm here for, to help them out.

14 MEMBER GOODSSELL: Sir, your clients just purchased the  
15 house. Didn't they? Last July.

16 MR. COHEN: Yeah.

17 MEMBER GOODSSELL: July 2023, and they were five people  
18 so they kind of knew what they were purchasing. Although, I  
19 understand that five people may need a little more room than  
20 what's here, they just bought the house. It's not something  
21 that happened over time. I just wanted the record to reflect  
22 that.

23 MS. COHEN: Okay.

24 MEMBER HERNANDEZ: I'd like to clarify something that  
25 you mentioned 184 square feet. Can you confirm the size of the  
26 extension that is being proposed?

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2 MS. COHEN: Yes. No, I said 184 square feet over the  
3 maximum that's allowed by the code.

4 MEMBER HERNANDEZ: So you're saying that they want to  
5 build one bedroom and one bathroom.

6 MR. COHEN: Yes, it's -- right.

7 MEMBER HERNANDEZ: So you're allowed to build 184  
8 without you having to come here.

9 MR. COHEN: Right.

10 ACTING CHAIRMAN FRANCIS: There's also storage in it.

11 MEMBER HERNANDEZ: Right? So you're allowed to build  
12 that without having to come here as-of-right.

13 MR. COHEN: No, no, no. What I'm saying is right now  
14 the existing -- okay. The maximum per code, the maximum area  
15 that we can build is 1247 square feet, and what we proposing is  
16 to build 1431 square feet, that's 187. Right now, we --

17 MEMBER HERNANDEZ: That's not what you're building.  
18 You're building a lot more than that. How much are you  
19 building?

20 MR. COHEN: We're building -- it's a -- the addition is  
21 329 square feet.

22 MEMBER HERNANDEZ: So you need to build -- you need one  
23 bedroom and one additional bathroom --

24 MR. COHEN: Yes.

25 MEMBER HERNANDEZ: Is what you said?

26 MR. COHEN: So that will be including 329 square feet.

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2 MEMBER HERNANDEZ: Right, but you also have 184 square  
3 feet.

4 MR. COHEN: No, the 184 is the portion that I'm gonna  
5 go beyond what I'm allowed by code. The code tells me that the  
6 maximum that I can build is 1247, okay. That is the maximum  
7 that the code tells me.

8 MEMBER HERNANDEZ: So we have 329 minus 184. So you  
9 have 155 square feet left over.

10 MR. COHEN: Yes.

11 MEMBER HERNANDEZ: With the exception of the sideyard,  
12 which you need to come here for --

13 MR. COHEN: Yeah.

14 MEMBER HERNANDEZ: -- but that you can build. The  
15 reason why I'm asking the question is that you're proposing to  
16 build a relatively large extension.

17 MS. COHEN: That's relative to the size of the lot.

18 MEMBER HERNANDEZ: Correct.

19 MR. COHEN: Yes.

20 MEMBER HERNANDEZ: Also relative to your neighborhood  
21 because they have a backyard yard, and therefore, that will  
22 be sticking as a wall on your neighborhood's backyard, right?

23 MR. COHEN: Yes.

24 MEMBER HERNANDEZ: So if that bedroom that you're  
25 proposing to build, which right now is 70 feet long. If that  
26 bedroom could be shorter, it would improve your chances of

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2 getting an approval for doing this because you are asking for a  
3 large --

4 MR. COHEN: Right.

5 MEMBER HERNANDEZ: - a large room. On top of the fact  
6 that, that my colleague pointed out, your owners just bought  
7 this house, so when they bought this house, they must of had in  
8 their mind where they were going to put the five.

9 MR. COHEN: Yeah, just they didn't anticipate some  
10 family issues that they had to deal with, so like bringing  
11 someone else to live with them, so that's the main reason.

12 MEMBER DONATELLI: Well, put it another way. Is there  
13 some way to make the extension that you're proposing to make  
14 that extension slightly smaller? For example, you're showing a  
15 new walk-in closet and you're showing a new bathroom, which are  
16 somewhat on the large side, which will be the length of the  
17 addition.

18 MS. COHEN: Right.

19 MEMBER DONATELLI: Is there some way to make that  
20 walk-in closet or the new bathroom slightly smaller so that  
21 you're not doing a 17-foot extension, but perhaps a 15-foot  
22 extension? Would that be feasible?

23 MR. COHEN: We can certainly work on that.

24 MEMBER DONATELLI: I'd like to put on the record that I  
25 know that we've dealt with other properties in this development  
26 before. We're familiar with it.

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2 MEMBER HERNANDEZ: Right.

3 MEMBER DONATELLI: I know if the Chairman were here  
4 he'd be the first one to say that is part of the Pan Am  
5 development.

6 MR. COHEN: Like I said before, nowhere in the code --

7 ACTING CHAIRMAN FRANCIS: Right.

8 MR. COHEN: -- you cannot find anything about  
9 semi-detached houses in Residence-C.

10 MEMBER DONATELLI: This is somewhat a unique situation,  
11 and that's why we're very familiar with it. We've had other  
12 applications like this in the past. We're also familiar with  
13 the fact that the code needs to assist where it can and by the  
14 granting of variances, we need to assist where you can. On the  
15 other hand, one of the things that we're charged with doing is  
16 trying to grant the minimum variance possible while still  
17 helping you achieve the results that you would like to achieve.  
18 So I guess, my -- as one board member, I would ask if there  
19 isn't some way that this can be refashioned in some way as to  
20 minimize the variance.

21 ACTING CHAIRMAN FRANCIS: We could make it smaller.

22 MEMBER DONATELLI: We understand there are certain  
23 situations where it may not be possible, but in a situation  
24 like this where you're proposing a 17-foot by a 21-foot --  
25 21-and-a-half-foot, seems to me that it might be possible.

26 MR. COHEN: No, not 21-and-a-half. It's 17 by 19.4.

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2 ACTING CHAIRMAN FRANCIS: 19.4.

3 MR. COHEN: Yeah, right.

4 ACTING CHAIRMAN FRANCIS: I tend to agree with regard  
5 trying to make this a little smaller in terms of mitigating the  
6 amount of wall that's facing your neighbor.

7 MR. COHEN: I don't know if you had a chance to look --  
8 like, you know, like a -- the neighboring properties, you're  
9 saying you're familiar with this, you've dealt with this  
10 before, you will see that many of the neighboring properties  
11 have similar houses have done something like that.

12 ACTING CHAIRMAN FRANCIS: Have you checked to see  
13 whether they were done with permits?

14 MS. COHEN: At least one was.

15 ACTING CHAIRMAN FRANCIS: At least one was?

16 MR. COHEN: Yes. I'm not here to police anybody, but I  
17 know that at least one was done, and many other properties  
18 around ours that increased -- replaced the property even by a  
19 larger amount that we are proposing.

20 ACTING CHAIRMAN FRANCIS: Okay. Do you have anything  
21 else for us?

22 MR. COHEN: Well, no.

23 ACTING CHAIRMAN FRANCIS: Why don't we hear from your  
24 neighbors, then. Whoever wants to go first.

25 MR. COHEN: Should I step down?

26 ACTING CHAIRMAN FRANCIS: Yes.

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2 MR. COHEN: Okay.

3 ACTING CHAIRMAN FRANCIS: You'll get a chance to come  
4 back up.

5 MR. COHEN: Okay.

6 ACTING CHAIRMAN FRANCIS: I see the young lady behind  
7 you has her hand up; why don't you come forward, give your name  
8 and address.

9 MS. WANG: Hello, everyone. My name is Yannan Wang,  
10 I'm the owner of the house. Thank you so much for giving me  
11 this opportunity.

12 ACTING CHAIRMAN FRANCIS: Good morning.

13 MS. WANG: Yes, we do purchase house last year, 2023 in  
14 July, and I do aware there was two bedrooms when I purchase the  
15 house. The reason, we living in Queens. The reason we bought  
16 the house because we do love Manhasset, this area, and then I  
17 want to offer, you know, the best opportunity for the kids to  
18 study, and then two bedroom was okay, but you know, some urgent  
19 family happened, so my mom has to move with us, and then --  
20 she's 63, and it's really hard for her to climb upstairs and  
21 then to use the bathroom. And then that's why we are making  
22 one bedroom extension to the backyard with a bathroom. And  
23 then 17 times like 19, that's, I think that's a, you know, a  
24 reasonable room with a bathroom; otherwise, it might be too  
25 narrow. That's how we propose in the beginning, and again, as  
26 my architect Marcelo mentioned when I purchased the house, I

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2 saw there's so many additions in that area because of the fact  
3 that the houses relatively smaller. I went to Building  
4 Department, and I pull all the record for that neighborhood,  
5 and I do saw the extension they made in the past, and I saw the  
6 one dimension larger than us. That's why I thought it always a  
7 possibility that I can make the room for our house to make it,  
8 you know, better condition in case my mom is here. That's all  
9 I want to say. Thank you.

10 MEMBER HERNANDEZ: Well, you certainly did your  
11 homework. We don't have many applicants that come before us  
12 that do what you did, so that's good.

13 MS. WANG: Yeah, I went to the Building Department  
14 twice to make the appointment and pull all of the records to  
15 see the possibility that we can, you know, do this extension  
16 because I don't want to do something illegal. I want to follow  
17 all the rules and to make this town better. Thank you so much.

18 ACTING CHAIRMAN FRANCIS: Thank you. Next. Good  
19 morning.

20 MR. REISS: Good morning, honorable Board. My name is  
21 Paul Reiss and I live at 16 Bayview Court, directly across the  
22 street from the property in question.

23 ACTING CHAIRMAN FRANCIS: Okay.

24 MR. REISS: I'm here today just because I've been a  
25 resident there since 1988. I've seen several buildings that  
26 have gone on. I've actually lived in Manhasset since 1958.



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2 Just to start with, the lot sizes are not all exactly  
3 the same, so in approaching and saying well, there's an  
4 addition, here's an addition. They're not all exactly the  
5 same. You rejected this variance based on several factors, and  
6 I'm really here to just understand what it would take for you  
7 to then grant the appeal and let this person do what they want.  
8 I initially heard from you, sir, that if they adjust the size  
9 of the building.

10 I'm awfully sorry that the family had a problem or some-  
11 one additional had to move in with them. It's understandable. I  
12 don't have a problem with that, but I'm concerned as a long  
13 term resident that if we grant too many of these large  
14 extensions, that it will overwhelm the neighborhood. There are  
15 no driveways and garages in this neighborhood with the  
16 exception of a couple on my side of the street, okay. It's  
17 always been a significant problem with the street since I've  
18 lived there in 1988.

19 I'm just really appealing to you and your good senses,  
20 as the initial variance was not granted as to what it would  
21 take for them to get an okay for an appeal so they could make  
22 an addition, which I'm not against, but at the same time, I  
23 don't wanna have the neighborhood be overwhelmed, and maybe  
24 have someone do that next to my property. Okay, that's all I'm  
25 here for, sir.

26 ACTING CHAIRMAN FRANCIS: Okay. Let me first clarify.

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2 The permit that they sought was denied by the Building  
3 Department. It was not denied by this Board.

4 MR. REISS: Okay.

5 ACTING CHAIRMAN FRANCIS: Our purpose is that once that  
6 happens, once it's denied by the business -- the Building  
7 Department is given, then the applicant can seek a variance  
8 from this Board to vary the code to allow them to do what they  
9 want to be done. That's why they're here, and that's our job  
10 to weigh the factors that I had the architect go through so  
11 that we can make a determination whether or not to grant a  
12 variance. So one of those -- one of the issues for us always  
13 is to grant the least amount of variance that we can in order  
14 to achieve what the applicant is looking for, so that's kind of  
15 what our job is. As I said in the beginning, we may or may not  
16 decide that today.

17 MR. REISS: Thank you very much for your time and your  
18 prudent judgment.

19 MEMBER GOODSELL: Can I ask you a question before you  
20 step down? I'm looking at a diagram of your neighborhood; the  
21 aerial view, and I believe I can see most of the houses that  
22 are on the fan-shape, the block.

23 MR. REISS: Yes.

24 MEMBER GOODSELL: Do you have an addition on your  
25 house?

26 MR. REISS: I do not.

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2 MEMBER GOODSELL: Does your neighbor have an addition  
3 to his house?

4 MR. REISS: The attached house next to me has a larger  
5 porch area that the foundation was deemed okay to build a  
6 one-story enclosed room. My porch is still not enclosed.  
7 It's, I mean, you know, it's not a winterized porch.

8 MEMBER GOODSELL: I can see which property you are and  
9 you can tell you and your neighbor.

10 MR. REISS: The next one, 14 Bayview Court, has an  
11 enclosed room in the back. It was built around the turn of the  
12 century. There are several other neighbors with additions, but  
13 as I pointed out, some of the properties are different sizes,  
14 so, therefore.

15 MEMBER GOODSELL: Some of them are odd-sized.

16 MR. REISS: Very odd-shaped.

17 MEMBER GOODSELL: Yes.

18 MR. REISS: So the encroachment as far as the side  
19 properties and so on, is different.

20 MEMBER GOODSELL: We're laughing because I think the  
21 expression is mid-century. Mid-century. Let's not make us  
22 older than we really are.

23 MR. REISS: Listen, I'm older than any one of you guys.  
24 Believe me, I'm a dinosaur. I'm happy to be long retired, and  
25 happy to have lived in this town since the 50s.

26 ACTING CHAIRMAN FRANCIS: God bless.

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2 MEMBER HERNANDEZ: I'm old too. We're still here.

3 MR. REISS: Thank you very much for your time.

4 ACTING CHAIRMAN FRANCIS: Thank you. Anyone else?

5 Yes, ma'am.

6 MS. REYNOLDS: Good morning. My name is Cathy  
7 Reynolds. I live at 9 Bayview Court. My property adjoins  
8 number 13. We have a very narrow strip of land because we  
9 don't have a driveway. When the building -- when they were built  
10 in 1939, they were for the pilots out in Port Washington.

11 ACTING CHAIRMAN FRANCIS: Right.

12 MS. REYNOLDS: So the footprint is very small on  
13 Bayview Court. My concern is if this addition is too big and  
14 goes far back, 17 feet into my patio, 'cause we're very close.  
15 It can impact, you know, my sunlight, my air, just my property  
16 values. I think it's too big. But I also feel that I don't  
17 think it's appropriate to build this large addition on a small  
18 detached homes. The builders built these homes on small  
19 footprints, and as I said, it sets a precedent to go bigger.  
20 Now, I said before that we have no driveways, so we have  
21 nowhere to park instead of in front of our house.

22 I don't know if you know that anybody in Manhasset or  
23 from Montauk or in Maine can park in front of our houses. It  
24 doesn't cost them anything. They won't -- can't get a ticket.  
25 They can stay as long as they want. That's our problem. We  
26 can't get relief from that. We can't put parking signs that say

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2 Don't Park from 12:00 to 2:00 because we'll get the tickets.

3 So my concern is going from a small footprint to a large  
4 footprint, setting a precedent. Thank you very much for  
5 listening to me.

6 ACTING CHAIRMAN FRANCIS: Thank you. Anyone else?

7 Sir, in the back, why don't you come up so you're in the front  
8 so you can be next.

9 MR. DISCOLO: How are you today? My name is Frank  
10 Discolo. I live at 8 Bayview Court. I wasn't aware of this  
11 variance. I never received a certified letter. I found out  
12 through a neighbor. I mean, this area is a small cul-de-sac.  
13 There's no parking. The house is small. I mean, I understand  
14 their plight, but it's just unconventional for this type of  
15 neighborhood. Is there a procedure where you make a variance,  
16 where you're supposed to notify the neighbors through certified  
17 mail because nobody here received it.

18 MR. PERROTTA: For the --

19 SECRETARY WAGNER: The adjacent properties and the  
20 properties across the street only get --

21 MR. DISCOLO: Well, I didn't get it.

22 SECRETARY WAGNER: Not -- where are you located?

23 MR. DISCOLO: I live directly across the street from  
24 that house.

25 SECRETARY WAGNER: What's your address?

26 MR. DISCOLO: 8 Bayview Court. Mr. Cohen, you want to

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2 --

3 MR. COHEN: Yeah, I have a list of people who are  
4 supposed to receive this letter and your house was not in it.

5 MR. DISCOLO: Thank you.

6 MR. COHEN: So that's why you didn't get a letter.

7 ACTING CHAIRMAN FRANCIS: But if he lives across the  
8 street shouldn't he have gotten a notice?

9 MR. COHEN: Well, this is the list that was provided.

10 SECRETARY WAGNER: Chairman, we provide the list of  
11 people immediately across the street and adjacent to the  
12 property line.

13 MEMBER GOODSELL: If it's only so many feet.

14 ACTING CHAIRMAN FRANCIS: Could be out of the --

15 MEMBER GOODSELL: Out of the radius.

16 MR. DISCOLO: I mean, I live directly across the street  
17 from it. All right. Thank you.

18 MR. ONCEL: Good morning, Board Members. My name is  
19 Barry Oncel. I'm the owner of 15 Bayview Court, right next  
20 door. My main concern about this extension is it's right on my  
21 property line. We have, obviously, you know, we have our  
22 kitchen, and then when you look out, you know, what I'm going  
23 to see is a 17-foot wall. And also the property footprint is  
24 kind of small for such a large extension. I feel like if you  
25 look at the plan; the backyard, the green area, is going to be  
26 very small. It kind of changes the proportion and the look of

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2 the neighborhood also well, and that's kind of what I wanted to  
3 mention. Then lastly, you know, because it's such a small  
4 footprint, every single home, the construction in that  
5 neighborhood based on the plan, there's also going to be  
6 basement extension as well. It's going to be quite a  
7 significant headache for the neighboring properties. If it  
8 wasn't just, you know, an extension to the ground level that  
9 would be probably a little less headache, but just wanted to  
10 point that out as well.

11 ACTING CHAIRMAN FRANCIS: Thank you. Anyone else? Mr.  
12 Cohen, do you want to come back up?

13 MR. COHEN: Sure.

14 MEMBER DONATELLI: Do you want to address some of the  
15 comments that we've heard?

16 MR. COHEN: Yeah, well, first of all, I understand  
17 everybody's points -- how are you?

18 ACTING CHAIRMAN FRANCIS: Mr. Cohen, just address the  
19 Board.

20 MR. COHEN: I am. I know, just -- I just want to tell  
21 him. Mr. Oncel, you know, he owns the property next to my  
22 clients, and originally, the idea was to have his house  
23 extended as well, so when we started with this process, we were  
24 told that the two houses were extended at the same time. It  
25 would be much easier to have a variance granted for that. Now,  
26 things happen, and Mr. Oncel decided not to go ahead with that.

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2 That's why we said, okay, we will see if we can do our  
3 extension right at the property line, like I mentioned before.  
4 If that is a problem, then we will see if we can move the  
5 extension to the side, allowing for the five-foot side  
6 yard in there. But again, just back to my previous comment  
7 that the code does not say anything about semi-detached houses,  
8 and if you extend, how much of the side yard, where you should  
9 be living, so that's why we're here. And then the lady that  
10 spoke that's right next to my client's property; I think they  
11 also have an extension in the back that doesn't seem to be much  
12 smaller than the one that we're proposing. If the issue is  
13 lighting and ventilation that you will be limited, I don't  
14 think that's going to be a large impact. Besides, if we were  
15 to follow the codes, as long as we --

16 SECRETARY WAGNER: Mr. Cohen, can you speak into the  
17 microphone?

18 MR. COHEN: Yeah, I'm sorry. Sorry. As long as we  
19 maintain the five-foot side yard, and we can make an extension,  
20 we would be complying with the current code regardless. Also,  
21 again, when it was mentioned that this will create a large  
22 impact in the neighborhood. I mean, it's an extension in the  
23 rear, you know, I mean, from this -- it's not going to increase  
24 the amount of parking requirement in the area because nobody  
25 else would need a car in the house. This house is not visible  
26 from the street. If anything, it would be visible only from



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2 the two adjacent -- from the adjacent lots. Nobody even from  
3 the back can see this addition, so I agree with you; maybe we  
4 can work together, so we can make this addition slightly  
5 smaller. Okay. And if we have to -- if we have to, comply  
6 with the two, five-foot side yard, then we'll do that as well.  
7 I mean, we -- our intention is not to do anything that will  
8 deviate from the codes, and something that we don't want to  
9 cause any problems with the neighbors, of course, and we do  
10 want to do everything legally.

11 MEMBER DONATELLI: May I suggest this as one Board  
12 Member because, as a Board, we try to be consistent with our  
13 decisions.

14 MR. COHEN: Right.

15 MEMBER DONATELLI: And I know that we've had similar  
16 applications in the past. I think you might benefit and your  
17 client might benefit from researching other applications that  
18 have come before us in the past?

19 MR. COHEN: For this particular area?

20 MEMBER DONATELLI: In this particular area.

21 MR. COHEN: Okay.

22 MEMBER DONATELLI: As I said, I know that we've dealt  
23 with several because these issues do consistently come up. It  
24 is one of the things we try to do is preserve the character of  
25 the neighborhood. As the gentleman before spoke, we don't want  
26 to ruin the character of the neighborhood. We move to these

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2 neighborhoods because we love these neighborhoods, and we try  
3 to continue the quality of the life that we all come to love  
4 and respect from these neighborhoods. So I would suggest if  
5 you could find a way to, number one, research our prior  
6 decisions, and then number two, to find a way to make your  
7 application smaller. As Ms. Goodsell said, every lot is  
8 different, so we understand these are not cookie-cutter lots  
9 that are all of a certain size, and again, that's why this  
10 Board exists to examine the differences and try to do the  
11 weighing of the Five Factors that you went through. We're not  
12 here in the business to say no. On the other hand, we are here  
13 to perform the balancing act of the Five Factors.

14 MR. COHEN: Oh, I understand.

15 MEMBER DONATELLI: So if you can help us by going back  
16 to other decisions, by seeing what was done in the past, we'll  
17 try to be consistent, if at all possible.

18 MR. COHEN: Sure, okay. Like I said before, I'm not  
19 here to police anybody. I'm not here to say who did something  
20 legally or not legally. All I know is that my client went and  
21 I also went to search some records. We only found that there  
22 was a variance on one of the properties in this area. The  
23 other ones, I don't know what happened. Maybe they couldn't  
24 find the records when I came over, or we need to do additional  
25 search, but so far, only one of the applications was  
26 done with a variance. Okay, so --

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2 ACTING CHAIRMAN FRANCIS: I'm fairly certain that we  
3 had more than one application in that area.

4 MEMBER HERNANDEZ: I recall one in particular --

5 MR. COHEN: Yeah, okay.

6 MEMBER HERNANDEZ: -- but it wasn't building --

7 MR. COHEN: We're waiting prior --

8 MEMBER HERNANDEZ: -- they were adding a deck.

9 ACTING CHAIRMAN FRANCIS: Right. Right.

10 MEMBER HERNANDEZ: Yeah, it's a different thing. It's  
11 a deck. It's not a wall.

12 ACTING CHAIRMAN FRANCIS: Right.

13 MEMBER HERNANDEZ: But it was at least one that I  
14 recall.

15 ACTING CHAIRMAN FRANCIS: That was an extension.

16 MEMBER HERNANDEZ: That was an extension.

17 ACTING CHAIRMAN FRANCIS: Yeah, okay. All right, so  
18 now, if you're going to modify your plans in any way, then  
19 you'd have to submit those modifications to us.

20 MEMBER HERNANDEZ: Back to the Building Department.

21 ACTING CHAIRMAN FRANCIS: And back to the Building  
22 Department as well. If that's the case, then we'll continue  
23 your application to allow you to do that.

24 MR. COHEN: Okay.

25 MEMBER HERNANDEZ: It would help if he would submit to  
26 us what he finds.

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2 ACTING CHAIRMAN FRANCIS: Yes, and if you, you know,  
3 pursuant to what Mr. Donatelli said, if you did some research  
4 and you found applications that, you know, obviously, that help  
5 you, then certainly that should be submitted to us as well.

6 MR. COHEN: Okay.

7 ACTING CHAIRMAN FRANCIS: All right.

8 MR. COHEN: Okay, we shall do that.

9 ACTING CHAIRMAN FRANCIS: Okay.

10 SECRETARY WAGNER: Ms. Wang said that she had  
11 researched --

12 ACTING CHAIRMAN FRANCIS: Yes, she did.

13 MR. COHEN: Yeah, I know. I know that she had. Yeah,  
14 we worked together on that. Yeah, I know. There was only one --  
15 like said, there's only -- we only received records from one  
16 house that went through variance. The other ones, I don't  
17 know.

18 ACTING CHAIRMAN FRANCIS: Okay.

19 MR. COHEN: We have to continue looking for it.

20 ACTING CHAIRMAN FRANCIS: All right, very good.

21 MR. COHEN: Okay.

22 MEMBER HERNANDEZ: Continue.

23 ACTING CHAIRMAN FRANCIS: So you want to continue to  
24 the next hearing date?

25 SECRETARY WAGNER: I think we --

26 ATTORNEY ALGIOS: We don't need to give them a

1 Appeal #21498

2 deadline.

3 ACTING CHAIRMAN FRANCIS: Okay. All right.

4 MR. COHEN: Thank you very much. Thank you.

5 ACTING CHAIRMAN FRANCIS: Before we continue, I  
6 neglected to say that I'm actually filling in for our  
7 chairperson David Mammina, who's an architect and happens to be  
8 out; he and his wife with Covid, so I'm pinching in and as an  
9 unqualified candidate having anything to do with architecture.  
10 Okay, so very good.

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## 1 Appeal #21510

2 SECRETARY WAGNER: Next appeal is Appeal #21510 - Brian  
3 & Jennifer Fox; 34 Bayview Avenue, Port Washington; Section 5,  
4 Block 54, Lot 309; Zoned: Residence-A/Residence-C. Variance  
5 from 70-100.1A to construct an outdoor kitchen with a barbecue,  
6 gas Green Egg and an outdoor bar in a side yard.

7 ACTING CHAIRMAN FRANCIS: You heard Appeal #21510. Is  
8 there anyone here interested in the application other than the  
9 applicant? Seeing no hands, sir, please give your name and  
10 address.

11 MR. RANT: Good morning, Michael Rant, Northcoast  
12 Civil, 39 West Main Street, Oyster Bay, New York 11771. Good  
13 morning, Mr. Chairperson, Members of the Board. Again, my name  
14 is Michael Rant from Northcoast Civil. I'm here this morning  
15 representing the owners of 34 Bayview Avenue, who are seeking a  
16 variance to construct an outdoor kitchen in the side yard.  
17 This lot is a corner lot. Fairly unique shape. The longest  
18 portion of the property, which is based on the code, is Carlton  
19 Avenue, which will deem any portion of the property on the  
20 eastside is side yard, so it really limits where we can  
21 construct any proposed structures. This is the natural  
22 entertainment space for the property.

23 There is an existing patio there currently that's to be  
24 removed and replaced with a larger patio, and that is the  
25 location of the outdoor kitchen, although it is in the side  
26 yard, where a ten-foot setback is required. We are still

## Appeal #21510

1  
2 proposing a 32-foot setback, so it is substantially set back in  
3 the proper line. It is a countertop-height outdoor kitchen, so  
4 it will not have any visual impact to the neighbors.

5 The property is well -- screened and well maintained  
6 and will not create any adverse impact to the surrounding  
7 areas. This a typical amenity found on many properties, and  
8 again, due to the unique shape and layout of the property,  
9 that's the reason we're here before the Board this morning.  
10 Any questions from the Board, I'll be happy to answer them.

11 MEMBER DONATELLI: Why does the egg have to be green?  
12 Just kidding. Let me begin. Because I've reviewed the  
13 application, and I'm certainly familiar with the area. Can the  
14 barbecue and the outdoor kitchen, the Green Egg, can it be  
15 moved any closer to the garage than what's currently being  
16 proposed?

17 MR. RANT: The area that we're proposing is kind of  
18 away from the space that would be used for entertainment,  
19 which would be the area adjacent to the garage. That would act  
20 as, you know, dining room table and places to congregate, so  
21 this we fill it. This is the most -- the least impact of the  
22 location. It tucks it away. It's kind of where they're using  
23 the property to barbecue and things of that nature. Currently,  
24 there's the Green Egg there on the property. There's a  
25 barbecue, so this is generally where those uses take place  
26 right now. It's just being now put into a more of a formal

1 Appeal #21510

2 setting with of a countertop barbecue.

3 ACTING CHAIRMAN FRANCIS: There's also a wine chiller,  
4 I guess you call it, but I guess it's a refrigerator that's  
5 proposed to be --

6 MR. RANT: Yeah, so it would be a below countertop  
7 refrigerator, correct?

8 MEMBER HERNANDEZ: This is technically on the side yard  
9 of the house.

10 MR. RANT: Correct.

11 MEMBER HERNANDEZ: In order for it to be in the  
12 backyard of the house, how much would it have to be moved? If  
13 I look -- if I read the plan correctly, it's like nine feet.  
14 It's really not -- it's not like it's in the side of the house  
15 but all the way in the front. It's in the side of the  
16 house, but all the way towards the back, correct?

17 MR. RANT: It would have to be slid in the area between  
18 the house and the garage, so there's an existing landing where  
19 you walk out of the house, so there's -- it wouldn't function  
20 as far as the usability of it in that location.

21 (Whereupon, there was a discussion amongst the Board  
22 Members.)

23 MEMBER HERNANDEZ: Where?

24 ACTING CHAIRMAN FRANCIS: It's up further this way, but  
25 why can't it go where -- I don't know what this is? Sports --

26 MEMBER HERNANDEZ: Sports court.



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2 ACTING CHAIRMAN FRANCIS: Why can't it go here as  
3 opposed to up here?

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

6 MEMBER GOODSELL: I'm looking at the plans. The  
7 property -- flat and level. Is there any elevation in the  
8 backyard?

9 MR. RANT: It's a flat property.

10 MEMBER HERNANDEZ: The reason why I raised the question  
11 about the distance is that if you were to move that -- again,  
12 I'm not suggesting you; just putting it out there, okay. As to  
13 what the argument can be. If you were to put it nine feet  
14 further back, you would technically be, although it wouldn't be  
15 in a good place because it's in the middle of your yard; it would  
16 be in the back of the house.

17 MR. RANT: It has to be slid -- not only -- it doesn't  
18 have to be slid south. It needs to be slid towards Carlton  
19 Avenue, so it would have to be --

20 MEMBER HERNANDEZ: How many feet -- I can't -- there's  
21 no measurements, so I can't tell. How far away are you from the  
22 side yard from your side fence?

23 MR. RANT: We're 32 feet -- 32-and-a-half feet through  
24 its side yard. It's not essentially a matter of sliding  
25 further away from Bayview south, it would have to slide west  
26 towards Carlton, which would put it on the existing -- there's

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2 kind of like a raised landing there. Adjacent -- then that's  
3 where the doors are to exit the house, so that's really the --  
4 if it's more of a functionality standpoint because it doesn't  
5 work in that location.

6 MEMBER HERNANDEZ: Because this is the house, right  
7 here. The house ends right here, correct? So if he moves it  
8 back here, nine feet down.

9 MEMBER DONATELLI: No, it's got to go to Carlton.

10 ACTING CHAIRMAN FRANCIS: Right.

11 MEMBER DONATELLI: Here, take a look.

12 ACTING CHAIRMAN FRANCIS: Here. Oh, yeah, it's in the

13 --

14 MEMBER DONATELLI: This is what's being proposed. It  
15 would have to come closer to Carlton because this is the  
16 portion that's in the side yard here.

17 MEMBER HERNANDEZ: Yes.

18 ACTING CHAIRMAN FRANCIS: Right.

19 MEMBER HERNANDEZ: Come down. No, I'm sorry, the other  
20 way. The other down.

21 MEMBER DONATELLI: That would be up.

22 MEMBER HERNANDEZ: I said the other down.

23 ACTING CHAIRMAN FRANCIS: The other down.

24 MEMBER HERNANDEZ: Okay, this is in front of the house.

25 MEMBER DONATELLI: Yes.

26 ACTING CHAIRMAN FRANCIS: Right.

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2 MEMBER HERNANDEZ: Go up. No, the other way. The  
3 other up. Okay. Everything up to -- behind this, okay. This  
4 is the backyard. This is the side yard? This is not the side  
5 yard. This is the background right here. This is the front  
6 yard. This is a side yard to here. Once you get back here,  
7 you're in the backyard.

8 (Whereupon, there was a discussion amongst the Board  
9 Members.)

10 MEMBER HERNANDEZ: This is not a street.

11 ACTING CHAIRMAN FRANCIS: No.

12 MEMBER HERNANDEZ: This is -- how many barbecues -- so  
13 you're approved, right here. But this is a barbecue, right  
14 here.

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

17 MEMBER HERNANDEZ: Unless I'm reading this completely  
18 wrong.

19 MR. RANT: It's my understanding it's anything  
20 that's parallel to Carlton is considered a side yard. That's  
21 beyond the rear wall of the house, so it couldn't move further  
22 south, it would still be in the side yard. It would have to move  
23 south, and it would have to move west, tucked behind the house.  
24 It would have -- the only place it could go is between the house  
25 and the garage. That's it -- it would have to move further to  
26 the west towards Carlton Avenue.

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2 MEMBER DONATELLI: Which would make it substantially  
3 smaller.

4 ACTING CHAIRMAN FRANCIS: Yeah.

5 MR. RANT: Yes. Yeah, it would tuck it into a shoehorn  
6 because there is a raised -- the house steps up a couple of  
7 feet, so there's a raised landing that steps down to the patio.

8 MEMBER DONATELLI: What is the size of the lot?

9 MR. RANT: The lot is 12,000 square feet.

10 MEMBER DONATELLI: How far is the proposed outdoor  
11 kitchen from the side yard lot line?

12 MR. RANT: It's 32-and-a-half feet; 32.5 feet, where --

13 MEMBER DONATELLI: And the overall to the side -- from  
14 the side of the house to the lot is 43.5.

15 MR. RANT: Correct.

16 MEMBER DONATELLI: So to extend another --

17 MR. RANT: Eleven feet into the side yard.

18 (Whereupon, there was a discussion amongst the Board  
19 Members.)

20 MR. RANT: It still -- it does comply with the ten-foot  
21 side yard setback that's required, but again, due to the unique  
22 shape of the lot, anything east of the rear wall of the house  
23 is considered a side yard.

24 MEMBER DONATELLI: Yeah, and essentially, you're really  
25 limited by the existence of that existing framed garage that  
26 you're showing.

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2 MR. RANT: Correct. There's a garage, and there's also  
3 an existing sports court that really limits the ideal locations  
4 to have it adjacent to the living space of the house for  
5 entertaining, which is -- this is the location that's currently  
6 being used by the portable barbecue.

7 MEMBER DONATELLI: Are you familiar with the Five  
8 Factors?

9 MR. RANT: Yes.

10 MEMBER DONATELLI: Would you please go through them?

11 MR. RANT: So this is -- due to the fact that it is a  
12 corner lot, a corner lot that has a shape that was not  
13 self-created by the owner.

14 ACTING CHAIRMAN FRANCIS: Well, yeah, they bought the  
15 house.

16 MR. RANT: Well, yes, they bought the house. They did  
17 not construct the existing improvements there. It makes a  
18 unique property to fit in an improvement that does comply with  
19 the side yard setback. The location of it is 32-and-a-half  
20 feet away from the closest property line, which is well  
21 screened from any adjoining neighbors. It won't have any  
22 visible impact or visual impact. It is a structure, but it's  
23 only 42 inches tall, so it doesn't -- it will not create any  
24 height impact to the neighboring properties, and overall, we  
25 feel that by approving this, will not create any detrimental  
26 impact to the surrounding neighborhood or the property.

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2 MEMBER DONATELLI: Any other questions or comments?

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

5 MEMBER DONATELLI: Mr. Vice Chairman, I am very well  
6 familiar with the property, and I do believe that this is  
7 distinguishable from many of the situations that do come before  
8 us.

9 ACTING CHAIRMAN FRANCIS: Oops.

10 MEMBER DONATELLI: As you unplug my computer.

11 ACTING CHAIRMAN FRANCIS: Sorry.

12 MEMBER DONATELLI: And I do believe that there are  
13 unique factors that lend in favor of a variance in this  
14 situation, given the size of the property and given the distance  
15 of the proposed outdoor kitchen to the side yard lot line and  
16 given to the existence of the existing framed garage and the  
17 existing asphalt sports court, so all of those factors really  
18 kind of mitigate in favor of the grant of the variance in this  
19 case, so I make a motion that we grant the variance.

20 ACTING CHAIRMAN FRANCIS: We have a motion. Do we have  
21 a second?

22 MEMBER HERNANDEZ: Second.

23 ACTING CHAIRMAN FRANCIS: Second by Mr. Hernandez.  
24 Please poll the Board, Ginny.

25 SECRETARY WAGNER: Member Goodsell?

26 MEMBER GOODSELL: Aye.

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2 SECRETARY WAGNER: Member Hernandez?

3 MEMBER HERNANDEZ: Aye.

4 SECRETARY WAGNER: Member Donatelli?

5 MEMBER DONATELLI: Aye.

6 SECRETARY WAGNER: Acting Chairman Francis?

7 ACTING CHAIRMAN FRANCIS: Aye. The application is  
8 granted.

9 MR. RANT: Thank you very much. Have a good day.

10 ACTING CHAIRMAN FRANCIS: Thank you.

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## Appeal #21494

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2 SECRETARY WAGNER: Next appeal, Appeal #21494 James  
3 and Geraldine Gilligan; 62 Murray Avenue, Port Washington;  
4 Section 5, Block 58, Lot 41; Zoned: Residence-A. Variances  
5 from 70-202.1.C and 70-202.1.E to legalize a retaining wall  
6 that is too tall and higher than the adjoining land that it  
7 retains.

