

CITY OF UNION CITY
HUDSON COUNTY, NEW JERSEY
ZONING BOARD OF ADJUSTMENT

REGULAR MEETING : TRANSCRIPT OF RECORDED
: PROCEEDINGS
: _____

City Hall
3715 Palisade Avenue
Union City, New Jersey

Thursday, February 19, 2015
Commencing at 6:24 p.m.

M E M B E R S P R E S E N T:

VICTOR M. GRULLON, (Arrived at 6:46 p.m.)
MARGARITA GUTIERREZ
MIGUEL ORTIZ
HARLENNY E. JAVIER
DAVID W. PRESSEY
JOSEPH D. BONACCI, Alternate No. 2
ELISA FLORES, Alternate No. 3
KHALED DARDIR, Alternate No. 4, (Left at 7:14 p.m.)
ANDRES GARCIA, Chairman

M E M B E R S A B S E N T:

DOMINGA CARRO
JOHN MEDINA, Alternate No. 1

A L S O P R E S E N T:

CARLOS VALLEJO, Secretary to the Board
LAZARO CARVAJAL, ESQ., Acting Board Attorney

A P P E A R A N C E S:

LUIS E. DIAZ, ESQ.,
Attorney for Applicant, Navin Joshi

LUIS E. DIAZ, ESQ.,
Attorney for Applicant, 541-543 45th Street, LLC

BIANCA P. PEREIRAS, ESQ.,
Attorney for Applicant, Reino Magico

LUIS A. ALUM, ESQ.,
Attorney for Applicant, Melani Hidalgo

ADAM J. FAIELLA, ESQ.,
Attorney for Applicant, Rosario Management, LLC

J. ALVARO ALONSO, ESQ.,
Attorney for Applicant, Dalema Corporation

J. ALVARO ALONSO, ESQ.,
Attorney for Applicant,
Liberty Park at Union City, LLC

J. ALVARO ALONSO, ESQ.,
Attorney for Applicant,
Bhado & Bhado Development, LLC

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Osvaldo Martinez

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1 THE SECRETARY: Please, the Union City
2 Board of Adjustment --

3 Please take notice that on Thursday,
4 February 19, 2015, six p.m., Regular Meeting is
5 scheduled for the Union City Board of Adjustment
6 to be held in the Municipal Chamber, located on
7 second floor, 3715 Palisade Avenue, Union City,
8 New Jersey.

9 Can everybody kindly rise to salute the
10 flag, please?

11

12 (Whereupon, the Pledge of Allegiance was
13 said by all.)

14

15 THE SECRETARY: Notice of this meeting has
16 been provided, as follows:

17 Notice of this meeting setting forth the
18 time, date, location, and -- and agenda to the
19 extent known, was sent to The Jersey Journal, The
20 Record, and The Hudson Reporter, has been posted
21 on the bulletin board in the City Hall, and has
22 been made available to the public in the Office
23 of the Municipal Clerk.

24

25

1 **ROLL CALL:**

2

3 THE SECRETARY: Roll call for tonight's
4 meeting.

5 Andres Garcia?

6 CHAIRMAN GARCIA: Present.

7 THE SECRETARY: Victor Grullon?

8 Margarita Gutierrez?

9 MS. GUTIERREZ: Here.

10 THE SECRETARY: Miguel Ortiz?

11 MR. ORTIZ: Present.

12 THE SECRETARY: David Pressey?

13 MR. PRESSEY: Here.

14 THE SECRETARY: Harlenny Javier?

15 MS. JAVIER: Present.

16 THE SECRETARY: Dominga Carro? Absent.

17 John Medina? Absent.

18 Mr. Bonacci?

19 MR. BONACCI: Here.

20 THE SECRETARY: Mr. Dardir?

21 MR. DARDIR: Here.

22 THE SECRETARY: Elisa Flores?

23 MS. FLORES: Here.

24 THE SECRETARY: Let the record indicate

25 that we have seven -- eight members present. So,

1 we have a Board made up of eight members.

2 CHAIRMAN GARCIA: I think, before we start
3 to --

4 What?

5 MR. PRICE: You actually have eight members
6 present, and you're authorized number is only
7 seven.

8 So, one of the alternates is, I think,
9 going to have to step down.

10 CHAIRMAN GARCIA: Mr. Price, let me welcome
11 the people that are new here. And then we'll
12 decide what we're going to do.

13 Thank you very much.

14 That was -- I was ready to -- that was my
15 next step to say, and I want to welcome new
16 members of the Board. And reality, to thank them
17 for the -- you know, to dedicate time. And I
18 know it's a -- it's a family time, specifically.

19 But, in reality, I'm going to tell you I'm
20 -- I'm here on the Board for almost 11, 12 years,
21 and it's one of the most enjoyable experience
22 that I ever have.

23 So thank you very much. And you're never
24 going to regret.

25 I want to ask your advice, now, regarding

1 the -- how many we have, how many alternative we
2 have, and how many --

3 MR. CARVAJAL: At this point, I believe the
4 correct thing would be alternate number 4 step
5 down. He would not vote on the Resolutions, now
6 at some point.

7 My understanding there are some members
8 here, three that will not be able to vote on the
9 continuations. At that point, the alternate
10 could step back up.

11 CHAIRMAN GARCIA: Okay.

12 MR. CARVAJAL: All right?

13 CHAIRMAN GARCIA: Which one is the -- you
14 know which one is number 4?

15 MR. CARVAJAL: Mr. --

16 THE SECRETARY: Number 4, Mr. --

17 MR. CARVAJAL: -- Dardir.

18 THE SECRETARY: -- Dardir.

19 CHAIRMAN GARCIA: Mr. Dardir, can you
20 please step down, and -- but since we're probably
21 going to need you for the -- another application
22 --

23 MR. DARDIR: Okay.

24 CHAIRMAN GARCIA: -- can you wait for us
25 over there?

1 MR. DARDIR: Okay.

2 (Whereupon, Khaled Dardir stepped down from
3 the dais at 6:28 p.m.)

4 CHAIRMAN GARCIA: Thank you very much.

5 THE SECRETARY: Mr. Chairman, for the
6 record, let me do the roll call again, please.

7 CHAIRMAN GARCIA: Okay.

8 THE SECRETARY: Roll call for tonight's
9 meeting.

10 Andres Garcia?

11 CHAIRMAN GARCIA: Yes.

12 THE SECRETARY: Victor Grullon? Absent.

13 Margarita Gutierrez?

14 MS. GUTIERREZ: Here.

15 THE SECRETARY: Miguel Ortiz?

16 MR. ORTIZ: Present.

17 THE SECRETARY: David Pressey?

18 MR. PRESSEY: Here.

19 THE SECRETARY: Harlenny Javier?

20 MS. JAVIER: Here.

21 THE SECRETARY: Dominga Carro? Absent.

22 John Medina? Absent.

23 Mr. Bonacci?

24 MR. BONACCI: Here.

25 THE SECRETARY: Mr. Khaled Dardir is

1 recused.

2 Elisa Flores?

3 MS. FLORES: Here.

4 THE SECRETARY: Let the record indicate
5 that there are seven members -- members present.
6 So, we have a Board -- Board made up of seven
7 members.

8 CHAIRMAN GARCIA: Also, before we start
9 with agenda, since we're going to have a few
10 application that are going to request an
11 adjournment, then we going to change the order,
12 that -- that is in the agenda.

13 Carlos?

14 THE SECRETARY: All right.

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1 **RESOLUTIONS:**

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3 (1) Zohara 544, LLC - 544 40th Street, Block 234
4 Lots; 9 and 10. Multi-family Residential
5 Apartments. Proposed Two (2) new units in an
6 existing sixteen (16) unit building. Total
7 eighteen (18) units.

8

9 THE SECRETARY: We have the first
10 Resolution on tonight's agenda that's Zohara 544,
11 LLC, 544 40th Street.

12 May I have a motion?

13 CHAIRMAN GARCIA: Aye.

14 THE SECRETARY: Motion to approve --
15 approve the Resolution by --

16 MS. GUTIERREZ: Second.

17 THE SECRETARY: -- Andres Garcia.

18 Second, Margarita Gutierrez.

19 CHAIRMAN GARCIA: But, wait, wait, wait,
20 wait.

21 I remember that before the -- to adopt the
22 Resolution, did the applicant present the new
23 plans? Remember that this application, they were
24 supposed to add all the parking.

25 Right, Mr. --

1 THE SECRETARY: No --

2 CHAIRMAN GARCIA: Right, Mr. -- that's your
3 application.

4 Right?

5 MR. PEREIRAS: Correct.

6 CHAIRMAN GARCIA: Mr. Pereira?

7 MR. PEREIRAS: It is.

8 CHAIRMAN GARCIA: Did you present the
9 plans?

10 MR. PEREIRAS: I have not. I haven't --

11 CHAIRMAN GARCIA: No. I saw -- I cannot
12 adopt the Resolution, Mr. Pereira.

13 MR. PEREIRAS: That's fine.

14 CHAIRMAN GARCIA: I'm going to move it for
15 the next meeting.

16 MR. PEREIRAS: That's fine.

17 THE SECRETARY: We move the Resolution for
18 the next meeting.

19 CHAIRMAN GARCIA: Yes. Thank you very
20 much.

21 THE SECRETARY: Waiting for revised plans.

22 CHAIRMAN GARCIA: Yes.

23 THE SECRETARY: Okay. Mr. Chairman, I
24 think you want to adjourn March meeting.

25 CHAIRMAN GARCIA: March 19.

1 MS. GUTIERREZ: Nineteen?

2 CHAIRMAN GARCIA: By the way, let me start
3 -- just -- yes. Let me -- I'm going to make a
4 motion to move the next regular meeting that was
5 supposed to be on March -- I think -- the 12th.

6 THE SECRETARY: Going to move to the 19th?

7 CHAIRMAN GARCIA: To the 19th.

8 MS. GUTIERREZ: To the 19th.

9 CHAIRMAN GARCIA: If it not -- if it's not
10 any problem with -- with any member of the Board.
11 Was supposed the 12, but we -- I'm making a
12 motion to reschedule for the 19.

13 THE SECRETARY: Second by?

14 CHAIRMAN GARCIA: Okay?

15 MS. GUTIERREZ: Second.

16 THE SECRETARY: Second by Mr. -- Mrs.
17 Gutierrez.

18 Roll call.

19 Andres Garcia?

20 CHAIRMAN GARCIA: Yes.

21 THE SECRETARY: Margarita Gutierrez?

22 MS. GUTIERREZ: Yes.

23 THE SECRETARY: Miguel Ortiz?

24 MR. ORTIZ: Yes.

25 THE SECRETARY: David Pressey?

1 MR. PRESSEY: Yes.

2 THE SECRETARY: Harlenny Javier?

3 MS. JAVIER: Yes.

4 THE SECRETARY: Joseph Bonacci?

5 MR. BONACCI: Yes.

6 THE SECRETARY: Elisa Flores?

7 MS. FLORES: Yes.

8 THE SECRETARY: Motion carries.

9 Next -- next meeting for Zoning Board of
10 Adjustment will be March 19th, six p.m.

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1 **Rosario Management, LLC - 2709-2715 Central**
2 **Avenue:**

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4 THE SECRETARY: Okay. We are going to go
5 to the applications.

6 We are going to start first with
7 adjournments.

8 We're going to call Rosario Management,
9 LLC, 2709-2715 Central Avenue.

10 Mr. Faiella?

11 MR. FAIELLA: Good evening.

12 Adam Faiella, of Sills, Cummis and Gross,
13 on behalf of Rosario Management, LLC.

14 Proper notice of this application was sent
15 out and was published in The Jersey Journal on
16 February 6th, and the Affidavit of Notice was
17 filed two days ago.

18 And we're asking for the Board to take
19 jurisdiction, and adjourn it to the March 19th
20 meeting.

21 CHAIRMAN GARCIA: What is the publication?

22 MR. CARVAJAL: You presented your proofs?

23 THE SECRETARY: Yes.

24 CHAIRMAN GARCIA: Yes. He deposit two days
25 ago. That's --

1 THE SECRETARY: Also --

2 MR. FAIELLA: And the --

3 THE SECRETARY: -- he email me copy of --

4 MR. FAIELLA: -- Affidavit of Publication
5 in The Jersey Journal, from The Jersey Journal.

6 They sent it to the wrong office, but they
7 -- I emailed it to Mr. Vallejo today, and we can
8 file a hard copy tomorrow.

9 THE SECRETARY: I can testify that I -- I
10 received the advertisements from The Jersey
11 Journal.

12 MR. CARVAJAL: Let the record reflect that
13 I've been presented with the proof of mailing,
14 certified mailing.

15 Is he supposed to give me the return green
16 cards?

17 MR. FAIELLA: I have --

18 MR. CARVAJAL: You have the return --

19 MR. FAIELLA: Well, I haven't made copies
20 of them yet, but I have the returned ones that
21 we've received so far. These --

22 MR. CARVAJAL: Let the record reflect that
23 he's also handed me the green cards, return of
24 certified mail, as well as the Affidavit of Proof
25 of Service, executed and notarized. So --

1 CHAIRMAN GARCIA: Okay. Is the first time
2 that you're presenting here. Right?

3 MR. FAIELLA: Yes.

4 CHAIRMAN GARCIA: Just for the future
5 application, for your future client, we also -- I
6 don't know if -- if we prefer that you also print
7 the list of the --

8 MR. FAIELLA: Property owners?

9 CHAIRMAN GARCIA: Yes. Okay.

10 MR. FAIELLA: Okay. I filed that list. I
11 might have another copy.

12 CHAIRMAN GARCIA: No. That's okay. No,
13 no.

14 MR. FAIELLA: Okay.

15 CHAIRMAN GARCIA: If you filed, it's okay.

16 MR. FAIELLA: Yeah.

17 CHAIRMAN GARCIA: No problem.

18 MR. FAIELLA: I did file that.

19 CHAIRMAN GARCIA: Okay. Thank you very
20 much.

21 MR. FAIELLA: The list of the property
22 owners.

23 CHAIRMAN GARCIA: Okay. I make my motion
24 to adjourn this application to -- next meeting is
25 okay for you?

1 MR. FAIELLA: Yeah. The March 19th --

2 CHAIRMAN GARCIA: March 19.

3 MR. FAIELLA: -- is fine.

4 CHAIRMAN GARCIA: Okay. Perfect.

5 THE SECRETARY: Motion by Chairman Andres
6 Garcia.

7 Second by?

8 MS. JAVIER: Second.

9 THE SECRETARY: May I have your name,
10 please?

11 MS. JAVIER: Harlenny Javier.

12 THE SECRETARY: Second by Harlenny Javier.

13 Roll call.

14 Andres Garcia?

15 CHAIRMAN GARCIA: Yes.

16 THE SECRETARY: To adjourn the application.

17 Yes.

18 Margarita Gutierrez?

19 MS. GUTIERREZ: Yes.

20 THE SECRETARY: Miguel Ortiz?

21 MR. ORTIZ: Yes.

22 THE SECRETARY: Mr. Pressey?

23 MR. PRESSEY: Yes.

24 THE SECRETARY: Harlenny Javier?

25 MS. JAVIER: Yes.

1 THE SECRETARY: Mr. Bonacci?

2 MR. BONACCI: Yes.

3 THE SECRETARY: Elisa Flores?

4 MS. FLORES: Yes.

5 THE SECRETARY: Motion carriers.

6 MR. FAIELLA: Thank you.

7 CHAIRMAN GARCIA: Thank you.

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1 **Dalema Corporation - 815 14th Street:**

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3 THE SECRETARY: The next application will
4 be Dalema Corporation, 815 14th Street.

