

City Hall
3715 Palisade Avenue
Union City, New Jersey

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

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

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

CARLOS VALLEJO, Secretary to the Board

ULYSSES ISA, ESQ., Board Attorney

DAVID SPATZ, CONSULTANT

Community Housing and Planning Associates

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

MICHAEL HEITMANN, ESQ.,
Attorney for Applicant, RDK Royal Associates, LLC

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I N D E X

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4510 Brown Street

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1 THE SECRETARY: May I have your attention,
2 please?

3 We are going to call to order a Regular
4 Public Meeting of the Zoning Board of Adjustment
5 of the City of Union City.

6 This meeting has been called and -- and
7 scheduled for Thursday, May 14, at six p.m.

8 This is a meeting called in compliance with
9 Chapter 231, Public Law 1975, of the Open Public
10 Meeting Act.

11 Notice of this meeting has been provided
12 setting forth the time, date, and location of the
13 meeting.

14 Notice of the agenda, to the extent known,
15 was sent to The Jersey Journal, The Record, and
16 The Hudson Reporter, and was posted on our
17 bulletin board and keep on file in the Office of
18 the Municipal Clerk.

19 Before we call for tonight's meeting, roll
20 call, can we have a -- Mr. Chairman, a minute of
21 silence for --

22 CHAIRMAN GARCIA: I think that --

23 MR. ISA: Okay.

24 MS. GUTIERREZ: I thought that we --

25 MR. ISA: Okay. Go ahead, Mr. Chairman.

1 Okay. Go ahead.

2 Well, I think Mr. Chairman wanted to say
3 something.

4 CHAIRMAN GARCIA: Yeah. I think that it's
5 only a minute of silence. I think that we have
6 people -- not because it was the mother of Brian
7 Stack, I think that people who live in Union City
8 for over 30 years know, what represent Mrs. Stack
9 and also Mrs. -- Ed Stack represented before, I
10 think that when I received the notice -- the
11 news, there was -- I just was thinking about the
12 famous quote that say that it's not what -- don't
13 ask what the country is doing for you, what we're
14 doing for the country.

15 And I think that seeing a lady, at that
16 age, working, putting the garbage on the street,
17 and pushing for good improvement in the city, I
18 think is -- is a big loss, not only for -- for
19 the Mayor and for -- and for Ed, I think is a
20 big, big loss for the whole Union City.

21 And I think that it is -- the least that we
22 could do is minute of silence on her memory --
23 you know, to stand and --

24

25

1 (Whereupon, there was a moment of silence
2 in memory of Margaret Stack.)

3

4 CHAIRMAN GARCIA: Thank you.

5 THE SECRETARY: Thank you, Mr. Chairman.

6 Before we call roll for this evening, will
7 everybody kindly rise to salute the flag?

8

9 (Whereupon, the Pledge of Allegiance was
10 said by all.)

11

12 **ROLL CALL:**

13

14 THE SECRETARY: Roll call for tonight's
15 meeting.

16 Chairman Andres Garcia?

17 CHAIRMAN GARCIA: Present.

18 THE SECRETARY: Victor Grullon?

19 MR. GRULLON: Present.

20 THE SECRETARY: Margarita Gutierrez?

21 MS. GUTIERREZ: Present.

22 THE SECRETARY: Miguel Ortiz? Absent.

23 Mr. Pressey, David? Absent.

24 Harlenny Javier?

25 MS. JAVIER: Present.

1 THE SECRETARY: Present.

2 Khaled Dardir?

3 MR. DARDIR: Present.

4 THE SECRETARY: John Medina? Absent.

5 Joseph Bonacci?

6 MR. BONACCI: Present.

7 THE SECRETARY: Elisa Flores? Absent.

8 Let the record indicate there are six
9 present. So, we have a Board made up of six --
10 six members.

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1 **RESOLUTIONS:**

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3 (1) Rosario Management, LLC - 2709-2715 Central
4 Avenue, Block 155, Lot 18. Proposed convert an
5 existing mixed use group to a multi-family
6 apartment building. Approved

7 (2) 408 37th Street, LLC - 408 37th Street -
8 Block 220, Lot 10. Proposed rear addition.
9 Approved