8 ACTING CHAIRMAN FRANCIS: You've heard Appeal #21494.  
9 Is there anyone interested in the application other than the  
10 applicant? Seeing no one, Mr. Migatz, please give your  
11 appearance.

12 MR. MIGATZ: Bruce W. Migatz, law firm Albanese &  
13 Albanese, 1050 Franklin Avenue, Garden City, New York. Good  
14 morning, Members of the Board. This is a continued application  
15 to maintain a retaining wall that is 11-and-a-half feet high.  
16 The issue came up at the last hearing to what extent is the  
17 retaining wall nonconforming. As discussed, when the applicant  
18 purchased the property; there was a six-foot-high retaining wall  
19 on top of which there was a 3.5 timber retaining wall. Below  
20 is six feet with concrete and three-and-a-half feet of timber.  
21 When the applicant purchased the property, he replaced the  
22 timber section with a concrete block and extended it an extra  
23 two feet above grade in connection with the construction of the  
24 pool patio. The disapproval notice sighted two-way F,  
25 alternating a nonconforming structure, but the issue was to  
26 what extent was a retaining wall nonconforming.



## Appeal #21494

1  
2 I submitted by email to the Board, and I trust that  
3 Members received a copy of that, and I asked that my cover  
4 letter, dated February 5th, be marked Exhibit 9, which included  
5 -- which attached Exhibits 10 through 14. As explained in my  
6 letter, Local Law Number 8 of 1996, adopted on May 21, 1996,  
7 was the first time that a town code restricted the height of  
8 retaining walls. Prior to the adoption of that Local Law,  
9 there was no restrictions on the height of the retaining wall.  
10 Accordingly, if the applicant establishes that the six-foot  
11 plus three-and-a-half foot retaining wall was in existence as  
12 of May 1, 1996, is a prior nonconforming.

13 Exhibit 10 is a copy of a Deed dated January 24, 2022,  
14 to the current owner, which is 62 Murray Avenue, LLC, of which  
15 Mr. Gillian and his wife are the members.

16 Exhibit 11 is a copy of a Deed dated September 28,  
17 2021. I'm sorry; where did I leave off? Exhibit 11 is a copy  
18 of a Deed dated September 28, 2021, from Craig Michaels and  
19 Susan Michaels to James Gilligan and Geraldine Gilligan. This  
20 Deed recites that the Michaels took Title to the property by  
21 Deed dated August 8, 1988.

22 Exhibit 12 is a letter dated January 30, 2024, from  
23 Craig Michaels, the owner who sold the property to the  
24 Gilligans, stating, "When we purchased the property, the  
25 retaining walls at the rear of the property were in existence  
26 and were constructed of railroad ties above concrete walls, i.e.,

1 Appeal #21494

2 to the left and right sides of the back of the stone garage  
3 wall."

4 Exhibit 13 is a letter dated January 29, 2024, from  
5 Michael L. Williams, PE, the engineer who designed the  
6 replacement of the rotting timber wall and the extension  
7 two feet above the grade. He stated that the timber railroad  
8 ties terminated at grade.

9 Exhibit 14 are the plans filed with the building permit  
10 application to maintain the existing repaired and extended  
11 retaining wall. The plans show that the lower concrete wall  
12 section of the retaining wall is six feet. The height of the  
13 timber retaining wall that was replaced with concrete block was  
14 three-and-a-half feet and the plans show that the block was  
15 extended two feet above grade. So the applicant submits that  
16 the documentary evidence establishes that the nine-and-a-half  
17 foot combined concrete block railroad tie wall replaced the  
18 concrete block is prior nonconforming, and only a variance is  
19 needed for the extra two feet.

20 ACTING CHAIRMAN FRANCIS: Mr. Migatz, I thought it was  
21 two-and-a-half feet.

22 MR. MIGATZ: It says two plus or minus, but if you do  
23 the -- the plans slightly vary in the math, but the plans show  
24 six-foot concrete, three-and-a-half feet above that, and two  
25 feet taller height level of the .5 feet.

26 MEMBER DONATELLI: It's the new math.

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2 MR. MIGATZ: Yeah.

3 ACTING CHAIRMAN FRANCIS: I failed that.

4 MR. MIGATZ: Now, town code Section 28F, cited a  
5 disapproval notice provides, "A nonconforming building shall be  
6 extended all to the enlarged, replaced, or moved only if such  
7 extension alteration, enlargement, replacement, or move does  
8 not increase the existing nonconformity and is in accordance  
9 with the provisions of Section 70-209. 70-209 states that a  
10 building or structure which has been demolished, damaged, or  
11 removed for any reason, to the extent that the damage,  
12 demolition, or removal does not exceed 50 percent of the  
13 exterior structure and/or interior floor systems, exclusive  
14 foundations, shall be permitted in accordance with Section  
15 70-208(F).

16 The plans show that the three-and-a-half feet timber  
17 wall existing that was replaced with concrete block is less  
18 than 50 percent of the nine-and-a-half foot height of the  
19 existing retaining wall, so as a matter of town code law, the  
20 applicant had the right to replace the three-and-a-half foot  
21 section of timber wall with concrete wall without running a  
22 foul of altering a nonconforming structure.

23 The conclusion is that a variance is only required for  
24 the two plus or minus feet that was extended above grade as --  
25 in connection with the construction of the pool patio.

26 This is an area variance weighing the benefit to the

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2 applicant against the detriment to the community. As explained  
3 in the last hearing, the benefit to the applicant and to the  
4 rear neighbor by having a two-foot high extension of this wall  
5 is to prevent debris, pool toys, whatever, blowing over the  
6 retaining wall. Let me see if I can remember the Five Factors.

7 ACTING CHAIRMAN FRANCIS: I'm sure you can.

8 MR. MIGATZ: I'm going to start with Factor Two.

9 "Whether the benefits sought by the applicant can be achieved  
10 by some method feasible for the applicant to pursue other than  
11 an area variance?" At the last hearing, the Board mentioned  
12 that, well, you could remove the concrete block wall and  
13 replace it with a solid fence that would prevent debris, pool  
14 toys, what have you, going over the top of the retaining wall.  
15 But a solid fence is not the benefit that the applicant is  
16 before you to seek. The benefit the applicant is seeking is a  
17 two-foot high concrete block wall on top of a retaining wall.

18 In a case matter of Baker Versus Brownly, 248, 82nd,  
19 527, Second, Apartment 1998 that the Zoning Board was faced with  
20 an application to build a deck -- a patio facing the water that  
21 required a variance. And the Zoning Board, in that case, said,  
22 well, you can build the patio on some other location not facing  
23 the water, so you have another method to achieve your patio  
24 benefit. Well, the Appellate Division said, no, no, no, "Since  
25 the petitioner's designed benefit is to have a patio facing the  
26 water, the Board's findings is that it could be located elsewhere

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2 on petitioner's property is clearly erroneous." I submit to  
3 you, in finding that this applicant could build a solid fence  
4 instead of concrete wall is not a basis to deny this. That's  
5 not the benefit he seeks.

6 Now, this brings us into the first factor, "Whether  
7 there'll be an adverse impact on the adjacent property or the  
8 community?" Now, the applicant could achieve a similar benefit  
9 by removing the two-foot concrete block from the retaining  
10 wall, putting in one inch in from the retaining wall and  
11 building a two-foot concrete block, which I believe the code  
12 would allow as-of-right.

13 Mr. Norjen is here. He always shows up to my cases.  
14 We'll see if he disagrees with that, but I'm not aware, nor is  
15 the project architect of anything in the code that will prevent  
16 landscape feature. It's a landscape feature around the pool  
17 deck. That's what it is, and it looks much prettier than  
18 having a stockade fence.

19 So that bring us into well, what effect does that have  
20 on the community? Well, what -- that difference, that wall,  
21 that two-foot wall being setback one inch is not discernible to  
22 the rear neighbor. The rear neighbor is going to see the same  
23 11-foot, five-foot high wall without being about to discern  
24 that the two-foot decorative wall is setback one inch, so  
25 what's the adverse impact on the community, on the neighbor, if  
26 you allow a variance that have the two-foot wall on top of the

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2 existing retaining wall. Plus, the only person who potentially  
3 is faced with a detriment here is the rear neighbor and the  
4 rear neighbor has not filed any objection to this application,  
5 and the Landmark Commission did issue a Certificate of  
6 Appropriateness. That came up at the last hearing. I sent the  
7 transcript that I had a copy of revealed that they approved  
8 it, but we didn't have the resolution. We now have the  
9 resolution. I will submit that as Exhibit 15.

10 MR. PERROTTA: Thank you.

11 MR. MIGATZ: So the rear neighbor hasn't objected to  
12 this. The Landmark Commission has consented to it. Where is  
13 the detriment to the community if you grant this variance?  
14 There is none.

15 "Is the variance substantial?" Again, if you look at  
16 the alternative, instead of being one inch, it appears to be  
17 the same as if it's on top of the retaining wall; how can that  
18 be a substantial detriment? It's a type-two action on the  
19 seeker. Being that there are no adverse impact of the  
20 environment, and of course, any time an applicant seeks a  
21 variance subject to a code section that was in effect when they  
22 acquired the property is deemed self-created, but that is not  
23 determined through an area variance. So I think the  
24 documentary evidence establishes that the nine-and-a-half foot  
25 concrete retaining wall is prior nonconforming, can be  
26 maintained, and that the benefit to the applicant far outweighs

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2 the detriment to the community if you grant a variance to allow  
3 this additional two feet on top of the retaining wall instead  
4 of an inch in from the retaining wall.

5 MEMBER GOODSSELL: Mr. Migatz, what is to prevent the  
6 next applicant from coming in and saying well, I need  
7 two-and-a-half on top of a retaining wall. I need three feet.  
8 By moving it one inch, is your position that that's no longer  
9 part of the retaining wall? That it's now a decorative element?

10 MR. MIGATZ: Absolutely. It's not on top of the  
11 retaining wall. It's on the pool deck, and it never can stand  
12 on its own merits.

13 MEMBER GOODSSELL: It does. I'm not sure I agree with  
14 your logic.

15 MR. MIGATZ: What's wrong with my logic? It's on the  
16 pool -- it would be on the pool deck. It will not be -- if you  
17 take planters -- in fact, I had a case like that.

18 MEMBER HERNANDEZ: We know the planter case.

19 MEMBER GOODSSELL: We remember the planter case.

20 MR. MIGATZ: You could take planters and put it on the  
21 pool deck and achieve the same, you know, it's decorative. It  
22 surrounds the pool deck.

23 MEMBER GOODSSELL: Well, this isn't quite decorative.  
24 This is more functional, according to you, than decorative.

25 MR. MIGATZ: Well, I think the architect would take  
26 objection to that. If you can look at the pictures, it's

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2 certainly decorative feature as opposed to having a solid  
3 stockade fence there?

4 MEMBER GOODSSELL: But the architect can accomplish the  
5 same by not putting the two-foot addition to the retaining wall  
6 and a fence over. He could have put the retaining wall at  
7 three and a half feet and put the fence on top of that;  
8 couldn't he?

9 MR. MIGATZ: You could have a fence -- I don't think  
10 you could because the fence will not be in the rear yard. You  
11 have a six-foot high fence in the rear yard --

12 MEMBER GOODSSELL: Right.

13 MR. MIGATZ: -- and this is not the rear yard and the  
14 property goes three feet beyond. But with all due respect,  
15 you're getting away from the balancing test. The benefit that  
16 we seek is to maintain this two-foot wall. What's the  
17 detriment? Let's focus on that. What is the detriment to the  
18 community if you allow this two-foot wall to remain, as opposed  
19 to saying take it down, move it in one inch. Let's focus on  
20 the balancing test. What's the detriment?

21 MEMBER GOODSSELL: There would be no detriment to the  
22 community if the Building Department had approved it, and then  
23 you built it level with the replacement. I'm not disagreeing  
24 with you about the replacement of the old wall. I'm just  
25 talking about the two-foot section. I think the same result  
26 could have been accomplished without the additional two feet



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2 and with the same fence on top of it.

3 MR. MIGATZ: It can -- it could be, you know, and --

4 MEMBER GOODSELL: Thank you. It could be.

5 MR. MIGATZ: But that's --

6 MEMBER GOODSELL: Now, the detriment to the homeowner  
7 is the expense of taking something down.

8 MR. MIGATZ: No, it could be just like in that case I  
9 cited, you could put the patio not facing the water. We want  
10 to maintain the two-foot wall on top of the retaining wall.  
11 That's what we're here before you, not that we would, and I'm not  
12 bringing in the cost because you are an application to maintain  
13 you should view this as being noble. They're coming before you  
14 seeking to build this. I haven't brought up the cost. It was  
15 discussed at the last board meeting, \$4,500. If you want to  
16 consider that great, but, you know, it -- to a builder, you're  
17 replacing a timber retaining wall concrete block, and you want  
18 another two feet around the pool patio, it makes total sense,  
19 we'll just add it on top of the existing retaining wall, which  
20 is what they did. That's the benefit we are seeking. We're  
21 not seeking to move it in one inch. We know we can do that as of  
22 right. We know you can build a patio not facing the water as  
23 of right. That's not the benefit we're here before you to  
24 seek.

25 MEMBER DONATELLI: Okay.

26 MR. MIGATZ: What is the detriment? It seems like

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2 you're standing on principle that it's on a retaining wall  
3 instead of one inch in. It has -- it visually is the same.  
4 It's not visible from the street. It's only visible from the  
5 rear neighbor. It's not discernible whether that is in one  
6 inch or not, and the Landmarks Commission has -- they approved  
7 it.

8 ATTORNEY ALGIOS: Mr. Migatz, isn't the benefit not to  
9 have debris blowing over? It's not having the wall. It's to  
10 not to have debris blow over.

11 MR. MIGATZ: Well, that's what the wall is designed to do.  
12 The wall is designed to prevent debris, leaves, pool toys from  
13 going over the retaining wall into the backyard of the next  
14 door neighbor.

15 ATTORNEY ALGIOS: But isn't that the benefit? I mean  
16 in the example that you had -- the case you cited, the benefit  
17 there was the enjoyment of the water, and that's why there was  
18 a distinction there. It wasn't just building the patio. It  
19 was enjoying the water. Here, the benefit is not just the wall  
20 itself. I mean, that's like any application. You want to  
21 enlarge your home, and you need a GFA variance because you have  
22 a growing family, and you have an in-law moving in, so you need  
23 to the room. It's not just building the room; that is the benefit.

24 MR. MIGATZ: Of course it is. The benefit -- the  
25 application you heard before, they could build a smaller  
26 bedroom as-of-right, but that's -- their benefit is not just to

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2 have a bedroom. The benefit they seek you have a larger  
3 bedroom, which requires a variance. Our -- the benefit that  
4 this applicant seeks is not just in any way or fashion; let's  
5 put up a barricade there. The benefit they seek is to maintain  
6 this existing wall. That's the benefit they seek.

7 ATTORNEY ALGIOS: I think it's both. I think it's  
8 both. I think in the other case that they saw, yes, they  
9 needed the bedroom because they had the mother-in-law moving in  
10 with them, and they wanted it a certain size to make it  
11 livable for her, right? But the benefit is both. Here, the  
12 wall, he wanted this additional two feet to stop debris from  
13 bowing over.

14 MR. MIGATZ: And it makes sense to put it on top of the  
15 existing retaining wall.

16 ACTING CHAIRMAN FRANCIS: I guess I don't understand  
17 that argument about the purpose of the extension on the wall.  
18 Only because there's already a fence around the pool, and  
19 there's -- providing that would prevent anything from  
20 blowing through, blowing through that fence.

21 MEMBER GOODSELL: We're looking at the bigger picture.

22 ACTING CHAIRMAN FRANCIS: I'm not saying he doesn't  
23 have the right to have the wall, but the purpose seems to be a  
24 little hard to phathom.

25 MEMBER GOODSELL: Mr. Migatz, in one photo that you  
26 submitted the fence does look like it's on top of the retaining

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2 wall.

3 MR. MIGATZ: It's not.

4 ACTING CHAIRMAN FRANCIS: But it's not.

5 MR. MIGATZ: It's not.

6 MEMBER GOODSELL: In the other photo, it's not.

7 MR. MIGATZ: It's not.

8 MEMBER GOODSELL: So the fence and the other  
9 requirements seem to be doing exactly what the retaining wall  
10 -- excuse me, the two-foot addition to the retaining wall, the  
11 two feet on top is trying to do.

12 MR. MIGATZ: With all due respect, you're spending --  
13 you're spending too much time on a retaining wall. All right.  
14 Make a decision. If we're not happy with it, we'll appeal it.

15 MEMBER GOODSELL: Okay.

16 MR. MIGATZ: You're just spending way too much time on  
17 this.

18 MEMBER DONATELLI: What I'd like to do, though, is I  
19 would like to hear from the Building Department. I know the  
20 Building Department is here. I would like to hear from the  
21 Building Department.

22 ACTING CHAIRMAN FRANCIS: Thank you, Mr. Migatz.

23 MR. NORJEN: Glenn Norjen, Deputy Commissioner of the  
24 Building Department. I'm not going to comment on all the Five  
25 Factors and things like that. But I have reviewed the case,  
26 the plans, and I agree that the previous retaining wall was

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2 nine-and-a-half feet with concrete and timber, and just the  
3 timber part was replaced, so it was an as-of-right replacement  
4 up to that nine-and-a-half feet. Once you got past that, then  
5 required a variance from the Board. Any questions?

6 MEMBER DONATELLI: So if I understand correctly, then  
7 your issue is not with the fact that we have a retaining wall  
8 that is over five feet, and they're not setback as supposedly  
9 would otherwise be required. Your issue is with the fact that  
10 the retaining wall is two-and-a-half feet more or less above  
11 grade above existing.

12 MR. NORJEN: That's correct. If they had built it just  
13 up to the existing grade at nine-and-a-half feet as per 208F.  
14 and 209 that would have been permitted because you're  
15 replacing a nonconforming structure less than 50 percent.

16 ACTING CHAIRMAN FRANCIS: Mr. Norjen, but above ground  
17 level by definition, can't be a retaining wall 'cause it's not  
18 retaining anything.

19 MR. NORJEN: Right, and that's -- the code says that a  
20 retaining wall cannot exceed the grade that it's retaining.

21 ACTING CHAIRMAN FRANCIS: Retaining, right.

22 MEMBER GOODSSELL: Do you agree with Mr. Migatz that if  
23 it was setback one inch; it would no longer be a retaining wall  
24 but a decorative element?

25 ACTING CHAIRMAN FRANCIS: I don't think it's --

26 MR. NORJEN: Well, it wouldn't be a decorative element.

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2 It would then meet our definition of a fence. Now, a fence, by  
3 our code can be made out of any material that you want; wood,  
4 metal, concrete, brick. A fence doesn't retain anything, so it  
5 would then become a fence, not a retaining wall.

6 ACTING CHAIRMAN FRANCIS: If it's on top of the  
7 retaining wall, then does it meet the definition of the fence?

8 MR. NORJEN: Does it meet the definition of a fence?  
9 Well, a retaining wall -- let's put it this way. Let's say  
10 they just built this at nine-and-a-half. We, for safety  
11 reasons would have said, hey, whether you want to or not,  
12 you're putting a fence on top of that, but it would be a fence;  
13 four feet high. The materials that they made it out of was up  
14 to them, but it can't be an extension of a retaining wall. It  
15 would have to be setback a little. That's for safety reasons.

16 MEMBER DONATELLI: I'm not sure that I understand or  
17 agree, and correct me if I'm wrong; you have now a  
18 nine-and-a-half foot retaining wall that then goes  
19 two-and-a-half feet, more or less above grade. That doesn't  
20 make that portion of the concrete wall something other than a  
21 retaining wall. It makes the retaining wall two-and-a-half  
22 feet too high, but it doesn't turn it into a fence.

23 MR. NORJEN: Well, no, if it's right on top of the  
24 retaining wall and a perfect extension of that retaining wall,  
25 it's a retaining wall that exceeds a grade.

26 MEMBER DONATELLI: Exactly. It's still a retaining

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2 wall. It's not a fence.

3 MR. NORJEN: We need a -- what we call a guardrail.

4 MEMBER DONATELLI: Right.

5 MR. NORJEN: On top of that, nine-and-a-half feet.

6 MEMBER DONATELLI: No, I understand that.

7 MR. NORJEN: We had other instances before the Board  
8 where there were retaining walls that were in the front yard  
9 and then they'll say, hey, we want it higher because we don't  
10 want children falling, you know, onto the sidewalk that's  
11 there, and our position is, okay, you're giving us the  
12 guardrail, but it has to meet the definition of a guardrail.

13 MEMBER DONATELLI: Right. Right.

14 MR. NORJEN: Because it's a safety issue. It's not a  
15 zoning issue.

16 MEMBER DONATELLI: But I think the definitionally, the  
17 fact that we have -- had a nine-and-a-half retaining wall that  
18 is now 11-and-a-half retaining wall, still means it's a  
19 retaining wall, which then extends two-and-a-half feet above  
20 grade. It doesn't make it a nine-and-a-half-foot retaining  
21 wall plus then a two-and-a-half fence or something.

22 MR. NORJEN: No, as I said, this is an extension  
23 directly above the retaining wall that was built as part of  
24 that retaining wall, so it's a retaining wall that extends  
25 above grade.

26 MEMBER DONATELLI: Okay. As one Board Member, I would

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2 like to say, I know there was a lot of the confusion during the  
3 last hearing. There were questions that we had posed that were  
4 unanswered, and I know there was some confusion as to the  
5 Landmark's decision. I know that there was some confusion as  
6 to what exactly had been there prior to. I know that we have a  
7 garage that part of the retaining wall serves as foundation for  
8 the garage, which obviously had been there for a long time. We  
9 have a retaining wall that was clearly in two separate colors,  
10 so that, you know, that also created confusion as to what was  
11 pre-existing. I, as one Board Member think that I have gotten  
12 clarification in my own mind as to exactly what the position is  
13 of the applicant. What the position is of the Building  
14 Department, and I just want to express my gratitude for  
15 clearing up those issues because now it's a lot clearer to me.

16 ACTING CHAIRMAN FRANCIS: I agree.

17 (Whereupon, there was a discussion amongst the Board  
18 Members.)

19 MEMBER DONATELLI: So do any other Board Members have  
20 any questions?

21 MR. MIGATZ: May I respond?

22 ACTING CHAIRMAN FRANCIS: Sure.

23 MEMBER HERNANDEZ: Let me just ask one question before  
24 you --

25 MR. MIGATZ: Sure.

26 MEMBER HERNANDEZ: I just want to double-check. I



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2 believe you said it clearly enough, but I want to say it again.  
3 You have evidence -- you have concrete evidence that the  
4 preexisting wall was at least nine feet, nine-and-a-half feet?  
5 You're satisfied with that?

6 MR. NORJEN: Based on the review that I did. I looked  
7 at aerial photos. I looked at the photos that were provided as  
8 part of the hearing. I looked at the plans. I looked at surveys,  
9 and to the best of my ability, I have determined that the  
10 preexisting wall was approximately nine-and-a-half feet  
11 tall.

12 MEMBER HERNANDEZ: Thank you.

13 MR. NORJEN: Straight up.

14 MEMBER DONATELLI: Mr. Migatz.

15 ACTING CHAIRMAN FRANCIS: Thank you, Mr. Norjen.

16 MEMBER DONATELLI: Thank you.

17 MR. MIGATZ: I think that's the fourth time Mr.  
18 Norjen and I agreed.

19 MEMBER DONATELLI: It's Valentin's Day. I feel the  
20 love.

21 MR. MIGATZ: I feel the love. I feel the love. But an  
22 interesting point was raised. Let's say the applicant replaced  
23 that timber wall with concrete block and stopped at grade.  
24 Now, he's building his pool. Now, he needs something to  
25 prevent people falling over the retaining wall, so Mr. Norjen  
26 says, well, we would require a fence on top, and it wouldn't be

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2 part of a retaining wall. It's a fence. Mr. Norjen also said  
3 a fence can be constructed of concrete, so if the applicant  
4 comes back and files a fence permit for a concrete fence two  
5 feet high on top of a retaining wall. Would that not be  
6 granted? I think it would be. Wouldn't it, Mr. Norjen?

7 MEMBER HERNANDEZ: Six feet. It makes it six.

8 MR. NORJEN: As I stated in my previous discussion, a  
9 fence, which is a separate structure, would be approved, but an  
10 extension of the retaining wall is not a fence. It's an  
11 extension of the retaining wall.

12 MR. MIGATZ: But the stockade fence is not an extension  
13 of a retaining wall to the Building Department, but yet they say  
14 a fence can be made of concrete, so then why is a concrete fence  
15 an extension of the retaining wall and a stockade fence is not?

16 ACTING CHAIRMAN FRANCIS: I thought he was saying that  
17 a stockade fence will not be built on top of the retaining  
18 wall.

19 MR. MIGATZ: But they would require that. That has  
20 been done.

21 MEMBER HERNANDEZ: After one inch.

22 ACTING CHAIRMAN FRANCIS: The one inch, right.

23 MEMBER HERNANDEZ: The one-inch step.

24 MR. MIGATZ: No, no, no, a stock -- a stock -- the  
25 Building Department takes the position for safety reasons. You  
26 need a fence on top of that retaining wall so people don't fall

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2 over, and you get a stockade fence or a concrete fence. The  
3 building code, which I had trouble with for a long time, never --  
4 doesn't describe the wall. But the Building Department in  
5 terms of the fence to include a wall, so they say a wall is a  
6 fence. If you want to put a wall around your property, they  
7 say it's a fence, so we want to put a two-foot fence made out  
8 of concrete. I don't think the Building Department can deny  
9 that.

10 MEMBER DONATELLI: You've made some interesting  
11 questions, and I recall my days in college as a philosophy major  
12 that those were things that would go on for hours and hours  
13 discussing, but as one Board Member, I'm not entirely sure that  
14 is appropriate to --

15 MR. MIGATZ: I get paid by the hour.

16 MEMBER HERNANDEZ: Well, we don't.

17 ACTING CHAIRMAN FRANCIS: We don't.

18 MEMBER DONATELLI: I would like to suggest this, and I  
19 know that the rear yard neighbor is not here, but has your  
20 client as the applicant given any thought to any possible  
21 mitigation of the 11-and-a-half foot retaining wall. I know  
22 that your client maintains ownership of three feet beyond the  
23 retaining wall. Would your client be willing to plant some  
24 arbor or some other vegetation that can mitigate the visual  
25 impact of 11-and-a-half foot wall.

26 MR. MIGATZ: Yes, and I was told the rear neighbor

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2 doesn't want that because he plants his tomato plants on my  
3 applicant's property up against the wall, so he didn't want any  
4 plants there. Is that correct, Mr. Gilligan?

5 MR. GILLIAN: Correct.

6 MR. MIGATZ: We're showing the love. Plant your  
7 tomatoes.

8 MEMBER DONATELLI: Some days more than others. Does  
9 anyone else have any other questions or comments?

10 ACTING CHAIRMAN FRANCIS: No, I'm good.

11 MEMBER DONATELLI: I would like to, once again, thank the  
12 Building Department and the applicant for bringing some clarity  
13 to this issue, and based on the evidence before us, I make a  
14 motion that we grant the application.

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

17 MEMBER HERNANDEZ: I'll second.

18 ACTING CHAIRMAN FRANCIS: It's seconded by Mr. Hernandez.  
19 Ginny, please poll the Board.

20 SECRETARY WAGNER: Member Hernandez?

21 MEMBER HERNANDEZ: Aye.

22 SECRETARY WAGNER: Member Goodsell?

23 MEMBER Goodsell: Nay.

24 SECRETARY WAGNER: Member Donatelli?

25 MEMBER DONATELLI: Aye.

26 SECRETARY WAGNER: Acting Chairman Francis?

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ACTING CHAIRMAN FRANCIS: Aye. Application is granted.

MR. MIGATZ: Thank you very much. Happy Valentine's

Day.

ACTING CHAIRMAN FRANCIS: To you as well. Next appeal.

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1 Appeal #21511

2 SECRETARY WAGNER: Appeal #21511 Panagiotia  
3 Christakis; 24 Ridge Drive, Port Washington; Section 6, Block  
4 80, Lot 1; Zoned: Residence-A. Variances from 70-29(C),  
5 70-30(C), & 70-101(B) to construct additions that would make  
6 the house too big and would be located too close to the street,  
7 and to construct an open porch that is too close to the street.

8 ACTING CHAIRMAN FRANCIS: You've heard Appeal #21511.  
9 Is there anyone interested in the application other than the  
10 applicant? Seeing no one, Mr. Sahn, please give your  
11 appearance.

12 MR. SAHN: Hi, good morning, Members of the Board.  
13 Michael Sahn; Sahn Ward Braff Koblenz Coschignano.

14 ACTING CHAIRMAN FRANCIS: New?

15 MR. SAHN: The name has changed. We're expanding, but  
16 thank you for noticing. 333 Earle Ovington Boulevard,  
17 Uniondale, New York. My pleasure to appear before you today on  
18 this application. Joining me in the hearing room is Donald  
19 Alberto, the project architect. Before I get into the substance  
20 of the application, I do have the consent form, the original,  
21 and several copies of the consent form that we provided from  
22 the adjoining order, of course, the street property owner rather,  
23 at 21 Ridge Drive in Port Washington, Section 6, Block 81, Lot  
24 200, and with your permission, I'd like to submit that to the  
25 Board.

26 MR. PERROTTA: Thank you.

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2 SECRETARY WAGNER: These were already submitted with --

3 MR. SAHN: I believe they were submitted through the  
4 portal electronically.

5 SECRETARY WAGNER: Okay.

6 MR. SAHN: Those are the additional copies, including  
7 the original. As the application indicates and recited in my  
8 legal notice, this is an application for area variances to  
9 construct additions and alterations to the premises at 24 Ridge  
10 Drive in Port Washington. The premises are known as Section 6,  
11 Block 80, Lot 1, on the Nassau County Land and Tax Map. The  
12 premises are located in the Residence-A Zoning District. As  
13 the Board will note from the plans and surveys that we've  
14 submitted, the property is very unique. It is irregular in  
15 shape. It resembles a triangle, which is depicted on the  
16 survey, and the point of the triangle is on the northerly side.  
17 It is also uniquely a corner lot as described by the Building  
18 Department, and it is unique in that it has a curved frontage  
19 along Ridge Drive. Additionally, the property is oversized.  
20 The Residence-A Zone, as the Board knows, requires a lot area  
21 of 8,500 square feet, but this lot is more than double that  
22 amount having 17,517.92 square feet or .4 acres. Adding to be  
23 is the fact that the rear of the property adjoins the Port  
24 Washington High School, along the entire length of the rear  
25 yard. There is likewise a detached garage at the northerly  
26 side, and the main dwelling is a nonconforming split-level,

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2 which is on the southerly side of the property. I have a  
3 booklet of photographs of the property and the surrounding  
4 properties that I'd like to submit with the Board's permission  
5 and briefly review those for your consideration.

6 SECRETARY WAGNER: You also submitted these  
7 electronically, correct?

8 MR. SAHN: I believe we did, but nonetheless.

9 SECRETARY WAGNER: I just wanted to note that it's part  
10 of the application.

11 MR. SAHN: Part of the record.

12 SECRETARY WAGNER: Do you need to submit this or --

13 ATTORNEY ALGIOS: It's already been submitted --

14 MR. SAHN: It's easier to review these during the  
15 course of the hearing in this fashion, I think.

16 (Whereupon, there was a discussion amongst the Board  
17 Members.)

18 ACTING CHAIRMAN FRANCIS: Mr. Sahn, continue, please.

19 MR. SAHN: Thank you very much. Referring to the  
20 booklet of photographs, which I took myself the other day. The  
21 first photograph is a view of the front of the premises showing  
22 the existing residence building, which does have a porch in the  
23 front of the building where the front door is.

24 The next photograph is a view of the premises that was  
25 taken from the north side of the triangular part, looking  
26 southerly, and that shows on the right side the detached garage



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1  
2 and the existing residence building beyond.

3           The next photograph is similar from a point of view of  
4 the perspective of the photograph, but taken from a little  
5 further back toward the triangular -- triangle portion, and  
6 you'll see there the two-car detached garage, and the residence  
7 building again beyond the garage.

8           The next photograph is a view of the subject residence  
9 building, but taken from the street, and looking more towards  
10 the southerly side of the building.

11           The following, shows the rear yard of the premises, and  
12 you'll see that at the rear yard, there is a raised deck in the  
13 back, and there is an older fence -- a small fence along the  
14 rear property line, where there are also transmission lines for  
15 electrical service. In that photograph, you can also see,  
16 although it's somewhat obscured, the school property, which is  
17 to the west of the subject.

18           The next photograph is of the adjoining premises to the  
19 south on Ridge, and you'll note that there is a long row of  
20 bushes that separate those two properties.

21           The final photograph is of the adjoining premises on  
22 the east side of Ridge Drive, and you'll note in this  
23 photograph how far back that building, that residence building,  
24 is from the street, and this photograph also shows and  
25 coordinates with the survey, so you can understand that the  
26 street at this location is quite wide, and there's a lot of

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2 frontage that each of the homes have that are across from one  
3 another.

4 The plans that we have submitted indicate that the  
5 applicant is proposing front -- a front addition, a two-story  
6 to make the house two stories in part of the front and a  
7 one-story addition on the northerly side. The additions would  
8 accommodate a master bedroom on the upper level for the new  
9 owner and would accommodate a kitchen on the lower level.

10 We have a drawing I'd like to submit to the Board when  
11 it considers the variances that Mr. Alberto prepared. This is  
12 the survey that has been blown up, and on the survey, Mr.  
13 Alberto has depicted in red line the limited building envelope  
14 to the permits given the uniqueness of the shape, and if the  
15 Board will allow, I will submit this as an additional exhibit.

16 MR. PERROTTA: Thank you.

17 SECRETARY WAGNER: The photographs we're entering as  
18 Exhibit 1, and this will be Exhibit 2.

19 MR. SAHN: Thank you very much. As you review these  
20 documents, I'd ask you to note that part of the reason that the  
21 building envelope now is so constricted is that there's a  
22 requirement in the code, which the Board, of course, is  
23 familiar with, for compliance with the average front yard  
24 setback. That code provision was not enacted at the time this  
25 building was built, so we have, in addition to the uniqueness of  
26 the property, the fact that we have a nonconforming building with

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1  
2 a very limited building envelope on a lot that's twice the size  
3 that the code requires, and this creates issues in designing a  
4 -- an addition that makes sense to update this property.

5 As you'll note from the Notice of Disapproval, we are  
6 requesting a floor area there, but the floor area variance  
7 respectfully is very insignificant. It's a 57.4 square foot  
8 floor area variance; 4,000 square feet is allowed, but to make  
9 this work and have good building lines; Mr. Alberto has  
10 designed this so that we do have to ask the Board for this  
11 variance. In that regard, I would ask the Board to note that  
12 with the additions, the lot coverage would only be 15.7 percent  
13 and the allowable is 25 percent.

14 With respect to the front yard variances, we do require  
15 because of the average front yard setback requirements, we do  
16 require front yard setback variances for the one-story addition  
17 and the front porch, and those, as we suggest, in the  
18 Memorandum of Law and Facts that we submitted are mitigated by  
19 various factors, including the configuration of the lot, the  
20 width of the street. The fact that we're not essentially  
21 changing the character of the existing house. The house, as  
22 proposed by Mr. Alberto with the additions, is essentially the  
23 same and in the same character as other homes in the area, and  
24 these variances we, again, respect given the totality and  
25 circumstances are de minimis and insignificant. In that  
26 regard the front yard variances for the porch and the raised

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2 deck are respectively only 1.95 feet in area.

3 I have Mr. Alberto available for any questions if the  
4 Board requires. I can present him to testify, but I think that  
5 from the photographs, the Memo of Law, and all the documents, the  
6 Board should have a good understanding of the application.

7 ACTING CHAIRMAN FRANCIS: Very good.

8 MEMBER DONATELLI: Mr. Sahn, if I may ask? What are  
9 the dimensions? I do not see them offhand of the proposed new  
10 covered porch.

11 ACTING CHAIRMAN FRANCIS: Here it is.

12 MEMBER DONATELLI: If I'm reading this correctly --

13 MEMBER HERNANDEZ: Twenty-three by 15?

14 MR. SAHN: Let me see. I have the smaller version.  
15 I'm going to take a look at while Don looks for that.

16 MEMBER DONATELLI: Twenty-three by -- 23 wide by 15  
17 feet?

18 MR. SAHN: It's 23.4 by --

19 Mr. Alberto: By 8.1.

20 MEMBER DONATELLI: Okay, 8.1 in depth?

21 MR. SAHN: For the new covered porch. That's at the  
22 front seat.

23 MEMBER DONATELLI: What page are you referring to?

24 ACTING CHAIRMAN FRANCIS: You're looking at 83?

25 MEMBER HERNANDEZ: I'm looking at 83.

26 ACTING CHAIRMAN FRANCIS: Mr. Alberto, page 83 has 23

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2 by -- it looks that's 15.