5 Mr. Alonso?

6 MR. ALONSO: Good evening, Mr. Chairman,
7 members of the Board.

8 For the record, Alvaro Alonso, Alonso
9 Navarette, on behalf of Dalema Corp.

10 Provided counsel with proof of publication,
11 notices for jurisdictional purposes.

12 MR. CARVAJAL: Let the record reflect
13 counsel has presented me with the green cards
14 return on the certified mail, and the Affidavit
15 of the Advertisement, as well as a copy of the
16 advertisement in The Hudson -- in The Jersey
17 Journal.

18 CHAIRMAN GARCIA: Make my motion to adjourn
19 this application for the next meeting, March the
20 19th.

21 THE SECRETARY: Motion to adjourn the
22 application by -- application by Chairman Garcia.

23 Second by Margarita Gutierrez.

24 Roll call.

25 Andres Garcia, to adjourn the application?

1 CHAIRMAN GARCIA: Yes.

2 THE SECRETARY: Margarita Gutierrez?

3 MS. GUTIERREZ: Yes.

4 THE SECRETARY: Miguel Ortiz?

5 MR. ORTIZ: Yes.

6 THE SECRETARY: Mr. Pressey?

7 MR. PRESSEY: Yes.

8 THE SECRETARY: Harlenny Javier?

9 MS. JAVIER: Yes.

10 THE SECRETARY: Joseph Bonacci?

11 MR. BONACCI: Yes.

12 THE SECRETARY: Elisa Flores?

13 MS. FLORES: Yes.

14 THE SECRETARY: Motion carries.

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1 **Bhado & Bhado Development, LLC - 1705 Palisade**
2 **Avenue:**

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4 THE SECRETARY: Next will be Bhado Bhado
5 Development, 1705 Palisade Avenue.

6 Mr. Alonso?

7 MR. CARVAJAL: Let the record -- record
8 reflect that Mr. Alonso has handed me a packet
9 with the return of proof of -- of mailing, green
10 cards, as well an Affidavit of Advertisement, and
11 a copy of the advertisement of the meeting
12 published in The Jersey Journal.

13 CHAIRMAN GARCIA: Make my motion to adjourn
14 this application to the --

15 MR. ALONSO: March 19th?

16 CHAIRMAN GARCIA: -- April -- April?

17 MR. ALONSO: April?

18 I defer to the Board, as always.

19 CHAIRMAN GARCIA: To --

20 MS. GUTIERREZ: To March 19th.

21 CHAIRMAN GARCIA: -- March 19th.

22 Senor? Mr. Dardir?

23 MS. GUTIERREZ: What's his name?

24 CHAIRMAN GARCIA: Are you leaving?

25 MR. DARDIR: Yes, I'll be --

1 CHAIRMAN GARCIA: Oh, you'll be back?

2 MR. DARDIR: No, no, no.

3 CHAIRMAN GARCIA: No, I need you.

4 MR. CARVAJAL: We're going to need you
5 tonight.

6 MR. DARDIR: You have four. Right?

7 MS. GUTIERREZ: There's only four.

8 CHAIRMAN GARCIA: No, no. But we're going
9 to need you.

10 MR. CARVAJAL: We're going to need you.

11 CHAIRMAN GARCIA: For the application.

12 MR. DARDIR: Are you going to do the
13 continuing one first?

14 CHAIRMAN GARCIA: Yeah. Right away that
15 Mr. Grullon come back. We're going to start with
16 -- with the right agenda.

17 Okay. Thank you so much.

18 Yeah. I make my motion to adjourn the
19 application --

20 THE SECRETARY: Motion to adjourn --

21 CHAIRMAN GARCIA: -- to the next meeting.

22 THE SECRETARY: -- the application by
23 Chairman Andres Garcia.

24 MS. GUTIERREZ: Second it.

25 THE SECRETARY: Second by Margarita

1 Gutierrez.

2 Roll call to adjourn the application.

3 Chairman Garcia?

4 CHAIRMAN GARCIA: Yes.

5 THE SECRETARY: Margarita Gutierrez?

6 MS. GUTIERREZ: Yes.

7 THE SECRETARY: Miguel Ortiz?

8 MR. ORTIZ: Yes.

9 THE SECRETARY: David Pressey?

10 MR. PRESSEY: Yes.

11 THE SECRETARY: Harlenny Javier?

12 MS. JAVIER: Yes.

13 THE SECRETARY: Joseph Bonacci?

14 MR. BONACCI: Yes.

15 THE SECRETARY: Elisa Flores?

16 MS. FLORES: Yes.

17 THE SECRETARY: Motion carries.

18 MR. ALONSO: Thank you.

19 MS. GUTIERREZ: You're welcome.

20 MR. PRICE: What's the date that we're
21 postponing to?

22 CHAIRMAN GARCIA: March 19.

23 MR. PRICE: March 19?

24 * * *

25

1 **Reino Magico - 701 Bergenline Avenue:**

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3 THE SECRETARY: Next application on
4 tonight's agenda Reino Magico, 701 Bergenline
5 Avenue.

6 Mrs. Pereiras?

7 MR. ALONSO: Mr. Chairman, I thought -- I
8 think we've got to do the --

9 THE SECRETARY: We are going to do --

10 MR. ALONSO: -- just to vote --

11 THE SECRETARY: -- the adjournment first.

12 MR. ALONSO: Oh, I'm sorry. This is
13 another adjournment.

14 CHAIRMAN GARCIA: Another adjournment.

15 MR. ALONSO: Okay.

16 MR. CARVAJAL: Thank you.

17 MS. PEREIRAS: Good evening, members of the
18 Board.

19 Bianca Pereiras, on behalf of the
20 applicant, Reino Magico.

21 MR. CARVAJAL: Let the record reflect Ms.
22 Pereiras has handed me their green cards, proof
23 of return of service, as well as the Affidavit of
24 Service, and a copy of the advertisement
25 published in The New Jersey -- in The Jersey

1 Journal.

2 CHAIRMAN GARCIA: In this application, I
3 prefer to recuse myself.

4 MS. PEREIRAS: Okay.

5 CHAIRMAN GARCIA: Because I know Nelly
6 (phonetic), I know Marta (phonetic). So, I
7 didn't know this application going to come to
8 here, so I prefer just to be fair, I recuse
9 myself.

10 Just for the record, Andres Garcia recuse
11 myself -- himself.

12

13 **ELECTION OF TEMPORARY CHAIRPERSON:**

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15 CHAIRMAN GARCIA: We have to appoint a new
16 Chairman -- Chairperson.

17 Carlos? I'm recusing myself for this
18 application. We need to make a motion to appoint
19 a new --

20 MR. CARVAJAL: Vice Chair.

21 THE SECRETARY: Right.

22 CHAIRMAN GARCIA: We don't -- I don't know.

23 THE SECRETARY: Okay. We need a temporary
24 Chairman for the --

25 CHAIRMAN GARCIA: For this application.

1 THE SECRETARY: -- for this application.

2 CHAIRMAN GARCIA: Yes.

3 THE SECRETARY: I have a motion to
4 temporary -- new Temporary Chairman by Mr. Ortiz?

5 MR. ORTIZ: Yes. I name Margarita
6 Gutierrez --

7 THE SECRETARY: Mr. Ortiz.

8 MR. ORTIZ: -- to be our Chairman for this
9 application.

10 THE SECRETARY: Margarita Gutierrez.
11 Second?

12 MS. JAVIER: Second.

13 THE SECRETARY: Second by --

14 MS. JAVIER: Harlenny Javier.

15 THE SECRETARY: -- Harlenny Javier.

16 Roll call on this application. Oh, no, to
17 -- for a temporary Chairman. I'm sorry.

18 Andres -- Andres Garcia? He recuse.

19 Margarita Gutierrez?

20 MS. GUTIERREZ: Yes.

21 THE SECRETARY: Miguel Ortiz?

22 MR. ORTIZ: Just a minute.

23 (Whereupon, there was a pause in the
24 proceedings.)

25 CHAIRMAN GARCIA: No. It's not a conflict

1 with her because she's -- she's on the board of
2 the daycare of Union City. She's not on the
3 board of --

4 MS. GUTIERREZ: No. That's a private
5 daycare.

6 CHAIRMAN GARCIA: Right. It's a private
7 daycare.

8 MS. GUTIERREZ: That's a city daycare.
9 This is a private daycare.

10 CHAIRMAN GARCIA: Right.

11 MS. GUTIERREZ: And thank you.

12 (Whereupon, there was a pause in the
13 proceedings.)

14 CHAIRMAN GARCIA: Go ahead.

15 So, roll call for the -- for the
16 adjournment.

17 Which one is?

18 THE SECRETARY: Roll call -- no, roll call
19 to accept Ms. Gutierrez as a temporary Chairman
20 for the application.

21 CHAIRMAN GARCIA: Right.

22 MR. CARVAJAL: Just be clear, it's only --

23 THE SECRETARY: Mr. -- Mr. Garcia abstain.

24 MR. CARVAJAL: -- to vote on this
25 application.

1 THE SECRETARY: Is recuse.

2 Margarita Gutierrez?

3 MS. GUTIERREZ: Yes.

4 THE SECRETARY: Miguel Ortiz?

5 MR. ORTIZ: Yes.

6 THE SECRETARY: David Pressey?

7 MR. PRESSEY: Yes.

8 THE SECRETARY: Harlenny Javier?

9 MS. JAVIER: Yes.

10 THE SECRETARY: Joseph Bonacci?

11 MR. BONACCI: Yes.

12 THE SECRETARY: Elisa Flores?

13 MS. FLORES: Yes.

14 THE SECRETARY: Motion carries. Six in
15 favor.

16 MR. CARVAJAL: Now she needs to ask for
17 somebody to move on adjourning this. That's what
18 she needs --

19 THE SECRETARY: Can I have a motion to
20 adjourn the application?

21 CHAIRMAN GARCIA: Right.

22 MR. CARVAJAL: You need to ask for a move
23 -- a motion to adjourn the application.

24 ACTING CHAIRPERSON GUTIERREZ: Oh, yeah.

25 MR. CARVAJAL: That's what you need to do

1 right now.

2 ACTING CHAIRPERSON GUTIERREZ: Okay. Okay.

3 I need a motion to adjourn the application.

4 MR. PRESSEY: I second.

5 THE SECRETARY: Motion by -- motion by Mr.
6 Joseph -- David Pressey.

7 MR. PRESSEY: Yes.

8 MR. CARVAJAL: Seconded by?

9 THE SECRETARY: Second by?

10 Miguel Ortiz.

11 Mr. Garcia recuse.

12 Margarita Gutierrez?

13 ACTING CHAIRPERSON GUTIERREZ: Yes.

14 THE SECRETARY: Miguel Ortiz?

15 Miguel Ortiz?

16 MR. ORTIZ: Yes.

17 THE SECRETARY: David Pressey?

18 MR. PRESSEY: Yes.

19 THE SECRETARY: Harlenny Javier?

20 MS. JAVIER: Yes.

21 THE SECRETARY: Joseph Bonacci?

22 MR. BONACCI: Yes.

23 THE SECRETARY: Elisa Flores?

24 MS. FLORES: Yes.

25 THE SECRETARY: Motion carries. Six in

1 favor.

2 MS. PEREIRAS: And this is just to confirm,
3 this is for the March 19th --

4 ACTING CHAIRPERSON GUTIERREZ: March 19.

5 CHAIRMAN GARCIA: Right.

6 MS. PEREIRAS: -- meeting.

7 Great. Thank you all very much.

8 ACTING CHAIRPERSON GUTIERREZ: Six o'clock.

9 MS. PEREIRAS: Thank you very much.

10 ACTING CHAIRPERSON GUTIERREZ: You're
11 welcome.

12 CHAIRMAN GARCIA: Just for the record, I
13 came back to -- I mean, the motion to --
14 Margarita Gutierrez was just a temporary
15 Chairperson, just for this application.

16 Which one is the legal process? That I
17 just come back?

18 MR. CARVAJAL: You're just back here.

19 CHAIRMAN GARCIA: I'm back at record.

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1 **Liberty Park at Union City, LLC - 649-651 38th**

2 **Street:**

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4 CHAIRMAN GARCIA: The next application,
5 Carlos, is?

6 THE SECRETARY: The next application on
7 tonight's agenda, Liberty Park --

8 CHAIRMAN GARCIA: For the --

9 THE SECRETARY: -- at Union City --

10 CHAIRMAN GARCIA: -- Liberty Park, I'm
11 going to need to wait for Victor Grullon.

12 MS. GUTIERREZ: Victor.

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1 **Melani Hidalgo - 314 19th Street:**

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3 CHAIRMAN GARCIA: I think that we still
4 have Melani Hidalgo.

5 MS. GUTIERREZ: Hidalgo.

6 CHAIRMAN GARCIA: Hidalgo. And we have --
7 Melani Hidalgo. I think this is the best one to
8 bring in, because Mr. Grullon was here for Navin
9 Joshi, and was here also for Liberty Park.

10 MS. GUTIERREZ: Um hum.

11 THE SECRETARY: Right. Taking number five
12 (sic).

13 MS. GUTIERREZ: Liberty Park.

14 MR. ALONSO: Okay.

15 MS. GUTIERREZ: We're coming back in a few
16 minutes.

17 THE SECRETARY: Number five (sic), then is
18 Melani Hidalgo, 314 18th (sic) Street.

19 Mr. Ferrer?

20 (Whereupon, there was a pause in the
21 proceedings.)