10

11 THE SECRETARY: On tonight's agenda, we
12 have two Resolutions.

13 First Resolution is Rosario Management,
14 LLC, 2709-2715 Central Avenue.

15 Second Resolution, 408 37th Street, LLC,
16 408 37th Street.

17 Can I have a motion to approve the
18 Resolution?

19 CHAIRMAN GARCIA: Aye.

20 THE SECRETARY: Motion by Chairman Andres
21 Garcia.

22 Second by?

23 Second by Victor Grullon.

24 Roll call to approve the Resolutions.

25 Chairman Garcia?

1 CHAIRMAN GARCIA: Yes.

2 THE SECRETARY: Victor Grullon?

3 MR. GRULLON: Yes.

4 THE SECRETARY: Margarita Gutierrez?

5 MS. GUTIERREZ: No, I abstain because I
6 wasn't here.

7 THE SECRETARY: Harlenny Javier?

8 MS. JAVIER: Abstain.

9 THE SECRETARY: Khaled Dardir?

10 MR. DARDIR: Yes.

11 THE SECRETARY: Joseph Bonacci?

12 MR. BONACCI: Yes.

13 THE SECRETARY: Motion carries. Four in
14 favor, two abstain.

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

3
4 THE SECRETARY: The first application on
5 tonight's agenda is Bhado Bhado Development, LLC,
6 1705 Palisade Avenue.

7 MR. ISA: Yes, Mr. Secretary, Mr. Chairman,
8 members of the Board, we received -- actually,
9 the Secretary of the Board received an email from
10 the attorneys for Bhado and Bhado, that's the
11 office of Alonso Navarette, where they requested
12 the matter be adjourned to the June 11, 2015
13 meeting. So, that's why they're not present
14 today.

15 So, if there's a motion to adjourn this
16 matter to June 11, 2015, we can -- we can --

17 CHAIRMAN GARCIA: Is there any particular
18 reason? Didn't mention, no?

19 MR. ISA: Well, they -- you know, their
20 letter just says this office represents Bhado
21 Bhado, in the above referenced matter, currently
22 scheduled -- the letter respectfully requests as
23 a formal request for an adjournment.

24 They don't give us any specific reason.
25 They're just --

1 My understanding, from conversations that
2 they had -- you know, they -- they had some
3 scheduling issues. But I'm not -- I'm not
4 certain.

5 CHAIRMAN GARCIA: Okay.

6 MR. ISA: So, is there a motion to -- to
7 adjourn --

8 CHAIRMAN GARCIA: Aye.

9 THE SECRETARY: Motion by Chairman Andres
10 --

11 MS. GUTIERREZ: Second.

12 THE SECRETARY: -- Garcia.

13 Second by Margarita Gutierrez.

14 Roll call to adjourn this application.

15 Chairman Garcia?

16 CHAIRMAN GARCIA: Yes.

17 THE SECRETARY: Victor Grullon?

18 MR. GRULLON: Yes.

19 THE SECRETARY: Margarita Gutierrez?

20 MS. GUTIERREZ: Yes.

21 THE SECRETARY: Harlenny Javier?

22 MS. JAVIER: Yes.

23 THE SECRETARY: Khaled Dardir?

24 MR. DARDIR: Do I abstain for this one,
25 too, as well, or --

1 MR. ISA: Yeah.

2 THE SECRETARY: You want to recuse?

3 MR. DARDIR: Well, do I abstain from this
4 one, since I live across the street?

5 THE SECRETARY: Okay.

6 MR. ISA: Then yes. Yes.

7 You should abstain.

8 MR. DARDIR: Yeah. Abstain.

9 THE SECRETARY: Okay. So Mr. Dardir
10 abstain.

11 Joseph Bonacci?

12 MR. BONACCI: Yes.

13 THE SECRETARY: Motion carries. Five in
14 favor, one abstain. Next meeting is June 11 for
15 this application.

16 MS. DILLON: Notice. Notice.

17 MR. ISA: No new notices will be necessary.

18 THE SECRETARY: No notice -- notice
19 required.

20 * * *

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1 **RDK Royal Associates, LLC - 4510 Brown Street:**