3 MEMBER HERNANDEZ: Yeah, that's what it looks like. It  
4 looks like, although the one is really tiny, though.

5 ACTING CHAIRMAN FRANCIS: Yeah.

6 MEMBER HERNANDEZ: Well, we know --

7 MEMBER GOODSELL: It's hard to say if it's five.

8 ACTING CHAIRMAN FRANCIS: It can't be five.

9 SECRETARY WAGNER: That's five. It's five inches.

10 ACTING CHAIRMAN FRANCIS: Five inches?

11 SECRETARY WAGNER: Yeah.

12 MEMBER HERNANDEZ: It's something five inches.

13 SECRETARY WAGNER: Twenty-three, five inches.

14 MEMBER DONATELLI: It's 23.4.

15 MEMBER HERNANDEZ: It's 23 feet --

16 MEMBER DONATELLI: Five inches wide?

17 MEMBER HERNANDEZ: Doesn't show the depth.

18 SECRETARY WAGNER: No.

19 ACTING CHAIRMAN FRANCIS: Oh, it doesn't show the depth  
20 okay.

21 MEMBER DONATELLI: Okay, so I'm looking at page 81, and  
22 it would appear to be on the left-hand portion of the page,  
23 where you're showing first-floor area, and I see a depth of  
24 seven feet. Does that sound right?

25 Mr. Alberto: That's correct.

26 MR. SAHN: That's correct. Mr. Alberto, thank you for

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2 the assist.

3 MEMBER DONATELLI: I needed glasses to find it, but so  
4 in other words, it's 23.5 by 7 feet.

5 MR. SAHN: By seven feet. And that is replacing what's  
6 there now, and the patio in front is being removed. So  
7 essentially, the second-floor addition in this part is over the  
8 existing.

9 MEMBER DONATELLI: Is? I'm sorry.

10 MR. SAHN: The second-floor addition that's being  
11 proposed is over the existing residence building, and then  
12 further to the north is the one-story addition, and that  
13 essentially will be the kitchen. And the kitchen, as you  
14 review the plans, would have access to the new side deck that  
15 is adjacent to the garage.

16 MEMBER HERNANDEZ: Now, the front porch, contrary to  
17 what we're used to seeing does not protrude forward at the house.  
18 It offers to the left. It's actually more forward than to the  
19 front porch, correct?

20 MR. SAHN: That's correct.

21 MEMBER HERNANDEZ: And the reason why it's encroaching  
22 is because of the shape of Ridge Drive that is sort of angling  
23 back, yes?

24 MR. SAHN: Correct. And the average front yard setback  
25 is required, so essentially, Mr. Hernandez, you're correct,  
26 this sort of fills-in a space and does not encroach further

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2 than the existing main part of the resident building on the  
3 southerly side.

4 MEMBER HERNANDEZ: Correct.

5 MR. SAHN: It would help, I think, and I defer to Mr.  
6 Alberto, but in my view, it would help create an esthetically  
7 pleasing front entranceway into the property.

8 MEMBER DONATELLI: Yeah, I actually -- I lived pretty  
9 much around the corner from this area. I had the privilege of  
10 living there 30-some-odd years, anyway. I'll stop at  
11 30-some-odd years. It's -- it is -- the charm of the area is,  
12 of course, the curving streets and many of the issues that are  
13 confronted by homeowners is the curve streets. So the very  
14 thing it gives it charm, sometimes requires homeowners to come  
15 before us. I'm pleased to see that is an oversized lot, and  
16 certainly the fact that it does about the school and that there  
17 is a substantial drop-off between the elevation of this home  
18 and the school down below. Certainly gives it an air of  
19 openness; otherwise, it might not have. I would, as one Board  
20 Member, like the chance to consider this a little bit. I don't  
21 know if any other Board Members have other questions or  
22 comments?

23 MEMBER GOODSSELL: I don't have any questions.

24 MEMBER HERNANDEZ: I don't have any questions.

25 MEMBER DONATELLI: Mr. Chairman, that I would ask that  
26 we be able to reserve a decision on this.

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2 ACTING CHAIRMAN FRANCIS: That's fine with me.

3 MR. SAHN: That's fine. The property, as you know, is  
4 vacant. It was purchased in November. The intent, of course,  
5 is to renovate, as shown by these plans, but reserving decision  
6 to give the Board an opportunity to consider it further is  
7 certainly not a problem for the applicant. In fact, we welcome  
8 it, and if any Board Member wants to visit it with us, we can  
9 accommodate that, but it is a beautiful -- it's a beautiful area,  
10 and I agree; one thing that struck me is from that elevation,  
11 if you're living in that home, you're going to look west and  
12 have beautiful views westerly.

13 MEMBER DONATELLI: It opens up all the way to  
14 Manhattan.

15 MR. SAHN: It does, and the way conversion /TPROF  
16 there is a very wide street frontage, and the street-scape was  
17 very wide, so that would be detached garage separate from the  
18 house. It creates a lot of opportunities for very nice  
19 landscaping and development of the property.

20 MEMBER DONATELLI: When we had just moved in, the prior  
21 owners had five or six old cars, and by old cars, I think they  
22 were probably from the early 70s, and they were in various  
23 states of rust and decay, and they were in that large brick  
24 patio of the area, and my 35-year-old son, who was two at the  
25 time, called them the boo boo cars, and so every time we'd walk  
26 the dog down the block, he would point out the boo boo cars.



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2 MR. SAHN: Right.

3 MEMBER DONATELLI: And thankfully, the boo boo cars are  
4 now gone, and in its place, we understand what the applicant is  
5 trying to achieve, so I would ask that we reserve decision and  
6 that we will look at diligently.

7 MR. SAHN: Thank you very much. We appreciate it.

8 MEMBER DONATELLI: Thank you.

9 ACTING CHAIRMAN FRANCIS: Thank you.

10 MR. SAHN: Thank you again.

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1 Appeal #21500

2 SECRETARY WAGNER: Next appeal. Appeal #21500 - Frank  
3 Radocaj; 136 Albertson Parkway, Albertson; Section 7, Block 55,  
4 Lot 58; Zoned: Residence-B. Variances from 70-40.A and  
5 70-41.A to construct additions that are too close to the side  
6 and front property lines and with less than required total  
7 (aggregate) side yards.

8 ACTING CHAIRMAN FRANCIS: You've heard Appeal #21500.  
9 Is there anyone interested in the application other than the  
10 applicant? Seeing no one, Mr. Susa, please give your  
11 appearance.

12 MR. SUSA: Good evening -- good afternoon.  
13 Mr. Chairman -- Mr. Vice Chairman, Members of the Board. My  
14 name is Emilio Susa. I'm the architect of record for this  
15 project. I reside at 23 Russell Drive, New Hyde Park, New York  
16 11040.

17 ACTING CHAIRMAN FRANCIS: Yes, sir, go right ahead.

18 MR. SUSA: We're here before you today. We would like  
19 to construct a new second floor over this existing residence,  
20 as well as renovate the inside, and there's a rear addition as  
21 well, but the rear addition is really not a part of the  
22 variance per se. The existing house as it were right now  
23 prior to the renovation has an existing nonconforming side  
24 yard, minimum side yard. There's a B Zone, Residence-B Zone,  
25 where a seven-foot minimum side yard is required, and the  
26 existing side yard is 6 feet 9 inches. Also, the aggregate

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2 side yard is existing nonconformity as well. We have an  
3 aggregate of 15 foot nine, where 16 feet would be required, and  
4 we also have an existing nonconformity front yard. The average  
5 front yard, though, bears out to be slightly less than what the  
6 minimum required front yard is for this particular zone, and  
7 that's just -- that'll give you an idea of the landscape or the  
8 street-scape of the neighborhood. Most of the houses are  
9 setback pretty much in the same distance that the subject  
10 property is. So we're just looking to build in line with the  
11 nonconforming walls and go vertical and renovate the home.

12 ACTING CHAIRMAN FRANCIS: Good.

13 MEMBER GOODSELL: Sir, I looked at this property, and  
14 can I ask, in your opinion, will the differences be perceptible  
15 to the general public walking, driving by, will it look  
16 inconformity with the other homes?

17 MR. SUSA: Yes, it will. Yes. There's many other  
18 houses that have embarked on very similar renovations. I don't  
19 have their addresses, unfortunately, but this type of  
20 renovation in this particular part of the area is pretty  
21 prototypical, I would say.

22 MEMBER GOODSELL: But the variance is needed to do this  
23 seems to be rather small. I just want to note for the record  
24 that Albertson Parkway is really not a parkway, but a residential  
25 side street.

26 ACTING CHAIRMAN FRANCIS: Exactly.

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2 MR. SUSA: It may have been at one point a parkway. We  
3 don't know.

4 ACTING CHAIRMAN FRANCIS: Maybe in the 20s.

5 MR. SUSA: In the 20s, right.

6 SECRETARY WAGNER: Wagons, perhaps.

7 MR. SUSA: Right. Right.

8 MEMBER GOODSELL: It's deceptive because it's not a --

9 MR. SUSA: It's not a thorough-thru, no.

10 MEMBER GOODSELL: It's not a thorough-thru. It's  
11 absolutely not.

12 ACTING CHAIRMAN FRANCIS: I would just note for the  
13 record that you have a fairly conservative roof pitch on the  
14 house. It's not really -- how high are the rooms on the second  
15 floor?

16 MR. SUSA: We've got -- I mean, we've complied with the  
17 sky exposure plane. Although one of our overhangs, it does  
18 encroach on the nonconforming side yard that it does encroach  
19 slightly into it by about, I'd say, ten inches, but the roof  
20 itself is 29 feet five inches from preexisting average grade,  
21 and the pitch on this house is six-and-a-half is the roof,  
22 which is generally not a crazy steep pitch. It's sort of a  
23 wide house, so we couldn't really put a steep pitch on it to  
24 be honest with you. And just to your point, we always try --  
25 when we now have a variance for the side yard, we always try  
26 to do a hip roof so that the neighbor is not staring at, you

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2 know, a big giant three-story vinyl gable wall, so we're always  
3 cognizant of that.

4 MEMBER DONATELLI: Well, if the Chairman were here, he  
5 would thank you for that.

6 MR. SUSA: Well, that's where I learned -- I learned it  
7 from him, so.

8 ACTING CHAIRMAN FRANCIS: You're alright with the sky  
9 plane?

10 MEMBER DONATELLI: Yes.

11 ACTING CHAIRMAN FRANCIS: All right.

12 MEMBER GOODSELL: I don't have any objection to this.  
13 I think it's -- they tried to make it fit within the envelope  
14 you can build in.

15 ACTING CHAIRMAN FRANCIS: All right. Thank you,  
16 Mr. Susa.

17 MR. SUSA: Thank you.

18 ACTING CHAIRMAN FRANCIS: Do we have a motion on this  
19 application.

20 MEMBER GOODSELL: I'll make a motion on that variance.  
21 I make a motion that the variances requested are very minimal,  
22 and I recommend -- I make a motion we grant them.

23 ACTING CHAIRMAN FRANCIS: All right. We have a motion.  
24 Does we have a second?

25 MEMBER DONATELLI: Second.

26 ACTING CHAIRMAN FRANCIS: Seconded by Mr. Donatelli.

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2 Would you please poll the Board?

3 SECRETARY WAGNER: Member Hernandez?

4 MEMBER HERNANDEZ: Aye.

5 SECRETARY WAGNER: Member Goodsell?

6 MEMBER Goodsell: Aye.

7 SECRETARY WAGNER: Member Donatelli?

8 MEMBER DONATELLI: Aye.

9 SECRETARY WAGNER: Acting Chairman Francis?

10 ACTING CHAIRMAN FRANCIS: Aye. The application is  
11 granted.

12 MR. SUSA: Thank you.

13 MEMBER GOODSELL: I think it has something to do with  
14 the lucky number on your application.

15 MR. SUSA: Oh, yes.

16 MEMBER GOODSELL: Two-one-five-zero.

17 MR. SUSA: I'm gonna go and play that tonight, so.

18 ACTING CHAIRMAN FRANCIS: There are you go.  
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## 1 Appeal #21502

2 SECRETARY WAGNER: The next appeal. Appeal #21502 -  
3 Jaswinder Singh; 24 Royal Way, New Hyde Park; Section 8, Block  
4 257, Lot 19; Zoned: Residence-A. Variance from 70-31.A to  
5 legalize a deck that is too close to the side and rear property  
6 lines and with smaller than required total (aggregate) side  
7 yards.

8 ACTING CHAIRMAN FRANCIS: You've heard Appeal #21502.  
9 Is there anyone interested in the application other than the  
10 applicant? Seeing no hands, Mr. Susa, one more time.

11 MR. SUSA: Good afternoon. My name is Emilio Susa. I  
12 residence at 23 Russell Drive, New Hyde Park 11040. I'm the  
13 architect of record for this application. So we're here before  
14 you today for this rear deck that, unfortunately, was constructed  
15 without the benefit of a building permit. The property itself  
16 has the house -- the existing house is situated rather far back  
17 and nestled into the sort of rear quadrant of the lot itself.

18 In the drawings that I submitted. If you look at the  
19 first floor plan, the reason the deck was constructed in that  
20 particular area is because that's where the existing access is  
21 from the first floor of the house via some sliding French doors  
22 to the backyard. The owner had thought, well, this will be a  
23 great spot to put the deck. Opposite that, it really isn't a  
24 good place if you were trying to build it on the other side,  
25 there's access from the house already pre-existing but it's on  
26 a lower level.

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1  
2 This is a split-level home, so that would interfere  
3 with that access, so we had thought that this would be a great  
4 spot to put it, but unfortunately, where he situated it does  
5 not comply with the existing required setbacks. As we know, a  
6 deck to the rear yard must have ten feet, and we are processing  
7 6-and-a-half -- 6.6. Side yard aggregate to the deck we're  
8 supposed to have 26 -- 25-and-a-half, and we're  
9 providing 21-and-a-half, and then the rear setback, we're  
10 supposed to be providing 15. We're only providing 9.7.

11 I can tell you that the -- this property is very well  
-  
12 screened in the back. There was a fence on all sides, and just  
13 in terms of the deck itself and its maybe prominence to the  
14 neighbor, I think, it's not that much of an issue. We don't  
15 know of any neighbors that are in opposition to this  
16 application, so, unfortunately, it was built without a permit,  
17 but we feel that where it is, at the moment, does not have a  
18 negative impact on any of the immediate neighbors, and we ask  
19 that you grant this application.

20 ACTING CHAIRMAN FRANCIS: How long has the deck been  
21 there?

22 AUDIENCE MEMBER: About three to four months.

23 MR. SUSA: About three to four years.

24 AUDIENCE MEMBER: No, three to four months.

25 MR. SUSA: Months, I'm sorry. Three to four months.

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



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2 grade?

3 MR. SUSA: Sure. The height off of grade, and it's  
4 even with the first floor of the house.

5 MEMBER HERNANDEZ: It's four-six.

6 MR. SUSA: It's three feet to the top of grade from --  
7 top of grade to top of deck is three feet.

8 ACTING CHAIRMAN FRANCIS: I see four-six.

9 MEMBER HERNANDEZ: I see four-six above grade on our  
10 papers.

11 MR. SUSA: I'm sorry. It's a bi-level deck. My  
12 mistake. So the lower portion of the bilevel is three feet.  
13 The upper portion is four-six. That's the part that aligns  
14 with that portion of the existing first floor of the structure.

15 ACTING CHAIRMAN FRANCIS: Right. Right.

16 MEMBER DONATELLI: So as the deck proceeds to the side  
17 yard lot line, it gets taller?

18 MR. SUSA: It gets lower.

19 MEMBER DONATELLI: Lower?

20 MR. SUSA: As it goes to the side yard, it drops down  
21 18 inches.

22 MEMBER DONATELLI: I see.

23 MEMBER GOODSELL: Mr. Susa, could you discuss the  
24 elevation of the property immediately to the rear of this?

25 MR. SUSA: Yes, I was going to bring that up. The  
26 block that's immediately to the south of Royal Way, the next

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2 block over, drops down significantly. There's a large grade  
3 change so what that --

4 MEMBER GOODSSELL: What about to the rear? What about  
5 to the north?

6 MR. SUSA: Oh, to the north?

7 MEMBER GOODSSELL: That property is elevated. Is that  
8 not --

9 MR. SUSA: Yes, and it elevates up towards -- I forgot  
10 the name of the road, but, yes, it rises up as you go towards  
11 the north, and it dramatically falls as you go towards the  
12 south.

13 MEMBER GOODSSELL: And I see, that there is a fence on  
14 the rear yard. Is that a retaining wall?

15 MR. SUSA: That fence -- no, no, not that I know of.  
16 That is a PVC fence, which we had legalized. It's a six  
17 foot high PVC fence.

18 MEMBER GOODSSELL: It doesn't -- it looks like it's --

19 MR. SUSA: There may be a retaining wall opposite that  
20 on the lower side as it drops down, but we're right on top of  
21 our grade, and it measures six feet.

22 MEMBER GOODSSELL: So the rear -- the deck that the  
23 applicant has added, is not looking over the rear property. It  
24 is considerably lower than the rear property. Is that fair to  
25 say?

26 MR. SUSA: Yes.

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2 MEMBER GOODSELL: I grew up in this area. I remember  
3 when this was a golf course, okay. I don't remember what hole  
4 it was. It was all a golf course.

5 MR. SUSA: Yes.

6 MEMBER GOODSELL: So I'm aware that there are different  
7 elevations.

8 MR. SUSA: There's many grade changes, yes.

9 MEMBER GOODSELL: There are many grade changes. And  
10 yes, because of the elevation in the rear, it's not gonna be  
11 visible really to the neighbor behind; however, it is a big  
12 deck.

13 MEMBER DONATELLI: It is a very big deck, and frankly,  
14 while we're not in the business of saying no, we're always  
15 concerned -- I am always concerned at least with the precedent of  
16 what we might set on other cases that are similar to this. As  
17 you know, we try to be consistent in our decision. I  
18 understand that your client built the deck without the benefit  
19 of a permit. Would it be possible for the deck to be made  
20 smaller so that it might be compliant?

21 MEMBER GOODSELL: And if so, how much smaller would it  
22 have to be?

23 MR. SUSA: Are we talking compliant with the rear yard,  
24 compliant with the side yard, or just compliant all around?

25 MEMBER GOODSELL: The side yard. The side yard is the  
26 biggest --

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2 MR. SUSA: Yeah, right.

3 MEMBER GOODSELL: Biggest difference.

4 MEMBER DONATELLI: You're supposed to have a setback of  
5 ten feet, and you're at 6.6 feet.

6 MR. SUSA: Right.

7 MEMBER DONATELLI: So 3.4 --

8 MR. SUSA: Differential, yeah.

9 MEMBER DONATELLI: Three -- 3.4 feet variance, which is  
10 approximately one-third of --

11 MR. SUSA: Right.

12 MEMBER DONATELLI: -- the requirement. And again, not  
13 because we're trying to deprive your client of something if he  
14 did, but we're very concerned --

15 MR. SUSA: Of course.

16 MEMBER DONATELLI: -- about the precedent present that  
17 we set.

18 MR. SUSA: Sure. Well, I think that I would need to  
19 confer with him. He's -- this is his brother, so he's not here  
20 today, but maybe -- can you just give me one moment?

21 ACTING CHAIRMAN FRANCIS: Sure, of course.

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

24 MEMBER HERNANDEZ: Before you start, I just want to  
25 clarify one question.

26 Mr. SUSA: Yeah, sure.

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2 MEMBER HERNANDEZ: Who is at a higher elevation?  
3 Your client's house or the rear neighbor's house?

4 MR. SUSA: I believe the neighbor drops down.

5 MEMBER HERNANDEZ: So, therefore, your client --

6 MR. SUSA: Across the street goes --

7 MEMBER HERNANDEZ: Back up again.

8 MR. SUSA: Back up again, yes.

9 MEMBER HERNANDEZ: Okay.

10 MR. SUSA: Yeah.

11 MEMBER DONATELLI: So then the deck that we're talking  
12 about is actually, even though it drops, as it goes toward the  
13 side yard, it's still elevated compared to the side yard  
14 neighbor.

15 MR. SUSA: Yes, you're almost looking at the neighbor's  
16 roof kind of.

17 MEMBER DONATELLI: Okay.

18 MR. SUSA: It's a little weird.

19 MEMBER HERNANDEZ: Well, it's not what look at yet.

20 MR. SUSA: No, it's not certain --

21 MEMBER HERNANDEZ: We don't want the neighborhood to be  
22 looking at people floating up there.

23 MR. SUSA: Yeah, I could say a -- I was back there.  
24 It's not -- you can't like sit on the deck or stand on the deck  
25 and look over. You don't really get a view of the neighbor's  
26 backyard 'cause he does have a six-foot fence. Can somebody

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2 stand in the backyard and look up? I, you know, to be honest  
3 with, I didn't go into the neighbor's yard and try that, but.

4 MEMBER HERNANDEZ: Yeah, but we've all seen the case  
5 where you're standing somewhere and you look at people that  
6 appear to be eight, ten-feet tall because they're  
7 obviously standing on something that's four feet high, okay.  
8 So that's what we're trying to avoid --

9 MR. SUSA: Agreed. Maybe some arborvitaes along the  
10 rear yard lot line would sort of prevent maybe something like  
11 that.

12 MEMBER DONATELLI: Would it be possible for your client  
13 to -- the original question was, would it be possible for your  
14 client to cut back on the side yard lot variance.

15 MR. SUSA: Okay, so that original question. He is in  
16 Dubai, so I think we may have to adjourn and get an answer from  
17 him and come back, I think.

18 MEMBER GOODSELL: Would it be possible for you to have  
19 him submit us a few photographs of the deck.

20 MR. SUSA: I can get the photographs and submit that to  
21 the Board.

22 MEMBER GOODSELL: That would help us --

23 MR. SUSA: Okay.

24 MEMBER GOODSELL: -- see what's going on.

25 MR. SUSA: Sure.

26 ACTING CHAIRMAN FRANCIS: All right. When is your

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2 client coming back?

3 Mr. SUSA: I don't know if it's a question of him  
4 coming back, but --

5 SECRETARY WAGNER: Well, no --

6 ATTORNEY ALGIOS: He can speak --

7 ACTING CHAIRMAN FRANCIS: Oh, yeah.

8 MR. SUSA: Yeah, I just need to speak with him.

9 ACTING CHAIRMAN FRANCIS: Oh, okay, all right.

10 MR. SUSA: He's just not available in person. I'll  
11 call him.

12 ACTING CHAIRMAN FRANCIS: All right.

13 MEMBER DONATELLI: And I just want to repeat for the  
14 record, but what we commented on here while you were confirming  
15 with your client's brother, which is that we try to promote  
16 compliance with the code whenever possible. We understand that  
17 it's not always possible, but when we do grant a variance, we  
18 try to grant the minimal variance that might have been  
19 required, number one, and of course, we do the balancing test  
20 with the Five Factors, but if we were to find a way to cut back  
21 on the side yard lot variance that would also help us --

22 MR. SUSA: Okay.

23 MEMBER DONATELLI: -- with the aggregate side yard.

24 MR. SUSA: Sure, right. You'll get another benefit out  
25 of it, yeah.

26 MEMBER DONATELLI: So again, we would appreciate any

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2 efforts that you or your client can make toward that code.

3 MR. SUSA: Will do certainly. We'll resubmit any  
4 additional information in between now and next month.

5 ACTING CHAIRMAN FRANCIS: Yeah, we'll continue the  
6 application.

7 MR. SUSA: Or is it -- would it be next month, right?

8 SECRETARY WAGNER: March 6th is the next hearing.

9 ACTING CHAIRMAN FRANCIS: Yeah.

10 MR. SUSA: Okay, very good.

11 SECRETARY WAGNER: So you can just send us the  
12 photographs and send us an answer as to whether you have to  
13 come back or not.

14 MR. SUSA: Will do. That's great. I appreciate it so  
15 much. Thank you.

16 MEMBER DONATELLI: Thank you.

17 MEMBER HERNANDEZ: Thank you.

18 ACTING CHAIRMAN FRANCIS: Thank you.

19 SECRETARY WAGNER: So this is continued.

20 ACTING CHAIRMAN FRANCIS: Ginny, we're going to take a  
21 five-minute break.

22 SECRETARY WAGNER: We're just going to take a  
23 five-minute break.

24 (Whereupon, there was a recess taken in the  
25 proceeding.)

26



Appeal #21502

SECRETARY WAGNER: The next appeal, Appeal #21501- Kazi Ahmed; 925 North 6th Street, New Hyde Park; Section 8, Block 17, Lot 39; Zoned: Residence-C. Variances from 70-50.A and 70-208.F to construct a new roofed-over porch (portico) that is too close to the street on a nonconforming dwelling.

ACTING CHAIRMAN FRANCIS: You've heard Appeal #21501. Is there anyone interested in the application other than the applicant? Seeing no one, please give your name and address.

MR. COHEN: Hello again, good morning, Vice Chairman and Members of the Board. My name is Marcelo Cohen. I'm an architect. My company name is Delargent Design located in 2963 Holiday Park Drive in Merrick, New York.

By now, I lost my stage fright, so I'd be much better. Well, I have been retained by my client, Mr. Kazi Ahmed, who owns the property located at 925 North 6th Street in New Hyde Park, New York, to file an application for the addition of a portico at the front of the house.

Section 70-50(C) of the Town of North Hempstead code states that the front yard setback shall be the same as the average front yard for dwellings between 200 feet on each side or 25 feet, whichever is greater. Our existing average setback is 21 feet 9 inches. We know that is a nonconforming building, but the existing front yard is 20 feet six inches, which obviously does not comply with the current code.

Under the permit 22-000979, we obtain approval to

## Appeal #21502

1  
2 relocate the building's side entrance to the front. We  
3 provided an open porch with a landing of five feet from the  
4 projected first-floor front wall. The landing of the existing  
5 open porch is located at 14 feet 6 inches from the property  
6 line. At this point, our intention is to widen the open porch  
7 that was already approved and place a roof over that porch,  
8 obviously, supported by columns. The extent of the portico  
9 will not go beyond the five feet landing that we are approved  
10 for originally. The front yard will remain the 14 feet six  
11 inches, which we know is less than the 25 required by the code.

12 This portico not only will provide protection, but it  
13 will also make the front of the house much more appealing from  
14 what it is now. We believe that this addition will not produce  
15 a negative impact on any of the surrounding properties. On the  
16 contrary, it will enhance the character of the street, as it  
17 will blend with the physical characteristics of existing  
18 neighboring houses, which are similar porticos as the one that  
19 we are proposing. Again, I thank you for your time and look  
20 forward for a positive determination. Thank you.

21 ACTING CHAIRMAN FRANCIS: Well, I mean it makes more  
22 sense to have your front door in the front of your house, not  
23 on the side of the house.

24 MR. COHEN: Right.

25 ACTING CHAIRMAN FRANCIS: I think --

26 MR. COHEN: Yeah, originally the house was designed

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2 with a side entrance, which --

3 ACTING CHAIRMAN FRANCIS: Yes, yeah. It's going to  
4 pretty much look like the house right next to it.

5 MR. COHEN: Exactly.

6 ACTING CHAIRMAN FRANCIS: Yeah.

7 MR. COHEN: Exactly, that's the idea, yeah.

8 MEMBER DONATELLI: So may I just ask? Right now where  
9 the three windows are, they project -- it looks like they  
10 project perhaps a foot or so from the front of the house; is  
11 that correct?

12 MR. COHEN: Yes. What happens is that -- and if  
13 you'd like to see, I have the original plans. The plan -- the  
14 only plans that they had on record here when I did the FOIL  
15 request, that shows that the portion of the front of the house  
16 only in the first floor projects one foot beyond the  
17 foundation, okay, that's -- so obviously, the main dimension of  
18 the building is setback. It's measured to the foundation, not  
19 to the front wall.

20 MEMBER DONATELLI: Okay, so that's where the three  
21 windows now appear to the left of the chimney --

22 MR. COHEN: Yes.

23 MEMBER DONATELLI: -- that extends about one foot from  
24 the structure.

25 MR. COHEN: Well, the only one foot that the dimension  
26 it's on the first floor. The second floor is aligned with the

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2 foundation.

3 MEMBER DONATELLI: Correct.

4 ACTING CHAIRMAN FRANCIS: Correct.

5 MEMBER DONATELLI: Now, getting back then to your  
6 application here for this portico.

7 MR. COHEN: Yeah.

8 MEMBER DONATELLI: Where you're talking about removing  
9 those three windows, that will become the front door, no?

10 MR. COHEN: No, no, no, the front door will stay where  
11 it is. Right now -- I don't know if you had a chance to drive  
12 by recently, but there are -- there -- and you can see that  
13 they had the landing that was originally approved for that.  
14 They built it. That's already like five foot --

15 MEMBER GOODSELL: It's already under construction.

16 MR. COHEN: Huh?

17 MEMBER GOODSELL: It's already under construction.

18 MR. COHEN: Because we had already a permit prior  
19 to this. As I mentioned before, the permit number 22-0000979,  
20 so we had a permit to do some work in the house in which we  
21 relocated the entrance, so --

22 MEMBER DONATELLI: So the entrance has already, and that  
23 has been approved?

24 MR. COHEN: Yes, yes.

25 MEMBER DONATELLI: By the Building Department.

26 MR. COHEN: Exactly, yes, and permitted.

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2 MEMBER DONATELLI: And that's under construction?

3 MR. COHEN: Yes, and permitted. If you'd like to see I  
4 can show you --

5 ACTING CHAIRMAN FRANCIS: So where's the --

6 MR. COHEN: -- a picture.

7 MEMBER DONATELLI: So let me rephrase my question, then  
8 slightly.

9 MR. COHEN: Yeah.

10 MEMBER DONATELLI: You're putting the front door where  
11 the three windows had been.

12 MR. COHEN: No.

13 MEMBER DONATELLI: As we look at the house, from the  
14 street, the chimney is in the middle, correct?

15 MR. COHEN: Yes.

16 MEMBER GOODSSELL: We're looking on Google Maps.

17 MR. COHEN: Oh, okay.

18 MEMBER DONATELLI: No, I'm looking at the photograph  
19 that is part of the scan of the application.

20 MR. COHEN: Right. If I may, can I just show you these  
21 as an exhibit?

22 MEMBER DONATELLI: Please. Do you want to submit this  
23 as an exhibit?

24 MR. COHEN: I would like to. I would like to explain  
25 this to you that the house that we are concerning is right  
26 here.

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2 SECRETARY WAGNER: Mr. Cohen --

3 ATTORNEY ALGIOS: Mr. Cohen, you can explain it up  
4 there at then you can hand in. Just explain it at the podium  
5 because she won't be able to hear.

6 MR. COHEN: Okay, so the front -- the front of the  
7 house -- the front door was relocated as per the approval of  
8 the application already, okay. There were no windows that were  
9 changed at that point, okay. We just -- and I think from the  
10 original -- I mean, from the drawings that were approved, this  
11 reflects what's indicated in those drawings. Now, in this  
12 application when we go for the variance, what we're doing is  
13 just making the porch -- the open porch wider, okay. We're not  
14 increasing the length; just making it wider and putting a, you  
15 know, a roof area to protect it, obviously, okay.

16 MEMBER DONATELLI: I understand, so that you're not  
17 stepping straight into the house.

18 MR. COHEN: No, no, no, not at all.

19 MEMBER DONATELLI: You're stepping into an open porch.

20 MR. COHEN: No, no, not at all.

21 MEMBER DONATELLI: And you are proposing an open  
22 portico; is that correct?

23 MR. COHEN: Yes, yes.

24 MEMBER DONATELLI: Okay. May we see that?

25 MR. COHEN: Of course.

26 MEMBER DONATELLI: Why don't we introduce that as an

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2 exhibit?

3 MR. COHEN: Okay. Well, what these are -- these are  
4 pictures of neighboring houses and the -- mainly, I wanted to  
5 indicate to you that the houses next door they already have a  
6 similar porch that we're proposing.

7 MEMBER DONATELLI: Yes.

8 ACTING CHAIRMAN FRANCIS: Yes.

9 MEMBER HERNANDEZ: We agree.

10 MEMBER DONATELLI: I understand.

11 MR. COHEN: So the one that we have is the white house  
12 that you will see in the picture. That's the one that's under  
13 construction now. So I will --

14 ACTING CHAIRMAN FRANCIS: Okay.

15 MEMBER DONATELLI: That is the applicant's house?

16 MR. COHEN: Yes.

17 MEMBER DONATELLI: Okay.

18 ACTING CHAIRMAN FRANCIS: It looks like two of the  
19 three windows are being replaced by the door.

20 MEMBER DONATELLI: Well, that's -- that's why I want to  
21 see.

22 ACTING CHAIRMAN FRANCIS: Yeah.

23 MR. PERROTTA: Thank you.

24 (Whereupon, there was a discussion amongst the Board  
25 Members.)

26 MEMBER DONATELLI: Oh, I see, so this window -- may I

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2 see? So it's still protruding.

3 ACTING CHAIRMAN FRANCIS: Yeah.

4 MEMBER DONATELLI: It's still protruding.

5 MEMBER HERNANDEZ: Yeah.

6 SECRETARY WAGNER: Mr. Cohen, why did you not get a  
7 variance for the original porch that you said was proposed.

8 MR. COHEN: Because the original porch was an open -- I  
9 mean, it was just a landing, just a way to access the front  
10 door that was relocated.

11 SECRETARY WAGNER: A stoop.

12 MR. COHEN: It was a stoop. Yeah, it was just a stop  
13 that had a five-foot landing.

14 SECRETARY WAGNER: And you can have a stoop.

15 MR. COHEN: Right.

16 MEMBER DONATELLI: So as I review this photograph that  
17 you just handed up, it appears that of the original three  
18 windows that were there, one window is still there.

19 MR. COHEN: Yes.

20 MEMBER DONATELLI: But then the other two windows that  
21 are toward the center of the house; those have been replaced by  
22 the door.

23 MR. COHEN: Right, one, one -- the opening here for the  
24 window they're for the located, but that door -- that was on  
25 the previous application that was already --

26 MEMBER DONATELLI: I understand, and my other comment



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2 is that -- where the three windows had been, where now it's the  
3 one window plus the door, still protrudes from the front of the  
4 house.

5 MR. COHEN: No, the ones that protrude from the front  
6 of the house are the windows that you will see on the left in  
7 the door. The other one -- the other window is setback one  
8 foot.

9 MEMBER DONATELLI: From your photograph, it clearly  
10 shows that it still protrudes out.

11 MEMBER HERNANDEZ: He's speaking of the window to your  
12 right from the fireplace.

13 ACTING CHAIRMAN FRANCIS: To the fireplace.

14 MEMBER DONATELLI: I'm speaking of the door and the  
15 window to the left of the fireplace.

16 MR. COHEN: To the left of the fireplace?

17 MEMBER DONATELLI: Yes.

18 MR. COHEN: As I'm looking at --

19 MEMBER DONATELLI: As you're standing at the street.

20 MR. COHEN: Okay.

21 MEMBER DONATELLI: Looking at the house.

22 MR. COHEN: Yeah.

23 MEMBER DONATELLI: The fireplace is in the middle, more  
24 or less.

25 MR. COHEN: Yes.

26 MEMBER DONATELLI: Okay. To the left.

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2 MR. COHEN: Yes.

3 MEMBER DONATELLI: You have one window, plus now the new  
4 door.

5 MR. COHEN: Yes.

6 MEMBER DONATELLI: Okay. But that portion still  
7 protrudes.

8 MR. COHEN: Yes, that is -- the portion that projects  
9 beyond. The foundation wall, yes.

10 MEMBER DONATELLI: That's the point that I was trying  
11 to get at.

12 MR. COHEN: Sorry.

13 MEMBER DONATELLI: No worries. May I see that again,  
14 please?

15 MEMBER HERNANDEZ: Sure. And what you said is that  
16 what you're proposing now is to make it wider.

17 MR. COHEN: Exactly.

18 MEMBER HERNANDEZ: But you're not bringing it any  
19 closer to the street.

20 MR. COHEN: No, no, no. We're not making make it.  
21 Just the same -- the edge of the platform of the stoop just  
22 increasing its width, and just put the canopy or a roof over  
23 it.

24 MEMBER DONATELLI: Well, as one Board Member, I do feel  
25 that there is a benefit to having the front of the house, a  
26 door, located at the front of the house as opposed to the side

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2 of house.

3 ACTING CHAIRMAN FRANCIS: I agree.

4 MEMBER DONATELLI: It certainly is preexisting  
5 nonconforming. It's making the structure more street-friendly.

6 MR. COHEN: Yeah, it's not the prettiest of them all.

7 MEMBER DONATELLI: It's in keeping of the character of  
8 the neighborhood. I personally have no objection to this.

9 ACTING CHAIRMAN FRANCIS: Pat?

10 MEMBER GOODSELL: And I have no objection either. I  
11 counted at least, Mr. Cohen; I counted at least six or seven  
12 houses immediately surrounding your client's house, which is  
13 unique. It is a credit that they bought it. I know that they  
14 just recently --

15 MR. COHEN: It's not the prettiest of them all; let me  
16 tell you.

17 MEMBER GOODSELL: And they will be very happy there  
18 with it because I happen to like it. The Village of New Hyde  
19 Park is immediately adjacent to this.

20 MR. COHEN: I know.

21 MEMBER GOODSELL: So I happen to like the village, but  
22 I don't have any objection. I think the house, the way it was,  
23 was out of character with the neighborhood.

24 MR. COHEN: Absolutely.

25 MEMBER GOODSELL: It's not in conforming with the  
26 setback. I don't find this to be a very big ask, so I would

1 Appeal #21502

2 make a motion that we grant the application.

3 ACTING CHAIRMAN FRANCIS: Okay. Do we have a second?

4 MEMBER HERNANDEZ: Second.

5 ACTING CHAIRMAN FRANCIS: All right. Ginny, can you  
6 please poll the Board?

7 SECRETARY WAGNER: Member Goodsell?

8 MEMBER GOODSELL: Aye.

9 SECRETARY WAGNER: Member Hernandez?

10 MEMBER HERNANDEZ: Aye.

11 SECRETARY WAGNER: Member Donatelli?

12 MEMBER DONATELLI: Aye.

13 SECRETARY WAGNER: Acting Chairman Francis?

14 ACTING CHAIRMAN FRANCIS: Aye. Application is granted.

15 MR. COHEN: Thank you very much.

16 ACTING CHAIRMAN FRANCIS: Thank you.

17 MR. COHEN: Have a good day.

18 MEMBER DONATELLI: You too.

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1 Appeal #21512

2 SECRETARY WAGNER: Appeal #21512 - Eduardo & Lidia  
3 Valverde; 1701 Aladdin Avenue, New Hyde Park; Section 8, Block  
4 176, Lot 81; Zoned: Residence-C. Variances from 70-50.B and  
5 70-51.B to construct a portico that is too close to the street,  
6 and additions, including a roofed-over open area that is too  
7 close to the street and to the side property line.