22 MR. CARVAJAL: Good evening, Mr. Alum.
23 How are you?

24 CHAIRMAN GARCIA: This is a brand new.

25 MS. GUTIERREZ: This is brand new?

1 CHAIRMAN GARCIA: You adjourned this
2 application last month.

3 MS. GUTIERREZ: Last month.

4 MR. ALUM: Last time, yeah.

5 CHAIRMAN GARCIA: Last time. So, were you

6 --

7 THE SECRETARY: Yeah, is a continuation,
8 Mr. Chairman.

9 MR. ALUM: Yeah, it's second round.

10 CHAIRMAN GARCIA: Oh, is a continuation?

11 MS. GUTIERREZ: Yeah. They was here.

12 CHAIRMAN GARCIA: Why -- why we don't have
13 a two minute break? Waiting for -- yeah.

14 Two minute break.

15 MR. CARVAJAL: We have a problem.

16 CHAIRMAN GARCIA: Two minute break.

17 Because Victor is downstairs getting parking.

18 MS. GUTIERREZ: We have to wait for another
19 four minute.

20 CHAIRMAN GARCIA: So just two minute break.

21 MS. GUTIERREZ: But he was here on the last
22 applicant. He was here last month.

23 CHAIRMAN GARCIA: Yeah. I remember for the

24 --

25 MS. GUTIERREZ: Yeah, he's looking for

1 parking.

2 CHAIRMAN GARCIA: So, just for the record,
3 we're going to be -- make a motion for the -- for
4 three minute -- three minute break. For three
5 minute break.

6 Do I need to make a motion?

7 THE SECRETARY: Motion to break --

8 CHAIRMAN GARCIA: Three minute break.

9 THE SECRETARY: Motion to break by Chairman
10 Garcia.

11 MS. GUTIERREZ: Second it.

12 THE SECRETARY: Second, Margarita
13 Gutierrez.

14 Andres Garcia?

15 CHAIRMAN GARCIA: Yes.

16 THE SECRETARY: Margarita Gutierrez?

17 MS. GUTIERREZ: Yes.

18 THE SECRETARY: Miguel Ortiz?

19 MR. ORTIZ: Yes.

20 THE SECRETARY: David Pressey?

21 MR. PRESSEY: Yes.

22 THE SECRETARY: Harlenny Javier?

23 MS. JAVIER: Yes.

24 THE SECRETARY: Joseph Bonacci?

25 MR. BONACCI: Yes.

1 THE SECRETARY: Elisa Flores?

2 MS. FLORES: Yes.

3 THE SECRETARY: Motion carries. Seven in
4 favor.

5

6 (Whereupon, Mr. Grullon arrived at 6:46
7 p.m.)

8

9 (Whereupon, the Board recessed from 6:46
10 p.m. to 7:02 p.m.)

11

12 CHAIRMAN GARCIA: Yes, we are ready.

13 THE SECRETARY: Next application, Melani
14 Hidalgo, 314 19th Street.

15 Mr. Ferrer? Mr. Ferrer?

16 MR. ALUM: Alum. Alum

17 THE SECRETARY: Alum. I'm sorry.

18 MR. ALUM: Yeah. Luis Alum, on behalf of
19 Melani Hidalgo.

20 I would respectfully request an adjournment
21 to the next hearing, which I believe is March
22 19th?

23 CHAIRMAN GARCIA: Yes.

24 MS. GUTIERREZ: Um hum.

25 CHAIRMAN GARCIA: Okay. I make my motion

1 to adjourn this application for next meeting,
2 March 19.

3 MR. GRULLON: I second the motion.

4 CHAIRMAN GARCIA: Bring your sleeping bag
5 --

6 THE SECRETARY: Motion by Chairman --

7 CHAIRMAN GARCIA: -- and your coffee.

8 MR. ALUM: All right.

9 Thank you.

10 THE SECRETARY: -- Andres Garcia.

11 Second by?

12 MS. GUTIERREZ: Victor.

13 THE SECRETARY: Victor Grullon.

14 MR. ALUM: Good night.

15 MR. PRICE: I have a question -- problem
16 before she goes.

17 Are you taking jurisdiction?

18 CHAIRMAN GARCIA: No. We are not taking
19 jurisdiction. No.

20 They -- they -- no.

21 MR. CARVAJAL: No. We're not.

22 CHAIRMAN GARCIA: They're going to publish
23 again.

24 MR. CARVAJAL: Right.

25 CHAIRMAN GARCIA: They're going to --

1 That's why they request adjournment.

2 THE SECRETARY: Chairman Garcia to adjourn.

3 MR. PRICE: It's not really an adjournment.

4 You can't pick it up. So, they'll publish.

5 CHAIRMAN GARCIA: Next one?

6 THE SECRETARY: You want to do roll call?

7 CHAIRMAN GARCIA: Can you go to Navin Joshi
8 first?

9 MR. CARVAJAL: Have to do a roll call. Do
10 a roll call on the adjournment.

11 THE SECRETARY: Yes.

12 MR. CARVAJAL: Yeah. Go ahead.

13 THE SECRETARY: Roll call.

14 Andres Garcia?

15 CHAIRMAN GARCIA: Yes.

16 THE SECRETARY: Victor Grullon?

17 MR. GRULLON: Yes.

18 THE SECRETARY: Margarita Gutierrez?

19 MS. GUTIERREZ: Yes.

20 THE SECRETARY: Miguel Ortiz?

21 MR. ORTIZ: Yes.

22 THE SECRETARY: Mr. Pressey?

23 MR. PRESSEY: Yes.

24 THE SECRETARY: Harlenny Javier?

25 MS. JAVIER: Yes.

1 THE SECRETARY: Elisa Flores?

2 MS. FLORES: Yes.

3 THE SECRETARY: Motion carries.

4 (Whereupon, there was a pause in the
5 proceedings.)

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1 **Navin Joshi - 520 New York Avenue:**

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3 THE SECRETARY: Next application on
4 tonight's agenda Liberty Park?

5 CHAIRMAN GARCIA: Let's do Joshi, because I
6 know that -- that Liberty Park could be a few
7 minutes longer than Joshi.

8 Joshi is what? Yeah. This is Joshi.
9 Number one.

10 THE SECRETARY: Okay.

11 Next application, Navin Joshi, 520 New York
12 Avenue.

13 Mr. Diaz?

14 MR. DIAZ: Yes.

15 Good evening, Board members. Luis Diaz for
16 the applicant.

17 We were before the Board in the meeting
18 next to last, back in December. We finished our
19 presentation.

20 The Board requested two changes to be made,
21 and to have the plans brought in, and presented
22 before the -- the Board.

23 And for that reason, we are here.

24 Mr. Martinez --

25 CHAIRMAN GARCIA: Just for the record, one

1 second.

2 Who was here in that application?

3 Miguel, were you here?

4 MR. ORTIZ: Yes.

5 MR. GRULLON: I was here.

6 CHAIRMAN GARCIA: No?

7 (Whereupon, Khaled Dardir returned to the
8 dais at 7:06 p.m.)

9 CHAIRMAN GARCIA: That's why I need you
10 back to the -- back to the -- that's why.

11 So, the rest of the Board, you recuse
12 yourself because you were not involved in this
13 application.

14 So, that's why we need him.

15 MS. GUTIERREZ: All right.

16 (Whereupon, there was a pause in the
17 proceedings.)

18 CHAIRMAN GARCIA: Can you guys step down?
19 And then, you come back to the -- please?

20 MR. CARVAJAL: (Indiscernible).

21 CHAIRMAN GARCIA: No. We have five people
22 exactly that were here. Just five.

23 MR. CARVAJAL: They didn't adjourn the
24 case, though. Right?

25 CHAIRMAN GARCIA: Yeah. For this one.

1 Just five of us going to be here.

2 (Whereupon, Joseph D. Bonacci, Elisa
3 Flores, and Harlenny E. Javier stepped down from
4 the dais at 7:06 p.m.)

5 (Whereupon, there was a pause in the
6 proceedings.)

7 MR. CARVAJAL: You can proceed.

8 MR. DIAZ: Yes.

9 Mr. Martinez was qualified at the -- the
10 previous hearings, and --

11 MR. CARVAJAL: Did you hand me proof of
12 service and all that?

13 MR. DIAZ: No, no. That was handled --

14 MR. CARVAJAL: Okay.

15 MR. DIAZ: -- a long time ago.

16 MR. CARVAJAL: Okay. That's fine.

17 MR. DIAZ: Yeah. This is the third time, I
18 think, we're --

19 MR. CARVAJAL: Yes.

20 MR. DIAZ: -- before the Board.

21 MR. CARVAJAL: Just want to make sure.

22 MR. DIAZ: Yeah.

23 And what we are presenting are the changes
24 that the Board requested from the presentation
25 that we had done before.

1 MR. CARVAJAL: Fine.

2 MR. MARTINEZ: Good evening, everyone.

3 Again, at the end of the meeting, there
4 were --

5 CHAIRMAN GARCIA: No, he swore --

6 MR. CARVAJAL: I think he should be sworn
7 in.

8 MR. DILLON: Please raise your right hand.

9 Do you swear the testimony that you're
10 about to give this Board is the whole truth?

11 MR. MARTINEZ: Yes, it is.

12 MR. DILLON: State your name and spell it
13 for the record.

14 MR. MARTINEZ: It's Ozzy Martinez,
15 M-A-R-T-I-N-E-Z. Address is 80 Park Avenue,
16 Hoboken, New Jersey.

17 MR. DILLON: Thank you.

18 MR. MARTINEZ: Welcome.

19 So, at the end of the previous meeting,
20 there were two requests by this Board.

21 The first was to eliminate the door that
22 came out onto the first floor roof. And again,
23 I'm referring to Sheet Z2. Typical second and
24 third floor plan.

25 We have clouded the door that's been

1 removed.

2 CHAIRMAN GARCIA: Actually, this one
3 doesn't -- doesn't have it.

4 MR. GRULLON: Is it updated?

5 MR. DARDIR: No. We don't have that.
6 Right?

7 MR. MARTINEZ: Okay. It's -- it's this
8 door. You show the door there.

9 CHAIRMAN GARCIA: Right. Right.

10 MR. MARTINEZ: This version shows the door
11 --

12 CHAIRMAN GARCIA: But in -- in the --

13 MR. GRULLON: Do you have -- do you have a
14 good copy?

15 (Whereupon, there was a pause in the
16 proceedings.)

17 CHAIRMAN GARCIA: But it's okay. You can
18 explain that. And then, we -- we keep that one.

19 MR. MARTINEZ: Yeah, absolutely. No
20 Problem.

21 Again, you -- you have the door there.

22 CHAIRMAN GARCIA: Right.

23 MR. MARTINEZ: We do have a revision date
24 on Sheet Z2. And we do show the door clouded, if
25 you can -- I'll point to that.

1 Okay.

2 And I direct your attention to Sheet Z3.
3 You're going to see that this second half of the
4 building is not shown in brick, and it was your
5 request that we do make that whole side on 6th
6 Street in brick. And that's what we're
7 indicating now.

8 CHAIRMAN GARCIA: I got it. I got the new
9 one.

10 MR. MARTINEZ: And we do show, now, the
11 entire façade in brick.

12 CHAIRMAN GARCIA: Right, in brick.

13 MR. DIAZ: And that's the side of 6th
14 Street.

15 Is that correct?

16 MR. MARTINEZ: Yes.

17 So, basically, yes, the building -- even --
18 even on New York Avenue, it's clad in brick.

19 CHAIRMAN GARCIA: Right.

20 MR. MARTINEZ: So, we basically have the
21 whole exterior.

22 CHAIRMAN GARCIA: And the balcony you're
23 talking about a different balcony, which is not
24 --

25 MR. MARTINEZ: Yes.

1 CHAIRMAN GARCIA: It doesn't --

2 MR. MARTINEZ: Yes. No, you can -- you can
3 see that there. It's a six inch protrusion from
4 the building. And it's a -- yes, French balcony.

5 MS. GUTIERREZ: That's the same one.

6 MR. DARDIR: Same one.

7 MS. GUTIERREZ: That's the same.

8 CHAIRMAN GARCIA: No, no. That's okay. I
9 got I got the -- this is the new one.

10 MS. GUTIERREZ: You got -- okay.

11 CHAIRMAN GARCIA: Yeah. This is the new
12 one.

13 MS. GUTIERREZ: It's the same. They look
14 the same.

15 (Whereupon, there was a pause in the
16 proceedings.)

17 CHAIRMAN GARCIA: I think that the
18 applicant addressed all the concern --

19 MS. GUTIERREZ: Okay.

20 CHAIRMAN GARCIA: -- in the plans.

21 I don't know if any other member of the --
22 any of the member of the Board have any
23 questions?

24 MS. GUTIERREZ: No.

25 CHAIRMAN GARCIA: Any member of the -- any

1 member of the public has any question?

2 I think --

3 Yes?

4 No?

5 Okay. Closed to the public.

6 I really want to thank the -- the applicant
7 too, because listen to our recommendation.

8 And just for the record, and just to other
9 applicants, I mean, when we ask for something, we
10 ask being fair for both sides.

11 I know that probably sometime it's painful,
12 but at the end, I think also going to be fair for
13 the applicant.

14 So, and we, in the experience that we have
15 here on the Board, we never put -- play around
16 with the safety. With any of the safety issue.
17 That's why we mention about the door to the -- to
18 the roof.