2

3 THE SECRETARY: Next application on
4 tonight's agenda, RDK Royal Associating (sic),
5 LLC, 4510 Brown Street.

6 Mr. Heitmann?

7 MR. HEITMANN: Good evening, everybody.

8 CHARIMAN GARCIA: Good evening.

9 MR. ISA: Good evening.

10 MS. DILLON: If you could just step
11 forward? That's the microphone right there.

12 MR. ISA: Did we receive the notices and
13 stuff?

14 THE SECRETARY: Yes.

15 MR. HEITMANN: My client is applying for a
16 use variance and several other variances on a
17 exist -- existing uses.

18 My client is RDK Royal Associates. The
19 property is 4510 Brown Avenue, Union City, New
20 Jersey.

21 It's an existing three family.

22 MR. ISA: If I -- if I may?

23 MR. HEITMANN: Sure.

24 MR. ISA: The Secretary has provided me
25 with copies of the documents that were provided

1 to -- to him in advance, dealing with
2 jurisdiction.

3 Everything appears to be in order, so the
4 Board would have jurisdiction to proceed.

5 MR. HEITMANN: Okay. Do you need original
6 --

7 MR. ISA: If you -- if you have them, that
8 would be --

9 MR. HEITMANN: I have some original
10 Affidavits of Service that I'd like to present.

11 MR. ISA: That -- that'd be great, because
12 I just have a copy here.

13 Thank you.

14 MR. HEITMANN: Sure. Do you also need any
15 -- any of the green cards I got back, or is --
16 we're sufficient.

17 MR. ISA: Yeah. I mean, you'll -- I'm sure
18 you'll be getting them back for awhile, so you
19 can -- you can --

20 MR. HEITMANN: I will.

21 MR. ISA: -- submit them, but as -- you
22 know, when you get more --

23 MR. HEITMANN: Send them in when I have
24 them all?

25 Okay.

1 MR. ISA: Sure.

2 MR. HEITMANN: Thank you.

3 MR. ISA: That's fine.

4 Thank you.

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

7 CHAIRMAN GARCIA: You can continue.

8 MR. HEITMANN: Okay. I have two witnesses
9 tonight. My first witness is Mr. Gilchrist. He
10 is the architect.

11 If I could bring him up now, to go through
12 the plan?

13 MS. DILLON: Hi.

14 Do you have a card?

15 MR. GILCHRIST: I do.

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

18 MS. DILLON: Sir, please raise your right
19 hand.

20 Do you affirm the testimony you're about to
21 give this Board is the whole truth?

22 MR. GILCHRIST: Yes, I do.

23 MS. DILLON: Please state your name and
24 spell it for the record.

25 MR. GILCHRIST: John Gilchrist,

1 G-I-L-C-H-R-I-S-T.

2 MS. DILLON: Thank you.

3 MR. HEITMANN: Okay. Mr. Gilchrist, what
4 is your occupation?

5 MR. GILCHRIST: I'm an architect.

6 MR. HEITMANN: Okay. And where are you
7 employed?

8 MR. GILCHRIST: I -- I work for myself in
9 Montvale.

10 MR. HEITMANN: Okay. Are -- and are you
11 licensed?

12 MR. GILCHRIST: Licensed in the State of
13 New Jersey, yes.

14 MR. HEITMANN: Okay.

15 MR. GILCHRIST: Licensed architect,
16 licensed engineer.

17 MR. HEITMANN: And can you give us a brief
18 synopsis of your educational background?

19 MR. GILCHRIST: I have a bachelor of
20 science degree from University of Virginia, and
21 I've been licensed in New Jersey since mid-'80s,
22 working for myself in Montvale for the last 21
23 years.

24 MR. HEITMANN: And have you prepared
25 similar plans before?

1 MR. GILCHRIST: Yes, I have.

2 MR. HEITMANN: Have you testified before
3 the -- before boards before?

4 MR. GILCHRIST: Yes, I have.

5 MR. HEITMANN: Okay. I'd like to move to
6 have Mr. Gilchrist seen as an -- excuse me -- as
7 a -- as an expert.

8 CHAIRMAN GARCIA: Yes. I don't -- I don't
9 recall that you ask, did you -- this is the first
10 time in front of the Board, or you been --