8 ACTING CHAIRMAN FRANCIS: You've heard of Appeal  
9 #21512. Is there anyone interested in the application other  
10 than the applicant? Seeing no one, please give your name and  
11 address, sir.

12 MR. HAESEKER: Good afternoon, Vice Chairman, Members  
13 of the Board. My name is Ryan Haeseker. I'm here on behalf of  
14 Jared Mandel Architects, 25 Hillside Avenue, Williston Park,  
15 New York 11596. I'm here on behalf of my client, the  
16 Valverdes. They have owned the house since 2015. It's a 50 by  
17 10 existing corner lot. We're seeking relief of the required  
18 front yard setback and the side yard setback, which are both  
19 pre-existing nonconforming. We are proposing a new second  
20 story addition to provide the client with additional sleeping  
21 areas for their daughters who are now coming home from college  
22 and they need additional square footage in the home.

23 ACTING CHAIRMAN FRANCIS: It's funny how they do that.

24 MEMBER DONATELLI: You have to change the locks.

25 ACTING CHAIRMAN FRANCIS: Yes.

26 MR. HAESEKER: And we are also proposing a new portico,

1 Appeal #21512

2 which will not extend past the existing front porch that they  
3 have currently.

4 I will touch on the five points. So "Whether or not an  
5 undesirable change will be produced in the character of the  
6 neighborhood or a detriment to the neighboring properties." We  
7 do not believe it will create an undesirable change as a second  
8 story -- a second-floor addition will be added above the  
9 existing first-floor exterior walls, which are preexisting  
10 nonconforming. There is an essential decorative bump-out that  
11 we're proposing to add character to the home. Make it similar  
12 to the surrounding homes in the area to not have a flat facade.  
13 The portico is proposed so that the homeowner can have a  
14 covering over the front entry, and, you know, shield from  
15 weather, to house the packages, etcetera.

16 "Whether the benefits sought by the applicant can be  
17 achieved by other method feasible to the applicant."

18 Alternative options we don't feel are practical. Setting the  
19 second floor back from the existing first story would require  
20 structural -- would create a structurally awkward condition and  
21 add unnecessary construction cost. It's typical that second  
22 addition would align with the foundation of what's existing.

23 Number three, "Whether the requested area variance is  
24 substantial?" We don't believe that the variance entered is  
25 substantial, and is only extending vertically above the  
26 existing nonconforming structure, as I mentioned. The portico

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2 in a preexisting, conforming situation would be allowed to  
3 encroach in front yard setback. So we're just trying to seek a  
4 variance for something that if the house wasn't positioned  
5 where it was, and it wasn't in a unique corner lot, or it was a  
6 corner lot, they would be allowed to achieve with the portico.

7 "Whether the proposed variance will have an adverse  
8 affect in the environment?" We don't believe so, and "Whether  
9 the alleged difficulty was self-created?" Back when they  
10 purchased the home in 2015, they did not foresee that they  
11 would be substantially increasing the size of the home. It's  
12 an existing cape. We're, you know, just trying to extend  
13 enough to get them the space that they need to support their  
14 family. Thank you.

15 MEMBER GOODSSELL: Sir, if this was not a corner  
16 property, would you still be in front of us for a variance?

17 MR. HAESEKER: Yes.

18 MEMBER GOODSSELL: I agree with that because I think the  
19 position of the house it's -- it is a generous piece of  
20 property. It's 50 by 100, but it's built so that they don't  
21 appear to have any, what we would call, backyard whatsoever.

22 MR. HAESEKER: Right.

23 MEMBER GOODSSELL: Just a walkway.

24 MR. HAESEKER: Right.

25 MEMBER GOODSSELL: The house will face the same  
26 direction that it's facing right now?

1 Appeal #21512

2 MR. HAESEKER: Correct.

3 MEMBER GOODSSELL: And the front door, the way it exists  
4 right now, is there a portico, an enclosed portico in there?

5 MR. HAESEKER: It is an enclosed vestibule.

6 MEMBER GOODSSELL: Is that vestibule now going to be  
7 incorporated into the house by virtue of the addition?

8 MR. HAESEKER: So the intention is to keep the  
9 vestibule as is so that they can keep their existing closet,  
10 but the second story that is proposed above the vestibule would  
11 incorporate the window, central light feature to allow light to  
12 enter into the space.

13 MEMBER GOODSSELL: So visually then, it's not going to  
14 look like there is a bump-out enclosed portico in addition to a  
15 bump-out open portico, correct? I'll call it a vestibule.  
16 There -- it -- visually, it will not look after the addition  
17 that there is an enclosed vestibule and immediately in front of  
18 that an open portico; is that correct?

19 MR. HAESEKER: Correct.

20 MEMBER GOODSSELL: That's the look that we're trying to  
21 avoid.

22 MR. HAESEKER: And I know we're dealing with a  
23 difficult situation here, you know, so we're amendable to  
24 suggestions.

25 MEMBER HERNANDEZ: I'm sorry. I'm just looking at your  
26 drawings, and I'm having a problem understanding; next to the



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2 garage, you have some post, three posts, holding up the second  
3 floor?

4 MR. HAESEKER: Yes.

5 MEMBER HERNANDEZ: So you're building on the second  
6 floor, but you're going to have a vacant ground floor?

7 MR. HAESEKER: Correct. So the owner was looking to  
8 have some sort of outdoor living space, and due to the fact that  
9 the side, technically is the rear yard, is the only location  
10 that they could have such a living space. We felt that to  
11 reduce cost to the homeowner and also get them what they're  
12 looking for, in terms of outdoor space, that we proposed it  
13 underneath the second story addition. Preventing them from  
14 having to do any interior alterations to the first floor and  
15 new foundation.

16 (Whereupon, there was a discussion amongst the Board  
17 Members.)

18 MEMBER DONATELLI: They were not cited for that notice.

19 ACTING CHAIRMAN FRANCIS: No, they were cited for the  
20 side yard.

21 MEMBER HERNANDEZ: This is technically the rear yard?

22 MR. HAESEKER: Correct.

23 MEMBER DONATELLI: What page are we looking at?

24 MEMBER HERNANDEZ: Almost to the very end. Next to the  
25 last page.

26 ACTING CHAIRMAN FRANCIS: A-three.

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2 MEMBER HERNANDEZ: It's three, yeah.

3 MEMBER DONATELLI: A-three.

4 MEMBER HERNANDEZ: Yeah.

5 MEMBER DONATELLI: I see it. And that area will be  
6 used as a carport?

7 MR. HAESEKER: No, just outdoor living space.

8 ACTING CHAIRMAN FRANCIS: If you go to the next page,  
9 you'll see --

10 MEMBER HERNANDEZ: At first, when you were talking it  
11 sounded like you were going straight up on the existing house,  
12 but.

13 MR. HAESEKER: So the majority of the second story  
14 addition in terms of the front yard is aligned with the  
15 existing, preexisting, nonconforming line of the home, and then  
16 we're proposing to go to the right-hand side to get them the  
17 additional space.

18 MEMBER DONATELLI: And your side yard setback is only  
19 .1 foot.

20 MR. HAESEKER: Correct, which is also preexisting  
21 nonconforming.

22 MEMBER DONATELLI: Well, no, -- no, you are extending  
23 the side of the house.

24 MEMBER HERNANDEZ: Well, technically, it's the  
25 background where they're extending.

26 MEMBER DONATELLI: Right.

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2 MEMBER HERNANDEZ: The side yard is the one --

3 MEMBER DONATELLI: Exactly.

4 MEMBER HERNANDEZ: -- going the other way.

5 MEMBER DONATELLI: Right.

6 MR. HAESEKER: But we're aligning with the existing --  
7 the preexisting nonconforming side yard, which is technically  
8 the opposite of the front yard in this case.

9 ACTING CHAIRMAN FRANCIS: So, it'll --

10 MEMBER HERNANDEZ: But it's creating for your neighbor  
11 to your -- if I'm looking at the -- at your -- at the house,  
12 the neighbor behind you, which is not -- which is your side  
13 yard neighbor, okay. You are extending the wall that they see  
14 another 20 feet. I can't tell the dimension.

15 MR. HAESEKER: About 18 feet.

16 MEMBER HERNANDEZ: Eighteen feet, okay.

17 MR. HAESEKER: Yes.

18 MEMBER HERNANDEZ: So you are creating a bigger wall  
19 back there --

20 MR. HAESEKER: Yes.

21 MEMBER HERNANDEZ: For your neighbor to see and then  
22 your neighbor facing your -- on your right, which is your  
23 backyard --

24 MR. HAESEKER: Yes.

25 MEMBER HERNANDEZ: -- you're coming 18 feet closer --

26 MR. HAESEKER: Correct.

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2 MEMBER HERNANDEZ: -- with a building.

3 MR. HAESEKER: So it's --

4 MEMBER HERNANDEZ: On the second floor, although the  
5 ground floor is open.

6 MR. HAESEKER: Yeah, off the existing garage; it would  
7 be eight feet closer.

8 MEMBER HERNANDEZ: Right, yes, because the garage is  
9 already there.

10 MEMBER DONATELLI: Layers of complexity.

11 MEMBER HERNANDEZ: Yeah.

12 MEMBER DONATELLI: But they don't have the GFA issue.

13 ACTING CHAIRMAN FRANCIS: No, they don't.

14 MEMBER HERNANDEZ: No.

15 MEMBER DONATELLI: They don't have a lot coverage  
16 issue.

17 ACTING CHAIRMAN FRANCIS: No, it's just odd --

18 MEMBER GOODSELL: It's because of the way house is  
19 positioned, they can't build in the same --

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

22 ACTING CHAIRMAN FRANCIS: Right.

23 MEMBER GOODSELL: We're talking about a front door to  
24 front door in that area, but this way it is --

25 MEMBER HERNANDEZ: This is fine. It's facing the  
26 street.

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2 MEMBER GOODSELL: What is going to happen to the one  
3 car garage that is there?

4 MR. HAESEKER: That's going to remain.

5 MEMBER GOODSELL: Okay.

6 MR. HAESEKER: Yeah, they want to avoid pretty much  
7 touching any of the first floor for monetary issues.

8 MEMBER GOODSELL: When their daughters come back from  
9 college, they're going to have a parking issue. They can park  
10 on the street.

11 ACTING CHAIRMAN FRANCIS: Are there three daughters?

12 MR. HAESEKER: Four daughters.

13 ACTING CHAIRMAN FRANCIS: Four daughters?

14 MR. HAESEKER: Four daughters, yeah.

15 MEMBER DONATELLI: Well, you know, in taking a look at  
16 the proposed right elevation that the Acting Chairman has  
17 referred to on A-three, as well as directly above that, the  
18 front elevation, you know. I can see how parking would  
19 become an issue. Somebody might try and turn that outside area  
20 into a carport and I'd just like to state for the record, then  
21 you may have problems with pavement; coverage of pavement in the  
22 front yard, if you were to try to expand the driveway to that  
23 area. I get, you know, we don't typically see applications  
24 like this, and I think we as a Board have to be limited by the  
25 Notice of Disapproval for the issues that are before us, but I  
26 would like you and the applicants to know that there might be

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2 another issue if somebody would try and pave that area.

3 MR. HAESEKER: Understood.

4 MEMBER DONATELLI: If they were to try to turn this open  
5 area into a carport, there might be pavement issues with  
6 covering up the front yard.

7 MR. HAESEKER: So I will say that the area that's  
8 underneath the second-story addition is not wide enough to  
9 feasibly fit a vehicle, a full-size vehicle.

10 MEMBER GOODSSELL: Oh.

11 ACTING CHAIRMAN FRANCIS: Yeah, I didn't see a  
12 measurement.

13 MEMBER HERNANDEZ: It's roughly eight feet.

14 ACTING CHAIRMAN FRANCIS: Oh.

15 MR. HAESEKER: Yeah, it's eight feet. I know that a  
16 parking space is technically ten feet.

17 ACTING CHAIRMAN FRANCIS: You can get a Mini Cooper in  
18 there. Get my car in there.

19 MEMBER DONATELLI: A couple of horses.

20 MR. HAESEKER: It's true.

21 ACTING CHAIRMAN FRANCIS: You can get your car in  
22 there.

23 MEMBER DONATELLI: Yeah. All right. Well.

24 ACTING CHAIRMAN FRANCIS: It is what it is.

25 MEMBER DONATELLI: It is what it is.

26 ACTING CHAIRMAN FRANCIS: Yeah.

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2 MEMBER DONATELLI: Do you have any objections?

3 MEMBER GOODSSELL: I really don't.

4 ACTING CHAIRMAN FRANCIS: You want to make a motion?

5 MEMBER GOODSSELL: I'll, yeah. Mr. Chairman, I think  
6 this construction will certainly conform with the neighborhood.  
7 We do not have GFA issues, which for me is a big issue here,  
8 and I'm going to make a motion that we grant the application.

9 ACTING CHAIRMAN FRANCIS: We have a motion. Do we have  
10 a second?

11 MEMBER DONATELLI: Second.

12 ACTING CHAIRMAN FRANCIS: Seconded by Mr. Donatelli.  
13 Ginny, please poll the Board.

14 SECRETARY WAGNER: Member Goodsell?

15 MEMBER GOODSSELL: Aye.

16 SECRETARY WAGNER: Member Hernandez?

17 MEMBER HERNANDEZ: Aye.

18 SECRETARY WAGNER: Member Donatelli?

19 MEMBER DONATELLI: Aye.

20 SECRETARY WAGNER: Acting Chairman Francis?

21 ACTING CHAIRMAN FRANCIS: Aye.

22 MR. HAESEKER: Thank you very much. Happy Valentine's  
23 Day.

24 MEMBER HERNANDEZ: Same to you. Good luck.

25 ACTING CHAIRMAN FRANCIS: Thank you. Off the record.

26 (Whereupon, a discussion was held off the record.)

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2 SECRETARY WAGNER: Next appeal. Appeal #21513  
3 Christopher Amico; 108 South Street, Herricks; Section 9, Block  
4 91, Lot 63; Zoned: Residence-B. Variances from 70-101(B),  
5 70-208(F) & 70-231 to legalize a non-conforming roofed-over  
6 raised terrace too close to a street and a detached garage that  
7 is too deep.

8 ACTING CHAIRMAN FRANCIS: You've heard Appeal #21513.  
9 Is there anyone interested in the application other than the  
10 applicant? Seeing no one, sir, please give your name and  
11 address.

12 MR. AMICO: Sure. Christopher Amico, 108 South Street,  
13 New Hyde Park, New York 11040. I actually have a packet that  
14 I put together for all you guys so you can take a look at it.

15 MEMBER HERNANDEZ: Thank you.

16 ACTING CHAIRMAN FRANCIS: Mr. Amico, just tell me what  
17 your relationship is to the -- oh, you're the owner, right?

18 MR. AMICO: My grandparents owned it for 50 years prior  
19 to me.

20 ACTING CHAIRMAN FRANCIS: I got ya.

21 SECRETARY WAGNER: So this will be Exhibit A.

22 ACTING CHAIRMAN FRANCIS: So pro se. didn't get who  
23 you were in relationship to that, okay, cool.

24 MR. AMICO: So many grandparents bought this house. I  
25 think 1954. Lived there for over 50 years. My grandmother  
26 past away in 2021, and it was my dream to always buy the house



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2 from her. I was lucky enough out of all the cousins to buy the  
3 house.

4 ACTING CHAIRMAN FRANCIS: Very good.

5 MR. AMICO: It was in dire need of repair, which is why  
6 I did the things I did, and I think once you go through the  
7 packet, you'll see that I did my best to keep the character of the  
8 house, but also refresh it, so it was appealing for, obviously,  
9 myself, and also the people around me who live on my street.

10 MEMBER DONATELLI: Did you do this work yourself or did  
11 you hire a contractor?

12 MR. AMICO: A contractor. Unfortunately, I got stuck  
13 with a bad expeditor in the beginning who took \$10,000 from me.  
14 Told me this stuff was okay to do. Let us continue on with the  
15 work. To find out that there were never any drawings done for  
16 this type of thing, and I had to rehire somebody else to do all  
17 the drawings.

18 MEMBER DONATELLI: Expeditor.

19 MR. AMICO: Yeah.

20 MEMBER DONATELLI: But I didn't quite hear. Are you  
21 the contractor?

22 MR. AMICO: No, I'm not. I'm the homeowner.

23 MEMBER DONATELLI: You're not?

24 MR. AMICO: I'm sorry. Yeah, I'm the homeowner.

25 MEMBER DONATELLI: Okay. Please continue.

26 MR. AMICO: Sure. So that's -- I mean, that's really

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2 it. I just wanted you guys to take a look at what I put  
3 together. I went around the block, and I did due diligence to  
4 see who else did something similar; the characters of the  
5 homes; the setback even on corners; even homes like two house  
6 away from me, and, you know, I just wanted, you know, to show  
7 that there are other people who have done exactly the same  
8 thing.

9 MEMBER GOODSSELL: You are talking to someone who grew  
10 up on Park East, which is literally across the street, and my  
11 kids went to that school that's right adjacent there.

12 MR. AMICO: That's funny.

13 MEMBER GOODSSELL: I know this area very, very well.

14 MR. AMICO: My dad went to school there.

15 MEMBER GOODSSELL: I'm probably your dad's age. I  
16 hope I'm not your grandfather's.

17 MR. AMICO: My father is a retired physician, so he's  
18 72.

19 MEMBER GOODSSELL: Most people, at this point, have  
20 updated houses.

21 MR. AMICO: Yeah.

22 MEMBER GOODSSELL: What you don't have is a before  
23 picture, but what I would like to --

24 MR. AMICO: I do. Actually, I put in the packet for  
25 you guys.

26 MEMBER GOODSSELL: Okay.

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2 MR. AMICO: So it's the second page, so -- maybe I'll  
3 walk you through this so this way you understand why I did what  
4 I did, and the thought process behind it. So the first page is  
5 the house now. The second page is the Google image that still  
6 has my grandmother's house at the time of when she owned it  
7 prior to the updates. So if you look on page two, there's a  
8 picture of the house prior. If you look at page one and two, I  
9 kept the stone that's on the front exactly the same. I just  
10 cleaned it up, etcetera, and then on page -- if you keep going,  
11 he -- my grandfather already had an approval for exactly what  
12 I did, so it did meet exactly to the same exact size, which was  
13 22 feet from the property line. The same width. I didn't go  
14 past the house; so it's just the same width of the house. It's  
15 hard to see on the image that I sent to you, but this porch was  
16 already existing up until the front door. All I did was slide  
17 it over to cover the whole front, my Grandpa just didn't have  
18 the money. He couldn't afford it at the time when they owned  
19 the house. Unfortunately, he died at a younger age.

20 ACTING CHAIRMAN FRANCIS: Did he get the approval for  
21 the pier lights in the front of the house?

22 MR. AMICO: He did not, but I do, and I also got the  
23 Transportation Division to approve it. I paid for a Bond, and  
24 I'm already cleared with that as well.

25 ACTING CHAIRMAN FRANCIS: Okay, and you got approval  
26 from the Building Department for the pier lights?

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2 MR. AMICO: For the pier lights up to three feet, yes.  
3 And then for the right of way, I had to go to the  
4 Transportation Department.

5 ACTING CHAIRMAN FRANCIS: Right.

6 MR. AMICO: They had to do a survey. I had to put up  
7 \$2,000 Bond. They did their thing, and then they signed -- the  
8 Town signed off on it, and I'm legally okay now at this point.

9 ACTING CHAIRMAN FRANCIS: Good.

10 MEMBER GOODSELL: So the original house --

11 MR. AMICO: Yeah.

12 MEMBER GOODSELL: -- had a raised brick terrace by the  
13 front door?

14 MR. AMICO: It did, yeah. The only thing it didn't,  
15 out of full disclosure is 'cause there's so many bushes there,  
16 so it just wasn't all the way to the side, so.

17 MEMBER GOODSELL: I was just going to say, yours looks  
18 bigger the one in the picture.

19 MR. AMICO: Yeah, it's the same depth and same  
20 distance. Only what I did was I went from -- it's hard to see,  
21 the railing here, all I did was slide it out to the end of the  
22 house, which is if you look at the approval my grandfather got,  
23 They did approve for that. He just didn't have the money  
24 to do it. Though, he did have approval to go the whole  
25 width of the house.

26 MEMBER HERNANDEZ: And it also wasn't supposed to be

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2 covered, so you added a roof --

3 MR. AMICO: I did add a covering on top. Yes, I did.

4 MEMBER HERNANDEZ: Right.

5 MEMBER DONATELLI: Now, can we get back to something? I  
6 know you have said you were not happy with the services of your  
7 expeditors, but your contractor?

8 MR. AMICO: Yeah?

9 MEMBER DONATELLI: How did your contractor go about  
10 building this roof over the open porch without a building  
11 permit?

12 MR. AMICO: Well, the permit was still open. So if you  
13 look at the permit my grandfather got; it was still open and  
14 then I was asked to pay to close it after I did the work. I  
15 closed it on July 29, 2022, and the Certificate of Completion  
16 is there as well. So once I was done, the Building  
17 Department asked me to pay to close it, but they said I would  
18 still need to get a variance, even though I had a prior  
19 approval to do it.

20 MEMBER GOODSSELL: And there was a permit in 1958 for a  
21 detached two-car garage?

22 MR. AMICO: Yeah.

23 MEMBER GOODSSELL: Now, your property is unique. Now,  
24 I'm only saying this so that it's on the record.

25 MR. AMICO: Of course.

26 MEMBER GOODSSELL: It's a corner property. The address

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2 is on South Street, but the garage actually faces Farrel  
3 Street.

4 MR. AMICO: Correct.

5 MEMBER GOODSELL: The approval for the two-car garage,  
6 did you take a look at the plans from 1958 to see how that  
7 two car garage was situated?

8 MR. AMICO: I did not. What I did do, though, is I  
9 looked in the past of what was approved, and it was 22 by 28,  
10 and I went 17 by 27, so if you look at page -- it says Permit 6457.  
11 What was approved was a square footage of 616 square feet, 22 by  
12 28, for a two car.

13 MEMBER GOODSELL: Okay.

14 MR. AMICO: And I did 17 by 27, which is even less  
15 square footage than what was previously approved.

16 MEMBER GOODSELL: Okay, and you have in front of us, what  
17 would be an extend one-car garage, then?

18 MR. AMICO: Yeah, for an SUV, I couldn't -- I wanted to  
19 make it longer, so it would fit the -- in it, and I went deeper  
20 into my backyard. I didn't come out where it would  
21 protrude closer to my neighbor across the street. It was an  
22 extra foot into my backyard.

23 MEMBER GOODSELL: Once we get past your -- I can see  
24 when you bought the house, your title company did a CO  
25 search --

26 MR. AMICO: Yeah.

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2 MEMBER GOODSSELL: -- which we have, and do I take it  
3 from the day you bought it in 2021.

4 MR. AMICO: Yeah, I did. My grandmother died in  
5 September, and I bought it right after.

6 MEMBER GOODSSELL: So then you've attached at the back  
7 of that a lot of the pictures. You want to go through what  
8 those are?

9 MR. AMICO: I just wanted to show, you know, 'cause the  
10 last time I was here, Mr. Mammina was like, listen, if we're  
11 gonna approve something, we just want to make sure other people  
12 have done the same, and just to be fair and to put something  
13 on the record, and, so what I did was I went to homes within two  
14 or three blocks who are very similar, but even a house like two  
15 -- two doors down on Farrel, their front yard is like 20  
16 feet. I'm at 24, so I just wanted to just show there are other  
17 people who have done something similar that's fixed patios,  
18 etcetera, to fit in.

19 MEMBER GOODSSELL: You attached a couple of pictures  
20 with a tape measure.

21 MR. AMICO: Yeah, I wanted to show that I was doing my  
22 due diligence to show you guys that I wasn't messing around.  
23 I went right to the end to the porch. Right to the end of the  
24 sidewalk. I don't know what the property lines were, but the  
25 only way to be fair would be to go to the top of the sidewalk  
26 to the porch for every single house.

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2 MEMBER GOODSSELL: Oh, these are from other people's  
3 houses?

4 MR. AMICO: Everybody's homes. Yeah, I wanted -- I  
5 went to local homes, and I did as well, and I asked them if it  
6 was okay. I measured. It told them why I was doing it.

7 MEMBER GOODSSELL: Okay.

8 MR. AMICO: They said no problem. I said I need your  
9 help. It looks like something similar, and no one took a gun  
10 out, so I was lucky.

11 MEMBER GOODSSELL: Or set the dogs on you.

12 MEMBER DONATELLI: Mr. Chairman would have probably  
13 mentioned to you is number one; we do try to see if what you  
14 have done is contextualized throughout the entire neighborhood  
15 --

16 MR. AMICO: Yeah.

17 MEMBER DONATELLI: -- but, of course, we can only refer  
18 to things that have been done lawfully with a permit.

19 MR. AMICO: Right.

20 MEMBER DONATELLI: And if you just submit photographs  
21 to us without really knowing if these other houses are  
22 compliant or not, we don't know --

23 MR. AMICO: I understand.

24 MEMBER DONATELLI: -- whether --

25 MR. AMICO: But I did some that are like relatively  
26 very, very new construction, so I can't imagine -- I don't know,



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2 but it looked like they were, you know, I'm no one to talk,  
3 right, so, you know, I did the best I could.

4 MEMBER DONATELLI: The other issue that I have is, of  
5 course, we as the Board, have to deal with property lines.

6 MR. AMICO: Yeah.

7 MEMBER DONATELLI: We can't deal with where the  
8 sidewalk ends or where the street begins. We're really  
9 concerned with property lines because that's what the law  
10 requires us to do.

11 MR. AMICO: Understood. Understood.

12 MEMBER DONATELLI: You know, I'm concerned where a  
13 prior Board says we're going to give you an open porch, and all  
14 of a sudden, now, we have an uncovered porch, and all of  
15 sudden, now, we have a covered porch. That to me, is a bit  
16 concerning only because, again, we try to be consistent, not only  
17 in the decisions that we make as a Board from day to day, from  
18 week to week, but also with the decisions of the prior Boards  
19 that were before us.

20 MR. AMICO: Understood.

21 MEMBER DONATELLI: And that is my concern.

22 MR. AMICO: So I guess my follow-up question to that is  
23 you're looking at the pictures of what it was and what it is  
24 today. It's a much more appealing house today than it was  
25 three or four years ago.

26 MEMBER GOODSSELL: We're not an aesthetic board. We

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2 don't go by what's beautiful what's not beautiful, but we  
3 privately have opinions.

4 MR. AMICO: I understand. Well, I mean, right across  
5 the street, there's a home at 105 South Street with the same  
6 type of low variance. So it's not even 20 feet away across  
7 from me that has a covered porch across the whole front of  
8 the house.

9 MEMBER GOODSELL: I'm just taking a look at the old terrace,  
10 which was about three-quarters of the way across the front, and  
11 then, can you not house it completely across the front?

12 SECRETARY WAGNER: Mr. Amico, when you came before the  
13 Board for the fence --

14 MR. AMICO: Yes.

15 SECRETARY WAGNER: -- was the porch already --

16 MR. AMICO: It was already finished at that point,  
17 yeah.

18 SECRETARY WAGNER: It was?

19 MR. AMICO: Yeah.

20 SECRETARY WAGNER: Why wouldn't they have made -- sent  
21 you back then?

22 MR. AMICO: They wanted -- they kept coming back with  
23 revisions and sent omission letters and omission letters, and  
24 the problems. Like I said, I had an expeditor called All-in-One.  
25 I hope you guys -- if you guys come across him, throw him out.  
26 He seems to be taking people's money, not completing the work.

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2 Saying there's plans. Actually, my guy is outside on a call.  
3 He was the guy doing the drawings. He never even got paid for  
4 the drawings, so it's like this guy was collecting my money,  
5 but never paying to finish the work.

6 SECRETARY WAGNER: Okay.

7 MEMBER DONATELLI: How could your contractor even begin  
8 without, you know, proper permits and proper plans?

9 ACTING CHAIRMAN FRANCIS: It's a problem.

10 MEMBER DONATELLI: We come across this from time to  
11 time.

12 MR. AMICO: I understand.

13 MEMBER GOODSELL: We're trying to figure out where the  
14 hole in the fence is.

15 MR. AMICO: The what? The fence?

16 MEMBER GOODSELL: Where the problem lies.

17 MR. AMICO: Oh, I'm sorry. I misunderstood.

18 MEMBER GOODSELL: I'm saying where the weakness is.  
19 The contractor is supposed to say to you I may not be getting  
20 the permits, but you should, and show me your permit because I  
21 have to post for the construction.

22 MR. AMICO: Right.

23 MEMBER GOODSELL: So we're trying to figure out why  
24 your contractor didn't alert you to this.

25 ACTING CHAIRMAN FRANCIS: Right.

26 MEMBER DONATELLI: This is not, for example, the rear of

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2 the house.

3 MR. AMICO: I understand.

4 MEMBER DONATELLI: Where arguably somebody may not have  
5 even seen it going on. This is right on the corner. Right in  
6 front of the house, and it's a pretty big job.

7 MR. AMICO: Understood.

8 MEMBER GOODSELL: Nobody rang the bell and said where's  
9 your permits?

10 MR. AMICO: The inspector did. He saw I was doing the  
11 work. He said I can continue. He didn't tell me to stop. He  
12 just said at some point, you're probably going to have to get a  
13 variance in order to get it approved.

14 MEMBER GOODSELL: He is correct. There was a terrace  
15 in front of the house that was approximately 17 feet, and he  
16 added 14 feet.

17 SECRETARY WAGNER: That's the one that was approved by  
18 the Board.

19 MEMBER GOODSELL: Yep.

20 ACTING CHAIRMAN FRANCIS: Right.

21 SECRETARY WAGNER: Without a roof, right.

22 MEMBER DONATELLI: It was expanded, and now it has a  
23 roof.

24 MR. AMICO: But it was expanded with an approval to  
25 expand it. I didn't expand it.

26 MEMBER DONATELLI: I understand it, but we're

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2 concerned, of course, is the Zoning Board, with how a house  
3 presents itself to the street-scape and covering an open porch  
4 creates a much more visible impact upon the street-scape than  
5 leaving something open. So that's when we talk about vestibules.

6 MR. AMICO: Understood.

7 MEMBER DONATELLI: When we talk about front yard  
8 encroachments. We try to minimize those encroachments, and  
9 even though this is an open porch, it is now the entire length  
10 -- width of the house, and it is covered. Where a prior Board  
11 had said that it is supposed to be open. So it is -- it is  
12 difficult. Why don't --

13 (Whereupon, there was a discussion amongst the Board  
14 Members.)

15 MR. AMICO: I'm confused. First, I'm being told that  
16 the aesthetics doesn't matter. Now, I'm being told that the  
17 aesthetic does matter, but yet it looks ten times better than  
18 what it was.

19 MEMBER GOODSSELL: Better or worse is not what we're  
20 considering. Different is what we're considering. Different  
21 in the sense that it is the biggest house. It is the smallest  
22 house on the block. It is the most imposing house. It is the  
23 least imposing house.

24 MR. AMICO: Understood.

25 MEMBER GOODSSELL: So we are trying not to look at what  
26 you've done --

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2 MR. AMICO: Yeah.

3 MEMBER GOODSSELL: -- but what the impact on the  
4 neighborhood is, and I'm just looking at the pictures of the  
5 other houses that have a covered porch in front to see  
6 where they are in the neighborhood.

7 MR. AMICO: Understood.

8 MEMBER GOODSSELL: There's a difference.

9 MR. AMICO: Can you look at 105 South Side Street,  
10 that's literally right across the street, and it's got a whole  
11 covered porch across the whole front.

12 MEMBER GOODSSELL: Does he have a permit for that?

13 MR. AMICO: I don't know.

14 MEMBER GOODSSELL: Well, that's what we have to look at.

15 MR. AMICO: Okay.

16 MEMBER GOODSSELL: Sometimes people -- when somebody  
17 comes before the Board and says I want a petting zoo. Everyone  
18 in the neighborhood has a petting zoo.

19 MR. AMICO: All right.

20 MEMBER GOODSSELL: I have to go look at the neighborhood  
21 to see if, in fact, everybody does have one or the closest one  
22 is four blocks away, and it's illegal, so that's what we look  
23 at.

24 MEMBER DONATELLI: Okay, so, I don't know if you've  
25 been here all morning; we may have already said this to another  
26 applicant. We're not trying to give you a hard time.

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2 MR. AMICO: I know you're not.

3 MEMBER DONATELLI: We're just trying to come up with  
4 the right answer.

5 MR. AMICO: I understand.

6 MEMBER DONATELLI: And, I guess, what I would ask you  
7 to do is to provide two things if you can.

8 MR. AMICO: Sure.

9 MEMBER DONATELLI: Number one, you should have at the  
10 podium, there are five elements of law that we are required to  
11 consider. You should have those there.

12 SECRETARY WAGNER: Written down right in front of you.  
13 You can just grab one.

14 MR. AMICO: Sure. Where can I find it?

15 MEMBER HERNANDEZ: It should be there on your left.  
16 Right there.

17 MEMBER DONATELLI: Five questions. If you can read the  
18 question --

19 MR. AMICO: There's nothing here.

20 MEMBER HERNANDEZ: Somebody picked it.

21 SECRETARY WAGNER: Do we have another list?

22 MR. PERROTTA: I put like ten copies.

23 MEMBER DONATELLI: If you can -- so I'm going to ask  
24 you to go through the five elements as soon as we find them.

25 MR. AMICO: I think someone took them in front of me  
26 took them because there's nothing behind me.

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2 MEMBER DONATELLI: I have another copy here if you  
3 want.

4 MR. AMICO: Can you? Thank you.

5 MEMBER DONATELLI: It's going to be small. Can you  
6 read small.

7 MR. AMICO: Yes, I can read small.

8 ACTING CHAIRMAN FRANCIS: He's young. Of course, he  
9 can.

10 MR. AMICO: I hope so. I did pass my 40s, but I think  
11 I can still --

12 MEMBER DONATELLI: You know what, I'll read them to  
13 you.

14 MR. AMICO: Okay.

15 MEMBER DONATELLI: So I'm going to ask you to address  
16 these five elements.

17 MR. AMICO: Absolutely.

18 MEMBER DONATELLI: I'm also going to ask you if could  
19 please, because you're going to see as I read these five  
20 questions, you're going to see that one of them says we weigh  
21 a variety of factors. If you or your contractor can come up with  
22 a cost of removing the cover over the front porch so that we  
23 can take that into consideration into our deliberations. The  
24 first question is, "Whether an undesirable change will be  
25 produced in the character of the neighborhood or a detriment to  
26 nearby properties will be created by the granting of this



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2 variance."

3 MR. AMICO: Absolutely not.

4 MEMBER DONATELLI: Okay, can you give us a little more  
5 than --

6 MR. AMICO: I feel that the nice thing -- and I'm sure  
7 Ms. Goodsell, I'm sorry, would agree this neighborhood is unique,  
8 where everyone has a different style. It's not like there's a  
9 colonial here or a cape there. Like right across the street,  
10 the whole house is brick. My house half is brick. It's got a  
11 different style. There's other homes maybe three, four homes  
12 down they're all white bricks, so I think everyone got a very  
13 different, unique type of architecture in this particular area,  
14 or at least the few blocks that are there, and I think this  
15 only adds to the beauty of the neighborhood.

16 MEMBER DONATELLI: So the fact that the porch is now  
17 covered, in your opinion, does not detract from the  
18 neighborhood.

19 MR. AMICO: I think it attracts the neighborhood.

20 MEMBER DONATELLI: Number two, "Whether the benefit  
21 sought by the applicant can be achieved by some other method  
22 feasible to pursue, which would not require a variance?"

23 MR. AMICO: I don't believe so, no. No.

24 MEMBER DONATELLI: Number three, "Whether the variance  
25 is substantial?" I think we have three-foot encroachment. The  
26 roof over the raised terrace extends over the entire front by

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2 three foot; is that correct?

3 MEMBER HERNANDEZ: Yes.

4 MEMBER DONATELLI: Do you want to address that?

5 MR. AMICO: I don't think it's substantial.

6 ACTING CHAIRMAN FRANCIS: Why?

7 MR. AMICO: Well, I -- if you look at the measurements  
8 I took on the -- I mean, I'm 25 feet from the curb itself,  
9 which I think is a very sizable -- compared to other homes in  
10 the immediate one to two-block area, it's definitely set back  
11 further than others.

12 MEMBER DONATELLI: Number four, "Whether the proposed  
13 variance will have an adverse effect on the environmental or  
14 physical conditions of the neighborhood?"

15 MR. AMICO: Absolutely not, because I put the proper  
16 drainage and gutters in place.

17 MEMBER DONATELLI: And number five, this is a trick  
18 question. "Whether it's self-created?"

19 MR. AMICO: It is self-created.

20 ACTING CHAIRMAN FRANCIS: Oh, you got that right.

21 MEMBER DONATELLI: Good. He didn't fall for the trick  
22 question.

23 ACTING CHAIRMAN FRANCIS: No, he didn't. He's been  
24 paying attention.

25 MEMBER GOODSSELL: I looked at your picture. I do not  
26 see a picture of the house that has a front open portico with a

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2 roof over extending the width of the house. What was the  
3 address of the house?