19 So, I make my motion to grant this
20 application without any -- any condition.

21 MS. GUTIERREZ: And I'm seconding.

22 THE SECRETARY: Motion to approve the
23 application by Chairman Andres Garcia.

24 Second by Margarita Gutierrez.

25 Roll call to approve the application.

1 Andres Garcia?

2 CHAIRMAN GARCIA: Yes.

3 THE SECRETARY: Victor Grullon?

4 MR. GRULLON: Yes.

5 THE SECRETARY: Margarita Gutierrez?

6 MS. GUTIERREZ: Yes.

7 THE SECRETARY: Miguel Ortiz?

8 MR. ORTIZ: Yes.

9 THE SECRETARY: David Pressey?

10 MR. PRESSEY: Yes.

11 THE SECRETARY: Khaled Dardir?

12 MR. DARDIR: Yes.

13 THE SECRETARY: Motion carries. Six in
14 favor.

15 MR. DIAZ: Thank you very much.

16 CHAIRMAN GARCIA: Thank you.

17 MR. MARTINEZ: Good evening.

18 Thank you.

19 MS. GUTIERREZ: Thank you.

20 MR. MARTINEZ: Do they still want to keep
21 this set?

22 CHAIRMAN GARCIA: No. It's okay. We
23 found the other. That's okay.

24

25

1 **Liberty Park at Union City, LLC - 649-651 38th**

2 **Street:**

3

4 MR. DIAZ: You're going to follow it up, or
5 you want to go to Mr. Alonso? Because I have
6 another one on the agenda, but I think that Mr.
7 Alonso was going to --

8 CHAIRMAN GARCIA: No.

9 MR. CARVAJAL: Mr. Alonso now.

10 MR. DIAZ: He has to go to West New York.

11 CHAIRMAN GARCIA: Oh, okay. Oh. Oh.

12 Sorry, Mr. Alonso.

13 MR. ALONSO: That's why I'm trying to get
14 --

15 CHAIRMAN GARCIA: Oh, you have to go to
16 West New York, then stay there.

17 MR. ALONSO: They're waiting for me over
18 there.

19 CHAIRMAN GARCIA: West New York can wait.
20 Yeah. They could wait.

21 MS. GUTIERREZ: Yeah. They can wait.

22 CHAIRMAN GARCIA: You got the votes here,
23 so you could --

24 (Whereupon, there was a pause in the
25 proceedings.)

1 CHAIRMAN GARCIA: Luis? Diaz?

2 This is a new application?

3 THE SECRETARY: Yeah. Is a new
4 application.

5 CHAIRMAN GARCIA: Going to be a new
6 application?

7 THE SECRETARY: Yeah.

8 CHAIRMAN GARCIA: Okay.

9 THE SECRETARY: Mr. Diaz?

10 Okay. Hold on one second.

11 Next application is a continuation, Liberty
12 Park, Union City.

13 Mr. Alonso?

14

15 (Whereupon, Mr. Dardir left the meeting at
16 7:14 p.m.)

17

18 (Whereupon, Joseph D. Bonacci, Elisa
19 Flores, and Harlenny E. Javier returned to the
20 dais at 7:15 p.m.)

21

22 MR. ALONSO: Good evening, Mr. Chairman,
23 members of the Board.

24 For the record, Alvaro Alonso, Alonso
25 Navarette on behalf of the applicant.

1 As you may recall, we've been here several
2 times already on this application. And I gave
3 you the long history.

4 This was approved, I think, originally,
5 back in 2008. We went through the whole
6 litigation process, up to the Appellate Division.

7 Finally, the market is -- is conducive to
8 building again, and we're ready to build.

9 The reason we are here is we are asking for
10 an interpretation, because we made some changes
11 to the building, and the Building Department just
12 wanted a confirmation from this Board that, in
13 fact, there are no new variances that are
14 required.

15 We're not expanding upon any of the
16 variances that are being -- that were originally
17 approved.

18 We're not changing any of the conditions of
19 the original approvals.

20 Basically, it's the same sixty I think
21 three unit building, same number of parking
22 spaces, same height, same envelope, same
23 everything.

24 We just have one less story, but the same
25 linear feet in terms of height.

1 At the last hearing, the Chairman had
2 raised a question with respect to a lease that
3 may be on our property, to the benefit of a body
4 shop that was approved by the Board next door.

5 I provided -- actually, I sent it to Mr.
6 Isa, several documents.

7 I sent him the lease agreement that's in
8 place, which is a five year lease. And the
9 important part of it is, if you read it, it says
10 that the tenants should vacate the property right
11 after 60 days' notice from the landlord.

12 And it says, this is a five year lease,
13 with a very important condition. And then it
14 says that, during the five year lease term, the
15 tenant will receive a 60 days' notice from the
16 owner of the property requesting the vacating of
17 the property, and delivering to the owner, in
18 broom swept condition, prior to the start date of
19 condominium construction, which was -- has been
20 approved by the town of Union City.

21 So, it was always the contemplation of my
22 client, when being a good neighbor, and providing
23 some parking, that it be a temporary condition,
24 while we were going through the litigation, the
25 construction plans, and -- and whatever, in order

1 to build this building.

2 In addition to that, I provided Mr. Isa a
3 copy of a cover letter, prepared by Gregory
4 Gennaro (phonetic), who is my client's landlord
5 tenancy attorney, who filed a complaint in the
6 Landlord Tenancy Court, for failure to pay rent
7 by the body shop.

8 So, on March 2nd, we will be going to court
9 to have him evicted, because he hasn't paid his
10 rent.

11 So, on the one hand, he's not -- if he
12 doesn't pay his rent, he'll be evicted. And on
13 the other hand, we have the right, under the
14 lease agreement, to provide him with 60 days
15 notice to vacate, so that we can start
16 construction.

17 CHAIRMAN GARCIA: Okay.

18 MR. CARVAJAL: Mr. -- and I did speak to
19 Mr. Isa this evening.

20 The Board has a problem which it needs to
21 clear up first, and it's based on that lease. My
22 understanding is that the adjacent property was
23 granted a variance, conditioned on the parking
24 which that lease provided them.

25 So, now, if the Board allows you to build

1 on that property, that adjacent property will no
2 longer have the -- the available parking, but
3 they already have the variance.

4 MR. ALONSO: Right, and the --

5 MR. CARVAJAL: And at this point, I -- I --

6 MR. ALONSO: I understand.

7 MR. CARVAJAL: -- I let you --

8 MR. ALONSO: Believe me, I understand.

9 MR. CARVAJAL: -- I let you flush out --

10 MR. ALONSO: Go ahead. Go ahead.

11 MR. CARVAJAL: -- your facts, because just
12 so you could get them out --

13 MR. ALONSO: Yeah.

14 MR. CARVAJAL: -- and I wanted it put on
15 the record, but the -- the Board is not ready to
16 approve your variance tonight, or to proceed on
17 it.

18 What we're looking for is to adjourn it,
19 clarify that lease issue, and then, proceed later
20 on.

21 But as of right now, they're not going to
22 move on it tonight.

23 MR. ALONSO: Okay. I have no problem --

24 MR. CARVAJAL: The on -- the only move
25 they're ready to do tonight is to deny the

1 application as presented, so they can clear up
2 that lease issue.

3 MR. ALONSO: Okay. I have no problem with
4 the adjournment. I just want to put on the
5 record --

6 MR. CARVAJAL: Fine. I under --

7 MR. ALONSO: -- and also understand that
8 the Board can't grant an applicant more rights on
9 somebody else's property than they already have
10 under -- under a document.

11 So, all they -- all they have -- and I'm
12 assuming, and I don't know, because I didn't
13 represent the body shop, I'm assuming what they
14 presented to this Board was a copy of this lease.
15 And I -- and I believe that's probably what
16 you're going to look into, look at their file, to
17 see if this was what -- what was presented.

18 And if it was presented with that limited
19 parking, then that's all they have. You can't --
20 you can't give them a five year lease and redact
21 any -- any rights my client has to terminate that
22 lease, with 60 days notice, because that was a
23 very important condition that was stipulated to.

24 CHAIRMAN GARCIA: I think that -- I mean,
25 unfortunately, I was not part of that -- my

1 regret that I couldn't take the flight to be at
2 this -- to be -- no. Believe me. No.

3 MR. ALONSO: I mean, I wasn't there either.

4 CHAIRMAN GARCIA: No, no. Believe it or
5 not, you could talk to Mr. Grullon, I was really
6 pissed, because I -- this situation, when you're
7 going to grant some application based on a lease,
8 at least I need to find out all the -- all the
9 condition that the lease is showing.

10 You know what I mean?

11 MR. ALONSO: Right.

12 CHAIRMAN GARCIA: And is not only five
13 years. Okay. If you say five years, the
14 condition are fair for both part, and it's
15 something like we at least could be -- we could
16 not impact the situation, the parking issues, and
17 all the -- all the vision impact it's going to
18 have to have all those cars there on the street.

19 Then, okay. We could grant it, or we could
20 not grant it.

21 MR. ALONSO: I understand.

22 MR. CARVAJAL: Here's the issue. It's a
23 five year lease, but my understanding of it,
24 there was a variance granted on it.

25 MR. ALONSO: Correct.

1 CHAIRMAN GARCIA: Right.

2 MR. CARVAJAL: That's not a five year
3 variance.

4 So now you lose the parking, what happens
5 to that variance? That has to be cleared up and
6 I believe Mr. Isa is working on it. And the
7 Board will --

8 MR. ALONSO: Okay.

9 MR. CARVAJAL: -- adjourn you tonight and
10 they'll have a position on it for next time.

11 MR. ALONSO: Also, have Mr. Isa to look
12 into if, on March 2nd, we go to court, and he
13 doesn't pay the rent, and he gets evicted, now he
14 loses the lease, also.

15 CHAIRMAN GARCIA: When you have -- when you
16 have court?

17 MR. ALONSO: March 2nd.

18 CHAIRMAN GARCIA: Perfect. So we have
19 meeting the 19th.

20 MR. ALONSO: So hopefully, that --

21 CHAIRMAN GARCIA: So we --

22 MR. ALONSO: -- will be resolved.

23 CHAIRMAN GARCIA: We have -- perfect.
24 Perfect.

25 MR. GRULLON: And for the record, I act as

1 the Chairman that night. And that was the main
2 condition that they provide parking.

3 MR. ALONSO: Right.

4 MR. GRULLON: They -- they came up with --
5 with a lease saying that the parking will be
6 provided by your client.

7 MR. ALONSO: Yeah.

8 MR. GRULLON: And it was supposed to be
9 attached to the approval of the --

10 MR. ALONSO: Right. I understand.

11 MR. GRULLON: Yes.

12 MR. ALONSO: And I didn't represent --

13 CHAIRMAN GARCIA: That's okay. I know.

14 MR. ALONSO: -- I didn't prepare the lease.
15 I didn't prepare --

16 MR. GRULLON: I mean they had no parking --

17 MR. CARVAJAL: It's never personal, Mr.
18 Alonso.

19 MR. ALONSO: I know.

20 CHAIRMAN GARCIA: I really -- I really
21 appreciate you understanding.

22 MR. ALONSO: Absolutely.

23 CHAIRMAN GARCIA: And I also appreciate
24 your client. I know every month it's like --

25 MR. ALONSO: Yeah.

1 CHAIRMAN GARCIA: -- delay, delay, delay.

2 MR. ALONSO: Yeah.

3 CHAIRMAN GARCIA: But what --

4 MR. ALONSO: They're anxious to get going.

5 CHAIRMAN GARCIA: -- we could do is
6 probably talk to Mr. Isa to see if he could have
7 the Resolution ready. And then, we could
8 probably --

9 MR. ALONSO: Very good.

10 CHAIRMAN GARCIA: Okay?

11 Okay. I make my motion to adjourn this
12 application to March 19.

13 THE SECRETARY: Motion to adjourn the
14 application by Chairman Andres Garcia.

15 MS. GUTIERREZ: And I'm seconding.

16 THE SECRETARY: Second by Margarita --
17 Margarita Gutierrez.

18 Roll call to adjourn this application.

19 Andres Garcia?

20 CHAIRMAN GARCIA: Yes.

21 THE SECRETARY: Victor Grullon?

22 MR. GRULLON: Yes.

23 THE SECRETARY: Margarita Gutierrez?

24 MS. GUTIERREZ: Yes.

25 THE SECRETARY: Miguel Ortiz?

1 MR. ORTIZ: Yes.

2 THE SECRETARY: David Pressey?

3 MR. PRESSEY: Yes.

4 THE SECRETARY: Harlenny Javier?

5 MS. JAVIER: Yes.

6 THE SECRETARY: Joseph Bonacci?

7 MR. BONACCI: Yes.

8 THE SECRETARY: Elisa Flores, I think
9 you're going to abstain.

10 Right?

11 CHAIRMAN GARCIA: Yes.

12 MS. FLORES: Yes.

13 THE SECRETARY: Motion carries.

14 MR. ALONSO: Okay. Thank you very much.
15 Have a good evening.

16 CHAIRMAN GARCIA: Thank you.

17 MR. ALONSO: Stay warm.

18 CHAIRMAN GARCIA: See you next month.

19 MR. CARVAJAL: Have a good night.

20 MS. GUTIERREZ: Yes.

21 THE SECRETARY: Seven in favor, one
22 abstain.

23 CHAIRMAN GARCIA: We are just one more?

24 No?

25 MS. GUTIERREZ: One more.

1 Number 2.

2

3 (Whereupon, there was a pause in the
4 proceedings.)

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1 **541-543 45th Street, LLC - 539-543 45th Street:**

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3 THE SECRETARY: Are you ready, Mr.
4 Chairman?

5 CHAIRMAN GARCIA: Yes, I'm ready.

6 MS. GUTIERREZ: Yes.

7 THE SECRETARY: Next application on
8 tonight's agenda, 541-543 45th Street, LLC, 539-
9 541 (sic) 45th Street.

10 MR. DIAZ: Again, Board members --

11 THE SECRETARY: Mr. Diaz?

12 MR. DIAZ: -- Luis Diaz for the applicant.

13 I'm going to provide counsel with the
14 documents in order to obtain jurisdiction.

15 MR. CARVAJAL: Thank you.

16 MR. DIAZ: As I stated to counsel before, I
17 don't have the original Affidavit from the
18 newspaper. I have faxed copy that they sent to
19 me. They put it in the mail. I'll probably get
20 the original tomorrow or Monday, and I will give
21 that original to the Secretary of the Board.

22 MR. CARVAJAL: For the record, so, counsel
23 has handed me the proof of mailing, the green
24 cards, he has handed me a copy of the published
25 advertisement in The Jersey Journal, as well as

1 -- as well as Affidavit of Service, and
2 conditioned on that he provides the original copy
3 on Monday, the Board will accept jurisdiction
4 over this matter.

5 (Whereupon, there was a pause in the
6 proceedings.)

7 MR. DIAZ: I have two experts in this
8 presentation.

9 I have Mr. Pereiras, Manuel Pereiras, an
10 architect. He has appeared before this Board
11 numerous occasion. I would like to have him
12 qualified.

13 And also, Mr. Izquierdo, as our planner,
14 who has also testified before this Board on prior
15 occasions.

16 MR. DILLON: Please raise your right hand,
17 Manny.

18 MR. PEREIRAS: Thank you.

19 MR. DILLON: Do you swear that the
20 testimony you're about to give this whole Board
21 -- give this Board is the whole truth?

22 MR. PEREIRAS: I do.

23 Manny Pereiras, P-E-R-E-I-R-A-S, with
24 Pereiras Architects Ubiquitous, 1116 Summit
25 Avenue, Union City.

1 Thank you.

2 MR. DILLON: Thank you.

3 Please raise your right hand.

4 Do you swear the testimony that you're
5 about to give this Board is the whole truth?

6 MR. IZQUIERDO: Yes, I do.

7 MR. DILLON: State your name and spell it
8 for the record.

9 MR. IZQUIERDO: Jose Izquierdo, registered
10 planner, 03385, 207 60th Street, West New York,
11 New Jersey.

12 MR. DILLON: Thank you.

13 MR. PEREIRAS: Thank you.

14 MR. DIAZ: Again, as previously stated, the
15 application before you is 541-43 45th Street, LLC,
16 Block two -- 255, Lot 44 and 45.

17 Size of the lot is 74 15 by 100.93.

18 What is being presented is a rear extension
19 to the existing three story medical facility.

20 That extension would have an operating -- medical
21 procedure use. And it will be on the rear of the
22 existing structure, on the three floors.

23 Mr. Pereiras, could you explain to the
24 Board the plans --

25 MR. PEREIRAS: I'd be very happy to.

1 MR. DIAZ: -- that's being proposed?

2 MR. PEREIRAS: I'll be very happy to.

3 Just for the record, the plans were
4 prepared under my direct supervision. The
5 drawings that I have on the easel to my right are
6 the same drawings that were submitted to the
7 Board. I simply have them on the easel for ease
8 of presentation.

9 I welcome all the new Board members. Nice
10 to have you here. Thank you, and hello to
11 everyone.

12 The site is on 45th Street.

13 CHAIRMAN GARCIA: Just for the record --

14 MR. PEREIRAS: Yes.

15 CHAIRMAN GARCIA: I don't know, we -- I
16 know that we accept Mr. Pereiras many, many
17 times.

18 Did we -- just for the record, just to say
19 -- just to say that yes, we -- it's not the first
20 time --

21 MR. DIAZ: Oh, you'll qualify as an expert?

22 CHAIRMAN GARCIA: You know what I mean? I
23 don't want to leave it out. You know what I
24 mean? So just for the record.

25 MR. PEREIRAS: Oh, all right.

1 MR. DIAZ: Right.

2 MR. PEREIRAS: As an expert? Yeah.

3 MR. DIAZ: Yeah. I thought that that was
4 mentioned, but you know, if it was not --

5 CHAIRMAN GARCIA: Oh, no, no.

6 MR. DIAZ: -- then go ahead and --

7 CHAIRMAN GARCIA: I won't -- don't go
8 through that. Just going to say yeah, we accept
9 him before, many, many times.

10 It's our pleasure to have Mr. Pereiras --

11 MR. DIAZ: And the same thing for --

12 CHAIRMAN GARCIA: -- with us.

13 MR. DIAZ: -- Mr. Izquierdo?

14 CHAIRMAN GARCIA: Later on, not now.

15 MR. PEREIRAS: Thank you very much.

16 Okay.

17 So, the building is on the south side of
18 45th Street, as you're driving down to Kennedy
19 Boulevard. It's a beautiful masonry structure.
20 It's about three and a half stories.

21 The picture I'm showing to you here on the
22 left has a beautiful kind of tan brick. And this
23 castle-like look on turret on the corner.

24 The site is maintaining almost exactly the
25 same. We have parking along the left of the

1 building. And the -- the building, per se, on
2 the right.

3 What we're looking to do is simply an
4 addition to the rear. The addition is going to
5 be 16 feet four inches in depth, and it's going
6 to be 34 feet ten and a half inches in width.

7 The planner is going to go into a lot of
8 detail about the -- the setbacks and the
9 variances that we're asking for, so I'm not going
10 to go into that.

11 I'll talk a little bit in floor plan why we
12 need this addition.

13 So, there's a current medical facility
14 being run out of that -- that building. It's
15 Dr., Roque's facility. And a lot of patients are
16 being seen here. A lot of the patients require
17 certain procedures that he cannot do in this
18 building, such as certain injections, they need a
19 surgical suite.

20 So, what we're proposing here is, instead
21 of having the patients and the community that are
22 coming to this building have to leave, go to
23 another facility, somewhere else, we're -- we're
24 creating an environment where the patients could
25 come here and actually get all their services

1 | done within the same building.

2 | We didn't -- we couldn't accommodate that
3 | within the existing structure, and that's why
4 | we're proposing the addition to the rear.

5 | So, we're basically attaching -- at the
6 | rear of this property, we're creating an opening.
7 | And that opening is going to lead you into a
8 | waiting area, a pre-operation and post-operation
9 | room, and then a small procedure room.

10 | And that procedure room meets all the state
11 | requirements from the -- as far as medical and
12 | health requirements. And that's -- and that's
13 | what regulated the dimensions of this room.

14 | So, we were -- we were actually cornered
15 | into what we could do, as far as the size of this
16 | and this is -- these are actually the minimum
17 | requirements by the state, in order to have a
18 | facility of this nature.

19 | So, the floor plate for it is the same on
20 | every floor, and it's three and a half stories.
21 | So, we'll have -- we'll extend the basement out
22 | on the ground level, and we'll do the same thing
23 | on three floors.

24 | And I'm turning now to the elevations page.
25 | And what we're doing is we're continuing the

1 architecture of the building. This beautiful
2 architecture that started with this -- this
3 contemporary kind of castle, and in the addition
4 that we're doing, we're creating this same full
5 brick building. So, it's going to be brick on
6 all three sides that we're doing. And we're
7 maintaining this aesthetic of this castle-like
8 look on the elevation.

9 So, the height of the building is not going
10 to be increased in any way. The only way we're
11 extending this building is towards the rear.

12 So, the addition part you're seeing is this
13 portion right here, and this portion right here.

14 And from the front façade, what you get to
15 see that's part of the addition is this corner
16 right here. That doesn't affect the site or the
17 parking in any way.

18 Turning back to the site plan, and our
19 planner is going to go into this in a lot more
20 detail, the front setback to the porch is eight
21 feet. The front setback to the actual building
22 is 16 feet. The side yard setback is five foot
23 nine. The side yard setback that we'll modify on
24 the other end is going to be 33 feet seven
25 inches.

1 And the planner will go into detail for the
2 rest.

3 That concludes my testimony at this point,
4 and I would like to open it up for the other
5 experts.

6 MR. DIAZ: Mr. Pereiras, before you finish,
7 just to go over the last dimensions that you --
8 you brought down.

9 Except for the addition in the rear, the
10 front and the two sides of the structure are
11 remaining the same. They're not being changed.
12 They're existing condition.

13 MR. PEREIRAS: Correct. There are
14 absolutely no changes to the site, and to the
15 front, to the side.

16 The only thing that we're -- we're
17 proposing to change is this dark area right here,
18 which is simply a rear addition. So, this is a
19 new three and a half story addition.

20 And just to clarify, the half story is a
21 basement addition. I'm calling it a half story
22 because it's partially above grade. So, it's
23 really a three foot -- a three story addition
24 along the rear.

25 CHAIRMAN GARCIA: And how many feet is

1 extension?

2 MR. PEREIRAS: Sixteen feet. Sixteen feet
3 four inches.

4 And that's going to give us shy of the
5 property line. We're -- we're staying two inches
6 shy of the property line. And we're doing that
7 for construction purposes, so that we could -- we
8 could build up to the property line.

9 MR. GRULLON: What is there now, Mr.
10 Pereiras?

11 MR. PEREIRAS: Right now --

12 MR. GRULLON: From the rear of the
13 building?

14 MR. PEREIRAS: There's nothing. That's
15 their rear yard.

16 MR. GRULLON: No parking in the back?

17 MR. PEREIRAS: The -- the only thing that
18 they have in the back right now is their
19 condensers for the air conditioning.

20 And we're going to accommodate that in that
21 basement section. We created a crawl space. So,
22 we created a crawl space, and that crawl space is
23 going to have the condensers. It's going to be
24 vented in order to have the proper combustion --
25 the proper air circulation in there. And that's

1 going to house those condensers.

2 CHAIRMAN GARCIA: And what is to the south
3 side, adjacent property?

4 MR. PEREIRAS: There's a house. There's a
5 -- to the south, over here, there's a two family
6 house.

7 MR. IZQUIERDO: That's to the east.

8 CHAIRMAN GARCIA: No. South -- that --

9 MR. PEREIRAS: To the --

10 CHAIRMAN GARCIA: -- that's the east.
11 South -- south is --

12 MR. PEREIRAS: To the south. Oh, those are
13 -- those are rear yards. So, you're facing -- if
14 you -- and the planner could speak a lot more
15 about this, I bet he has some diagrams to show
16 you about this.

17 But he has -- but we have rear yards that
18 we're facing.

19 CHAIRMAN GARCIA: Okay.

20 MR. PEREIRAS: Residential rear yards.

21 CHAIRMAN GARCIA: Okay.

22 MR. PEREIRAS: So, there's a lot of space
23 between our addition and any other structure.

24 CHAIRMAN GARCIA: Okay. And in the façade
25 that you're showing in VO3, I think?

1 So that one going to go all the way to --
2 to the same height that we have right now?
3 Doesn't going to exceed -- oversee the -- the
4 site that we have?

5 MR. PEREIRAS: So --

6 CHAIRMAN GARCIA: The height that we have?

7 MR. PEREIRAS: -- this point that I'm
8 showing right now is the ridge, the top of the
9 ridge.

10 Our building maintains that same height.
11 So, we're keeping our parapet and our ridge right
12 below that. So, we're not extending that height
13 in any way whatsoever.

14 CHAIRMAN GARCIA: Okay.

15 And the only exterior construction going to
16 be the -- adding that part. So --

17 MR. PEREIRAS: Correct.

18 CHAIRMAN GARCIA: -- after that, you're not
19 going to touch anything --

20 MR. PEREIRAS: Correct.

21 CHAIRMAN GARCIA: -- outside.

22 MR. PEREIRAS: The building itself stays
23 the same. Just to recollect a little bit of the
24 building, it has beautiful gutter -- copper
25 gutters. And we're going to maintain that --

1 | that vernacular of the building throughout in our
2 | addition. We're going to keep the same
3 | aesthetic.

4 | CHAIRMAN GARCIA: Okay.

5 | It is actually used as -- as an office, or
6 | no? Is --

7 | MR. PEREIRAS: Yes. It's a medical
8 | facility now.

9 | CHAIRMAN GARCIA: Medical facility.

10 | MR. PEREIRAS: So, he's -- he treats
11 | patients for -- for pain. There's also sleep
12 | studies that are done in the facility, and -- and
13 | a number of other procedures.

14 | CHAIRMAN GARCIA: But it's actually in use.

15 | MR. PEREIRAS: It is currently in use. And
16 | the problem is that he can't treat all the
17 | patients to the full extent that he would like
18 | to, and give them the services that they need,
19 | because the facility itself is lacking.

20 | And in order to provide the patients with
21 | their full --

22 | Imagine you have a patient, you have --
23 | you're in huge pain, and you're going to the
24 | doctor's office, and the doctor sees you, says
25 | all these things, and then, oh by the way, you

1 have to go another place. Let me give you an
2 appointment, just to do a small procedure that he
3 could actually handle right here in this place.

4 So, rather than sending someone with pain
5 away, he's actually going to be able to treat
6 them right here.

7 So, it's a huge benefit for the community.

8 CHAIRMAN GARCIA: Okay. Any other
9 question?

10 Yes. Open to Mr. Izquierdo, and then we'll
11 open to the public.

12 MR. DIAZ: Could I have Mr. Izquierdo
13 qualified as a -- as an expert?

14 CHAIRMAN GARCIA: Still thinking about it.

15 MS. GUTIERREZ: Still thinking about it.

16 CHAIRMAN GARCIA: We're still thinking
17 about it.

18 Yes. It's our pleasure to have Mr. -- Mr.
19 Izquierdo here.

20 MR. IZQUIERDO: Oh, thank you.

21 (Whereupon, there was a pause in the
22 proceedings.)

23 MR. IZQUIERDO: Good evening, members of
24 the Board.

25 My name is Jose Izquierdo. I'm a planner

1 in the state of New Jersey.

2 This Board gains jurisdiction of this
3 application because a medical facility is not an
4 allowed use in the R zone. And actually, a
5 medical facility, I believe, it's not a use
6 allowed in any zone in Union City.

7 According to the definition of the Zoning
8 Ordinance, a medical facility does not exist.

9 The Zoning Ordinance recognizes two types
10 of medical. They recognize medical or dental
11 clinic, and a medical office. We do not have a
12 medical facility.

13 This facility actually has both, a clinic
14 and an office. However --

15 MR. DIAZ: Doctor's office. Is that
16 correct?

17 MR. IZQUIERDO: Doctor's office. Doctor's
18 office and medical clinic.

19 However, the use that is being added is a
20 procedure room. And since Dr. Roque does not
21 have a procedure room, right now, that
22 constitutes a D-1 variance, because we're
23 introducing a use that is not allowed.

24 Additionally, we have a D-2, which is an
25 extension of a nonconforming use, because we're

1 increasing the other appurtenances to that
2 facility.

3 In order to grant this application, the
4 standard to be used is modified by Medici.

5 Medici was the case, in 1987, which
6 established the jurisdictions for D cases, for
7 D-1, D-2, all the D-6 cases.

8 However, in 1992, a case called Sica, Sica
9 versus Township of Wall, expanded -- actually,
10 and Justice Stein expanded inherently beneficial
11 uses.

12 And Justice Stein specifically, in 1992,
13 calls a medical facility an inherently beneficial
14 use.

15 As such, we're not specifically ruled by
16 Medici, because in Medici, we have to establish a
17 particular suitability standard in terms of the
18 special reasons, and we have to prove the
19 positive criteria, in terms of the purposes of
20 zoning.

21 The Sica case establishes that inherently
22 beneficial use do not have to comply with the
23 specific suitability and do not have to comply
24 with either the special reasons or the positive
25 criteria.