4 MR. AMICO: 105 South Street. It's directly across the  
5 street. It goes the whole length of the house. I didn't put  
6 in there. I don't know why. 31 Emmett was across the whole  
7 front of the house, but I don't know --

8 MEMBER GOODSELL: The ones you've shown us are partial  
9 roof.

10 MR. AMICO: But other people have their driveways in  
11 the front, too, so it's sort of hard to say -- I have a unique  
12 situation where I have my garage on the side of the house, so  
13 that I can't change, you know, I can't change what I don't  
14 have.

15 MEMBER DONATELLI: Do you happen to have some sort of  
16 an estimate, or would you be able to provide us an estimate for  
17 what it might cost to remove the roof over the front porch?

18 MR. AMICO: I was told over \$40,000 to do it.

19 MEMBER DONATELLI: Four-zero.

20 MR. AMICO: Four-zero.

21 (Whereupon, there was a discussion amongst the Board  
22 Members.)

23 MEMBER DONATELLI: I think there's a lot to consider  
24 here.

25 ACTING CHAIRMAN FRANCIS: I do, too.

26 MEMBER GOODSELL: I don't know why you didn't include

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2 this particular picture of 105 South Street. It's a different  
3 style than yours, and it maybe that it's a different setback.

4 It may be that this house, could of built as-of-right because I  
5 can't see how far back from the curb it is, but if you don't --

6 MR. AMICO: It's exactly the same. I actually did  
7 measure it. I never took a picture. I don't know why. It's  
8 25 feet exactly from the edge of the --

9 MEMBER GOODSSELL: On Google alert, the picture is seven  
10 years old.

11 MR. AMICO: Oh, okay.

12 MEMBER GOODSSELL: In seven years, they may have changed  
13 something.

14 MR. AMICO: Yeah.

15 MEMBER GOODSSELL: Again, they may have a different size  
16 lot. Visually, it is the closest to yours.

17 MR. AMICO: Yeah, it's directly across the street.

18 ACTING CHAIRMAN FRANCIS: I still don't know whether --

19 MEMBER GOODSSELL: Chairman, if you don't mind, I would  
20 like to go back and take a look at the neighborhood and take a  
21 look at the pictures submitted, and since there's no harm in  
22 continuing this, I would ask that we continue the application.

23 ATTORNEY ALGIOS: Do you want to continue or reserve?

24 MEMBER HERNANDEZ: Reserve.

25 SECRETARY WAGNER: We asked for an estimate, right?

26 MEMBER GOODSSELL: There is no --

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2 ACTING CHAIRMAN FRANCIS: He gave us an estimate.

3 MEMBER DONATELLI: He gave us an estimate.

4 SECRETARY WAGNER: Okay. We got that.

5 MEMBER DONATELLI: And it sounds plausible.

6 MEMBER GOODSELL: We could reserve. Once you've given  
7 us all of your information, and there's no other outside  
8 information, I think we can simply reserve decision instead of  
9 continuing, so you don't have to come back.

10 MR. AMICO: Okay.

11 ACTING CHAIRMAN FRANCIS: All right. We're going to  
12 reserve.

13 MEMBER HERNANDEZ: Reserve.

14 ACTING CHAIRMAN FRANCIS: We'll reserve the decision.

15 MR. PERROTTA: Continue?

16 ATTORNEY ALGIOS: No, reserve.

17 ACTING CHAIRMAN FRANCIS: No, not continue.

18 MR. AMICO: Could we close the garage situation?

19 MEMBER HERNANDEZ: Oh, right.

20 ACTING CHAIRMAN FRANCIS: Oh, the --

21 MEMBER HERNANDEZ: The garage is oversized.

22 ACTING CHAIRMAN FRANCIS: Yeah.

23 MR. AMICO: The garage that I --

24 MR. PERROTTA: Is it already built?

25 MR. AMICO: Yeah, it was already built. All I did was  
26 repair and extended it, but I did it --

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2 ACTING CHAIRMAN FRANCIS: Let's do it all together.

3 MEMBER GOODSELL: I do too.

4 ATTORNEY ALGIOS: Do it all together.

5 MR. AMICO: Okay.

6 MEMBER GOODSELL: Even though he made it smaller, he  
7 made it --

8 ACTING CHAIRMAN FRANCIS: It's longer.

9 MEMBER GOODSELL: It's much longer.

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

12 MR. AMICO: A two-car would have to be 22 wide. I  
13 didn't go -- I kept the exact same width; actually, maybe a  
14 little bit more. Maybe it's six or eight inches. All I did  
15 was go like an extra foot or two into my own backyard. I  
16 didn't come closer to anybody else.

17 ACTING CHAIRMAN FRANCIS: Right.

18 MEMBER GOODSELL: You didn't violate a setback. You  
19 didn't have your GFA, so but I'd like -- we'll just reserve  
20 decision.

21 MEMBER DONATELLI: We'll reserve as to both.

22 ACTING CHAIRMAN FRANCIS: As to both, yeah.

23 SECRETARY WAGNER: So that means that they may or may  
24 not make a decision at the next hearing, which is March 6th.

25 MR. AMICO: Okay.

26 SECRETARY WAGNER: But there is no more presentation or

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2 anything. We'll just discuss it during the reserve calendar  
3 portion of the meeting, or they may make it -- you want to go  
4 back out and look at the --

5 ACTING CHAIRMAN FRANCIS: She wants to look at it.

6 MEMBER GOODSELL: I would.

7 MR. AMICO: Is there anything else I can give you guys  
8 to further my case with this?

9 MEMBER GOODSELL: I think you've given us quite a bit  
10 to think about and quite a bit to look at. I congratulate you  
11 on pro se doing this all yourself.

12 MR. AMICO: I try.

13 ACTING CHAIRMAN FRANCIS: You know, as one Board  
14 Member, the pictures in and of themselves are really not persuasive  
15 for me because we don't know whether or not they were done with  
16 permits or what the situation was with that, so in terms of  
17 making a decision, I'm going to be making a decision based on  
18 your application and not really --

19 MR. AMICO: I can't control if someone has a permit or  
20 not. I just went around the area to show other people are  
21 doing something similar.

22 ACTING CHAIRMAN FRANCIS: Yeah. I mean, the way to do  
23 that would be to go to the Building Department with those  
24 addresses to see whether or not there was a permit, so in terms  
25 of the pictures, the pictures are not persuasive as far as I'm  
26 concerned.

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2 MR. AMICO: Okay.

3 ACTING CHAIRMAN FRANCIS: And I'll be looking at your  
4 application as an application itself.

5 MR. AMICO: Okay.

6 ACTING CHAIRMAN FRANCIS: All right. Thank you very  
7 much.

8 MR. AMICO: Thank you. How do I follow up for or with  
9 this?

10 ACTING CHAIRMAN FRANCIS: Call the BZA office after the  
11 6th.

12 MR. AMICO: Okay. After March 6th?

13 ACTING CHAIRMAN FRANCIS: March 6th.

14 MR. AMICO: Okay. Thank you very much.

15 ACTING CHAIRMAN FRANCIS: You're welcome.

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2 SECRETARY WAGNER: Appeal #21514 Linda Cadelli; 19  
3 Conway Road, New Hyde Park; Section 9, Block 548, Lot7; Zoned:  
4 Residence-C. Variances from 70-101.B, 70-101.C, 70-100.2L,  
5 70-100.2A(4)(B) & 70-100.2M to legalize a raised terrace and  
6 one-story vestibule too close to a street, light piers that are  
7 too tall, fencing that is too tall, and an arbor that is too  
8 tall.

9 ACTING CHAIRMAN FRANCIS: You've heard Appeal #21514.  
10 Is there anyone interested in the application or than the  
11 applicant? Seeing no one, please give your name and address.

12 MS. CADELLI: Good afternoon, my name is Linda Cadelli.  
13 I reside at 19 Conway Road, New Hyde Park, and I have my  
14 expeditor away and is unable to attend this. She left it up  
15 to me, so help me, okay. These are receipts for mailing that  
16 she said. She has the originals there.

17 MR. PERROTTA: I believe we got these electronically.

18 MS. CADELLI: Yes, you have them. She said that  
19 you would say that.

20 MEMBER DONATELLI: Can I just ask you before you begin,  
21 hold the microphone closer to you.

22 MS. CADELLI: Oh, sure. My husband always tells me I'm  
23 loud. I don't want to blast you.

24 MEMBER DONATELLI: Well, remember, you're broadcasting  
25 on TV.

26 MS. CADELLI: I'm broadcasting, okay. I just want to

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2 just briefly on her advice, I'm saying these things. My parents  
3 purchased our home in 1950. My father made alterations in the  
4 late 50s or so. I grew up in the house and returned to live with  
5 my mother and my daughter in 1987 after my divorce. Ownership  
6 was transfer to me in 2018. I also helped my mom to redo  
7 driveways, the pavers, etcetera, etcetera, light stones --  
8 light piers, things I'm asking for now. Whatever we replaced,  
9 was replaced with upgraded materials, but the basic structure  
10 of the house remained the same.

11 The first issue is code 70-101(B), one-story open  
12 porches and terraces shall be projected more than five feet into  
13 required front yard. That's the front step. Required terraces  
14 shall not project more than five feet into a required front  
15 yard. I would like to maintain or legalize an eight-foot-wide  
16 raised terrace encroaching 8.3 feet into the required front  
17 yard and 16.7 feet from the property line.

18 Then I have a note here that says the required front  
19 yard is 25 feet. The average front yard along Conway Road  
20 is 24.3 feet, so my request is to maintain and legalize the  
21 raised terrace. I have a picture of number one and two kind of  
22 go together. Can I read number two, also?

23 MEMBER HERNANDEZ: Sure.

24 MS. CADELLI: Okay, number two is 70101C. A one-story  
25 enclosed vestibule not greater than eight feet in width and  
26 five feet in depth may extend into required front yard provided

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2 that said vestibule shall conform an architecture and material  
3 to the main building. This is the front portico, which is on  
4 top of the front stoop. Required is a one-story enclosed  
5 vestibule not greater than eight feet in width and five feet in  
6 depth may extend to required front yard. I would like to  
7 maintain and legalize a one-story vestibule addition that is  
8 8.5 in width and 5.5 in depth and extends 4.3 feet, and located  
9 20.4 feet from the front property line.

10 In regards to this, I think you have the photos my  
11 expeditor said she sent, but I have an actual picture of said  
12 fence. Do you need this or you have it?

13 MEMBER GOODSSELL: I believe we have that.

14 MEMBER DONATELLI: I think that was part of the  
15 original submission.

16 MS. CADELLI: Yes.

17 MEMBER DONATELLI: Yes.

18 MS. CADELLI: There's pictures I think you have them,  
19 but I brought it anyway. Now, just a note about this. As I  
20 said before; my dad made a lot of additions to my home, and my  
21 aunt and uncle at the time lived next door, so we were ten  
22 family members between the two houses. My father also made  
23 additions to my uncle's house next door at 15 Conway Road and  
24 again, in the 1950s, so these things have been around forever.

25 I was the executor of my uncle's estate, 15 Conway Road,  
26 and at the time the issue of this exact thing that he has in

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2 front of his house next door came up, and the Town legalized  
3 this enclosed vestibule and stoop, so maybe you can do the same  
4 for mine, I'm hoping.

5 MEMBER GOODSSELL: Use it as a comparison.

6 SECRETARY WAGNER: What was the address?

7 MS. CADELLI: 15 Conway Road. And we came to variance  
8 hearing to get that legalized, okay.

9 MEMBER GOODSSELL: Number 15.

10 MS. CADELLI: Number 15.

11 MEMBER GOODSSELL: Appears to be a bigger house than  
12 your house.

13 MS. CADELLI: Yes, it wasn't --

14 MEMBER GOODSSELL: Since --

15 MS. CADELLI: It's showing now a great big tall house?

16 MEMBER GOODSSELL: Yes, it is.

17 MS. CADELLI: No, at the time, it was the same size as  
18 this one.

19 MEMBER GOODSSELL: So the owners who bought that --

20 MS. CADELLI: The owners bought that from -- we -- yes,  
21 we went to legalize everything before the sale of the house,  
22 and also, after they bought 'cause we were right next door so  
23 we could work with them to get everything legalized. This  
24 became an issue, and I don't know if the gentleman is still  
25 here or not, but he drove past the day before our hearing, and  
26 he said that in no way affects anyone's visual or health or

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2 anything else because it sticks out a few inches, and he --  
3 they just granted the variance for the exact same thing. At  
4 this point now, the house next door was cut right here. They  
5 took the top off, and they extend it, which you have that  
6 picture of, so it's very beautiful thing, and this remains the  
7 same on that house. If you look at the picture, they still  
8 have this front vestibule.

9 MEMBER GOODSSELL: Your father built that or replaced  
10 that?

11 MS. CADELLI: No, he built it.

12 MEMBER GOODSSELL: He built it.

13 MS. CADELLI: When they bought the house, there was  
14 nothing except the dormer. He built everything, and back in  
15 the day, I don't think they realized what permits were.

16 MEMBER GOODSSELL: Permits may not have been necessary.

17 MS. CADELLI: Well, this is what I'm saying. All of  
18 this was built when I was a child. My father, unfortunately,  
19 was not around after I was 13, so I know this was -- I remember  
20 holding up walls.

21 MEMBER GOODSSELL: Give your best estimate; what year,  
22 approximately, that vestibule had been built?

23 MS. CADELLI: Oh my.

24 MEMBER GOODSSELL: Yours.

25 MS. CADELLI: I would say -- let me think. I would say  
26 I was probably 19. It had to be in the mid-50s.

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2 MEMBER GOODSELL: Okay. So it's fair to say it's a  
3 good 50, 60 years old?

4 MS. CADELLI: Oh, definitely. I mean, I'm 110, so this  
5 is -- okay. Now, that's that first issue. Those two go  
6 together, and you have all you need for that. Yes? Okay.  
7 Hopefully, the fact that my uncle's was approved would be  
8 something that I can hope for.

9 The next one, number three, is Section 70-100.2L.  
10 Light piers or decorative piers shall be permitted in the front  
11 yard of the dwelling subject to the following; maximum of four  
12 light piers or decorative piers are permitted. We only have  
13 two. The residential property with a circular driveway has  
14 one pier installed on each side of both driveway entrances.  
15 Our drive is straight. Piers shall be a maximum of two feet in  
16 any horizontal dimension with a maximum height of three feet.  
17 The requirement is light piers shall not exceed a total maximum  
18 height of three feet. I would like to propose and main -- I  
19 mean maintain and legalize two light piers with a total  
20 height of 4.52 feet, and okay, that's that.

21 And I have as far as those matters are concerned from  
22 the Highway Department required me to file for the driveway,  
23 the curb cutout and the light piers. They closed out this  
24 permit -- I don't -- a waiver we had to do, and they noted that  
25 the light piers were also lighted on their comments of  
26 disapproval, so the Town is noted on my homeowner's insurance

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2 policy as an interested party, and I gave them \$2,000. I was  
3 supposed to be the contractor, I suppose, but the work had  
4 already been done, so they said they took the \$2,000. They  
5 gave us the -- I don't know what you would call it from them.  
6 Is it a permit that the Highway Department, but we have that  
7 they closed that -- they closed out these issues on November 30,  
8 2023, so we had their approval for light piers, the curb  
9 cutout, the driveway, etcetera.

10 ACTING CHAIRMAN FRANCIS: And who did you give the  
11 \$2,000 to?

12 MS. CADELLI: The Highway Department.

13 ACTING CHAIRMAN FRANCIS: The Highway, okay.

14 MS. CADELLI: So we spoke to -- what was her name?  
15 Terry? Terry? Terry, I thought, was her first name. I can't  
16 remember the last name.

17 SECRETARY WAGNER: Moscato.

18 MS. CADELLI: Yes, Moscato. So the Highway Department  
19 basically took care of this for us. I don't know, is that?

20 MEMBER GOODSSELL: The Highway Department didn't raise  
21 the objection. You're still in front of us for a variance  
22 because of the height.

23 ACTING CHAIRMAN FRANCIS: The height.

24 MS. CADELLI: Okay.

25 MEMBER GOODSSELL: So they may have said that Building  
26 may have a conflict because they're taller --

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2 MS. CADELLI: Well, they -- no, they also had an issue  
3 with the light piers being that height, and they were okay with  
4 it, I guess.

5 MEMBER GOODSELL: Well, we don't have their decision in  
6 front of us.

7 MS. CADELLI: Oh, you don't.

8 ACTING CHAIRMAN FRANCIS: No.

9 (Whereupon, there was a discussion amongst the Board  
10 Members.)

11 MS. CADELLI: We didn't get anything from them actually  
12 in writing.

13 ACTING CHAIRMAN FRANCIS: In terms of the Highway  
14 Department, even though it doesn't look like your property has  
15 a right of way, it does. Where those light piers are, are  
16 probably in the right of way of the Town, and that's why you  
17 had to go to the Highway Department.

18 MS. CADELLI: The Highway -- yes. Yes.

19 ACTING CHAIRMAN FRANCIS: In terms of -- so in terms of  
20 the height, you need a variance for the height because --

21 MS. CADELLI: Yes.

22 ACTING CHAIRMAN FRANCIS: To town code.

23 MS. CADELLI: But the Highway Department approved  
24 supposedly, according to my expeditor, when we got the things  
25 back from the Highway Department, and they gave me whatever  
26 they give you on November 30, 2023.



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2 ACTING CHAIRMAN FRANCIS: They gave you a waiver.

3 MS. CADELLI: Yes, we got a waiver, so they approved  
4 the light piers.

5 ACTING CHAIRMAN FRANCIS: Now, you need us to approve  
6 the light piers.

7 MS. CADELLI: She kept telling me the light piers are  
8 okay because the Highway Department did their -- whatever they  
9 had to do with it. So I don't know. You have no record of  
10 them approving anything?

11 ACTING CHAIRMAN FRANCIS: No, they didn't send --

12 SECRETARY WAGNER: That's a different situation.  
13 That's a Highway Department permit. It's not a variance.

14 ACTING CHAIRMAN FRANCIS: Right.

15 MS. CADELLI: No, that's a waiver.

16 SECRETARY WAGNER: Right.

17 MS. CADELLI: But that doesn't affect -- so you're  
18 telling me that effects your decision.

19 ACTING CHAIRMAN FRANCIS: No.

20 SECRETARY WAGNER: That has to do with the location  
21 of the light piers, but the light piers themselves are too  
22 high.

23 MS. CADELLI: Does the fact that I have them on my  
24 homeowner's give me a bone? Is that -- does that help me out  
25 at all.

26 MEMBER DONATELLI: So if we can --

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2 MS. CADELLI: Well, let me show you. We have --

3 MEMBER DONATELLI: Excuse me one second. If you take a  
4 look at what you submitted as part of your application; you'll  
5 see that there is a survey, and the survey shows a light pier  
6 that is actually beyond your property line, so it's not  
7 entirely on your property line. Part of it is on your property  
8 line, and then part of it beyond your property line.

9 MS. CADELLI: Property line uncle's house.

10 MEMBER DONATELLI: So that when you say that you  
11 received approval from the Highway Department, my guess is the  
12 Highway Department looked at this and said yes, this doesn't  
13 really interfere with traffic.

14 MS. CADELLI: Right.

15 MEMBER DONATELLI: And so we'll allow the homeowners to  
16 do it --

17 MS. CADELLI: This --

18 MEMBER DONATELLI: Excuse me one second. Let me just  
19 finish 'cause I think it's important that you understand this.

20 MS. CADELLI: Okay.

21 MEMBER DONATELLI: On the other hand, the Town of North  
22 Hempstead says you're not really supposed to have any  
23 structures in your front yard. We want the open front yard,  
24 but we will allow these light piers provided they're no more  
25 than three feet in height and your light piers are four feet  
26 and a quarter -- four-and-a-quarter feet high, so the fact that

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2 the Highway Department says okay, it doesn't really interfere  
3 with the traffic, and even though it's on town land, we're going  
4 to let you have it. That's different from our issue --

5 MS. CADELLI: Okay.

6 MEMBER DONATELLI: -- of the required height --

7 MS. CADELLI: For the variance.

8 MEMBER DONATELLI: -- should be no more than three  
9 feet.

10 MS. CADELLI: Do you have this photo of the driveway?

11 MEMBER DONATELLI: Yes.

12 MEMBER HERNANDEZ: Yes.

13 MS. CADELLI: Is the fact that they're so thin and that  
14 they're horses give me any advantage?

15 ACTING CHAIRMAN FRANCIS: It's the height issue.

16 MEMBER DONATELLI: It's the height.

17 MS. CADELLI: May I ask just why is the height such a  
18 problem?

19 MEMBER DONATELLI: The Town does not want light piers  
20 more than three feet height.

21 MS. CADELLI: Okay.

22 MEMBER DONATELLI: So again, we don't set up the town  
23 code. The Town Board sets the requirements of the town code.

24 MS. CADELLI: Is that the height of the light?

25 MEMBER DONATELLI: Well, it's the entire height, so in  
26 other words, as I look at your light piers, they're already on a

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2 stone foundation.

3 MS. CADELLI: Base, yes.

4 MEMBER DONATELLI: So that makes it that much higher.

5 Now, you can come before us, and you have come before us, asking  
6 for a variance for the height, or you could simply just change  
7 the horse fixture and change it to a smaller or something  
8 that's --

9 MEMBER HERNANDEZ: Shorter.

10 MEMBER DONATELLI: -- shorter.

11 ACTING CHAIRMAN FRANCIS: Or change the foundation.

12 MEMBER DONATELLI: Or change the foundation, or get it  
13 below the three feet.

14 MS. CADELLI: So the fact that the Highway Department  
15 said they're okay, really --

16 ACTING CHAIRMAN FRANCIS: That's doesn't have --

17 MEMBER DONATELLI: It's a separate issue.

18 ACTING CHAIRMAN FRANCIS: Yes.

19 MS. CADELLI: Okay.

20 ACTING CHAIRMAN FRANCIS: That's the light piers.

21 MEMBER DONATELLI: That's the light piers. That's an  
22 easy one. You have issues also as to the height of your fence,  
23 and the height of the arbor. Do you want to talk a little bit  
24 about those?

25 MS. CADELLI: Yes, that was the last thing. Yeah, it's  
26 supposed to be fencing. What we have required is five feet

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2 maximum. We want to maintain and legalize a six-foot-high and  
3 maintain six-foot high fence for turn in the front. That would  
4 be this picture.

5 ACTING CHAIRMAN FRANCIS: Right.

6 MEMBER DONATELLI: Right.

7 MS. CADELLI: Where that -- there is not a lot of fencing.  
8 There's a gate through there, so there's accessibility. I  
9 don't know if the fence is -- fence itself is six feet high  
10 with the post things. The arbor? Let's see. The fence is six  
11 feet. The arbor is eight feet in height and five feet. It's  
12 too high. The arbor, we want to maintain and legalize one,  
13 eight by seven foot in height arbor.

14 MEMBER DONATELLI: Now, this arbor and the fence, is  
15 this a PVC fence?

16 MS. CADELLI: Yes.

17 MEMBER DONATELLI: Did your father also install this,  
18 or was this installed by a fence company?

19 MS. CADELLI: No, no, no. My father is gone a long  
20 time before this, but this -- we have over the course of the  
21 years replaced fencing, siding, stonework. We've done -- we've  
22 just done different facades on the house just to improve it,  
23 top with pavers, etcetera, which are on sand. They were for  
24 drainage. What you see in the picture is what's always been  
25 there. We've just had to -- I mean, things deteriorate. We  
26 have to replace it, the gutters, and the roofs, and all that

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2 stuff.

3 MEMBER GOODSSELL: Did you put, you or your family put  
4 the fence up yourselves, or did have a contractor put it up?

5 MS. CADELLI: We had someone do it.

6 MEMBER GOODSSELL: A contractor or a friend?

7 MS. CADELLI: Contractor.

8 MEMBER GOODSSELL: Did that contractor give you the  
9 North Hempstead rules for the height of fences?

10 MS. CADELLI: He did not because I think he worked  
11 under the impression that since the fence was already there, we  
12 were not changing anything, we were just upgrading.

13 MEMBER GOODSSELL: We're not questioning the location of  
14 the fence.

15 MS. CADELLI: Just the height, right?

16 MEMBER GOODSSELL: And the height of the fence to the  
17 top, even with the open spaces, so in the Town of North  
18 Hempstead, where you have the edge of the house, where the  
19 arbor is, we have a rule that could be four feet, and on the  
20 side, it could be five feet, and rear could be 6 feet, so you  
21 have the four-five-six rule. Your fence is six feet tall  
22 around. Can you tell us why?

23 MS. CADELLI: But it's so pretty. Look at it. It's so  
24 pretty.

25 MEMBER DONATELLI: If --

26 MS. CADELLI: I know.

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2 MEMBER DONATELLI: -- you've been sitting here since  
3 this morning, you know that we try to do --

4 MS. CADELLI: Yes, I know. I know.

5 MEMBER DONATELLI: We try to do what's right, but again,  
6 we try to be consistent throughout the town. We don't make up the  
7 rules. Under certain circumstances, we're empowered to grant  
8 variances, but anything that we do for one case, somebody else  
9 might come along tomorrow and say well, I want the same thing.

10 MS. CADELLI: Right.

11 MEMBER DONATELLI: And we can't substitute our opinion  
12 of what you would like, what we would like.

13 MS. CADELLI: No, no, no, I understand. The only thing  
14 that I said before was that I know for a fact that was  
15 legalized for my uncle, the vestibule, and the stoop.

16 MEMBER DONATELLI: That's a different issue.

17 MS. CADELLI: So that was, yeah.

18 ACTING CHAIRMAN FRANCIS: The fence. That's -- do you  
19 remember what year the fence was put up?

20 MS. CADELLI: Maybe 2011 or 2012.

21 ACTING CHAIRMAN FRANCIS: So with the fences, we almost  
22 never vary the fence rule.

23 MS. CADELLI: I know.

24 ACTING CHAIRMAN FRANCIS: The only time we had is when  
25 the applicant had an autistic child living in the house and  
26 needed it to be confined within the house.

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2 MS. CADELLI: Oh.

3 ACTING CHAIRMAN FRANCIS: Other than that, the  
4 four-five-six rule is written in stone. Whether we like your  
5 fence or we don't like, it doesn't matter. So the fence issue,  
6 the front, the fence facing the front is going to have to be cut  
7 down to four feet, on the side five feet, in the rear you can  
8 leave it at six.

9 MS. CADELLI: Okay.

10 MEMBER DONATELLI: But again, the good news is just  
11 like the light piers, these are things that are relatively  
12 simple --

13 ACTING CHAIRMAN FRANCIS: Yeah.

14 MEMBER DONATELLI: -- to fix. So in other words, as we  
15 look through our Five Factors, and we weigh how do we get  
16 homeowners closer to compliance? We try to figure out how easy  
17 is it to fix these things.

18 ACTING CHAIRMAN FRANCIS: Right.

19 MEMBER DONATELLI: And, you know, without saying one  
20 way or another, fixing the height of a light pier or fixing the  
21 height of a fence, it can be done relatively easily. Ripping  
22 off the roof of a house, for example, is not --

23 MS. CADELLI: No.

24 MEMBER DONATELLI: -- that easy, so --

25 MS. CADELLI: Well, we went through this with my  
26 uncle as well, both the fencing issues, and --



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2 MEMBER DONATELLI: So you're familiar with --

3 MS. CADELLI: I'm familiar with that.

4 MEMBER DONATELLI: Good.

5 MS. CADELLI: But I -- in regards to the light piers,  
6 since we had all of this stuff with the Highway Department, I  
7 was under the impression that was okay now.

8 ACTING CHAIRMAN FRANCIS: It's okay as to the Highway  
9 Department.

10 MEMBER HERNANDEZ: The location.

11 MEMBER GOODSELL: The location, not as to the height.  
12 They only pass on location.

13 ACTING CHAIRMAN FRANCIS: Right.

14 MEMBER GOODSELL: You're on their property. The way  
15 your survey that your expeditor did, one of your light piers is  
16 three-quarters on the Town's property, and one of your light  
17 piers is about a smidge on the Town's property, so when your  
18 property is on someone else's, you need their permission.

19 MS. CADELLI: Well, that's what they suggest --

20 MEMBER GOODSELL: So the Highway Department said, okay,  
21 we'll let you keep them where they are.

22 MS. CADELLI: Okay.

23 ACTING CHAIRMAN FRANCIS: So your arbor is only over  
24 .7 feet.

25 MEMBER GOODSELL: Right.

26 ACTING CHAIRMAN FRANCIS: Seven inches.

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2 MS. CADELLI: Seven inches, exactly.

3 ACTING CHAIRMAN FRANCIS: I think as a Board, I think,  
4 we're okay with the arbor.

5 MS. CADELLI: Oh, so this part with the --

6 ACTING CHAIRMAN FRANCIS: Yeah.

7 MS. CADELLI: This would have to be lowered probably to  
8 the --

9 MEMBER GOODSELL: Four feet on the either side of the  
10 yard, five feet on your side yard, and I can't tell whether you  
11 have a fence on both sides of your yard and then six feet in  
12 the back.

13 MS. CADELLI: The fence goes across the back and down  
14 the side and across the front. It's in the back all the way  
15 behind the garage, then on the side --

16 MEMBER GOODSELL: You have an hedge. Is there a fence  
17 behind your hedge?

18 MR. CALAMUSA: The neighbor has a fence.

19 MS. CADELLI: The neighbor put in a fence 'cause they  
20 have a dog. We are arbor provided on the side. The other side  
21 of the garage is all arbor provided, and behind the garage --

22 MEMBER GOODSELL: So it's really just -- it's four feet  
23 in the front, five foot on the side, six foot in the back.

24 MS. CADELLI: Is it possibly that I -- I don't -- I  
25 can't tell from the picture now. I don't know the height minus  
26 the -- but even removing -- if they kind of removed the --

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2 those posts on the top that would probably lower the side to  
3 five feet.

4 MEMBER GOODSSELL: That would be something for you and  
5 fence company to decide.

6 MS. CADELLI: Right, and what about the things that are  
7 in the ground? Can they stay even if the fence is lower?

8 MEMBER DONATELLI: You should speak to your fence  
9 contractor. My understanding is that it can be done relatively  
10 easily.

11 MS. CADELLI: Yeah, we had it done with my uncle, as I  
12 recall. He had to do --

13 MEMBER DONATELLI: We want to do --

14 MS. CADELLI: Six-five-four.

15 MEMBER DONATELLI: -- with compliance.

16 MEMBER GOODSSELL: And fence companies --

17 MS. CADELLI: Oh, yeah.

18 MEMBER DONATELLI: Well, you want to browbeat them.

19 MEMBER HERNANDEZ: The fence is in the right location.

20 MEMBER DONATELLI: Right.

21 MEMBER HERNANDEZ: It's just the --

22 MS. CADELLI: The height.

23 MEMBER HERNANDEZ: -- height on the front and the sides  
24 is too high.

25 MS. CADELLI: Well, we should -- I should say going  
26 through what we did with my uncle's house, I should have said

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2 let's do it that way at the outset, but we left it up the  
3 contractor and he put in -- he replaced what he took out, and  
4 that kind of thing, so.

5 MEMBER DONATELLI: We understand. This is the issue  
6 that we have when we do without permits. And we understand that  
7 frankly, you've been wonderful. You've been up here. You've  
8 addressed the issues, and we acknowledge that and the for the  
9 right now, so that's been good, but there is a town code --

10 MS. CADELLI: Yes.

11 MEMBER DONATELLI: -- that has to be enforced.

12 MS. CADELLI: I understand completely. Let me tell you  
13 the reason why all of this started because to be perfectly  
14 honest, after I finished my uncle's house, I kind of figured,  
15 okay, I'm going to have to do this eventually with Mom's house,  
16 and then one thing lead to another, and she was ill and  
17 whatever, and I never really concentrated. And then after she  
18 passed, I said okay, I'm the next one to give this house to  
19 someone, and I don't want to leave the mess that my uncle left  
20 me to my daughter, so I opened the proverbial can of worms and  
21 here's where we are, and I mean --

22 MEMBER GOODSSELL: And --

23 MS. CADELLI: I knew what I was getting myself into  
24 'cause, like I said, it took me a very long time to get my  
25 uncle's house straightened out. So I understand what your  
26 telling me. I understand all of these legalities, and even

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2 fixing the horses won't be a problem. I will not get rid of  
3 them. I will not get rid of them because they hold memories  
4 for me, but I will have to lower them, I guess, right? And the  
5 fence will have to be adjusted. And I know from my uncle's  
6 house, they -- he had a stockade fence. We put a new one in  
7 the back for him because his was falling apart. We had a six  
8 foot fence down the side, and that six-foot fence went down to  
9 five feet, all around the side of the driveway, and that was  
10 totally illegal, but I removed it up the house. Made that part  
11 five feet. Then the part that they took away from the side,  
12 they put a four-foot fence along the front by the -- so I mean,  
13 I knew all this going into it. When my cousin was doing this,  
14 I'm like, I can't. I just can't even think about starting all  
15 over again, legalizing all of these things, so we're in the  
16 process of legalizing a lot of things, and these were the  
17 variances that have come up so far. So now, what is my next  
18 step? What -- going back to that front entrance. Would you do  
19 -- can you do something with that because is that or is that  
20 still --

21 ACTING CHAIRMAN FRANCIS: I think we are about to make  
22 a decision on your whole application.

23 MS. CADELLI: So this whole application will have to  
24 come again.

25 ACTING CHAIRMAN FRANCIS: No, no, no, we're going to do  
26 it right now.

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2 MS. CADELLI: Oh, okay. Should I leave or?

3 ACTING CHAIRMAN FRANCIS: Stay right there.

4 MEMBER DONATELLI: Give me one more moment.

5 MS. CADELLI: Of course.

6 MEMBER DONATELLI: I know I saw this somewhere. Right  
7 now, I can't find it. Going back to your light piers. Now,  
8 you mentioned that these light piers are an emotional value for  
9 you, so they sit on a stone base.

10 MS. CADELLI: Right.

11 MEMBER DONATELLI: How tall is the stone base;  
12 12 inches?

13 MS. CADELLI: I was going to say about a foot.

14 MEMBER DONATELLI: And then the horse light pier itself  
15 is thirty --

16 MEMBER HERNANDEZ: Nine.

17 MEMBER DONATELLI: -- nine inches. So in either event,  
18 that would be about the three feet by itself.

19 ACTING CHAIRMAN FRANCIS: Right.

20 MEMBER HERNANDEZ: Three inches, if she wants.

21 MEMBER DONATELLI: Well, if it were on grade level --

22 ACTING CHAIRMAN FRANCIS: Right.

23 MEMBER DONATELLI: But I don't know that you can  
24 install the horse head right to grade level. Probably needs to  
25 be sitting on something.

26 ACTING CHAIRMAN FRANCIS: But she can remove some of

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2 these layers.

3 MEMBER DONATELLI: Right.

4 MS. CADELLI: No.

5 ACTING CHAIRMAN FRANCIS: Remove the whole thing. The  
6 foundation.

7 MS. CADELLI: I will put them somewhere else. But I'm  
8 not destroying them.

9 ACTING CHAIRMAN FRANCIS: No, no, I'm not talking about  
10 the fixture itself. I'm talking about what it's sitting on.

11 MS. CADELLI: Yeah, but I don't know if you can because  
12 they're basically from an old -- it's a long story, but they  
13 came on a cement -- in a ball of cement because they were in  
14 front of somebody's whatever. They were giving things out.  
15 And my father brought them home and chopped some of the cement  
16 off. They were originally in a brick -- my stepfather did  
17 that. A brick base. And when we had the house redone, we  
18 wanted that to match the house 'cause we have the stone on the  
19 house. I originally said, aren't you making that base a little  
20 too high because the other base was maybe one brick high, so  
21 maybe -- it's doable, I would suppose --

22 ACTING CHAIRMAN FRANCIS: Yeah, all right, so --

23 MS. CADELLI: -- to bring the base back down.

24 MEMBER DONATELLI: What I'm trying to determine is  
25 because again, we're trying to prompt you towards compliance.  
26 On the other hand, if these horse light piers have a special

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2 significance for you -- are you telling us that they have a  
3 special significance for you, but they don't need to remain on  
4 these pedestals then --

5 MS. CADELLI: In my heart, I would love them to remain  
6 where they are.

7 MEMBER DONATELLI: Okay, but again, by themselves,  
8 they're already 39 inches.

9 MS. CADELLI: I know that.

10 MEMBER DONATELLI: And the law allows 36 inches, so  
11 unless we start cutting them down or something --

12 MS. CADELLI: Or maybe sink them into the ground  
13 instead of putting them on something.

14 ACTING CHAIRMAN FRANCIS: Or -- yeah, do that.

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

17 MEMBER HERNANDEZ: (Inaudible).

18 MEMBER DONATELLI: And mount it.

19 MEMBER HERNANDEZ: We need to give three inches because  
20 they can't go below grade. They have to be at ground level,  
21 and just the lamp itself, it's already 39.

22 ACTING CHAIRMAN FRANCIS: I'm looking at this -- at  
23 this foundation --

24 MEMBER HERNANDEZ: Yes.

25 ACTING CHAIRMAN FRANCIS: It looks like brick or  
26 something underneath this --



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2 MEMBER HERNANDEZ: They are.

3 MEMBER DONATELLI: It is.

4 ACTING CHAIRMAN FRANCIS: So why can't you move --  
5 remove a layer of brick?

6 MEMBER HERNANDEZ: Because it's not enough. The lamp  
7 itself is 39, so even if she would put the lamp flush to the  
8 ground --

9 ACTING CHAIRMAN FRANCIS: Yeah.

10 MEMBER HERNANDEZ: -- it will still be over.

11 ACTING CHAIRMAN FRANCIS: Oh, I gotcha. I see. Right.

12 MEMBER HERNANDEZ: So we need to give her the three  
13 inches.

14 MEMBER DONATELLI: The three inches.

15 ACTING CHAIRMAN FRANCIS: I gotcha.

16 MEMBER HERNANDEZ: But she should --

17 MEMBER DONATELLI: A variance of three inches.

18 MEMBER HERNANDEZ: She could build the foundation at  
19 grade level.

20 MEMBER DONATELLI: Right.

21 MEMBER HERNANDEZ: Not above grade.

22 ACTING CHAIRMAN FRANCIS: To lower the whole thing.

23 MEMBER HERNANDEZ: And then it will only be 39.

24 ACTING CHAIRMAN FRANCIS: I gotcha.

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

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2 MEMBER DONATELLI: So you can inset the base into the  
3 ground?

4 MEMBER HERNANDEZ: This base is set into the ground  
5 already.

6 ACTING CHAIRMAN FRANCIS: Already.

7 MEMBER HERNANDEZ: Otherwise, it wouldn't be there,  
8 right?

9 MEMBER DONATELLI: Right.

10 MEMBER HERNANDEZ: It's not sitting at the ground.

11 MEMBER DONATELLI: It would have to be flush to the  
12 ground.

13 MEMBER HERNANDEZ: But you would need to cut it down so  
14 that it would be flush to the ground or an inch above grade.

15 ACTING CHAIRMAN FRANCIS: How is that? I mean, is that  
16 possible?

17 MEMBER HERNANDEZ: Yeah, they just chip it right off.  
18 You have to build a new one.

19 MEMBER DONATELLI: No, essentially, though, the pedestal  
20 would have to -- this would have to be flushed into the ground.

21 MEMBER HERNANDEZ: Into the ground.

22 MEMBER DONATELLI: It would have to be inset --

23 MEMBER HERNANDEZ: At ground level.

24 ACTING CHAIRMAN FRANCIS: Okay.

25 MEMBER HERNANDEZ: So the whole thing would be 39, 40  
26 inches tall tops.

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

3 MS. CADELLI: Okay, thank you.

4 MEMBER DONATELLI: We're trying to figure out a way --

5 MS. CADELLI: To fix this.

6 MEMBER DONATELLI: -- that you can keep these lights  
7 piers, and if you -- because they are 39 inches high. They're  
8 already three inches higher, even without the mounts.

9 MS. CADELLI: Just the horse. The horse is 39.

10 MEMBER DONATELLI: Right. If you were to bring the  
11 base down to ground level, and the only thing that would extent  
12 upward would be the height of the horse's head light pier, then  
13 that would be 39 inches.

14 MS. CADELLI: And I also, I could maybe, I don't know.  
15 Because the base of them -- the base of them is decorative,  
16 yeah, that's the problem. I can't --

17 MEMBER DONATELLI: So you can make it flush. Make it  
18 flush to the --

19 MS. CADELLI: Yeah, I can't really change the base of  
20 the horse because it's that ground --

21 MEMBER DONATELLI: Right, yeah, I understand. We don't  
22 want you cutting up things that are valuable.

23 ACTING CHAIRMAN FRANCIS: No, no, no.

24 MEMBER DONATELLI: So would that be acceptable to you?

25 MS. CADELLI: If I can keep them there and legalize it  
26 then, yes.

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2 ACTING CHAIRMAN FRANCIS: She needs to come back with a  
3 plan showing that the contractor will do this work.

4 MEMBER DONATELLI: Right.

5 MEMBER HERNANDEZ: Essentially, what your contractor  
6 will need to do is remove the whole thing.

7 MS. CADELLI: Right.

8 MEMBER HERNANDEZ: Dig out the foundation.

9 MS. CADELLI: And put it into --

10 MEMBER HERNANDEZ: Put in a new foundation at ground  
11 level, and then remount --

12 MS. CADELLI: And the horse itself would be the base as  
13 opposed to --

14 MEMBER HERNANDEZ: Mounted on the ground level --

15 MS. CADELLI: The horse would be the base as opposed to  
16 the stone.

17 ACTING CHAIRMAN FRANCIS: Right.

18 MEMBER HERNANDEZ: Well, the stone will be there, but  
19 you wouldn't even see it because it would be at grass level,  
20 right?

21 MS. CADELLI: Oh, I see what you're saying.

22 MEMBER HERNANDEZ: But you still need a foundation.  
23 You can't --

24 MS. CADELLI: You can't put that on anything.

25 MEMBER HERNANDEZ: Right.

26 MS. CADELLI: But that stone that it's sitting on would

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2 be level with the grass.

3 MEMBER HERNANDEZ: That it would go --

4 ACTING CHAIRMAN FRANCIS: It would just be lowered.

5 MS. CADELLI: Leveled with the grass.

6 MEMBER HERNANDEZ: Soil level.

7 MS. CADELLI: So I don't have the height, but I have  
8 the horse.

9 MEMBER HERNANDEZ: You won't have the 12-inch height.

10 MS. CADELLI: But they're still too high?

11 MEMBER HERNANDEZ: But the horse itself is too high.

12 MS. CADELLI: But they're still too high, so what do I  
13 do with three inches?

14 ACTING CHAIRMAN FRANCIS: We would have to give you  
15 that.

16 MEMBER GOODSSELL: We would you give you --

17 ACTING CHAIRMAN FRANCIS: We would give you a variance  
18 for the height if you lowered the base to ground level.

19 MS. CADELLI: Even if they're still three inches high?

20 ACTING CHAIRMAN FRANCIS: Yes.

21 MS. CADELLI: I would get a variance for that.

22 ACTING CHAIRMAN FRANCIS: Yes.

23 MS. CADELLI: So that --

24 ACTING CHAIRMAN FRANCIS: This is the plan that I think  
25 we've come up with. We're going to continue your application.

26 MS. CADELLI: Okay.

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2 ACTING CHAIRMAN FRANCIS: You're going come back with  
3 us or send them to the BZA Board, a contractor's plan for  
4 lowering the light piers.

5 MS. CADELLI: Okay.

6 ACTING CHAIRMAN FRANCIS: We're going to give you the  
7 vestibule. We're going to give a variance on the vestibule.

8 MS. CADELLI: Okay.

9 ACTING CHAIRMAN FRANCIS: So that's taken care of.  
10 We've already talked about the fence. The fence has got to be  
11 lowered, so you're going to end up with getting that with  
12 regard to the light piers and getting what you want with regard  
13 to the vestibule based on you lowering the foundation of the  
14 light fixtures.

15 MS. CADELLI: Okay, now I get all -- what about the --  
16 you said the arbor could be kept?

17 ACTING CHAIRMAN FRANCIS: Yeah, that's fine. We're  
18 gonna give you that, too.

19 MS. CADELLI: So we'll get -- I'll get the arbor, the  
20 vestibule, and then I fix the fence and the horses.

21 ACTING CHAIRMAN FRANCIS: Yes.

22 MS. CADELLI: And the three inches of the horse then  
23 will not be --

24 ACTING CHAIRMAN FRANCIS: Yes.

25 MS. CADELLI: -- too bad.

26 ACTING CHAIRMAN FRANCIS: But you are going to have to

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2 send us something from a contractor with a plan for what he's  
3 going to do that or how she's going to do that.

4 MS. CADELLI: Okay.

5 SECRETARY WAGNER: The decision would be made all  
6 together.

7 ACTING CHAIRMAN FRANCIS: Yes.

8 SECRETARY WAGNER: So once you send us that, then  
9 they'll make --

10 ACTING CHAIRMAN FRANCIS: Then we'll make that  
11 decision.

12 MS. CADELLI: Okay, but do the other two variances, how  
13 do that -- do they go through today?

14 SECRETARY WAGNER: No.

15 ACTING CHAIRMAN FRANCIS: No, they're all go together  
16 once you submit --

17 MS. CADELLI: Oh, so once I come back with those two  
18 things that are fixed, then all of this would be approved all  
19 at the same time?

20 MEMBER HERNANDEZ: Not fixing. Send -- you can email  
21 it in. The plan for lowering the --

22 ACTING CHAIRMAN FRANCIS: The foundation.

23 MS. CADELLI: The horses, the fence, and then the arbor  
24 and the front entrance.

25 MEMBER HERNANDEZ: Remedy the fences.

26 MS. CADELLI: The fences.

1 Appeal #21514

2 MEMBER HERNANDEZ: So once that's remedied, it goes  
3 away.

4 MS. CADELLI: Okay, so we're --

5 MEMBER HERNANDEZ: We don't need to deal with it.

6 MS. CADELLI: We're holding off on all four variances  
7 for now?

8 ACTING CHAIRMAN FRANCIS: Yes.

9 MEMBER HERNANDEZ: Yes.

10 MS. CADELLI: But I do have basically the front and the  
11 arbor are okay.

12 MEMBER DONATELLI: Yes.

13 MEMBER HERNANDEZ: That will be fine.

14 MS. CADELLI: Okay. All right.

15 MEMBER DONATELLI: Good job.

16 MS. CADELLI: Happy Valentine's Day.

17 ACTING CHAIRMAN FRANCIS: Happy Valentine's Day.

18 MS. CADELLI: Thank you.

19 MEMBER DONATELLI: We have a --

20 MEMBER HERNANDEZ: Yeah, I think he wants to ask a  
21 question.

22 ACTING CHAIRMAN FRANCIS: Come on up.

23 MEMBER DONATELLI: Come up and speak. Name and  
24 address, please.

25 MR. CALAMUSA: My name is Frank Calamusa. I live at 19  
26 Conway Road in New Hyde Park. I'm Linda's husband. I just



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2 really need to clarify for my own self 'cause I'll be arranging  
3 to get this started. With regard to the fencing, we have to  
4 contact the company. Do they send plans to you, or do we just  
5 have them make the changes? What do we --

6 ATTORNEY ALGIOS: (Inaudible).

7 ACTING CHAIRMAN FRANCIS: Yeah, no. With regard to the  
8 fencing, we're denying the fencing --

9 MR. CALAMUSA: Yes, no, I know.

10 ACTING CHAIRMAN FRANCIS: I mean, that has to get  
11 lowered.

12 MR. CALAMUSA: Yes.

13 ACTING CHAIRMAN FRANCIS: If you want to keep it. So  
14 you got to --

15 MR. CALAMUSA: Whatever installation --

16 MEMBER HERNANDEZ: You don't have to prove it to us.

17 ACTING CHAIRMAN FRANCIS: You don't have to prove it.

18 SECRETARY WAGNER: You don't have to come back to the  
19 Board, but you will have to go to the Building Department and  
20 submit a plan showing a lowered fence, but you don't have to  
21 come back to us. We only need to see the plans for how you're  
22 going to lower the --

23 MR. CALAMUSA: So I have to get a fencing company.  
24 Make plans for that, and then someone else to make plans for  
25 the lights.

26 SECRETARY WAGNER: Yes.

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2 MR. CALAMUSA: Okay.

3 ATTORNEY ALGIOS: For the Board to render a decision,  
4 all they're saying is get a contractor to draw up a plan for  
5 lowering the light piers. Once you submit that, the Board will  
6 be able to move forward with your application. We grant you  
7 variances they discussed. They're going to deny the fence  
8 height, and then -- you will then submit a plan to the Building  
9 Department showing that, and then they'll approve it, and you  
10 can move forward.

11 MS. CADELLI: Do we need to come back and do this  
12 again?

13 ATTORNEY ALGIOS: No, the only thing you need to do is  
14 to get your variances now is to submit that letter from the  
15 contractor.

16 MR. CALAMUSA: Okay. Now, with regard to the work  
17 being done. Do we need a permit for the contractor to do the  
18 fencing -- change the fencing and lower the things?

19 SECRETARY WAGNER: I think you have to wait until the  
20 fence --

21 MR. CALAMUSA: I just want to clear --

22 SECRETARY WAGNER: Yes. You applied for a building  
23 permit for the fence, then they have to come to the BZA. Once  
24 we finalize our decision, that will go to the Building  
25 Department, and then they will proceed with the permits for the  
26 --

1 Appeal #21514

2 ATTORNEY ALGIOS: They'll tell you what you need at  
3 that point.

4 ACTING CHAIRMAN FRANCIS: Right.

5 MR. CALAMUSA: Okay, so I'll wait to hear from them.

6 SECRETARY WAGNER: You can't do anything yet until you  
7 get this --

8 MR. CALAMUSA: I just wanted to make sure. Thank you  
9 very much.

10 MS. CADELLI: You got it?

11 MR. CALAMUSA: Yeah.

12 MS. CADELLI: He's got it. Thank you very much.

13 MEMBER DONATELLI: Thank you.

14 ACTING CHAIRMAN FRANCIS: You're welcome.

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1 Appeal #21515

2 SECRETARY WAGNER: Next appeal. Appeal #21515

3 Anthony & Johanna Bellissimo; 6 Hilton Avenue, Garden City  
4 Park; Section 33, Block 562, Lot 941; Zoned: Residence-C.  
5 Variance from 70-101(B) to legalize a raised terrace too close  
6 to a street.

7 ACTING CHAIRMAN FRANCIS: You've heard Appeal #21515.

8 Is there anyone interested in the application other than the  
9 applicant? Seeing no one, Mr. Butt, please give your name and  
10 address.

11 MR. BUTT: Good afternoon, gentlemen and women. My  
12 name is Edward Butt from the firm Edward Paul Butt Architect.  
13 The office is located at 499 Jericho Turnpike in Mineola, New  
14 York. Good afternoon.

15 ACTING CHAIRMAN FRANCIS: Good afternoon.

16 MEMBER DONATELLI: Good afternoon.

17 MR. BUTT: I have some -- a little bit of homework to  
18 take care of.

19 MR. PERROTTA: Thank you.

20 MR. BUTT: So I'm here this morning -- well, this  
21 afternoon because I have a client who purchased a can of worms,  
22 which we were talking about previously. Fortunately, they were  
23 able to get -- came to me first, so what I did -- I did a lot  
24 of research on the building. It's their first home. They're a  
25 young family. They just had a baby. They purchased this home  
26 I guess without doing any real research, but we want to go

1 Appeal #21515

2 through all the details of the house. It was quite a bit of  
3 things that we had -- we removed sheds. This actually, we have  
4 an application in right now for a curb cut 'cause there's  
5 actually no curb cut on this property either.

6 This house is located on the east side of Hilton  
7 Avenue. Hilton Avenue may sound like a very large street.  
8 It's about 200 feet long, and I think that the two joining  
9 houses onto the left -- the left and right side are actually  
10 entrances on the adjoining streets. So I believe this house is  
11 the only house that really faces Hilton Avenue on the east side  
12 of Hilton Avenue. So when we went through removing all the,  
13 either the violations or potential violations and legalizing a  
14 second floor with new windows and so on.

15 One of the things that we did receive an objection  
16 about was the -- was the front porch. Front porch was existing  
17 when the house was built in the early 60s, we believe, and it  
18 had a sort of corrugated plastic cover on the top of this -- in  
19 this covered porch. Looking at it, clearly does not meet any  
20 kind of hurricane qualifications or anything like that, so we  
21 asked them to remove that that piece or that at least it was  
22 safe for its intended use. We actually looked at the -- and  
23 dug some holes and found out that the foundation for this  
24 porch is actually legit, so it's down 30 inches -- 36 inches, I  
25 mean. So it meets the requirements for construction purposes.

26 The only question is and based on all of our research,

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2 is that we have an encroachment to the front yard from the  
3 average front yard setback of about 1.1 feet. So we are here  
4 this -- today to ask that we can keep and maintain that front  
5 porch with a new fence. I think we show a fence here now, but  
6 we would certainly make sure it's safe so that they can  
7 utilize the front porch. The only concern I have other than  
8 the request for receiving that front yard setback relief is I  
9 -- we did or I did have them take that top porch off or that  
10 top covered piece off.

11 The way the objection is written and it just concerns  
12 me just a little bit is that they're calling it an open porch.  
13 By definition, according to the code, open porch is allowed to  
14 be covered. It doesn't have to be -- but he did make specific  
15 references to no rules, and I would just -- and I don't know  
16 why, but whatever. I just was wondering if it -- somehow in  
17 the terms and conditions if the approval would be granted, that  
18 you could at least have that as an option for my client in the  
19 future to be able to put some sort of an approved covering that  
20 would be acceptable for the Building Department in the future.

21 ACTING CHAIRMAN FRANCIS: I don't know if you can move  
22 on some future happenning, you know.

23 MR. BUTT: I know. I just -- I'm wondering if --  
24 because, you know, the definition of open porch, it's allowed  
25 to have a cover on it, but it just has, you know, he calls it  
26 an open porch, so I'm not --

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2 ACTING CHAIRMAN FRANCIS: That's our understanding.

3 MR. BUTT: Yeah.

4 MEMBER HERNANDEZ: My understanding of it is that an  
5 open -- anything open is open on three sides.

6 ACTING CHAIRMAN FRANCIS: On three sides.

7 MR. BUTT: That's what I thought from the last 40  
8 years.

9 MEMBER HERNANDEZ: Besides a roof.

10 ACTING CHAIRMAN FRANCIS: Right.

11 MEMBER DONATELLI: But yet we're really limited by the  
12 application that's before us.

13 MEMBER HERNANDEZ: Yes. Different subject.

14 MR. BUTT: So this would mean I'd have to come back for  
15 -- when to put a covering on it.

16 SECRETARY WAGNER: Well, unfortunately, what you  
17 labeled on the plans that you said --

18 MR. BUTT: Yeah, I know.

19 SECRETARY WAGNER: -- concrete terrace, so concrete --

20 MR. BUTT: Terrace, right.

21 SECRETARY WAGNER: So that's what the Building  
22 Department is looking at. They might have cited it as a roof  
23 over an open porch or something, so even though, the only --

24 MR. BUTT: My only thought was also --

25 SECRETARY WAGNER: Setback. It's just not on the  
26 plans.

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2 MR. BUTT: My only thought was to speak to the Building  
3 Department about this possibly and sort of explain that the  
4 terrace/porch would be something that could be considered as  
5 part of the definition, and therefore, maybe not having to come  
6 back, but I just wanted to sort of put that on the record, so  
7 that we were aware that's sort of a concern in the future.

8 MEMBER GOODSSELL: But the more I look at the old  
9 property tax card from 1957 --

10 MR. BUTT: Is it '57? I thought it was '63.

11 MEMBER GOODSSELL: It's 1957, and there is no raised  
12 terrace in the front. I don't know what the one story of those  
13 houses where the entrance was on the side, but there's nothing  
14 there, so somewhere that was added.

15 MR. BUTT: I think it was added in '63, from what I  
16 found, so that's kind of where -- looked like that it was put  
17 on it then.

18 MEMBER GOODSSELL: I have to defend your clients. I  
19 know there's some -- it looks like they have cleared  
20 anything --

21 MR. BUTT: Yeah.

22 MEMBER GOODSSELL: Bushes, sidewalks, arches, whatever  
23 --

24 MR. BUTT: There was a lot going on.

25 MEMBER GOODSSELL: There was a lot going on. I hope  
26 they disposed the statue of the Blessed Virgin Mary that was



1 Appeal #21515

2 sitting in the front properly.

3 MR. BUTT: I would hope so.

4 MEMBER GOODSSELL: It looks like they --

5 MR. BUTT: I would hope so, with Bellissimo as the  
6 client, yes, I would hope so.

7 MEMBER GOODSSELL: That he received a dispensation and a  
8 blessing.

9 MR. BUTT: Yes, exactly.

10 MEMBER GOODSSELL: But they have done it, from what I  
11 could see, a good job. I appreciate the fact that they want to  
12 come forward and legalize everything that is there. Again, I  
13 was hoping to give you guys some credit by checking the old  
14 property tax card, which I'm sure you did.

15 MR. BUTT: We did.

16 MEMBER GOODSSELL: But there was no raised terrace.

17 MR. BUTT: Yeah, I saw it on a '63 drawing from the  
18 Building Department, so again, you know.

19 ACTING CHAIRMAN FRANCIS: Okay. Can we have a motion  
20 on this application? By someone.

21 MEMBER DONATELLI: I'll make a motion that we -- so  
22 just getting back to basics for a moment. So what we're here  
23 for is a raised open terrace that is actually encroaching onto  
24 front yard setback by one foot.

25 ACTING CHAIRMAN FRANCIS: Correct.

26 MEMBER DONATELLI: It is supposed to be 25 minus 5,

1 Appeal #21515

2 it's supposed to be 20. We're at 19, so it's really a request  
3 for a variance for a one foot.

4 ACTING CHAIRMAN FRANCIS: Correct.

5 MEMBER DONATELLI: So I make a motion that we grant the  
6 application.

7 MEMBER GOODSSELL: And I will second that.

8 ACTING CHAIRMAN FRANCIS: We have a second. Perfect.

9 MR. BUTT: Thank you.

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

11 MEMBER DONATELLI:

12 SECRETARY WAGNER: Member Goodsell?

13 MEMBER GOODSSELL: Aye.

14 SECRETARY WAGNER: Member Hernandez?

15 MEMBER HERNANDEZ: Aye.

16 SECRETARY WAGNER: Member Donatelli?

17 MEMBER DONATELLI: Aye.

18 SECRETARY WAGNER: Acting Chairman Francis?

19 ACTING CHAIRMAN FRANCIS: Aye. Application is granted.

20 MR. BUTT: Thank you. Have a good day.

21 ACTING CHAIRMAN FRANCIS: You too.

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1 Appeal #21516

2 SECRETARY WAGNER: Next appeal. APPEAL #21516 New  
3 York University (NYU Langone Health Signs); 1440 Northern  
4 Boulevard, Manhasset; Section 3, Block 145, Lots 16, 17, and  
5 433; Zoned: Business-A. Variances from 70-196.J(1),  
6 70-196.J(1)(a), 70-196.J(1)(b), 70-196.J(1)(e), 70-196.J(1)(f),  
7 and 70-196.J(2)(a) to construct too many signs on a wall, signs  
8 that do not face a parking lot or street, signs that are too  
9 tall, signs that are too big, signs that are too high above the  
10 ground, a sign that is above the roof of a building, and too  
11 many ground signs on the premises.

12 ACTING CHAIRMAN FRANCIS: You've heard Appeal #21516.  
13 Is there anyone interested in the application other than the  
14 applicant? Seeing no one, please give your appearance.

15 MR. SBARRO: Good afternoon. My name is Gianni Sbarro.  
16 I'm an attorney with Forchelli Deegan Terrana, LLP. The office  
17 is 333 Earle Ovington Boulevard, Uniondale, New York 11553.  
18 Thank you all for having me today. Happy Valentine's Day. I  
19 know it's been a long day, so we're going to try make this  
20 presentation very quick. Here presenting with me today is  
21 Sophie Buttiens. Julie Sung of NYU was here, but  
22 unfortunately, she had to leave. She had a 2:30 appointment,  
23 but she did come and wanted to make it known.

24 The requested application relates to the proposed  
25 installation of 10 signs at 1440 Northern Boulevard in  
26 Manhasset, New York, which is the former Lord & Taylor site.

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1  
2 The property has a lot area of approximately 9.3 acres, and  
3 it's designated on the Land and Tax Map as Section 3, Lot 145,  
4 Lots 16, 17, 433. According to the town zoning map, the  
5 property is located in a Business-A District. The signs being  
6 proposed are part of a larger project, which was originally  
7 presented to this Board back in December of 2022. It involved  
8 the conversion of the existing commercial retail building on  
9 the property to an ambulatory care center to be operated by  
10 NYU.

11 The renovated facility will contain ambulatory surgical  
12 suites, plank beds, supportive diagnostics, medical offices,  
13 and more. Notably, on February 15, 2023, this Board granted a  
14 parking variance for the project. Subsequently, on August 9,  
15 2023, the Village of North Hills Planning Board granted an  
16 amendment to the existing site plan approvals permitting  
17 changes to the layout of the parking lot, number of parking  
18 spaces on the property, proposed valet parking, landscaping,  
19 and lighting on the property. I'd like to hand in a packet  
20 that we prepared containing two exhibits.

21 STEVEN PERROTTA: Thank you.

22 MR. SBARRO: The first exhibit should just help you  
23 follow along. It's the same thing that's on this board, and  
24 the Board does have this from our original submission. And the  
25 second exhibit included multiple decisions that are referenced  
26 after Sophie makes her portion of the presentation that can

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2 just show some precedent in the area.

3 Today, NYU is seeking variance from Section  
4 70-196(J) (1), for a proposed sign that is facing an access  
5 drive island on an adjacent building and a parking area of  
6 public street. That's sign four.

7 They're also seeking a variance for Section  
8 70-196(J) (1) (A), for three signs of a north elevation, where  
9 one is permitted, and three signs on the south elevation, where  
10 one is permitted.

11 Section 70-196(J) (1) (B), for five signs facings public  
12 streets that exceed 54 inches in vertical measurement. Two  
13 signs facing the public area that -- excuse me, the parking  
14 area that exceed 24 inches in vertical measurement and two  
15 signs facing the parking area that exceeds 24 feet in area.

16 Section 70-196(J) (1) (E), for a sign that extends higher  
17 than the roof on the north elevation. It's mounted on a canopy  
18 or a smaller roof that's lower than -- below the building peak.

19 And then Section 70-196(J) (1) (F), for six signs that  
20 are higher than 18 feet above the medial level of the ground.

21 And then Section 70-196(J) (2) (A), for more than one  
22 ground sign that's attached to the building on the property.

23 Notably, only one ground sign is being considered by  
24 this Board. The other ground sign is located in the Village of  
25 North Hills, supposed to be located in the Village of North  
26 Hills. At this point, I'd like to introduce Sophie Buttiens

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2 from EwingCole to explain the technical details and the  
3 positioning of the proposed signs, and once she's finished,  
4 I'll run through the Five Factors and answer any of the  
5 questions the Board may have. I'd also like to submit a set of  
6 slides, which follow along with, but they also show you  
7 previous signs that were there with the Lord & Taylor sign and  
8 now the new sign being proposed.

9 ACTING CHAIRMAN FRANCIS: With regard to the sign, you  
10 need variances for how many signs?

11 MR. SBARRO: Ten signs.

12 SECRETARY WAGNER: This will be Exhibit 2.

13 MEMBER DONATELLI: I would also just like to get a  
14 handle on and I'm sure this is going to be on your  
15 presentation; just get a handle on where the sign is going to  
16 be that it exceeds the top of the roof, so can you address  
17 that?

18 MS. BUTTIENS: No problem.

19 ACTING CHAIRMAN FRANCIS: Just give your name and  
20 address.

21 MS. BUTTIENS: Good afternoon, ladies -- lady and  
22 gentlemen of the Board. My name is Sophie Buttiens. I'm an  
23 architect with EwingCole. Our office is located at 330 7th  
24 Avenue. That is New York, New York 11001. Thank you for  
25 hearing us today. As Mr. Sbarro stated we have provided an  
26 exhibit that has representative images of the proposed signage

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2 to illustrate in 3D the location of the previous as well as the  
3 newly proposed signs for the applicant, which is NYU LH  
4 Manhasset Ambulatory Care Center. I will briefly review all  
5 ten signs for you across all four elevations and answer any  
6 questions that you may have.

7 Let's start if we may with the north elevation facing  
8 the public street of Northern Boulevard, where there are three  
9 signs being proposed. So on the north elevation, if you'd like  
10 join by looking at newly Exhibit 2 on page one and two, which  
11 has representative views of those signs.

12 Sign one on the north elevation, which is facing public  
13 street Northern Boulevard, which can also followed on sheet  
14 SN2.1, as part of your application. This is a wall-mounted  
15 signed; 17 feet wide by seven feet tall. The color is the  
16 typical NYU Langone purple. It is not internally lit, and our  
17 goal with this is to have corner visibility, which matches the  
18 previous tenant, Lord & Taylor in its location. We are  
19 requesting relief for sign one due to this being one of three  
20 wall signs that are being proposed on this single wall  
21 elevation, as well as the height of the location, which is  
22 located at 28 feet and five inches to the top of that sign,  
23 which exceeds the 18 feet allowed. This also exceeds the  
24 four-and-a-half feet in height in the vertical orientation for  
25 a single sign. That's sign one.

26 Sign two, this is looking on the north elevation facing

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2 Northern Boulevard, as can be followed on sheet SN2.2. This  
3 is the sign that is located on top of the roof of the existing  
4 vestibule, and this is 51 feet and six inches long, and one  
5 foot and four inches tall. It is located directly on top of  
6 that vestibule roof, which is located at 14 foot six. So it is  
7 still within the 18 feet allowable sign, but again, it is  
8 located on top of that roof. This is also the color NYU  
9 purple. This is an LED edge-lit lettering sign, so the letters  
10 are edge-lit on the perimeter to allow and create a soft glow,  
11 which helps and assists with legibility. The intent of this  
12 sign is for visibility in a way of finding the building name on  
13 Northern Boulevard. The sign will read NYU Langone Ambulatory  
14 Care Manhasset. we are requesting relief as this is one of  
15 three wall signs along this wall elevation, and as we mentioned  
16 before, the location of the sign sits above the roof line of the  
17 existing vestibule roof.

18 MEMBER GOODSSELL: Is that sign shown on your submission  
19 here?

20 MS. BUTTIENS: Yes, that is correct.

21 MEMBER GOODSSELL: Okay.

22 MS. BUTTIENS: It's a little bit further in the  
23 distance, but it is located on the curved wall, so on Northern  
24 Boulevard.

25 MEMBER GOODSSELL: There's a curved wall right here? So  
26 existing lower vestibule.



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2 MS. BUTTIENS: It is not the roof on top of the  
3 building.

4 MEMBER GOODSSELL: I just want to state that this lovely  
5 green grass on the picture, which doesn't exist on Northern  
6 Boulevard, but I see the sign that you're talking about.

7 SECRETARY WAGNER: This sign here? Is that what you're  
8 talking about?

9 MS. BUTTIENS: No.

10 ACTING CHAIRMAN FRANCIS: It's above the entrance.

11 MEMBER DONATELLI: It's above the canopy.

12 ACTING CHAIRMAN FRANCIS: Right here.

13 MEMBER DONATELLI: Exactly.

14 MEMBER HERNANDEZ: So my question is not going to be --  
15 is that going to be the entrance for the ambulatory service?

16 MEMBER GOODSSELL: We were under the impression the  
17 entrance was in the rear.

18 MS. BUTTIENS: Correct, it is not the main entrance.  
19 The entrance is from the back. Patients will be parking. It  
20 is for recognition of the name of the building only when  
21 someone is driving by.

22 MEMBER HERNANDEZ: You have a sign to the right of that  
23 that says NYU Langone Health and you have a sign to the left  
24 of that.

25 MS. BUTTIENS: Correct.

26 MEMBER HERNANDEZ: So you need a sign to the left, a

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2 sign to the right and a sign to the middle through a glass wall  
3 that's not an entrance.

4 MS. BUTTIENS: So the glass wall will say Manhasset.  
5 It will be a secondary means of entrance and is also an exit  
6 way. It is a way to show that there can be some way to access,  
7 but it is not meant for patient access, and it's all going to  
8 be via the drop-off on the back and the side, but there is a  
9 door there. There's an existing door.

10 MEMBER GOODSELL: Is there a bus stop there?

11 MS. BUTTIENS: No, there is not. A little ways away.

12 MEMBER HERNANDEZ: There is a -- unless you're removing  
13 it, there is now a circular driveway there, pretty much.

14 MS. BUTTIENS: The circular driveway on Northern  
15 Boulevard itself?

16 MEMBER HERNANDEZ: On Northern Boulevard. There's a  
17 driveway on Northern Boulevard right now, right by that, that  
18 sign. That's my confusion. That's not going to be your  
19 entrance. Because to me, unless I go to a -- that's one of my  
20 main doctors. I would immediately go to that door if I was  
21 coming to that building. If I see this big glass doorway with  
22 that sign right over the doorway --

23 ACTING CHAIRMAN FRANCIS: It's like an entrance.

24 MEMBER HERNANDEZ: -- it's telling me this is the  
25 entrance.

26 MS. BUTTIENS: We believe and there have been traffic

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2 studies done by PHV, who is not with us today, but we have  
3 investigated that most of the patients will be arriving via car  
4 via drop-off, which is the back entryway. There is nowhere to  
5 drop off at the front.

6 MEMBER HERNANDEZ: I agree with you. My question will  
7 be then is why have a sign that looks like --

8 ACTING CHAIRMAN FRANCIS: Like an entrance.

9 MEMBER HERNANDEZ: -- it's a drop-off. You're going to  
10 encourage people that don't know where they're going to  
11 actually try to go in there.

12 MS. BUTTIENS: I don't understand the question. The  
13 client's goal is to include the word Manhasset on that as well,  
14 right, so that it really shows to people that are driving by  
15 that this is where I go to see my doctor.

16 MEMBER HERNANDEZ: You have two other signs right --  
17 frankly left and right. You can't put Manhasset on those --  
18 on any one of those two signs or both?

19 MS. BUTTIENS: We can, of course, review with the  
20 client and see if they're willing to make a change to that  
21 application, but that's what they're currently requesting to be  
22 completed here. This is -- as I mentioned also edge-lit so that  
23 the lettering is easier to see. It's very legible on the  
24 canopy.

25 MEMBER HERNANDEZ: As it is right now, you have what is  
26 effectively one frontage --

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2 MS. BUTTIENS: One elevation.

3 MEMBER HERNANDEZ: One elevation for the whole  
4 building. You have two signs, one at each end. You're  
5 supposed to have only one. Now, given the width of the  
6 building and the fact that you might coming from the west or  
7 you might be coming in from the east, and I would not  
8 necessarily object to two signs, but now, you're having a third  
9 sign also in the middle, which to me seems to be more than  
10 redundant, but please go ahead.

11 SECRETARY WAGNER: The circular driveway.

12 MEMBER HERNANDEZ: They took the circular driveway out?

13 SECRETARY WAGNER: Yes.

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

16 ACTING CHAIRMAN FRANCIS: Yeah, I'm with you with that  
17 sign. Too many signs.

18 MEMBER HERNANDEZ: Yeah.

19 MEMBER DONATELLI: Yeah.

20 MEMBER HERNANDEZ: Go ahead.

21 MS. BUTTIENS: Mr. Sbarro, just wanted to point out  
22 also, that's the only signs being proposed to be edge lit in the  
23 evening, so that's the only sign that would actually be seen at  
24 night.

25 ACTING CHAIRMAN FRANCIS: I think you're hearing from  
26 the Board that we're not in favor of having three signs on that

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2 front.

3 MS. BUTTIENS: Yes.

4 MEMBER HERNANDEZ: On one wall.

5 MEMBER GOODSELL: If we have on a rare occasion  
6 approved a facade with three signs, but it was to delineate the  
7 separate business that are inside. This is all NYU Langone.

8 ACTING CHAIRMAN FRANCIS: One business.

9 MEMBER GOODSELL: This is all one. Not that they're  
10 not beautiful, but as you heard us a hundred times say, we're  
11 not an aesthetic board.

12 MS. BUTTIENS: Understood.

13 (Whereupon, there was a discussion amongst the Board  
14 Members.)

15 MS. BUTTIENS: If I may, I'd like to go through the  
16 other elevations as well.

17 ACTING CHAIRMAN FRANCIS: Go right ahead.

18 MS. BUTTIENS: All right, so that's sign one and sign  
19 two; just the third sign on the northern elevation as you're  
20 already seen, facing Northern Boulevard, is wall mounted, 13  
21 feet by four feet inches and is five foot six tall. This is  
22 within the 18 feet allowable height for a signage. It is also  
23 the NYU color purple. It is not lit. Again, the intent is for  
24 corner visibility matching the previous tenant, Lord & Taylor  
25 location. We are requesting relief that this is one of three  
26 signs that is advertising the applicant's name and logo, which

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2 proposed on a single wall elevation, and also has a vertical  
3 measurement, which exceeds four-and-a-half feet vertical, which  
4 is permitted facing public streets. Those are all three signs  
5 that are located on the north elevation. Just in total, the  
6 previous tenant Lord & Taylor signage on the north elevation  
7 facing Northern Boulevard was 255 square feet, and the proposed  
8 NYU signage total is 261 square feet.

9 Now, if I can, I'd like to turn to the east elevation,  
10 which faces the drive aisle heading down into the parking lot  
11 because this site is sloped, where we were proposing two signs  
12 consisting of one wall sign and one ground sign. Please note,  
13 that this elevation is neither facing a public street or a  
14 parking area. It is going down, right. It's a drive aisle.  
15 So on this east elevation, which you can see both proposed  
16 signs on page one of your Exhibit 2, which has the 3D views.

17 Sign four, which is the east elevation facing the  
18 building driveway is a wall-mounted sign, 17 feet wide by seven  
19 feet tall. Also, in NYU color purple. It is not lit. The  
20 intent is for corner visibility of that sign above the ground  
21 21 to 28 feet, and this matches sign one in elevation from the  
22 corner, as you can see in that corner view on the first page of  
23 your exhibit and it matches the previous location of the  
24 previous Lord & Taylor tenant. So --

25 MEMBER DONATELLI: I'm going to stop you for a moment.

26 MS. BUTTIENS: Yes, of course.

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2 MEMBER DONATELLI: Is that monument sign compliant with  
3 setback requirements?

4 MS. BUTTIENS: That is correct. That's the next sign  
5 that I'll be going over, but yes, yes, sir, it is. Okay, so we  
6 are requesting relief for sign four based on the height of the  
7 sign. Location is 28 feet above ground, which exceeds the 18  
8 feet, and it's also exceeding the vertical four-and-a-half-feet  
9 measurement, which is permitted to face a public street.  
10 Again, this is not a public street. This is a drive aisle.