1 So, a threshold issue is that this medical
2 facility is an inherently beneficial use.

3 And that means that we have to prove a four
4 step balancing test.

5 And the -- the burden is on the Board,
6 according to the balancing test of Sica.

7 The first of the steps is identification of
8 the public interest that is served by this use.
9 And because it's a medical facility, it's -- it's
10 already innate that it is -- it's going to
11 benefit the community as a whole. It's
12 inherently beneficial.

13 The second step is for the Board to
14 identify the adverse consequences of granting
15 this variance.

16 And every single case that has a variance,
17 according to Municipal Land Use Law, has adverse
18 consequences. And the Board has to recognize the
19 adverse consequences that this is going to cause.

20 These adverse consequences -- (Spanish was
21 spoken.)

22 MR. DIAZ: I'm going to provide --
23 interrupt Mr. Izquierdo, I have --

24 MR. IZQUIERDO: The list of variances.

25 MR. DIAZ: -- a number of exhibits. I will

1 provide the first one, which is -- and I'll give
2 it to counsel, which is a chart of the variances
3 that are being requested for the Board to
4 visually identify them.

5 MR. IZQUIERDO: I apologize for the quality
6 of the print. I'm trying a new printer, and I
7 believe that I have to read the instructions.

8 Cubans usually don't read instructions when
9 they buy things, but I think in this case, I'm --
10 the print is a little dark.

11 In any event, the second step in the Sica
12 balancing test is actually to identify the
13 adverse consequences that are going to be created
14 by these variances.

15 And I'm going to run through the list of
16 Zoning Ordinances.

17 This property is located in the R zone. As
18 such, a medical facility is not an allowed use in
19 the R zone.

20 Actually, the purpose of the R zone is to
21 preserve the integrity of existing residential
22 areas, by preventing the intrusion of non-
23 residential uses into residential neighborhoods,
24 and by maintaining existing development
25 intensity, consistent with residential

1 neighborhood patterns.

2 Our standard for that is that we have an
3 inherently beneficial use, so statutorily, we
4 meet that criteria.

5 The lot area required in the R zone, for
6 all other uses, is 5,000 square feet. And the
7 applicant has 7,483.96 square feet, which
8 complies and exceeds.

9 Lot width required is 50 feet. Applicant
10 has 74.15 feet, which complies and exceeds.

11 The lot depth required is a hundred feet.
12 Applicant has just a little bit over 100.93 feet,
13 which complies and exceeds.

14 The front yard required is ten feet, or
15 prevailing setback, by Section 18-18.2D. And
16 actually, the building is 16.5 feet to the
17 building, and 8.05 feet to the steps to the
18 porch.

19 I am not calling that a variance, because I
20 don't think it is subject to -- to discussion how
21 the building is constructed right now.

22 The side yard required is six feet, and 12
23 feet, both.

24 What the applicant has on the right side,
25 which would be the western side, is five feet

1 nine inches, if I am not -- five feet nine
2 inches.

3 And actually, the existing building is at
4 five feet nine inches, and the -- the new
5 construction in the back, which is actually not
6 going to be a total of 16 feet. It's -- it's a
7 lot smaller than this. There's already an
8 existing construction here. I think the -- the
9 construction is going to be like two feet or
10 something.

11 But the applicant calls everything -- the
12 addition, because everything is going to comply
13 the new use.

14 MR. DIAZ: So, just to explain that -- that
15 point that you brought in, the shaded area in the
16 plans, which I'm pointing to, is not all new
17 construction. But some of the area that's
18 already there is being used and transformed into
19 the new procedure room.

20 MR. IZQUIERDO: Exactly.

21 This is the area that has to be
22 reconstructed on the inside. The addition,
23 actually, is only like two or three feet.
24 Everything else just has to be gutted and turned
25 into the procedure room.

1 So, actually, the variance required, the
2 variance -- the zoning requires me to have six
3 feet, and I have five feet nine inch.

4 Of course, for those two feet, we could
5 just do six feet, three inches more. It's just
6 going to look clumsy and horrible. So, the side
7 yard is maintained.

8 The rear yard. Required is 25 percent of
9 the lot. That's -- or 25 feet three inches.
10 Actually, the existing structure already comes to
11 like three feet of the -- of the property line.
12 So, now, what we're going to do is we're going to
13 extend it to two inches from the rear property
14 line, as the architect indicated.

15 The building height allowed is three
16 stories, or 40 feet. And we have three stories,
17 33 feet, eight inches, which complies.

18 The building coverage is 60 percent. And
19 actually, existing, we have 33.5, and proposed
20 we're going to have about 41.1, assuming all that
21 area being reconstructed.

22 The lot coverage is 75 percent, and
23 actually, the lot is completely paved, and it's a
24 hundred percent.

25 And the parking requirements, according to

1 | Parking Schedule Number 1, and Note 5, for the
2 | existing, we would require 31 spaces. And for
3 | the proposed, we would require about 39 spaces.
4 | Actually, it's a lot closer. We have about 38
5 | spaces required right now, and about 39 spaces,
6 | because the addition is so small.

7 | In reality, we're providing 17 spaces. And
8 | those 17 spaces are calculated as such; there are
9 | eight spaces in the existing lot. There are
10 | actually six spaces in an adjacent lot, which is
11 | also owned by Dr. Roque, which is not shown here.

12 | And actually, the Ordinance, in Note 5,
13 | allows me to take advantage of three parking
14 | spaces, because of the frontage of the street.
15 | So, I am providing a total of 17 spaces, which
16 | are existing.

17 | In that balancing test, we have to identify
18 | what the adverse impact of each of those
19 | variances are.

20 | For the side yard, being three inches short
21 | of the six feet, I would consider that to be de
22 | minimis. So, I don't think there's any adverse
23 | impact to the -- to the neighborhood, because of
24 | the three inches short.

25 | And additionally, I'm required to have six

1 and six, and I have five nine and 35. So, I
2 think the side yard is self-explanatory.

3 In terms of the rear yard, the existing
4 building already comes to here. Extending it
5 more, and closer to the rear yard, would
6 negatively impact the residential structures that
7 are in the back.

8 These are the rear yards of these string of
9 residential houses, two and three family houses.

10 However, I am on the northern side. So, as
11 the sun comes from the south, this building will
12 not cast a shadow onto the rear yard.

13 So, I do not believe that there's an
14 adverse impact caused by the rear yard.

15 In terms of the lot coverage, there are two
16 elements of that. One is the storm water runoff
17 that just exacerbates all the storm -- storm
18 sewer systems in Hudson County and in our state,
19 but there's also the lack of landscaping.

20 So, that's an existing situation. Since
21 the Board has an affirmative duty to impose
22 conditions for the granting of this variance, I
23 would suggest that maybe Dr. Roque not to have
24 landscaped area, because that brings fertilizers,
25 and that brings the mowing machine, and I think

1 | that would be disturbing to the patients.

2 | But maybe to establish some plant pots or
3 | something that would go well with the
4 | architecture of the building.

5 | And then, in terms of the parking
6 | requirements, the adverse situation, the adverse
7 | impact of this -- of this addition is minimized
8 | by a number of conditions.

9 | (Spanish was spoken.)

10 | (Whereupon, there was a pause in the
11 | proceedings.)

12 | MR. DIAZ: I'm going to provide counsel
13 | with three sets of drawings and print, so that
14 | the Board members can have a better idea where is
15 | the property located.

16 | And in reference to important sites, like
17 | public parking, public transportation, the light
18 | rail station and so forth.

19 | (Whereupon, there was a pause in the
20 | proceedings.)

21 | MR. IZQUIERDO: Since this is not a
22 | residential use, the residential site improvement
23 | standards of the state of New Jersey do not
24 | apply.

25 | So, what essentially applies is the Parking

1 | Schedule Number 1, which is in our Ordinance, in
2 | -- in Number 89. And these spaces have been
3 | calculated being medical office, one for 200
4 | square feet.

5 | That gives us a total of 38 -- 39 spaces
6 | required, where we're providing 17.

7 | However, the Ordinance and actually,
8 | Municipal Land Use Law, also allows the Board to
9 | consider -- and I quote -- factors affecting
10 | minimum number of parking spaces include
11 | household characteristics, availability of mass
12 | transit, urban versus suburban location, and
13 | available off-site parking sources.

14 | In this diagram, we calculated actually the
15 | walking distance from the light rail station, on
16 | 48th and Bergenline, to the site. And that takes
17 | exactly five minutes. That's done by the
18 | computer.

19 | So, if anybody comes by the light rail, and
20 | believe me, I am a user of the light rail, it
21 | takes us five minutes to get to the site.

22 | Additionally, there are three municipal
23 | parking lots within five minutes of this
24 | locality.

25 | There's a 41st and 42nd Street lot, which

1 has 82 spaces. The 44th and 45th Street lot has
2 82 spaces. And the 47th and 48th Street lot has
3 approximately 50 spaces.

4 These numbers were given to me by Alicia
5 Morejon, who's the Director of the Parking
6 Authority. She told me not to quote her, but
7 this is roughly what -- we have about 214 spaces,
8 within five minutes of the site.

9 Additionally, all the parking on 45th
10 Street is metered parking. So, this -- this
11 facility is not going to be encumbered by a lack
12 of parking.

13 The third step is for the Zoning Board to
14 consider the imposition of conditions that will
15 mitigate the adverse impacts of the variance, if
16 granted.

17 And I proffer to the Board that maybe we
18 can impose a condition of putting some plant pots
19 or something. The building is so beautiful, it
20 -- it's arguably the -- the prettiest building in
21 Union City. Or one of the prettiest buildings in
22 Union City, and a very pretty street. So, maybe
23 having some plant pots or something, it would
24 help.

25 And the fourth step is for the Board to

1 balance the public interest in the grant of the
2 variance against the negative impact that may
3 result after having considered the possibility of
4 mitigating conditions.

5 I have nothing further.

6 CHAIRMAN GARCIA: Mr. Izquierdo, how many
7 parking spaces they have right now?

8 MR. IZQUIERDO: Seventeen.

9 CHAIRMAN GARCIA: And how many parking
10 spaces you're going to provide with the
11 application?

12 The same 17?

13 MR. IZQUIERDO: Seventeen. Because Mr.
14 Garcia, the -- the addition of this building is
15 not 16 feet.

16 This is the area that is being
17 reconstructed. The existing building, right now,
18 comes to like two feet from that rear yard.

19 So, this -- the addition is essentially an
20 L shape. And actually, Manny's going to hate me
21 for this one.

22 Here, this is the addition. However, what
23 the architect is showing here is the
24 reconstructed area that we need to have the
25 procedure room.

1 So, the facility's not being extended in
2 such a fashion. It's just that it's adding the
3 procedure room.

4 And essentially, this has to be completely
5 reconstructed because when this elevator was
6 built, and it is existing there, there is a
7 certain minimum that Department of Health
8 requires to have the procedure room.

9 And that's what requires that addition.

10 MR. DIAZ: To add --

11 MR. IZQUIERDO: So --

12 MR. DIAZ: To add one point to the parking,
13 since Mr. Garcia touched upon it, the -- the
14 medical facility provides transportation for the
15 patients.

16 MR. IZQUIERDO: It has to.

17 MR. DIAZ: Bring them in, and take them
18 back home.

19 MR. IZQUIERDO: It has to, because a
20 patient coming in with the anesthesia, cannot
21 just walk out and take his car.

22 So, the -- the facility has to provide some
23 sort of transportation for these patients that
24 are --

25 MR. DIAZ: Recuperating?

1 MR. IZQUIERDO: Yeah. Not inpatient,
2 outpatients. Out -- they're outpatients. Nobody
3 sleeps here. This is not a hospital. This is a
4 medical facility.

5 CHAIRMAN GARCIA: Same day procedures?

6 MR. IZQUIERDO: Same day procedures.
7 Outpatient. Yes.

8 MR. DIAZ: Correct.

9 MR. PEREIRAS: And let me expand a little
10 bit architecturally, what we're talking about as
11 far as the addition, just to be clear.

12 The ground floor currently is not -- the
13 addition -- the rear of this building, currently,
14 is elevated. It's on columns. Okay?

15 So, what we're proposing to do is actually
16 match the floor.

17 So, the addition is from this wall, across
18 to there, on the ground.

19 Above it, we're basically practically not
20 asking for an addition. We're asking for less
21 than three feet, as Mr. Izquierdo explained,
22 because the existing building is three feet away
23 from the property line. We're just going to take
24 it almost two inches away from the property line
25 at that point. And that's above.

1 On the ground level, we're going the whole
2 way above -- it's a minor thing.

3 And another point, I think it's important
4 to say, is that we're not having any additional
5 patients in this room. These are current
6 patients that are going to have more treatments
7 available to them within this facility.

8 So, we're not really increasing the parking
9 need, per se. It's the same patients that are
10 going to be able to be treated. They're just
11 going to be treated to a fuller and greater
12 extent.

13 MR. IZQUIERDO: I actually visited the
14 facility, just a couple of minutes before coming
15 here to the Board. And today is a Thursday, at
16 four p.m., and there was -- there was parking
17 available.

18 It's not the sort of facility that you have
19 people trying to find a parking space and it's
20 not that sort of a -- of an affair.

21 CHAIRMAN GARCIA: Okay. Any other
22 question?

23 Any member of the public wants to step
24 forward?

25 Yes, Mr. Price?

1 MR. PRICE: Could you run me through that,
2 because we were describing the addition as being
3 16 feet --

4 MR. DILLON: Excuse me, Mr. Price?

5 MS. GUTIERREZ: Mr. Price?

6 MR. DILLON: I'm going to swear you in.
7 Please raise your right hand.

8 Do you swear that the testimony you're
9 about to give this Board is the whole truth?

10 MR. PRICE: I do.

11 MR. DILLON: State your name and spell it.

12 MR. PRICE: Yeah. Larry Price, 1006
13 Palisade Avenue.

14 MR. DILLON: Thank you.

15 MR. PRICE: P-R-I-C-E.

16 MR. DILLON: Thank you.

17 MR. PRICE: Okay. The -- the addition was
18 described as 16 feet four inches by 32 feet and
19 change.

20 MR. PEREIRAS: I'm going by the bulk
21 dimensions of it. And I'm going to refer to a
22 drawing, so that it's a little bit easier to
23 understand.

24 The current building goes straight across
25 this line, all the way to the rear, and cuts in

1 and comes back.

2 So, this 16 feet and we're putting here,
3 which is five foot six in dimension, that's in
4 addition.

5 And the addition is also this sliver along
6 the back.

7 So, we're reconstructing this entire area
8 in order to make that into a procedure room.

9 So and -- and that's because simply state
10 requirements. The medical facility that we're
11 creating has to have these dimensions, by law.