11 Sign five is that ground sign, the monument, which is  
12 seven feet wide and five feet and eight inches tall, residing  
13 on a one-foot concrete base for a total height of 6.8 inches.  
14 This is an internally LED lit sign, which has translucent,  
15 rather letters on the -- of the applicant name and of the  
16 address, which will create a soft glow of the letters further  
17 illuminating the monument enclosure for an easier way of finding  
18 legibility by patients and visitors all alike. The top of that  
19 monument is NYU color purple. The below sign, there is a light  
20 colored metal gray. The intent is a way of finding turning  
21 into the property and acknowledging the address location.  
22 We are requesting relief because this is one ground sign,  
23 and we are, of course, asking for permission for top on the  
24 building. As noted previously, this is one of two, but the second  
25 one is in the jurisdiction of the Village of North Hills.  
26 We're only showing here as reference for you so you can see

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2 that we are proposing two for the building property overall?  
3 At 47 square feet, it exceeds the 24 square feet that is  
4 permitted, and additionally, the ground sign proposed will be  
5 attached to a concrete base, which is set back from the property  
6 line over ten feet minimum.

7 ACTING CHAIRMAN FRANCIS: Can you slow it down?

8 MS. BUTTIENS: Oh, yes, of course.

9 ACTING CHAIRMAN FRANCIS: I see smoke coming off her  
10 machine, and she's trying to keep up with you.

11 MS. BUTTIENS: Yes, of course, thank you.

12 MEMBER GOODSSELL: If I can just interrupt you?

13 MS. BUTTIENS: Yeah, fine.

14 MEMBER GOODSSELL: You said the second sign is being  
15 considered by the Village of North Hills. Have they considered  
16 it, or are they waiting to see what we're doing?

17 MS. BUTTIENS: An application has been filed.

18 MEMBER GOODSSELL: Have you had that hearing for that  
19 variance, yet?

20 MS. BUTTIENS: We do not have that hearing scheduled as  
21 of yet.

22 MEMBER GOODSSELL: Okay.

23 MS. BUTTIENS: Correct?

24 MR. SBARRO: That hearing hasn't been scheduled yet.  
25 We -- the application has been filed. We're just waiting for a  
26 date.



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2 MEMBER GOODSELL: Okay, that's fine.

3 ACTING CHAIRMAN FRANCIS: Okay, continue, please.

4 MS. BUTTIENS: Okay. So this is a sign that's setback  
5 at least ten feet. It does not have an open space at least  
6 three feet below that sign. The visibility will be maintained  
7 for drivers exiting the property due to the setback of the  
8 ground sign itself.

9 MEMBER HERNANDEZ: It's very hard to read what that  
10 sign says. What does the sign say?

11 MS. BUTTIENS: So it has the address at the bottom, and  
12 at the top it says NYU Langone Health, which is the Manhasset  
13 Ambulatory Care building.

14 MEMBER HERNANDEZ: So essentially, it's just a repeat  
15 of the sign of the wall.

16 MS. BUTTIENS: It is the name, and it's the address  
17 below as well.

18 MEMBER HERNANDEZ: Doesn't say enter, or doesn't say --  
19 is that a directional sign? Is it just --

20 MS. BUTTIENS: At this time, it's not proposed to say  
21 enter; that is correct. So in total, the previous tenant Lord  
22 & Taylor signage on the east elevation facing the drive aisle  
23 was 170 square feet. We are proposing a slight reduction at  
24 166 square feet.

25 For sign six, as mentioned previously, is that the  
26 sign is being included for reference only. It is a ground sign

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2 monument that is in the jurisdiction of the Village of North  
3 Hills, where the applicant has also filed a request for view by  
4 the Zoning Board, which will be scheduled.

5 All right. Now, if I may, turn to the south elevation,  
6 which is facing the building from the parking area, where there  
7 are three wall signs proposed. For your reference, on the  
8 south elevation, let me just show you.

9 So sign seven. This is located on page three and page  
10 four of your Exhibit 2. Facing Shelter Rock Road, as well as  
11 the parking area on that corner. It is wall-mounted, 17 feet  
12 wide by seven feet tall, and again, the color is the NYU logo  
13 purple. It is not lit. The intent is corner visibility  
14 driving up Shelter Rock Road and matching the previous tenant  
15 Lord & Taylor location. We are requesting relief for the sign  
16 because the top of the sign is located 30 feet and five inches,  
17 thereby exceeding the 18 feet max height of the sign. The  
18 sign is directly located also over the existing loading dock  
19 gate, which is listed at 14 feet tall. This is also one of  
20 three signs advertising the applicant's name and logo, which  
21 have been proposed on a single building elevation.

22 Sign eight. Sign eight, is also facing the parking  
23 lot, and this a listed on page four within your exhibit,  
24 so the last page. This is wall-mounted, 17 feet wide by seven  
25 foot tall. In the same NYU color, purple. It is not lit. The  
26 intent here is to assist patients in wayfinding, approaching

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1  
2 the building. It matches the original location from the  
3 previous tenant Lord & Taylor sign. We are requesting relief  
4 because again, the top of the sign is at 26 foot nine, thereby,  
5 exceeding the 18 feet max height. This also excludes the 24  
6 square feet in area for a single and exceeds over two feet in  
7 vertical measurement, which is permitted for a sign facing a  
8 parking area. This is also one of the signs advertising the  
9 applicant's name and logo, which is proposed along the south  
10 elevation.

11 And lastly, sign nine on the south elevation. Also,  
12 facing the parking area. This is located at the building  
13 entry. This will be directly applied to the existing metal  
14 panel vestibule in the vertical orientation. It will be  
15 applied to. It will not sit on top of. And this is 20 feet  
16 long and six inches tall. It will read NYU Langone Ambulatory  
17 Care Manhasset. It is also edge-lit by LED, so the lettering  
18 will cast a soft glow to make it easier to read. The intent is  
19 for visibility in a way finding building name at the entrance.  
20 We are requesting relief because this is one of three signs  
21 advertising the applicant's name and logo along that elevation.  
22 In conclusion, here, for a south elevation, the previous tenant  
23 Lord & Taylor signage on the south elevation facing the  
24 building from the parking area was 349 square feet, and NYU is  
25 proposing a signage reduction to 248 square feet. Any  
26 questions on the south elevation?

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2 MEMBER GOODSELL: I have a question in general on the  
3 sign itself. NYU Langone now has a number of locations. Is  
4 this the type of sign and logo that are located on the other  
5 locations, or is this unique to this particular location?

6 MS. BUTTIENS: The signage here follows their NYU  
7 signage guidance and standards, so while I cannot attest to  
8 every single location they should all be following the same  
9 signage standards.

10 MEMBER GOODSELL: More or less.

11 MS. BUTTIENS: Yes, correct.

12 MEMBER DONATELLI: And you anticipate sign nine would  
13 be the main entrance to the building? That would be the one  
14 anticipated to be the main entrance to the facility?

15 MS. BUTTIENS: Correct. The patient drop-off zone is  
16 being made there. It's proposed as part of the village, correct.

17 MEMBER DONATELLI: Yeah, I can't imagine anybody  
18 approaching this, even stopping temporarily let somebody off on  
19 the Northern Boulevard side, and while I understand you may  
20 need access for egress, emergency egress, or something, that is  
21 not either how Northern Boulevard would function, nor is it how  
22 people would behave. I'm sure anybody going to this facility  
23 would go through the parking lot from the rear access.

24 ACTING CHAIRMAN FRANCIS: Yes.

25 MEMBER GOODSELL: Are you saying that's an unnecessary  
26 sign?

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2 MEMBER DONATELLI: Yeah, well, you know, what other  
3 Board Members have echoed; I think I'm echoing the same. You  
4 know, we understand branding, and we understand, you know,  
5 especially when you have the desire to want to get your name  
6 out, but, of course, there has to be --

7 ACTING CHAIRMAN FRANCIS: Limitations.

8 MEMBER DONATELLI: Limitations to it, number one and  
9 number two, a certain functionality. If there is no real way,  
10 because you're not gonna have pedestrian traffic.

11 ACTING CHAIRMAN FRANCIS: No.

12 MEMBER DONATELLI: So there -- and there is no bus  
13 that's going to stop and let people off. God forbid the  
14 traffic should slow on Northern Boulevard, you know --

15 ACTING CHAIRMAN FRANCIS: Right.

16 MEMBER DONATELLI: You're gonna need people in the  
17 Ambulatory Care. So functionally, I think, access is going to  
18 be from the rear.

19 ACTING CHAIRMAN FRANCIS: Yeah.

20 MEMBER DONATELLI: It's not going to be from the front.

21 MS. BUTTIENS: May I continue to review the last two  
22 signs on the west elevation?

23 MEMBER DONATELLI: Yes, please.

24 MS. BUTTIENS: Referring to the last west elevation.  
25 This is facing Shelter Rock Road. There are two wall signs  
26 proposed. Please do note, and these are not along the same

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1  
2 elevation line. One is being proposed on a higher portion,  
3 which is located on the third floor, inset from the main  
4 building. So this is referring to sign ten, which is located  
5 on page two in your packet on Exhibit 2. Okay, so this wall  
6 mounted sign is 13 feet tall four inches wide -- I'm sorry,  
7 13.4 feet wide and five feet tall, and it is located on the  
8 upper roof level elevation in color NYU purple. It is not lit.  
9 The intent is from the visibility approaching the building from  
10 Northern Boulevard ahead of the Shelter Rock Road intersection,  
11 and matching the original location from the previous tenant  
12 Lord & Taylor. We're requesting relief because the sign is  
13 located at 33 feet and six inches above ground, thereby,  
14 exceeding the 18-foot max and also exceeds the four-and-a-half  
15 feet vertical measurements facing a public street.

16 The last sign along the west elevation, Shelter Rock  
17 Road is sign 11, which is located and visible at page three in  
18 Exhibit 2 on the rendering on the right, where you can also see  
19 the previous Lord & Taylor signage on the bottom left of sheet  
20 three. This is a wall mounted 20 foot and nine inches wide  
21 sign by nine feet tall. The top of the elevation is located at  
22 32 feet nine inches. The same color, purple. It's not lit.  
23 The intent is for visibility approaching the building from  
24 Shelter Rock Road, which is a slight hill, as you move up onto  
25 Shelter Rock Road towards Northern Boulevard, and matches the  
26 original location from the previous tenant Lord & Taylor. We

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2 are requesting relief because the top of the sign is located at  
3 32 foot nine above ground, thereby exceeding the 18 feet max,  
4 and also exceeds the four-and-a-half feet vertical measurement of  
5 a single sign facing a public street. In total, the previous  
6 tenant, Lord & Taylor signage on the south elevation facing the  
7 building from the parking lot is 241 square feet and the total  
8 proposed NYU signage is slightly increased to 269 square feet.  
9 So I can answer any other questions that you may have. We can  
10 also discuss any of the items that you may have but I'd like  
11 for Mr. Sbarro to come back and review the Five Factors as  
12 well.

13 MEMBER DONATELLI: Okay.

14 MR. SBARRO: So beginning with, the requested variances  
15 will not create an undesirable change and the character of the  
16 neighborhood. No detriment to the nearby properties. As  
17 previously mentioned, this property is located in the  
18 Business-A District, along the main commercial thoroughfare  
19 Northern Boulevard, as well as Shelter Rock Road. The proposed  
20 signs will be comparable to the other signs in the area. If  
21 you look at Exhibit 2 in the initial packet that I handed you,  
22 you'll see several decisions that show that there is precedent  
23 for multiple signs on a single wall, as well as signs of this  
24 height and size.

25 For instance, under Appeal #18215, TGIF Fridays, which  
26 is located at 1445 Northern Boulevard, which is just diagonally

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2 across the street, was granted variances for wall signs that  
3 exceed the number of signs on a wall, height, and area.

4 Under Appeal # 18908 and 18721, the Fitness Loft, which  
5 is located at 1447 Northern Boulevard in that same building,  
6 which granted variances for wall signs that exceed the  
7 permitted square feet and height from ground level and for  
8 signs not facing the street.

9 To your point, Mr. Hernandez, the -- those two signs,  
10 you'll see in your packet that they're fairly large signs on  
11 the same wall, and that's a much smaller wall than what we're  
12 proposing on Northern Boulevard those three larger signs. Just  
13 to put it in comparison, it is a very large building that we're  
14 dealing with here, and while we understand that, you know, the  
15 signage on both ends could potentially fulfill the need of when  
16 you're coming down Northern Boulevard, either direction, the  
17 center sign does help once you're, you know, passing the  
18 building, as well as entering the building.

19 ACTING CHAIRMAN FRANCIS: Show me the --

20 MEMBER HERNANDEZ: Give me one second.

21 ACTING CHAIRMAN FRANCIS: Go ahead, I'm sorry.

22 MEMBER HERNANDEZ: When you're approaching from the  
23 west side, by your own little illustration.

24 MR. SBARRO: Correct.

25 MEMBER HERNANDEZ: By your own computer-generated, you  
26 can see NYU Langone four times. If I'm driving from the west



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2 side. Now, I drive -- I live behind this building, okay.  
3 Literally half a mile, so I drive by this building constantly.  
4 And so I know exactly what that building looks like. And I was  
5 corrected when they redid Lord & Taylor, they got rid of the  
6 driveway, which I have not noticed, so there is no longer that  
7 confusion that there was a driveway there, where Lord & Taylor  
8 had an entrance, but you have sign on the right, sign on the  
9 left, sign in the middle, the sign on the third floor where the  
10 offices are, all of them visible from Northern Boulevard, as  
11 you're traveling east or coming from the west side. If I  
12 make a return turn on Shelter Rock Road; there's a huge sign on  
13 the left side again, which is one of your other signs, sign  
14 number seven? I can't tell anymore. There's so many of them.  
15 Or maybe 11. There's another sign on your left. You have  
16 signs all over the place.

17 Now, Lord & Taylor had more than they probably should  
18 have had, but given that they were a retailer, maybe when they  
19 came, and I wasn't on the Board; that's when they were giving  
20 that opportunity because they're a retailer. People are going  
21 by. Oh, that's Lord & Taylor, let's go in. Nobody is gonna  
22 drive by NYU Langone, and say, oh, that's NYU Langone, let's go  
23 in. No. You're going there because you have a need to go.

24 ACTING CHAIRMAN FRANCIS: You have a point.

25 MEMBER HERNANDEZ: So you know where you're going.

26 MR. SBARRO: Yes, and --

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2 MEMBER HERNANDEZ: This is not advertising.

3 MR. SBARRO: I think that, you know, I'll be addressing  
4 that, which I do in my presentation as well.

5 MEMBER HERNANDEZ: Okay.

6 ACTING CHAIRMAN FRANCIS: Before you do that, you went  
7 to decisions that we've given. Show me a decision where we  
8 granted ten signs on one property.

9 MR. SBARRO: None of the decisions that I presented to  
10 you would show that, but again, I think this is an exceptional  
11 situation considering that this is a 9.3-acre property, which  
12 is unusual on Northern Boulevard.

13 MEMBER HERNANDEZ: And the Fridays sign across the  
14 street and Fitness Loft are two completely different  
15 businesses.

16 MR. SBARRO: Correct, yes, which I understand.

17 MEMBER HERNANDEZ: It's not Fridays, Fridays, Fridays,  
18 Fridays.

19 ACTING CHAIRMAN FRANCIS: Right.

20 MR. SBARRO: So my point with the Fridays and the  
21 Fitness Loft was that's a very small building.

22 MEMBER HERNANDEZ: Absolutely, it's two different  
23 businesses.

24 MR. SBARRO: It's a small piece of property, so I just  
25 wanted the Board to take into consideration that this is a 9.3  
26 acre piece of property.

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2 MEMBER HERNANDEZ: Agreed.

3 MR. SBARRO: And 160,000 plus square foot building.

4 MEMBER HERNANDEZ: Agreed.

5 MR. SBARRO: So just, you know, it was food for  
6 thought. Moving on. Under Appeal #19729, DSW, which is  
7 located at 1400 Northern Boulevard, which granted variances for  
8 signage exceeding the permitted area of vertical measure and  
9 height above the ground as well.

10 Under Appeal #18843, Marshalls was also granted  
11 variances, which is at 1380 Northern Boulevard. Those were for  
12 wall signs facing the parking area, and wall signs exceeded the  
13 permitted height.

14 And lastly, Appeal #15471, the former occupant, named  
15 Joseph A. Bank, which is located at 1516 Northern Boulevard,  
16 received variances for a wall sign facing the parking area,  
17 which also exceeded the permit area and height.

18 In addition to the proposed signs, clearly blending  
19 with the character of the neighborhood considering all other  
20 signs in the area. They're also simple, attractive in design  
21 and suited to address the specific purposes of putting vehicle  
22 and pedestrian traffic on notice of the center of the patients.

23 Secondly, the benefit of easily being recognized by  
24 patients attempting to locate the facility. This  
25 cannot be achieved by any other method feasible for the  
26 applicant to pursue other than obtaining variance. Even if a

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1  
2 patient or a visitor is using a navigation system to locate  
3 this site, traffic on Northern Boulevard moves -- excuse me,  
4 and Shelter Rock Road move at reasonably high speeds. So  
5 noticeable signs are necessary to alert them to Ambulatory Care  
6 Center location. This is especially important in cases of  
7 emergency. Further, the installation of the proposed signs  
8 will result and reduce congestion in the area as less visitors  
9 will hold up traffic by making U-turns as a result of passing  
10 the Center.

11 Third, when considering in conjunction with the size of  
12 this building, the variances that are being requested are not  
13 substantial. This building is over 160,000 square feet and  
14 differences in height, size, and number of signs proposed will  
15 appear in proportion and in character of the area.

16 Substantially, must be viewed from the totality of the  
17 circumstances, which went in favor of granting the variances  
18 because the signs will not have any physical environmental  
19 impact on the area or the surrounding community.

20 Again, the property is located in one of the busiest  
21 commercial corridors in Nassau County, and accordingly, there  
22 are numerous signs of this type and scale throughout the area.

23 If approved, NYU plans to install and maintain the signs  
24 in accordance with the Town Regulations to ensure the  
25 protection of the environment and surrounding community.

26 And finally, while the Board may view the alleged

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2 difficulty as being self-created, it should not be dispositive  
3 in your decision because the benefits of granting these  
4 variances greatly outweigh the detriment to the health, safety,  
5 and welfare of the community. Therefore, we respectfully  
6 request that these variances are granted.

7 MEMBER GOODSELL: Mr. Sbarro, we need -- because we're  
8 familiar with the building, familiar with the entrances, and none  
9 of your signs say Entrance in the Rear, and I don't see an  
10 application for a sign that says Enter Here.

11 MR. SBARRO: So I think that would be something that we  
12 can discuss with the client. There is --

13 MEMBER GOODSELL: I'm not suggesting that you add it.  
14 I'm just noting it because the sign that at least bothers me  
15 the most is the one over the doorway in the front on Northern  
16 Boulevard that says the Ambulatory Center, but it's not really  
17 an entrance. There's a door there, but it's not really an  
18 entrance, and you have the same sign in the back, which is the  
19 entrance.

20 MR. SBARRO: Yes.

21 MEMBER GOODSELL: So that's the -- that's the one that  
22 bothers me the most.

23 MR. SBARRO: Well, I would reiterate that none of the  
24 others signs on Northern Boulevard, nor on the elevation facing  
25 Shelter Rock Road are lit. That would be the only sign  
26 pointing, in the evening time when it's dark out for the

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1  
2 Ambulatory Care Center location. You know, the other signs on  
3 both of those elevations are much larger, so this one is much  
4 more tasteful. It's right over the -- what is a secondary  
5 entrance on Northern Boulevard. I think it serves that  
6 specific purpose.

7 MEMBER GOODSELL: I know I went to Lord & Taylor when  
8 it was Lord & Taylor, and I never went in that entrance.

9 MEMBER DONATELLI: Yeah, there's a point where signs  
10 stop being signs and start being advertising, and I think that  
11 we're well beyond that point here. I understand Northern  
12 Boulevard being a heavily trafficked road. I understand the need  
13 for having signs larger than what might otherwise be allowed by  
14 code. Certainly taller, the architecture of the building,  
15 certainly lends itself to the height of the signs proposed, and  
16 the size of the building. I mean, I can see why you might want NYU  
17 Langone on both the west side as well as the east side facing  
18 Northern Boulevard. I understand all of that, and yet I feel  
19 that, as you said, the totality of the circumstances are such  
20 that we have gone beyond the mere usefulness of signs as signs,  
21 and we've gotten to the point of where we're plastering NYU  
22 Langone over the entire building every chance we get. And so  
23 that is the fine line that we as the Board have to want to  
24 determine, and again, I don't see any functionality whatsoever  
25 for that sign in the middle on the Northern Boulevard side.  
26 Again, Northern Boulevard traffic is going to proceed at

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2 30 miles an hour, 40 miles per hour, whatever speed it passes  
3 by that point, and there is a need and a desire to have people  
4 to quickly identify that building but in my opinion the  
5 application before us just is a bit over the top.

6 MR. SBARRO: Understood.

7 ACTING CHAIRMAN FRANCIS: I agree. I mean, the one  
8 that -- I mean, that one bothers me definitely, but the other  
9 one that bothers me are these ground signs.

10 MEMBER HERNANDEZ: Monuments.

11 ACTING CHAIRMAN FRANCIS: The monument signs. I don't  
12 see the purpose, and I don't see the need for these monument  
13 signs.

14 MEMBER HERNANDEZ: If it said Enter on it --

15 ACTING CHAIRMAN FRANCIS: Yeah, it's not a directional  
16 sign.

17 MEMBER HERNANDEZ: It's not a directional sign.

18 ACTING CHAIRMAN FRANCIS: It's another advertisement.  
19 All it says is what it is.

20 MEMBER HERNANDEZ: And directly above it, you have two  
21 more.

22 ACTING CHAIRMAN FRANCIS: Right.

23 MEMBER HERNANDEZ: On the wall. One facing directly  
24 east, and another one facing north, which is basically facing  
25 the homes because there's even businesses over there. It seems  
26 to be advertising, in all honestly.

1 Appeal #21516

2 ACTING CHAIRMAN FRANCIS: Yeah.

3 MR. SBARRO: I don't know if a discussion has been had  
4 with the client regarding making those directional as well as  
5 just being, you know, additional NYU signage, and, you know,  
6 showing the address, but I think it would be something that we  
7 can consider showing that it's an Enter and Exit and vice  
8 versa.

9 MEMBER HERNANDEZ: There are two entrances to this  
10 building. One on Northern Boulevard, there's a left turn lane  
11 there, so you can stop at the traffic light and make a left  
12 turn, and there's another one on Shelter Rock Road, okay. So  
13 if you're telling me you're putting a monument sign with an  
14 arrow saying Enter Here, okay, I can understand the logic of  
15 that sign, but to have a sign that says NYU whatever 1453  
16 Northern Boulevard, when I'm going to NYU, okay, and I see two  
17 big signs above it; it seems to be completely redundant. It  
18 seems like someone went and said how many signs did Lord &  
19 Taylor have, okay, whatever they have, we're going to throw one  
20 up, too, and by the way, let's throw one over there because it  
21 looks nice. That's what it looks like.

22 MR. SBARRO: I think there's a thought process that was not  
23 so much, you know, whether Lord & Taylor had it, it was more so  
24 this is where the sign serves use, and Lord & Taylor probably  
25 had the same use -- thought process.

26 ACTING CHAIRMAN FRANCIS: I think what you're hearing



1 Appeal #21516

2 is, as it is right now, this is not going to get approved, so  
3 you need adjust the number of signs.

4 MR. SBARRO: Okay. Now, just -- I understand that the  
5 Board isn't fine with sign two, which is over that  
6 Northern Boulevard entranceway. If -- and a concern is  
7 potentially that could be an additional entrance, or it could  
8 create confusion regarding additional entrance. If those  
9 additional monument signs on the west elevation, as well as the  
10 north elevation, perhaps gave some clarity as to this being the  
11 entrance and exit or both, would the Board be amendable to  
12 maintaining that sign on Northern Boulevard?

13 MEMBER HERNANDEZ: I, as one Board Member, do not see the  
14 need to have four signs facing me while I'm driving east on  
15 Northern Boulevard, number one. And again, by your own  
16 rendering, okay. As I am driving east on Northern Boulevard,  
17 I'm going to see one, two, three, and four signs. There's an  
18 NYU facility just down the road from there, which I'm assuming  
19 they're going to move in there eventually, okay. They have one  
20 pedestal sign and one up on the wall, so that all they have.  
21 We all know exactly where it is. I go there regularly, okay.  
22 This is just an overkill.

23 MEMBER DONATELLI: You may want to consider increasing  
24 the functionality of the monument sign by putting arrows or  
25 something like that, but getting rid of one of the wall signs.  
26 Again, there is no question that it's going to be an NYU

1 Appeal #21516

2 Langone facility.

3 ACTING CHAIRMAN FRANCIS: Right.

4 MEMBER DONATELLI: There is no way that anyone can miss  
5 it, but if you increase the functionality of the monument sign  
6 and get rid of one of the wall signs, in my opinion, that would  
7 make it a much stronger application.

8 MR. SBARRO: And by one of the wall signs, you're  
9 referring to strictly the Northern Boulevard, the north  
10 elevation, correct?

11 MEMBER GOODSELL: Well, that's the one that seems to be  
12 bothering us.

13 MR. SBARRO: Okay.

14 MEMBER HERNANDEZ: You have three signs facing Northern  
15 Boulevard directly at the Northern Boulevard, three signs, and  
16 right in the two corner ones, you have one facing Northern  
17 Boulevard from east and one facing from the west.

18 ACTING CHAIRMAN FRANCIS: Right, and -- right. It's  
19 too much. It's just too much.

20 MR. SBARRO: I understand.

21 MEMBER GOODSELL: Would you like us to continue so that  
22 you can discuss with your client --

23 MR. SBARRO: Absolutely.

24 MEMBER GOODSELL: -- what the Board is feeling. I mean,  
25 this may not be how other towns feel or the villages or  
26 whatever the other facilities are. We're kind of into

1 Appeal #21516

2 minimizing signs --

3 MR. SBARRO: I understand.

4 MEMBER GOODSELL: -- where necessary when we can.

5 MR. SBARRO: I think that I understand the Board's  
6 sentiments, and we can have a conversation with the client to  
7 meet them.

8 SECRETARY WAGNER: Have them come back with revised  
9 drawings?

10 ACTING CHAIRMAN FRANCIS: Yeah.

11 MEMBER GOODSELL: I don't object to size. I don't to  
12 object to the --

13 MEMBER HERNANDEZ: And the height, we recognize that  
14 it's a tall building --

15 MEMBER GOODSELL: Exactly.

16 MEMBER HERNANDEZ: -- needs to be higher than 18 feet.  
17 Those things we understand. We're not questioning those. It's  
18 the number -- the sheer number of advertising.

19 MR. SBARRO: I understand.

20 MEMBER DONATELLI: And making those monument signs --

21 ACTING CHAIRMAN FRANCIS: Do something, yeah.

22 MEMBER DONATELLI: Yeah.

23 ACTING CHAIRMAN FRANCIS: Functional.

24 MEMBER DONATELLI: Having them serve the purpose for  
25 which they can direct people.

26 MR. SBARRO: Understood. Now, to address the Board's

1 Appeal #21516

2 concerns about removing multiple signs on Northern, just so I  
3 can go back to the client and propose an option. Obviously, the  
4 one sign over the secondary entryway is the -- seems to be  
5 least favorite sign. Perhaps if we removed a different sign  
6 and maintained that one because it does serve, you know, a  
7 unique purpose, you know, at nighttime. Would that be  
8 something that the Board would be amendable to as well?

9 ACTING CHAIRMAN FRANCIS: We have to see. I mean,  
10 we'd have to see what it is that you're proposing.

11 MR. SBARRO: Okay.

12 ACTING CHAIRMAN FRANCIS: I don't want to make  
13 decisions before we actually see what we're talking about.

14 MR. SBARRO: Understood, okay. Otherwise, unless the  
15 Board has any other questions for myself and Sophie, that's our  
16 direct presentation.

17 MEMBER DONATELLI: I don't think so. I would just --  
18 to your last question or point. I would just say that, you  
19 know, we don't want to increase any possibility for confusion,  
20 and so if your client absolutely insists that it wants that  
21 application with that sign number two, you know, then we  
22 really, as a Board, have to consider whether or not that sign  
23 number two would create confusion, possibility of client,  
24 patient drop-off, for example, in the mid-block, and that would  
25 be something that I would want to at least consider, so please  
26 consider that carefully with your client.

1 Appeal #21517

2 MR. SBARRO: We will. Thank you for your time.

3 SECRETARY WAGNER: Appeal #21517 Equistate, LLC (ACD  
4 Home Signs); 11 Glen Cove Road, Greenvale; Section 7, Block D,  
5 Lot 122; Zoned: Business-B. Variances from 70-196(J)(1)(B) &  
6 70-196(J)(1)(F) to construct wall signs that are too big, too  
7 tall and too high above the ground.

8 ACTING CHAIRMAN FRANCIS: You've heard Appeal #21517.  
9 Is there anyone interested in the application other than the  
10 applicant? Seeing no one, please give your name and address.

11 MS. WHELAN: Good afternoon, Board Members. My name is  
12 Janice Whelan. My office is at 23 Green Street, Huntington,  
13 New York, Suite 205. Thank you very much for your attention to  
14 this matter. I want to first thank Ms. Wagner, Mr. Tom  
15 Morello, and Ms. Quinn, who were very kind to provide some  
16 precedent that I will be presenting to the Board. My thoughts  
17 to Chairman Mammina. I hope that he has a quick recovery.

18 ACTING CHAIRMAN FRANCIS: Thank you.

19 MS. WHELAN: I appear before you respectfully  
20 requesting variances of the sign code in order to install  
21 signage at 11 Glen Cove Road. Now, I completely have heard  
22 what the Board feels about signs. We don't want to add to  
23 visible clutter. In this particular situation, I believe that,  
24 while every variance is a self-created hardship usually. In  
25 this particular situation because of the architecture of this  
26 building, there's really nowhere else to put this signage.

1 Appeal #21517

2 Previously, I believe that FedEx occupied this  
3 building. I do not believe that sign was legal, but FedEx had  
4 their signs above where we are proposing. So this building is  
5 glass-fronted facing the east and facing the south. So we're  
6 proposing very simple signage. It's only gonna be illuminated  
7 with goose-head sconces right above where you could see. I  
8 hope that you have the site plan. Right on the concrete  
9 portion. Right above where the glass ends. We could not  
10 comply with the 18-foot maximum permitted because the glass  
11 goes up about at least 30 feet.

12 So basically, we're asking for several types of  
13 variances. One is to increase the size of the signs. The sign  
14 facing the south will be approximately 64.84 square feet. The  
15 sign facing the east is a little smaller at 57.40 square feet,  
16 and again, we're also seeking the height, which is necessitated  
17 because of the architecture of the building. Through the kind  
18 efforts of the Board staff, I've identified nine variances in  
19 the immediate area. I'd like to hand these up to the Board.  
20 I'll just put them very quickly on record. I printed on both  
21 side of this paper.

22 SECRETARY WAGNER: This will be Exhibit 1.

23 MS. WHELAN: Thank you very much. As you know, this is  
24 a very business commercial quarter. We're right across from  
25 Wheatley Plaza. Wheatley Plaza received variances in 1981  
26 under case 11937 to exceed -- to install wall signs with

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2 greater height as we are requesting in an area. In that  
3 decision, the Board noted that the signage would not be a  
4 detriment to the public health and safety or the welfare of  
5 surrounding uses, and that the applicant had shown a practical  
6 difficulty, which was the standard at the time, and an  
7 unnecessary hardship.

8 In this particular case, I know that the Board has  
9 heard, you know, all day long the standard in the Town law. In  
10 this case, I would submit that we can't comply with the code.  
11 We need this signage for building identification. Certainly,  
12 if you're traveling north on Northern Boulevard, you're not  
13 gonna make a left across two double lines.

14 It's very important to note 'cause we've only got 50  
15 foot of frontage where you're going, and I believe that we'll  
16 cut down on congestion by having the sign facing south, which  
17 very simply identifies ACD, Adam Casino Designs Luxury Home  
18 Furnishings. That same sign will be facing the east. Now, the  
19 only the way that you can enter this very slim driveway is  
20 heading south on Northern Boulevard. I think that the signage  
21 will identify the building, keep the traffic, and certainly not  
22 create any adverse impact on the neighborhood.

23 Another case I found was Starbucks. It's 21366, and  
24 that was just in -- last year in 2023, 114 Northern Boulevard;  
25 the wall signage too large and too tall.

26 Third case is 21101, Jovia Bank at 90 Northern

1 Appeal #21517

2 Boulevard. Again, exceeding the height, permitted height.  
3 That was in 2020.

4 The fourth case is 2976. It's the gas station at the  
5 corner of Northern Boulevard and Glen Cove Road. That was for  
6 a signage that's not permitted. While it's not -- what we're  
7 asking for is truly to show the Board that you've had varied  
8 the sign permission on this busy thoroughfare in order to create  
9 building and site identification.

10 The fifth case I have is 2806, Golder Reality. It's 30  
11 Glen Cove Road. Wall signage exceeding the height in the area.  
12 That was 2017.

13 The sixth case is 17013, 90 Northern Boulevard. That  
14 was the ground signage exceeding the height in the area. I  
15 know I'm asking for wall signage. Again, to show that this  
16 Board has moved past this, you know, this strict requirement of  
17 the sign code.

18 I won't go through the rest of them, but there's 11  
19 cases in all that I've submitted. I respectfully request that  
20 the Board grant our variances.

21 ACTING CHAIRMAN FRANCIS: Well, with regard to the  
22 location of your sign, you sign is the location that -- the  
23 only location that it can be.

24 MS. WHELAN: Agreed, but I realized that we are  
25 exceeding that which the code permits.

26 ACTING CHAIRMAN FRANCIS: I get that and in terms of



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2 the size, I mean, it, you know, it couldn't be any smaller than  
3 it is given, you know, Glen Cove Road.

4 MS. WHELAN: Exactly. Well, fortunately, my client is  
5 in the design business, so he, you know, was able to craft  
6 something that I think is visually -- it's not cluttering.  
7 It's not out there. It's a little sub -- it's subdued, if --

8 ACTING CHAIRMAN FRANCIS: Yeah. As one Board Member, I  
9 think, the sign is okay. It's fine the way it is.

10 MS. WHELAN: Thank you very much.

11 MEMBER GOODSELL: I don't pass this building very  
12 frequently. In the summertime when, you know, to Glen Cove,  
13 and you know, it's -- first of all, it's impossible to get into  
14 it going the wrong direction.

15 MS. WHELAN: Exactly.

16 MEMBER GOODSELL: Narrow driveway.

17 MS. WHELAN: Only 50 feet on Glen Cove Road.

18 MEMBER GOODSELL: Fifty by --

19 MS. WHELAN: One-twenty.

20 MEMBER GOODSELL: And so to have something eye-catching  
21 that says this is where we are. It's not multiple signs. It's  
22 one sign, and I agree with the Chairman. I don't think there's  
23 any other place on the building -- well, the building is  
24 purposely built that where the sign is.

25 ACTING CHAIRMAN FRANCIS: That's where the sign has to  
26 go.

1 Appeal #21517

2 MS. WHELAN: I want to show you -- I don't know if this  
3 is legal, so I apologize, but I did note that Sundown on  
4 Northern Boulevard also has signage that has to be at a place  
5 where it probably exceeds zoning. And again, because of the  
6 architecture of the building, and I'll submit this photograph.

7 SECRETARY WAGNER: Exhibit 2.

8 MEMBER HERNANDEZ: It's very common that some buildings  
9 because of the architecture, have a sign band that exceeds our  
10 sign guidance. So we're familiar with that, and it happens,  
11 and we recognize it. Well, given the case that you heard a few  
12 minutes ago, sometimes people get carried away. I, as one Board  
13 Member, have no problem with the location of the signs; where  
14 they are; where their natural location where it should be.  
15 They're not excessive. Their not -- so I don't have any  
16 problem.

17 MS. WHELAN: I thank you very much.

18 ACTING CHAIRMAN FRANCIS: That sounds like a motion.

19 MEMBER HERNANDEZ: I move that we grant the  
20 application.

21 ACTING CHAIRMAN FRANCIS: Do we have a second?

22 MEMBER GOODSSELL: I'll second.

23 ACTING CHAIRMAN FRANCIS: All right, we have a second,  
24 Ms. Goodsell. Please poll the Board.

25 SECRETARY WAGNER: Member Goodsell?

26 MEMBER GOODSSELL: Aye.

Appeal #21517

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SECRETARY WAGNER: Member Hernandez?

MEMBER HERNANDEZ: Aye.

SECRETARY WAGNER: Member Donatelli?

MEMBER DONATELLI: Aye.

SECRETARY WAGNER: Acting Chairman Francis?

ACTING CHAIRMAN FRANCIS: Aye. The application is granted.

MS. WHELAN: Thank you very much. Good day.

ACTING CHAIRMAN FRANCIS: Thank you.

Appeal #21518

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SECRETARY WAGNER: Next Appeal #21518, Puckhaber Realty, Inc. (Village Delicatessen Signs); 280 Westbury Avenue, Carle Place; Section 10, Block 7, Lot 27; Zoned: Business-B. Variances from 70-196(J)(2)(C) to construct a ground sign too close to a street.

ACTING CHAIRMAN FRANCIS: You've heard Appeal #21518. Is there anyone interested in the application other than the applicant? Seeing no hands, please give your name and address sir.

MR. KAMARI: Good afternoon, Vice Chairman, Board Members. My name is Ali Kamari, representing the EAB Architectural Designs. Office is located at 4250 Veterans Highway, Suite 3150W, Holbrook, New York. We've been hired by our client to represent them for this hearing. We're seeking a variance to install a new ground sign on the existing planter box located on the property line. The property is an interior lot, approximately 100 feet by 100 feet in a Business-A Zone. The existing planter boxes, as I mentioned, on the property line with approximately six-inch masonry roll surrounding the box. The sign will be installed six-inch from the property line, which is off by the required ten feet from any front yard setback.

The proposed sign measures at approximately six feet and six inches by 36 inches on a two, six by six post with 18 inch diameters filled concrete sonotube 48 inches below grade.

1 Appeal #21518

2 The sign will read from Silver Lake Road -- Silver Lake  
3 Boulevard and also from Jamaica Boulevard. The sign will read  
4 the business name, which is -- which had the address of  
5 property, which is 280 Westbury Avenue, and the business name,  
6 which is Village Delicatessen Catering Available.

7 We feel that variance is appropriate for the  
8 application. It will not create a negative impact on the  
9 surrounding areas. Thank you.

10 ACTING CHAIRMAN FRANCIS: Do you see a rendering of  
11 what this sign looks like?

12 MEMBER DONATELLI: No, I don't.

13 SECRETARY WAGNER: I don't think they did. You didn't  
14 submit a copy --

15 MEMBER HERNANDEZ: It is, but there's nothing in it.

16 SECRETARY WAGNER: -- an actual sign -- of the sign  
17 right? It's just the structure of the sign?

18 MR. KAMARI: Yes, the structure.

19 SECRETARY WAGNER: They didn't submit -- that's what  
20 it's going to look like?

21 MR. KAMARI: Yeah, I have --

22 SECRETARY WAGNER: You want to submit this as an  
23 exhibit?

24 MR. KAMARI: Yes.

25 SECRETARY WAGNER: This will be Exhibit 1.

26 MEMBER DONATELLI: Is there a sign there now?

1 Appeal #21518

2 MR. KAMARI: Yes, there's a sign currently on the planter  
3 box. I don't know --

4 MEMBER DONATELLI: Do you know how long that sign has  
5 been there?

6 MR. KAMARI: I do not recall. I believe -- the  
7 business was recently purchased by my tenant. Took over the  
8 existing deli that was there. There is an existing sign on the  
9 awning attached to the building and the planter boxes also, they  
10 have some signs.

11 (Whereupon, there was discussion amongst the Board  
12 Members.)

13 ACTING CHAIRMAN FRANCIS: In relation to the property,  
14 where is this sign located?

15 MR. KAMARI: It's on the front of the prop -- right in  
16 front of the building.

17 MEMBER DONATELLI: (Inaudible).

18 ACTING CHAIRMAN FRANCIS: Okay, I see.

19 (Whereupon, there was discussion amongst the Board  
20 Members.)

21 MEMBER GOODSSELL: (Inaudible).

22 MEMBER HERNANDEZ: Oh, because this is the door. Will be  
23 -- the door is usually 80 inches.

24 MEMBER GOODSSELL: Okay.

25 MEMBER HERNANDEZ: Okay, so it's six-and-a-half feet.

26 MEMBER GOODSSELL: So 80 inches brings it up here

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2 somewhat, somewhere --

3 MEMBER HERNANDEZ: Yeah, this door here is 80 inches by  
4 code. So this is about the same height.

5 (Whereupon, there was a discussion amongst the Board  
6 Members.)

7 MEMBER GOODSSELL: So it's just so that you can see it

8 --

9 MEMBER HERNANDEZ: So you can see it as you're coming  
10 from down the road.

11 MR. KAMARI: Both sides.

12 ACTING CHAIRMAN FRANCIS: Nine feet, that's pretty --

13 MEMBER GOODSSELL: Nine feet is pretty --

14 MEMBER DONATELLI: Right.

15 MEMBER GOODSSELL: And there's an awning right there.

16 ACTING CHAIRMAN FRANCIS: Right, it has the name on it.

17 MEMBER HERNANDEZ: This is a really high sign. I don't  
18 know what -- did you draw the sign? Is this your -- did your  
19 company draw the sign?

20 MR. KAMARI: No, we're hired by the --

21 MEMBER HERNANDEZ: The business.

22 MR. KAMARI: The structure of the sign.

23 MEMBER HERNANDEZ: Because this planter says that it's  
24 38 inches tall. That's what the planter says. I don't know  
25 what -- well, that's what it says.

26 MEMBER GOODSSELL: Okay.

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2 MEMBER HERNANDEZ: And then the sign above the planter

3 --

4 MR. KAMARI: It's six foot.

5 MEMBER HERNANDEZ: -- says that it's six feet tall.

6 MR. KAMARI: Yep.

7 MEMBER HERNANDEZ: So that's six on top of 38 inches.

8 That's another three feet two inches, plus the sign is nine  
9 feet up in the air.

10 MR. KAMARI: Approximately nine foot two, yes.

11 ACTING CHAIRMAN FRANCIS: So that's higher than the  
12 existing sign?

13 MEMBER HERNANDEZ: Much.

14 ACTING CHAIRMAN FRANCIS: By, I would say --

15 MEMBER GOODSELL: Three feet?

16 ACTING CHAIRMAN FRANCIS: Four feet, maybe. Five feet.

17 MEMBER GOODSELL: We're just trying to figure that out

18 --

19 MEMBER DONATELLI: Yeah, I think the existing sign is  
20 probably about six feet.

21 MEMBER HERNANDEZ: Yeah, we'll say six feet.

22 ACTING CHAIRMAN FRANCIS: Six feet, yeah. So why nine  
23 feet?

24 MR. KAMARI: I believe just for visibility. To be seen  
25 from -- so there is a couple -- if you look at the Google  
26 image, there are a couple of obstructions. There's trees in



1 Appeal #21518

2 front of -- next to the tenant's space, next to them, so maybe  
3 that's why they choose to go -- -

4 ACTING CHAIRMAN FRANCIS: You know, I drive down that  
5 road I don't know how many times a week, and quite frankly, I  
6 know that delicatessen, and I only know it because of the  
7 canopy sign --

8 MEMBER HERNANDEZ: The green awning.

9 MR. KAMARI: The green awning, yes.

10 ACTING CHAIRMAN FRANCIS: Not the sign that's on the  
11 planter. That planter sign really has no purpose as far as I'm  
12 concerned. The sign that you see is the one that's on the  
13 canopy.

14 MEMBER HERNANDEZ: The green, yeah.

15 ACTING CHAIRMAN FRANCIS: So as one Board Member, I  
16 don't see the -- number one, I don't see the necessity for a  
17 nine-foot sign, and I don't see the necessity for that sign to  
18 begin with.

19 MR. KAMARI: Is there a way we can go back to the  
20 clients and make the sign lower, perhaps?

21 ACTING CHAIRMAN FRANCIS: I mean.

22 MR. KAMARI: 'Cause right now, it's six feet above  
23 finished --

24 MEMBER HERNANDEZ: Above the planter.

25 MR. KAMARI: Above the planter. We could probably  
26 bring it down maybe two feet or three feet.

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2 ACTING CHAIRMAN FRANCIS: We won't get into a  
3 negotiation with you in terms of the height of the sign. As  
4 one Board Member, I would deny this today, but, you know, there  
5 are other -- there are three other Board Members.

6 MEMBER DONATELLI: What I will tell you have for as  
7 long as I've been sitting on the Board, I can't remember us  
8 ever approving a sign request such as this. This is -- it is  
9 -- visually, it's going to be extremely -- well, it's going to  
10 be right on the property line, so it's going to be extremely  
11 close to the street.

12 ACTING CHAIRMAN FRANCIS: To the sidewalk, right.

13 MEMBER DONATELLI: Visually, it's going to be very  
14 impactful.

15 MEMBER HERNANDEZ: Impar visibility.

16 MEMBER DONATELLI: And it's going to -- well, yeah. I  
17 mean it's, it's --

18 MEMBER HERNANDEZ: Somebody coming out of the store may  
19 not see traffic coming if they have a sign right next to it.

20 ACTING CHAIRMAN FRANCIS: It's just --

21 MEMBER GOODSSELL: There's only one tree on the block,  
22 and it's very relatively small, and it doesn't seem to block  
23 any -- I mean, I didn't -- I think the awning is doing exactly  
24 what it should do, and it's announcing that this is the Carle  
25 Place Deli.

26 ACTING CHAIRMAN FRANCIS: Exactly.

1 Appeal #21518

2 MEMBER GOODSSELL: The sign in the planter box by the  
3 time you read the sign in the planter box, you've already seen  
4 the awning that says Carle Place Deli and Carle Place Deli is  
5 actually lit with lights that come --

6 ACTING CHAIRMAN FRANCIS: Above it.

7 MEMBER GOODSSELL: -- over the top.

8 ACTING CHAIRMAN FRANCIS: Right. Exactly.

9 MEMBER GOODSSELL: You could tell your client that  
10 however beautiful it is, and we are not an aesthetic board, it  
11 seems to be much too big for the location and --

12 MEMBER HERNANDEZ: To close to the curb.

13 ACTING CHAIRMAN FRANCIS: To close to the --

14 MEMBER GOODSSELL: To close to the curb.

15 ACTING CHAIRMAN FRANCIS: -- to the street.

16 MEMBER GOODSSELL: Would they consider possibly 'cause I  
17 don't know whether the sign, the little orange sign that's  
18 there, it's variance approved or not.

19 MEMBER HERNANDEZ: That's not legal either.

20 ACTING CHAIRMAN FRANCIS: Yeah, I tell -- I would ask  
21 them to rethink the necessity for this sign.

22 MEMBER HERNANDEZ: The awning sign has the address and  
23 the business on the sides.

24 MEMBER GOODSSELL: And the graphics are clear. There's a  
25 website.

26 ACTING CHAIRMAN FRANCIS: Exactly. It has the website.

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2 MEMBER GOODSELL: It's got everything that it needs to  
3 have and because there are no large trees blocking it when you  
4 come down Westbury Avenue, I think it's very visible.

5 MR. KAMARI: Okay.

6 MEMBER GOODSELL: But if they want us to consider their  
7 application as it is presented, we can do that, but I think you  
8 can see which way the Board is going on that, so if they might  
9 want to consider a smaller sign, we certainly allow you time to  
10 do that, but I mean, I would go into this deli based on the  
11 awning alone. If all they had was a planter box sign, there's  
12 no sign on the building, that might be a different story.

13 ACTING CHAIRMAN FRANCIS: Yeah.

14 MEMBER HERNANDEZ: But there is a sign on the building.

15 ACTING CHAIRMAN FRANCIS: There is. A very nice sign.  
16 So, I don't know. What should we -- should we--

17 MEMBER GOODSELL: No, let's ask the client -- well,  
18 let's ask the applicant, do they want us to consider this or  
19 would they --

20 MR. KAMARI: We would love -- we would like for you  
21 guys to consider it, but hearing you guys, I think the --

22 MEMBER HERNANDEZ: It's not going to be favorable.

23 MR. KAMARI: Of course.

24 MEMBER GOODSELL: Well, not today.

25 MR. KAMARI: Yeah.

26 SECRETARY WAGNER: In other words, do you want the

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2 opportunity to make revisions to the sign?

3 MR. KAMARI: Yes, if we can.

4 SECRETARY WAGNER: So then we'll continue it.

5 ACTING CHAIRMAN FRANCIS: Continue.

6 SECRETARY WAGNER: You can send us, you know, revised  
7 sign drawings. Probably have to be reviewed by the Building  
8 Department as well.

9 MR. KAMARI: Okay.

10 SECRETARY WAGNER: The Board will --

11 MR. KAMARI: Do we --

12 ATTORNEY ALGIOS: You don't have to come back.

13 ACTING CHAIRMAN FRANCIS: No, you don't have to come  
14 back.

15 SECRETARY WAGNER: Upload it to the portal, and then  
16 send to the Board of Zoning Appeals. We'll take a look at all the  
17 revisions, and we'll make a decision based on that.

18 MR. KAMARI: Okay.

19 ACTING CHAIRMAN FRANCIS: Off the record.

20 (Whereupon, a discussion was held off the record.)

21 SECRETARY WAGNER: We're going to continue, and you can  
22 submit revised drawings.

23 MR. KAMARI: Okay, thank you.

24

25

26

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2 SECRETARY WAGNER: Final appeal. Appeal #21497 Kevin  
3 Developers, LLC (Tropical Smoothie Cafe); 32 B Glen Cove Road,  
4 Greenvale; Section 20, Block 29, Lot 161; Zoned:  
5 Business-B/Residence-C. Conditional Use 70-126(A) & Variance  
6 70-103(A) (1) to construct interior alterations to convert an  
7 existing commercial space into a food use (a conditional use)  
8 and interior alterations to construct a mattress store with not  
9 enough parking.

10 ACTING CHAIRMAN FRANCIS: You've heard Appeal #21497.  
11 Is there anyone interested in the application other than the  
12 applicant? No one is in the room other than the applicant.  
13 Mr, Sahn, please give your name and address.

14 MR. SAHN: Thank you very much. Members of the Board,  
15 Michael Sahn, Sahn Ward Braff Koblenz Coschignano, 333 Earle  
16 Ovington Boulevard, Uniondale, New York, 11553. I'm pleased to  
17 appear before you today, this afternoon, on this application.  
18 Joining me in the hearing room is Marc Bianchi, who is the  
19 senior vice president and general counsel for the applicant,  
20 the pairing company, Lalezarian Properties.

21 Also joining me today is Aaron Machtay, who is a  
22 professional engineer, and the Board is familiar with Mr.  
23 Machtay. He is with VHB Engineering.

24 And lastly, joining me in the hearing room in support  
25 of the application. I'll ask the gentleman to give his name  
26 and address -- full address for the record.

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2 MR. KUMAR: Pramod Kumar (phonetic), known as Tony  
3 also. My address is 2 Barnyard Lane, Roslyn Heights, New York  
4 11557, and we will be the tenant there in the new Tropical  
5 Smoothie Cafe. This is one of the first five we have committed  
6 today Tropical Smoothie Cafe. This is supposed to be the first  
7 location of the five.

8 ACTING CHAIRMAN FRANCIS: All right. Thank you.

9 MEMBER DONATELLI: Thank you.

10 MEMBER GOODSELL: May it be successful.

11 MR. KUMAR: Thank you.

12 MR. SAHN: Subject of course to the Board's approval of  
13 the application today, but thank you, again --

14 MEMBER DONATELLI: I had slept through the entire  
15 presentation.

16 MR. SAHN: Thank you again for the opportunity to  
17 present. This is an application as indicated by the Legal  
18 Notice for two areas of relief. Number one, we need a  
19 conditional use permit for the proposed Tropical Smoothie Cafe  
20 and number two we need a parking variance pursuant to the  
21 notice of disapproval that was issued by the building on  
22 December 18, 2023.

23 With regard to the parking variance Mr. Machtay has  
24 previously presented and filed, I believe, through the portal a  
25 report of his investigation and findings regarding the proposed  
26 parking variance. I will ask Mr. Machtay to present his

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2 findings briefly after my initial remarks.

3 With respect to the conditional use permit, we will  
4 describe in greater detail the traffic to the Smoothie Cafe,  
5 but in regard to that, and the proposed parking variance, I did  
6 submit prior to the hearing this afternoon a memorandum of  
7 facts and law in support of the application. I brought with me  
8 additional copies that I can hand in if the Board would like  
9 copies before yourselves as we discuss the application;  
10 otherwise, I will rely on the previous submission.

11 MEMBER DONATELLI: I didn't print mine out, so I'll take a  
12 copy.

13 ACTING CHAIRMAN FRANCIS: I'll have a copy.

14 STEVEN PERROTTA: Thank you.

15 MR. SAHN: Thank you again for considering the  
16 memorandum. In the memorandum, I have set forth various facts  
17 relating to the application. I also set forth in detail the  
18 standards for granting a conditional use permit, which of  
19 course, the Board is familiar with under the town code, and the  
20 relevant standards for granting parking variance and analyze  
21 those standards in connection with the proposal before you  
22 today. So with your permission, having done that, and to  
23 perhaps expedite the hearing; I won't go through everything, and  
24 be repetitive about it, but I wanna assure the Board that we  
25 have made this analysis and submitted it to you for your  
26 respectful consideration.



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2 I do have also a consent form that I'd like to submit  
3 to the Board. This is a consent from the owner of the  
4 property, which is immediately adjoining to the south at 30  
5 Glen Cove Road at Section 20; Block 29; Lot 52. It's the  
6 shopping center, which the Board is familiar with, and I  
7 believe was separate before the Board. They had a recent  
8 hearing for a relief with respect to that shopping center.  
9 Again, I believe we submitted this through the portal, but.

10 SECRETARY WAGNER: You did.

11 MR. PERROTTA: You did.

12 SECRETARY WAGNER: We have it.

13 ACTING CHAIRMAN FRANCIS: Yeah.

14 MR. SAHN: So I don't need to submit --

15 SECRETARY WAGNER: From Gold Hill Realty?

16 MR. SAHN: Gold, yeah.

17 SECRETARY WAGNER: Yeah, the consent form.

18 MR. SAHN: Thank you very much. And then I also want  
19 submit in the context of today's hearing, photographs of the  
20 subject prices and the surrounding, if I could. I don't  
21 believe we got these into the portal timely, so I do have hard  
22 copies to present.

23 SECRETARY WAGNER: So this will be Exhibit 1.

24 MR. SAHN: So before I go further, I'd like to review  
25 the photographs and the context, of course, is property that  
26 the Board is well familiar with at Section 20; Blocks 29; Lots

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1  
2 49, 161, 162, 163 and 164. The property has an overall area of  
3 20,720 square feet. It's split zone between the Business-B and  
4 Residence-C District. The zoning line runs somewhat diagonally  
5 across the property and that line is shown on the plans  
6 submitted, such that the building itself and a portion of the  
7 parking lot is in the Business Zone, and then there's a portion  
8 of the parking lot that is in the Residential Zoning District.  
9 That's the portion that mainly is on the easterly side of the  
10 premises.

11 With respect to the various photographs, the first one  
12 shows the front of the building and, of course, it's  
13 immediately adjacent to our neighboring property, which has the  
14 Northwell Health facility in it, and we've indicated on this  
15 photograph in red lines and arrows where the proposed Tropical  
16 Smoothie used to be located, and how it would present itself to  
17 Glen Cove Road.

18 The next photograph is an aerial photograph, and again,  
19 we indicated the location of the subject property and the  
20 parking for the subject property. That parking is buffered,  
21 not just to the residential property immediately to the east  
22 but it's also buffered to the adjoining commercial property,  
23 which is to the south of the subject. And you'll note, of  
24 course, that the -- there is a cross-access between the two  
25 properties, so that traffic can traverse from one to the other.  
26 Mr. Machtay covers that in his report. And the exits for this

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2 parcel are on Chestnut Street.

3 ACTING CHAIRMAN FRANCIS: Is there parking that's  
4 mainly between the two properties?

5 MR. SAHN: There is not -- there isn't a cross parking  
6 agreement to share parking, but there is a cross access  
7 agreement so vehicles can traverse from one to the other.

8 Then the next photograph is showing the interior of the  
9 existing shopping center, and you'll note that again, with  
10 arrows, we've indicated the storefronts where the Tropical  
11 Smoothie will be located if approved by the Board.

12 There are two other tenants now existing on the first  
13 floor, which is, one of which is called the Beach Bum Tanning  
14 and the other is C2 Education. It's an educational services  
15 type use.

16 You'll also note that the part of the application there  
17 is a furniture and mattress store that is proposed to be  
18 located at the lower level of the building. The lower level of  
19 the building has direct access in accordance to the New York  
20 State Building code. It is capable of being occupied, and the  
21 mattress store will be on the lower level as indicated on the  
22 plans that are submitted.

23 Again, with respect to the parking lot according to the  
24 disapproval, including both the mattress store and the Tropical  
25 Smoothie, a parking variance is required where as 33 spaces are  
26 provided overall; 42 are required, so there's a nine-car

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2 deficiency as a matter of code.

3 With respect to the Tropical Smoothie, that space would  
4 have an area that's devoted for kitchen and prep work of 810  
5 square feet and a seating or counter-type area where customers  
6 can come and order their food and eat their food if they chose  
7 to do so, of 704 square feet, for a total of 1447. The  
8 mattress store in the basement has 2356 square feet.

9 At this point, since we're talking about the parking, I  
10 would like to introduce Mr. Machtay, if the Board will allow to  
11 summarize his report and findings. Unless there are questions?

12 ACTING CHAIRMAN FRANCIS: I just want to get the  
13 relationship straight in my head between the mattress store and  
14 the Tropical Smoothie. Two separate businesses. Two separate  
15 --

16 MR. SAHN: Two totally separate. Separate tenants.  
17 They don't intersect in any way. There's no need to go into the  
18 Tropical Smoothie to get to the mattress store. As the plan  
19 show, the building was always designed with space in the  
20 basement that could be occupied, and there's stairways that go  
21 up and down and elevator. There's also an elevator that goes  
22 up and down and totally compliant with all disability  
23 regulations and laws in the current state.

24 ACTING CHAIRMAN FRANCIS: Okay.

25 MR. SAHN: It was designed from the, you know, outset  
26 at that point, and finally and gratefully, the owner has found

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2 what we would submit are very good tenants for the space.

3 MEMBER HERNANDEZ: So you're here representing both the  
4 Tropical Smoothie Cafe and the mattress store?

5 MR. SAHN: I represent the owner, Kevin Developers,  
6 which is a division of Lalezarian Properties, and since these  
7 would be tenants of Lalezarian Properties, we're presenting  
8 this application on behalf of the owner and representing to the  
9 Board, who the tenants will be, which, of course, is the basis  
10 for the disapproval notice.

11 MEMBER HERNANDEZ: I'm still a little confused because  
12 in the Tropical Smoothie there is no variance required for  
13 parking.

14 MR. SAHN: No, no, there's a -- it -- when you look at  
15 the totality, if we didn't have the mattress store --

16 MEMBER HERNANDEZ: It would be no variances --

17 MR. SAHN: We would be essentially in compliance.

18 ACTING CHAIRMAN FRANCIS: Right.

19 MR. SAHN: But when we're -- the mattress store, of  
20 course, is retail, and one space for every 300 square feet, so  
21 that's adding the parking. I mean, from a practical  
22 standpoint, you could look at it that any of the other uses  
23 because of their square footage would require a parking area.  
24 In other words, if we, in theory, didn't have the tanning use,  
25 we'd be in compliance, so it's sort of a chicken and an egg, but  
26 when you put all these uses together --

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2 ACTING CHAIRMAN FRANCIS: Right.

3 MR. SAHN: On the site, we become deficient by nine  
4 spots.

5 ACTING CHAIRMAN FRANCIS: Okay.

6 MEMBER DONATELLI: Getting again to that point of  
7 interesting combination of tenants, Tropical Smoothie and the  
8 mattress store. How far does loading and unloading work for  
9 each of the facilities? Will mattresses be delivered to the  
10 mattress store? How does that function?

11 MR. SAHN: Well, we are compliant with the regulations  
12 and the code on the loading space. We do not need a variance  
13 for loading space. How and when mattresses or other types of  
14 supplies would be delivered; I don't know that I can articulate  
15 that in detail, other than that the owner and the tenants will  
16 work in unison to make sure that deliveries are done as  
17 appropriate at the right times.

18 Mattress stores, in our experience, do not have a  
19 consent flow of deliveries. They basically stock up the floor,  
20 customers come, and they take a look, and they don't order off  
21 the floor. They order something they see on the floor that  
22 gets delivered from the warehouse.

23 ACTING CHAIRMAN FRANCIS: And there's a -- there's a  
24 rear entrance into this building? I mean, would that be where  
25 --

26 MR. SAHN: Yes.

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2 ACTING CHAIRMAN FRANCIS: -- through the parking lot.

3 MR. SAHN: Yeah, through the parking lot.

4 ACTING CHAIRMAN FRANCIS: Any deliveries I'm  
5 assuming --

6 MR. SAHN: All through the parking lot.

7 ACTING CHAIRMAN FRANCIS: Yeah.

8 MEMBER DONATELLI: So maybe I should rephrase my  
9 question 'cause as I'm looking at the floor plan and particularly,  
10 I guess, it's page A005. I am seeing access to what I imagine  
11 is the mattress store directly from the rear of the premises,  
12 and then access to the Tropical Smoothie store from the rear of  
13 the premises into that seating area so that there would be  
14 access to both premises from the rear.

15 MR. SAHN: From the rear.

16 MEMBER DONATELLI: Okay. That --

17 ACTING CHAIRMAN FRANCIS: Right.

18 MR. SAHN: Right.

19 MEMBER DONATELLI: I'm sorry, I did not properly  
20 articulate the question before, but that's what I was trying to  
21 get.

22 MR. SAHN: The Tropical Smoothie will have its own door  
23 so to speak, and storefront in and out, and the mattress store  
24 will be accessed separately.

25 MEMBER DONATELLI: And that is the dotted line that  
26 appears on page A005?

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2 MR. SAHN: Correct.

3 MEMBER DONATELLI: Okay.

4 MR. SAHN: So unless there are any other questions, I'd  
5 ask Mr. Machtay to come forward and summarize his report and  
6 findings.

7 ACTING CHAIRMAN FRANCIS: Sure.

8 MR. MACHTAY: Thank you. For the record, Aaron  
9 Machtay, with VHB, out of our Hauppauge office at 100 Motor  
10 Parkway in Hauppauge, New York. So as Mr. Sahn alluded to, we  
11 prepared a parking study, which has been submitted to your  
12 attention. And I'll just try to be as brief as possible  
13 summarizing and understanding. It's been a long day.

14 This is a fairly simple application for parking. It's  
15 an existing shopping center, and there are existing usage  
16 currently in that shopping center, we're adding other uses onto  
17 it. As it's an existing a shopping center, it's obviously  
18 important to understand the existing level of activity that's  
19 generating by the C2 Education facility and the Beach Bum  
20 Tanning. So we set out to perform parking observation on both  
21 typical weekend and a typical Saturday. We did that in earlier  
22 January. It's detailed in our parking study.

23 Of note, the site actually experiences peak towards the  
24 mid-afternoon, 3:00 P.M. to 4:00 P.M. That's to be expected  
25 because the biggest generator of activity would be the C2  
26 Education facility, which is, obviously, an after-school



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2 facility and before school occasionally as well, but that's  
3 gonna -- that's when we would expect the peak activities to  
4 occur, and it's also relevant later.

5 To the previous point, just to be clear, when we did  
6 these parking observations, we did not consider the site to the  
7 south because, again, there's no parking agreement, so what you  
8 see in the report is just reflecting of the activity and the  
9 availability of parking on the subject page; just to be  
10 100 percent clear.

11 So understanding that existing level of activity we now  
12 are going to our, you know, friendly ICE parking generation  
13 manual to figure out what we would project for the proposed  
14 activity for the Tropical Smoothie Cafe and the mattress store.  
15 So we predicted basically the full occupancy of the building,  
16 including both of these two tenants. Again, there is a little  
17 bit of misunderstanding, I guess, a little confusion as to how  
18 the application presented.

19 We assume all the floor area would be open and  
20 generating activity, and what we're able to show in our study  
21 is that if we take the peak demand that occurred on site, and  
22 we take the peak demand that would predicted by the  
23 amalgamation of these two new uses, but there will be adequate  
24 parking. It's to note, that is a conservative estimate.  
25 Again, going back to our observations, the peak occurred in the  
26 mid-afternoon associated with the tutoring facility. We would

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2 expect that the Tropical Smoothie Cafe, in particular, would  
3 experience its peak outside of those times. When I say  
4 mid-after 3:00 P.M., not the dinner or lunchtime peaks.

5 I always like to invoke my predecessor, but he would  
6 mention the dreaded hair salon. I don't know if that exact  
7 usage is relevant here, but the point is there are other uses  
8 that maybe could occupy some of these spaces that would  
9 generate their peak directly during the exact same peak at the  
10 existing site. Regardless, even if that's -- even if we take  
11 the peak for the uses we're considering and the peak of the  
12 site, there's still enough parking according to our study, and  
13 it would not generate -- the approval there would not generate  
14 any undue traffic hazard or congestion. So it's my  
15 recommendation, based on this, that the variance be granted.  
16 I'd be happy to answer any questions.

17 ACTING CHAIRMAN FRANCIS: Thank you.

18 MEMBER GOODSELL: During your observations, was there  
19 any spillover between the two parking lots between the two  
20 adjoining neighbors?

21 MR. MACHTAY: There was a little bit of  
22 cross-contamination, I'll say it. Not a significant amount. I  
23 think some people probably, you know, just maybe are coming to  
24 the ProHealth and don't know that it's not, you know, they're  
25 not supposed to park on one or other. Not a significant amount  
26 of activity, you know.

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2 MEMBER GOODSELL: I was going to say, the first time  
3 that drove back there was for a previous application, and I  
4 didn't realize how many spaces there were back there.

5 MR. MACHTAY: Yes.

6 MEMBER GOODSELL: I didn't realize looking at the  
7 properties that they really weren't one common parking lot, but  
8 I have to say it, obviously, it can't be a concern because I  
9 didn't see signs that say parking for this business only;  
10 parking for this building. So the little bit of, as you call  
11 it, cross-contamination doesn't affect your numbers at all.

12 MR. MACHTAY: And I would also say the biggest draw  
13 that's occurring is people parking, from what we saw, again,  
14 very -- not a significant number. We're talking like two or  
15 three at most is people parking on the 32 Glen Cove Road  
16 property and walking to the Northwell Health facility, and  
17 again, it's just a matter the, you know, the -- it's the path  
18 of least resistance, the closest stall, and people just don't  
19 realize that it's not permitted.

20 MEMBER DONATELLI: Do you have any spillover parking  
21 onto Chestnut Street?

22 MR. MACHTAY: Again, not that we noted, but, you know,  
23 not that we noted that occurred during those times.

24 MEMBER DONATELLI: It certainly is part of this  
25 application is those property owners would be notified --

26 MR. MACHTAY: Yes, I'm sure if there are people that

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2 are parking in front of their houses that they would come out  
3 and voice their concerns. Based on the existing level of  
4 activity, it just doesn't reach the level that's going to  
5 happen.

6 MEMBER DONATELLI: I do have another question for Mr.  
7 Sahn if you're done with the presentation.

8 MR. MACHTAY: All finished.

9 MR. SAHN: Sure.

10 MEMBER DONATELLI: Mr. Sahn, we -- the applicant for  
11 the Tropical Smoothie Cafe is in compliance with what we would  
12 call standard restaurant conditions? In terms of waste? In  
13 terms of --

14 MR. SAHN: Refrigeration.

15 MEMBER DONATELLI: -- refrigeration.

16 MR. SAHN: Refuse and yes. And again, this will be a  
17 new use, the Tropical Smoothie in the area. There are many  
18 food uses that are similar, full-scale restaurants like the  
19 Barefoot Peddler across the street, but there are similar  
20 facilities at the Wheatley Plaza Shopping Center where the  
21 Equinox Gym is. There are -- there's bagel stores. There's a  
22 Yogurt & Such, and a Dunkin' Donuts on the south side of Glen  
23 Cove Road adjacent to the Harbor Hill School, so it is a  
24 compatible use. It's use that we think would be very  
25 harmonious meeting all the standards for a conditional use  
26 permit would operate generally from 7:00 to perhaps 8:00 or

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2 9:00 P.M. in the evening. And in addition to the type of drink  
3 that you would, you know, smoothie-type drink, they do serve  
4 wraps. They serve sandwiches. They serve salads. Generally,  
5 we would refer to it as fresh or healthy-type food offerings,  
6 and I'm sure that the employees of the various stores in the  
7 area would find -- as well as the residents would find it to be  
8 a convenient place to walk and pick up something to eat.  
9 There's a pizza restaurant I've used nearby that's similar, so  
10 in all the respect to requirements for again, standard for a  
11 conditional use.

12 As I explained in the Memo, I think it's quite  
13 appropriate, and likewise, as we explained, under the  
14 circumstances the parking variance would not be a substantial  
15 variance, number one, which would change the character of the  
16 neighbor or create adverse conditions.

17 The last point I'll make is with respect to the  
18 notices. My office did send out the notices. I actually got  
19 one call from a resident named Mark Kaplan, who told me  
20 verbally that he had no concerns or objections to the  
21 application. That's the only communication I can report.

22 ACTING CHAIRMAN FRANCIS: Very good. In addition to  
23 the condition with regards to the garbage, there's also another  
24 condition with respect to the exit and entry into the kitchen  
25 area. That door would have to be closed all the time. You  
26 couldn't open -- you couldn't have it open for, you know, let

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2 air in or anything like that.

3 MEMBER HERNANDEZ: Yes.

4 MR. SAHN: Right. I think you understand?

5 MR. KUMAR: Yes, we understand that, yes.

6 MEMBER DONATELLI: Again, it's just because the way the  
7 Tropical Smoothie is laid out. The kitchen would actually  
8 front onto Glen Cove Road, so really for all intents and  
9 purposes, public access would be from the rear of the premises.

10 MR. SAHN: From the rear.

11 MR. KUMAR: Correct.

12 MEMBER DONATELLI: So what you would consider typically  
13 in the front will actually be the rear, and that --

14 MR. SAHN: Correct.

15 MEMBER DONATELLI: -- would be the solid door --

16 MR. SAHN: Correct.

17 ACTING CHAIRMAN FRANCIS: That's correct.

18 MEMBER DONATELLI: -- would be closed.

19 ACTING CHAIRMAN FRANCIS: That's correct.

20 MR. KUMAR: That's the idea.

21 MEMBER DONATELLI: So that's why when you sell  
22 shorthand food for standard --

23 ACTING CHAIRMAN FRANCIS: Restaurant conditions.

24 MR. SAHN: Yes, yes, and which I understand then, the  
25 plans have been reviewed thoroughly by Mr. Bianchi and his team  
26 at Lalezarian, and I can add Mr. Bianchi said this, but I think

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2 you know from experience, they're very careful in their tenants  
3 and their tenancy obligations and plan the review to be strictly  
4 in compliance with all code.

5 ACTING CHAIRMAN FRANCIS: Absolutely. Okay.

6 MEMBER DONATELLI: Anyone else have any questions or  
7 comments or concerns?

8 ACTING CHAIRMAN FRANCIS: No.

9 MEMBER GOODSSELL: I only have one comment. I'll make  
10 you smile, Mr. Sahn. We've had several applications where a  
11 retail use wants to serve food. For example, I think Ralph  
12 Lauren wants to serve espresso. I was just in Tommy Bahama was  
13 serve coffee and fruit. I first imagined this was a mattress  
14 store that was serving smoothies.

15 MR. SAHN: I'm sorry for confusion.

16 MEMBER GOODSSELL: It just --

17 MEMBER DONATELLI: You could put some sort of sleepish  
18 thing in the smoothie and have people go down and sleep.

19 MEMBER GOODSSELL: Until I looked at the plans, I would  
20 imagine, I don't --

21 MR. SAHN: That would be unique. That would certainly  
22 be unique.

23 MEMBER GOODSSELL: Very unique.

24 MEMBER DONATELLI: Mr. Vice Chairman, I make a motion  
25 that we grant the application.

26 ACTING CHAIRMAN FRANCIS: All right. We have a motion.

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2 Do we have a second?

3 MEMBER HERNANDEZ: Second.

4 ACTING CHAIRMAN FRANCIS: Second by Mr. Hernandez.

5 Ginny, please poll the Board.

6 SECRETARY WAGNER: Member Goodsell?

7 MEMBER GOODSELL: Aye.

8 SECRETARY WAGNER: Member Hernandez?

9 MEMBER HERNANDEZ: Aye.

10 SECRETARY WAGNER: Member Donatelli?

11 MEMBER DONATELLI: Aye.

12 SECRETARY WAGNER: Acting Chairman Francis?

13 ACTING CHAIRMAN FRANCIS: Aye. Application has been  
14 granted.

15 MR. SAHN: Thank you all.

16 SECRETARY WAGNER: With restaurant conditions.

17 ACTING CHAIRMAN FRANCIS: With restaurant conditions.

18 MR. SAHN: With restaurant conditions.

19 MEMBER GOODSELL: Especially for the mattress store.

20 MR. SAHN: Thank you all very much.

21 ACTING CHAIRMAN FRANCIS: Thank you.

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1 SEQR

2 SECRETARY WAGNER: Can we just do SEQR?

3 MEMBER DONATELLI: Yes.

4 ACTING CHAIRMAN FRANCIS: Yes. Does someone want to  
5 move SEQR?

6 MEMBER GOODSSELL: I'll move it.

7 SECRETARY WAGNER: We adopt SEQR, and second?

8 MEMBER DONATELLI: Second.

9 SECRETARY WAGNER: All in favor?

10 MEMBER HERNANDEZ: Aye.

11 MEMBER DONATELLI: Aye.

12 MEMBER GOODSSELL: Aye.

13 ACTING CHAIRMAN FRANCIS: Aye.

14 SECRETARY WAGNER: SEQR is adopted.

15 (Whereupon, the proceeding concluded at 3:58 P.M.)

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C E R T I F I C A T I O N

STATE OF NEW YORK )

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COUNTY OF NASSAU )

I, MARIESEL BERRIOS, a Shorthand (Stenotype) Reporter and Notary Public within and for the State of New York, do hereby certify that the foregoing Proceedings taken at the time and place aforesaid, is a true and accurate transcript.

IN WITNESS WHEREOF, I have hereunto set my hand this 22nd day of March, 2024.

*Marisel Berrios*

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MARIESEL BERRIOS