12 So, it's not -- it's not an arbitrary
13 dimension that we threw in there. We're coming
14 before this Board for a true hardship. In order
15 to create this inherently beneficial use, we have
16 to have these dimensions.

17 So, what we're proposing is a five foot six
18 addition to the -- to the west, that's 16 feet
19 four inches in -- in depth.

20 So, that's why I'm saying that our -- our
21 addition is 16 feet, four inches by 34, because
22 that sliver along the back, and this sliver, of
23 an L shape.

24 So, really, you could make the argument
25 that our addition is six by 16, and three by 34.

1 MR. PRICE: Well, that makes a considerable
2 difference because 16 by 30 is roughly 500 square
3 feet that you would add --

4 MR. PEREIRAS: That's not the case.

5 MR. PRICE: -- but, in fact, you're not
6 adding 500 --

7 MR. PEREIRAS: Not at all.

8 MR. PRICE: -- square feet, you're adding,
9 if I did my math, about 150 square feet.

10 MR. PEREIRAS: I'd say 200 square feet but
11 yes.

12 MR. IZQUIERDO: Yes. Exactly 200 square
13 feet. Yes.

14 MR. PRICE: Okay. So, it's -- okay.
15 Second architectural question.

16 You have this addition on all three floors.

17 MR. PEREIRAS: Correct.

18 MR. PRICE: You have procedure rooms on all
19 three floors?

20 MR. PEREIRAS: Potentially.

21 MR. IZQUIERDO: Yes. We need -- we need to
22 have the procedure rooms in all three floors.
23 That is actually what -- what the program calls
24 for.

25 Because actually, there's -- the doctor

1 offers a treatment rooms, offers a therapy,
2 offers sleep study, and there are new procedures,
3 as I indicated. There are new uses that are
4 being provided. Not only the existing uses.
5 That is the D-2 variance.

6 The D-1 variance is acting -- is including
7 procedure rooms which are of a surgical nature.
8 They're ORs, operating rooms.

9 MR. PEREIRAS: And these are single use --

10 MR. PRICE: Okay. But how many doctors do
11 we have in this facility? I mean, I thought
12 there was only --

13 MR. IZQUIERDO: However many --

14 MR. PRICE: -- one doctor, --

15 MR. IZQUIERDO: -- doctor --

16 MR. PRICE: -- Dr. Roque.

17 MR. IZQUIERDO: No.

18 MR. PEREIRAS: No.

19 MR. IZQUIERDO: However many Dr. Roque
20 wants to have.

21 MR. PRICE: But he's got --

22 MR. IZQUIERDO: This is a medical facility.

23 MR. PRICE: He needs three procedure rooms?

24 MR. DIAZ: No. But there -- there is other
25 doctors that work in the facility.

1 MR. IZQUIERDO: Absolutely.

2 MR. PRICE: Okay. Okay.

3 MR. PEREIRAS: And these are -- and these
4 -- I should explain also that these are suites.
5 So, if you have -- if you're going for a
6 procedure, you walk in, you go into the pre-op
7 room. You're there.

8 Your procedure might only last 15 minutes,
9 but you're there for a whole -- the process to
10 get ready for it, the process to cool down
11 afterwards, or however the terminology is.

12 A VOICE: Recovery.

13 MR. PEREIRAS: You're --

14 MR. PRICE: Yeah. I don't --

15 MR. PEREIRAS: -- you're taking up --

16 MR. PRICE: -- think that's --

17 MR. PEREIRAS: -- that entire suite, while
18 someone else could be taking up the suite above.

19 So, the doctor could go in there. Do his
20 thing for ten minutes, leave, go upstairs, go
21 into the next suite, do his thing for ten
22 minutes, go the next one. And the patients are
23 -- are recovering, the room is being prepared,
24 everything is being taken care of while the
25 doctor is --

1 MR. PRICE: Okay. Okay. There are also
2 other doctors.

3 Okay. The -- the second question I have,
4 and I don't know who gets this directed to, but
5 Dr. Roque came in with an application to this
6 Board a number of years back, for a facility --
7 it was a bank branch. Beautiful bank branch, at
8 Broadway and 48th Street.

9 MR. DIAZ: That's correct.

10 MR. PRICE: And the -- and the presentation
11 at the time said this was going to be his new
12 treatment facility.

13 And a number of -- quite a number of
14 variances were granted on that premise.

15 Have those plans been abandoned?

16 MR. DIAZ: No, they have not. It was --
17 and --

18 CHAIRMAN GARCIA: Mr. Diaz? Mr. Diaz?

19 MR. DIAZ: -- I'm going to correct --

20 CHAIRMAN GARCIA: Mr. Diaz? Mr. Diaz and
21 Mr. Pereiras -- Mr. Price, we're talking about
22 this application.

23 I don't know -- with all due respect --

24 MR. PRICE: Yes.

25 CHAIRMAN GARCIA: -- I don't want to get

1 into another application.

2 MR. DIAZ: Understood.

3 CHAIRMAN GARCIA: Every application is
4 unique.

5 So, thank you.

6 Sorry, Mr. Price.

7 MR. PRICE: Well, but you see --

8 CHAIRMAN GARCIA: Mr. Price? Mr. Price?

9 MR. PRICE: No, no. Seriously. It -- you
10 come in, you make an application. It sounds
11 great, and then it's abandoned.

12 But you know what? The variances don't --

13 CHAIRMAN GARCIA: Mr. Price?

14 MR. PRICE: -- disappear.

15 CHAIRMAN GARCIA: If you listen my -- my
16 previous question that I said if the current
17 facility is in use, they said yes, it's in use.

18 Right? It is in use or it is not in use?

19 So, we're talking about this one. And I --
20 and the other application mentioned is over more
21 than 200 feet away from this one.

22 I prefer -- and we treat each and one
23 application as unique.

24 MR. PRICE: Mr. --

25 CHAIRMAN GARCIA: For the record --

1 MR. PRICE: Mr. Izquierdo pointed out that
2 one of the things that the Board can do is impose
3 conditions to make this a more acceptable use.

4 CHAIRMAN GARCIA: Yeah. But talk -- talk
5 about this application, Mr. Price.

6 MR. PRICE: No, no, no.

7 CHAIRMAN GARCIA: Let's -- let's --

8 MR. PRICE: No. No.

9 CHAIRMAN GARCIA: Just for the -- because
10 the clarification --

11 Mr. Price, let's respect each other. Okay?

12 The clarification, because we have a few
13 new members and I don't want to confuse them.
14 Okay?

15 Not -- doesn't matter -- I mean, we have --
16 we have previous application, probably one next
17 to other, each application is unique. I never
18 going to compare any application with another
19 application.

20 Just for the record. Thank you very much.
21 No more comments about that.

22 You could continue asking questions about
23 this one.

24 MR. PRICE: Okay.

25 CHAIRMAN GARCIA: Thank you very much.

1 MR. PRICE: And I could go to court, too.

2 Okay? Is that what we want to do?

3 CHAIRMAN GARCIA: Mr. Price, slow down.

4 How many times did you go to court? Come
5 on, don't -- don't --

6 MR. PRICE: I've been there 60 times.

7 CHAIRMAN GARCIA: You're in court -- you're
8 in court everyday. You sue me. You sued
9 everybody. You sue --

10 I'm going to tell -- I'm going to tell you
11 about it.

12 MR. PRICE: Okay. So, --

13 CHAIRMAN GARCIA: You sue me again.

14 MR. PRICE: -- why don't we try and avoid
15 that?

16 CHAIRMAN GARCIA: Sue me again. Okay.

17 MR. PRICE: A reasonable approach --

18 CHAIRMAN GARCIA: Mr. Price?

19 MR. PRICE: -- here would be --

20 CHAIRMAN GARCIA: Mr. Price, this
21 application is this application. That
22 application was that application.

23 MR. PRICE: Okay.

24 CHAIRMAN GARCIA: I don't know --

25 MR. PRICE: Fine.

1 CHAIRMAN GARCIA: Okay. I don't want to
2 tolerate more question about another application.

3 MR. PRICE: Okay.

4 CHAIRMAN GARCIA: That's it. Period.

5 MR. PRICE: This app -- let's talk about
6 this application.

7 CHAIRMAN GARCIA: Talk about the
8 application.

9 MR. DIAZ: If I may, as you stated, Mr.
10 Price, the Board can require conditions, but only
11 on this application.

12 MS. GUTIERREZ: Application.

13 MR. DIAZ: The Board cannot use this
14 application in order to impose conditions on
15 another property. They cannot do that.

16 They can do on this property. They can
17 impose conditions on this property.

18 MR. IZQUIERDO: Not even the same
19 applicant.

20 MR. DIAZ: Let me clarify.

21 MR. IZQUIERDO: Not even the same
22 applicant, if I may add.

23 MR. PRICE: Well --

24 MR. IZQUIERDO: This is a limited liability
25 company.

1 MR. PRICE: Surely before --

2 MR. IZQUIERDO: This is not the same
3 applicant.

4 MR. DIAZ: Mr. Izquierdo, let's not get
5 into it.

6 I think I clarified that the conditions
7 that the Board, by law, can impose are on the
8 subject structure, on the subject application.
9 This one.

10 MR. PRICE: Okay. So we go to court.

11 A wonderful thing -- whatever, on this one
12 to make this presentation look better, would be
13 to abandon the approvals on the other, if they're
14 no longer needed.

15 CHAIRMAN GARCIA: I -- Mr. Price? Mr.
16 Price?

17 MR. PRICE: Otherwise, this --

18 CHAIRMAN GARCIA: Mr. Price, I cannot get
19 involved in another application.

20 MR. PRICE: You were involved in it.

21 CHAIRMAN GARCIA: That's nothing -- nothing
22 to -- this one is completely independent to
23 another application.

24 MR. PRICE: Okay.

25 CHAIRMAN GARCIA: Okay?

1 MR. PRICE: Then this one has to stand on
2 its own bottom, and it's a little lacking.
3 That's what I'm saying.

4 CHAIRMAN GARCIA: I'm -- you know what? If
5 you have that memory that you recall what
6 happened there, you know what? You asked me
7 about the previous application today, I forget
8 about that, because for me, every application is
9 stand by it -- by his own.

10 So, I don't know what happened that --

11 MR. PRICE: All right.

12 CHAIRMAN GARCIA: -- that there, everything
13 here, that we're talking right now, we're talking
14 about this one. I don't know about the other
15 one, Mr. Price.

16 You know me, Mr. Price. Better than my
17 wife, you know me. My wife never been in a
18 meeting here. My wife never been in a meeting
19 here, Mr. Price.

20 MR. PRICE: Kevin, scratch that one off the
21 record.

22 CHAIRMAN GARCIA: Okay.

23 MR. PRICE: Okay, you know where I'm coming
24 from.

25 CHAIRMAN GARCIA: You know where I'm going,

1 Mr. Price. You know what I mean? We don't stand
2 -- we don't -- we never get -- try to get
3 influenced by another application. That's --
4 that's my point.

5 So, we stand every application in -- by its
6 own.

7 MR. DIAZ: If I may, Mr. Garcia?

8 CHAIRMAN GARCIA: Yes.

9 MR. DIAZ: Dr. Roque is here. He would
10 like to be sworn in, so he can add some of his
11 knowledge to the -- to the presentation.

12 CHAIRMAN GARCIA: Just by the record -- for
13 the record, and we have new people here. Okay?
14 Mr. Roque here is Dr. Roque.

15 Whatever he is in another town, doesn't
16 matter. Okay? We're an independent Board, and
17 never going to be influenced by anybody, not even
18 by the Mayor of Union City.

19 Okay? Just for the record, and just for
20 the new people.

21 MR. DIAZ: And Mr. Roque is here --

22 CHAIRMAN GARCIA: Thank you very much.

23 MR. DIAZ: -- as an individual --

24 CHAIRMAN GARCIA: Thank you.

25 MR. DIAZ: -- as the owner of --

1 CHAIRMAN GARCIA: Thank you very much.

2 MR. DIAZ: -- of the property.

3 Mr. Roque, could you --

4 MR. DILLON: Please --

5 MR. DIAZ: -- give your name and --

6 DR. ROQUE: Good evening.

7 MR. DILLON: Please raise your right hand.

8 Do you swear the testimony that -- that
9 you're about to give this Board is the whole
10 truth?

11 DR. ROQUE: Yes, sir.

12 MR. DILLON: State your name and spell it
13 for the record.

14 DR. ROQUE: Dr. Felix E. Roque, R-O-Q-U-E.

15 MR. DILLON: Thank you.

16 MR. CARVAJAL: Just to be clear, he's now
17 speaking as the applicant.

18 Correct?

19 MR. DIAZ: As the applicant.

20 DR. ROQUE: As the applicant. Yes, sir.

21 MR. DIAZ: Correct.

22 MR. IZQUIERDO: As a member of the LLC.
23 Yes.

24 MR. DIAZ: He's a principal of the LLC,
25 that owns the --

1 MR. CARVAJAL: I just wanted to clarify.

2 MR. DIAZ: -- the real property.

3 MR. CARVAJAL: Because we're -- we had a
4 public session, which is now ended, and now the
5 applicant is going to testify.

6 MR. DIAZ: Correct.

7 MR. CARVAJAL: Correct? Okay.

8 DR. ROQUE: Well, first, let me state,
9 thank you for allowing me to speak.

10 And Mr. Price, I just, basically, I could
11 understand your hesitation, saying, your
12 questions are very -- very clear, because he
13 doesn't understand.

14 And ladies and gentlemen, when -- when you
15 go to a -- a doctor, or a specialist for surgery,
16 and that's what I do. I'm a specialist in pain
17 management. I do some things that are called
18 minimal invasive procedures. And there's other
19 procedures that require more of a -- a facility
20 type of environment, where you have general
21 anesthesia, then you have an anesthesiologist,
22 and you have the whole room. And you're about to
23 -- you know, do like spine surgery, which I also
24 do.

25 And that's where Mr. Price is correct.

1 In this kind of facility, I'll be doing
2 what they call minimal invasive procedures.

3 What does that entail? Well, I could do a
4 knee injection in one room, and then run to the
5 other room, and go for -- and do the other knee
6 injection on another patient, and it gives the
7 patient time to recuperate from the injection.
8 And you know, we take their blood pressure. We
9 have to take our time.

10 What is the purpose? What is my purpose of
11 building this kind of procedure?

12 I'm -- I deal with a lot of the poor people
13 that cannot afford to go to a hospital, and --
14 and pay for what they call a facility fee.

15 And if you go and see what a facility fee
16 entails, is a lot of money.

17 So, in this kind of facility, I do not
18 charge facility fee. And that is the difference.

19 And what Mr. Price is saying, in this -- in
20 my other project, yes. That is called -- it's
21 considered a surgical facility, where I could --
22 I could actually charge a facility fee.

23 And then, I'll be able to have an
24 anesthesiologist. You'll also be able to have
25 nurses taking care of the patient.

1 So, in -- in reality, what I'm doing here
2 is actually a better environment, so I could take
3 care of my patients in a safer manner, which is
4 what I'm doing.

5 Instead of going to a doctor, and he's
6 going to say, well, let me give you an injection
7 in your back. Bam. Guess what? It could --
8 something could happen.

9 If I have a facility like this, I have all
10 the -- you know, precautions. I got -- you know,
11 my CPR cart, I got my -- my medications that I
12 could resuscitate a patient.

13 But this is not general anesthesia. This
14 is just local anesthesia, that I'm going to be
15 using on my patients. So, it will provide a
16 better environment, a safer environment for my
17 patients.

18 In the future, God willing, I will be able
19 to build another location, where I could actually
20 do big operation.

21 And that's what the -- you know, the other
22 facility entailed.

23 But in this facility, I will not be able to
24 bill the insurances for a facility fee.
25 Basically what I'm doing now, I have an

1 opportunity to -- to help the community, which is
2 what I'm doing.

3 I give you an example. Today I had a
4 doctor -- I'm -- it's my day off, and he calls
5 me, I got severe leg pain.

6 So, I said come on over my office. And I
7 had to give him an injection.

8 And that's what this is all about. You
9 know, you help the patient and -- and that's
10 basically it.

11 And that's what I'm trying to do here, is
12 provide better service.

13 And as far as the parking, Mr. Izquierdo,
14 you explained it perfectly.

15 My -- most of my patients are seniors,
16 they're handicapped. I have an elevator. And we
17 provide transportation for free.

18 And that's basically it. So, Mr. Price --

19 MR. DIAZ: And Dr. Roque --

20 DR. ROQUE: Yes, sir?

21 MR. DIAZ: -- just to -- just to emphasize
22 what you were saying, giving better service, and
23 I would say at a lower cost than if the patient
24 had to go, let's say, to a hospital to have the
25 same procedure.

1 DR. ROQUE: I'm going to say the cost is
2 probably one fiftieth of what they charge.

3 Give you an example. I give you a knee
4 injection. Regular insurance pay 150. A hundred
5 fifty bucks.

6 You go do this in a hospital, you get a
7 hundred fifty bucks, plus a facility fee, which
8 is like \$2500.00.

9 I'm saving them a lot of money by doing
10 this. And then, in today's age and -- and you
11 know, the economy, the patients cannot afford to
12 be spending all this money.

13 And that's basically what I'm trying to do.
14 A better environment, a safer environment, and
15 better service. That's -- that's what this is
16 all about.

17 But you were right, Mr. Price. You needed
18 to know what the difference was from one location
19 to the other, and it's two distinct locations.

20 MR. PRICE: You -- you're still going to
21 have the other location.

22 DR. ROQUE: God willing, sir. Yes.

23 MR. PRICE: And --

24 DR. ROQUE: God willing. If I -- yeah.

25 MR. PRICE: There you can charge a facility

1 fee.

2 DR. ROQUE: Yes, sir. Absolutely.

3 So, I thank you and I apologize if I -- and
4 thank you very much --

5 MS. GUTIERREZ: Thank you.

6 CHAIRMAN GARCIA: Thank you.

7 DR. ROQUE: -- for your time.

8 MR. PRICE: Thank you.

9 MS. GUTIERREZ: Thank you.

10 DR. ROQUE: Thank you, sir.

11 MR. IZQUIERDO: The nature of the argument
12 --

13 MR. PRICE: That's right. He's not giving
14 it up.

15 MR. IZQUIERDO: Larry, the nature of the
16 argument is that one facility would obviate the
17 other. And essentially, if they're both
18 inherently beneficial uses, why would the City
19 suffer by having two medical facilities, when I
20 think that the closest medical facility to this
21 one is on Kennedy Center.

22 MR. PRICE: But -- but --

23 MR. IZQUIERDO: And that, just like the --

24 MR. PRICE: The Colonel's testimony is
25 basically that the one facility doesn't obviate

1 the other. They're --

2 MR. IZQUIERDO: No.

3 MR. PRICE: They have separate purposes.

4 MR. IZQUIERDO: They're both inherently
5 beneficial --

6 MR. PRICE: It's not --

7 MR. IZQUIERDO: -- uses.

8 MR. PRICE: -- trading --

9 MR. IZQUIERDO: So, the City would benefit.
10 It's just that the Board has the duty of looking
11 at any conditions that they would like to
12 minimize the impact of those four variances that
13 I mentioned.

14 The side yard, the lot coverage, the rear
15 yard, and the parking.

16 In my opinion, as a planner, the lot
17 coverage is the one that is most critical because
18 the parking -- there's plenty of parking around.
19 And this is not the sort of facility that we're
20 extending it in such a way that we have that
21 additional need.

22 The side yard is self-explanatory. The
23 rear yard, the sun is on our side. It's just lot
24 coverage.

25 MR. DIAZ: I have no more questions of the

1 witnesses.

2 CHAIRMAN GARCIA: How many is years this --
3 Dr. Roque's operating in that building? In the
4 facility?

5 MR. DIAZ: I'm going to answer that
6 question.

7 I believe he started about ten years ago.
8 Does that sound correct?

9 DR. ROQUE: Something like that. Yeah.

10 MR. DIAZ: Yeah. About ten years ago. We
11 were before this Board, I think it was in 2003,
12 with just --

13 CHAIRMAN GARCIA: No. I'm asking you
14 because I don't think that he could have ever
15 done this -- this application, after he being
16 approved.

17 MR. DIAZ: Excuse me?

18 CHAIRMAN GARCIA: He doesn't going to walk
19 away after we approve --

20 MR. DIAZ: No.

21 CHAIRMAN GARCIA: -- this application.

22 MR. DIAZ: No.

23 DR. ROQUE: I love Union City.

24 CHAIRMAN GARCIA: No. I mean, it's not
25 just because that was probably part of the

1 concern of Mr. Price.

2 I have a question for you, Mr. -- for the
3 architect.

4 We are having a lot of problem now with the
5 Building Department --

6 MR. PEREIRAS: Yes.

7 CHAIRMAN GARCIA: -- making me work really,
8 really hard.

9 MR. PEREIRAS: I am very well aware.

10 CHAIRMAN GARCIA: Believe it or not, two
11 o'clock in the morning, signing documents there.

12 MR. PEREIRAS: I believe it.

13 CHAIRMAN GARCIA: On Sunday.

14 MR. PEREIRAS: They call me at two a.m.,
15 too.

16 CHAIRMAN GARCIA: Okay.

17 MR. PEREIRAS: On a Sunday.

18 CHAIRMAN GARCIA: For this situation -- on
19 a Sunday, to take my flight, six o'clock in the
20 morning.

21 MR. PEREIRAS: Yeah. Um hum.

22 CHAIRMAN GARCIA: This one here, what it
23 is. This is what? Four story, three story?

24 MR. PEREIRAS: It's a three story
25 structure. The basement level is partially above

1 grade.

2 So, for purposes of this application, I
3 described as a three and a half story.

4 CHAIRMAN GARCIA: And that's the way that
5 have to be done in the -- in the transcript.

6 MR. PEREIRAS: I think you need --

7 CHAIRMAN GARCIA: In the -- in the
8 Resolution.

9 MR. PEREIRAS: -- to be clear in the
10 transcript that -- to say that this is a three
11 and a half story structure.

12 CHAIRMAN GARCIA: Tomorrow, when the --
13 when the Building Inspector go there, say, I'm
14 seeing there four story. I don't want -- I don't
15 want to give a CO for that.

16 MR. PEREIRAS: He can't, because the
17 basement --

18 CHAIRMAN GARCIA: No. I'm -- I'm trying to
19 avoid --

20 MR. PEREIRAS: Yeah.

21 CHAIRMAN GARCIA: -- you know, delay on the
22 CO.

23 MR. PEREIRAS: For clarification.

24 CHAIRMAN GARCIA: And you know what I mean?
25 Right. I'm trying to clarify, because we are

1 | having other issue with that.

2 | MR. PEREIRAS: And --

3 | CHAIRMAN GARCIA: Okay?

4 | MR. PEREIRAS: -- what we're doing,
5 | hopefully, and I -- and I think we're being
6 | consistent about this, is that you're going to
7 | sign these drawings at the end of today.

8 | So, I'm not adding anything. I'm not
9 | taking anything away.

10 | The drawings are self-explanatory. What
11 | you see there, that's what's approved, and that's
12 | going to be what the Building Department has to
13 | take.

14 | CHAIRMAN GARCIA: And for all of you that
15 | come here so often, you as an architect, too, I'm
16 | going to be asking that question. I'm going to
17 | be specific in this one for the -- for the
18 | transcript, because you are having hard time.
19 | We're having a hard time with the --

20 | MR. IZQUIERDO: In this --

21 | CHAIRMAN GARCIA: -- with the -- with the
22 | Building Department.

23 | MR. IZQUIERDO: In this specific situation,
24 | according to the Zoning Ordinance, the Zoning
25 | Ordinance agrees with the -- with the Building

1 Code. And it says that a basement shall be
2 counted as a story, if it's ceiling is four or
3 more feet above the average finished grade, as --
4 at its perimeter.

5 MR. PEREIRAS: Um hum.

6 MR. IZQUIERDO: Is the ceiling four or more
7 feet above the perimeter?

8 MR. PEREIRAS: It's not. That's why I
9 maintain to say that it's three and a half
10 stories.

11 CHAIRMAN GARCIA: Okay.

12 MR. DIAZ: And -- and Mr. Pereiras, the
13 existing structure, which I believe has to be at
14 least 70, 80 -- 80 years old.

15 Is that correct?

16 MR. PEREIRAS: Correct. At least.

17 MR. DIAZ: And is -- is the present three
18 stories, with the basement, which rises above the
19 -- the level.

20 Is that correct?

21 MR. PEREIRAS: Correct.

22 MR. DIAZ: That's --

23 MR. PEREIRAS: That's correct.

24 MR. DIAZ: That's preexisting from the
25 beginning of the construction of this structure,

1 back in those days.

2 MR. PEREIRAS: It's a preexisting
3 condition. And our floor plate maintains the
4 same. Those three levels are continuing back to
5 our addition. I think it's very clear.

6 CHAIRMAN GARCIA: Okay. I just want to be
7 clear.

8 Any other member of the public wants to
9 step forward?

10 Okay. Closed to the public.

11 MR. DIAZ: If I may summarize?

12 CHAIRMAN GARCIA: Okay.

13 MR. DIAZ: We have identified the public
14 interest of this application, that it promotes
15 the public good, and inherently, it is beneficial
16 to the community.

17 We have also identified the four variances,
18 which -- and the negative impact that they may
19 have on the -- on the neighborhood.

20 And we have suggested possible conditions
21 to mitigate those negative impacts.

22 If the Board wishes to impose conditions,
23 it is the right and we accept them, and we give
24 you the opportunity to impose them.

25 That would finish the presentation, and

1 pass it over to the Board.

2 CHAIRMAN GARCIA: Okay.

3 I think understanding that it's a -- it is
4 a service over there -- I mean, is a service
5 provided by the -- by the Dr. Roque, over for
6 more -- for over ten years, he's there and he's
7 trying to improve the services, I think is
8 something like one increment, any problem with
9 parking, any problem with -- with space, visual
10 impact or nothing.

11 I think that going to improve the service
12 to the -- the clients.

13 I don't see any reason why we cannot grant
14 it, so I make my motion to grant this
15 application, without any condition.

16 MS. GUTIERREZ: And I'm seconding.

17 THE SECRETARY: Motion to approve the
18 application by Chairman Andres Garcia.

19 Second by Margarita Gutierrez.

20 Roll call to approve this application.

21 Chairman Garcia?

22 CHAIRMAN GARCIA: Yes.

23 Fernandez?

24 THE SECRETARY: Victor Grullon?

25 MR. GRULLON: Yes.

1 THE SECRETARY: Margarita Gutierrez?
2 MS. GUTIERREZ: Yes.
3 THE SECRETARY: Miguel Ortiz?
4 MR. ORTIZ: Yes.
5 THE SECRETARY: Mr. David Pressey?
6 MR. PRESSEY: Yes.
7 THE SECRETARY: Harlenny Javier?
8 MS. JAVIER: Yes.
9 THE SECRETARY: Mr. Bonacci?
10 MR. BONACCI: Yes.
11 THE SECRETARY: Mrs. Flores? Abstain?
12 MS. FLORES: Yes.
13 THE SECRETARY: Mrs. Flores abstain.
14 Motion carries. Seven in favor.
15 MR. DIAZ: The vote is seven -- seven/zero?
16 Seven for approval?
17 THE SECRETARY: Seven -- seven/zero, sir.
18 * * *
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1 **ADJOURNMENT:**

2

3 THE SECRETARY: Okay. There being no other
4 application on tonight's agenda, can I have a
5 motion to close tonight's meeting?

6 MR. ORTIZ: Aye.

7 MS. GUTIERREZ: I make a motion.

8 THE SECRETARY: Motion by Miguel Ortiz.

9 MS. GUTIERREZ: Second it.

10 THE SECRETARY: Second by Margarita
11 Gutierrez.

12 All in favor, say aye.

13

14 (Whereupon, there was a chorus of ayes.)

15

16 THE SECRETARY: The ayes have it. Motion
17 carries.

18 Thank you. Have a good night, everybody.

19

20 (Whereupon, the proceedings were concluded
21 at 8:14 p.m.)

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25

1 STATE OF NEW JERSEY :

2 :

3 COUNTY OF ESSEX :

4

5 I, DEBRA A. KASZNIAK, assigned transcriber,
6 do hereby affirm that the foregoing is a true and
7 accurate transcript in the matter of the REGULAR
8 MEETING of the UNION CITY BOARD OF ADJUSTMENT
9 held on Thursday, February 19, 2015, and
10 digitally recorded.

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24 Monitored by: Kevin Dillon, Jr.

25 Proofread by: Deborah Dillon