11 MR. GILCHRIST: No, no. Many times before.

12 CHAIRMAN GARCIA: Yes. Pleasure to accept
13 your qualification.

14 MR. GILCHRIST: Thank you.

15 CHAIRMAN GARCIA: You're welcome.

16 MR. HEITMANN: Okay. Are you familiar with
17 our mutual client, Mr. Gilchrist?

18 MR. GILCHRIST: Yes, I am.

19 MR. HEITMANN: Okay. Is it RDK Associates?

20 MR. GILCHRIST: Yes.

21 MR. HEITMANN: And did RDK Associates ask
22 you to prepare plans for this evening?

23 MR. GILCHRIST: Yes, he did.

24 MR. HEITMANN: Okay. And what are the date
25 of those plans?

1 MR. GILCHRIST: February 25th of 2015.

2 MR. HEITMANN: Are there any revision
3 dates?

4 MR. GILCHRIST: That's the revision --
5 that's the latest date.

6 MR. HEITMANN: That's the latest revision
7 date.

8 And is this the plan --

9 MR. GILCHRIST: Yes.

10 MR. HEITMANN: -- that you have on the
11 tripod?

12 MR. GILCHRIST: This is the plan.

13 MR. HEITMANN: And I would ask to have the
14 plans submitted as evidence at this time.

15 Does everybody have a copy?

16 MR. BONACCI: Yup.

17 CHAIRMAN GARCIA: So, October the 2nd, '14?

18 MR. GILCHRIST: Mine says February 25th.

19 CHAIRMAN GARCIA: Okay. Okay.

20 MR. GILCHRIST: Yeah. October the 9th was
21 a -- an earlier --

22 CHAIRMAN GARCIA: The original one.

23 MS. GUTIERREZ: Oh, okay.

24 CHAIRMAN GARCIA: Perfect.

25 MR. HEITMANN: Mr. Gilchrist, can you tell

1 | us what the nature of the -- of RDK's application
2 | is?

3 | MR. GILCHRIST: Yes. It's an existing
4 | three story, three family building. And we have
5 | a basement that's currently vacant, and the
6 | application is to use the base -- to transform
7 | the basement into a legal one bedroom apartment.

8 | MR. HEITMANN: And so, what kind of
9 | variances are required?

10 | MR. GILCHRIST: It is a -- and I forget --
11 | two family zone? Three family --

12 | MR. HEITMANN: Two to three. Yeah.

13 | MR. GILCHRIST: It's -- it's two to three
14 | family zone. So, the -- the primary variance is
15 | that.

16 | MR. HEITMANN: Is the use variance.

17 | MR. GILCHRIST: Would be a use for a fourth
18 | family in the zone.

19 | MR. HEITMANN: Will -- will the unit be --
20 | will be constructed, do you anticipate that that
21 | will meet all the building codes?

22 | MR. GILCHRIST: Yes. The -- the primary
23 | building code is to have safe egress from the
24 | bedroom.

25 | Currently, there's actually three ways out

1 of the basement. There's a stair, an internal
2 stair; there's a back door out to the back yard;
3 there's a side door to a -- a side alley.

4 So, there's three ways out of the basement.
5 So, it will -- it will be safe.

6 MR. HEITMANN: Great.

7 Are there any other variances that are
8 existing? Uses that are -- sorry -- any -- any
9 variances that you have listed there that are
10 existing?

11 MR. GILCHRIST: I don't have any listed.
12 Everything else -- basically, we're not changing
13 anything exterior. So, the site stays exactly as
14 it is. The front yard, the back yard, the
15 coverage. Everything stays exactly as they are.

16 There are existing nonconformities. We
17 need a ten foot front yard. We only have 5.3.

18 That's -- that's the --

19 MR. HEITMANN: Side yard?

20 MR. GILCHRIST: -- rear yard. I'm sorry.
21 We -- we -- we're good. It's basically the side
22 yards.

23 MR. HEITMANN: Side yards, front yard.

24 MR. GILCHRIST: Front yard. I'm sorry.

25 MR. HEITMANN: Okay.

1 MR. GILCHRIST: Yeah. We have -- our side
2 yards are zero. Required two and five. We're
3 built right out to the property lines.

4 MR. HEITMANN: And those are existing.
5 We're not looking to change that.

6 MR. GILCHRIST: That's existing conditions.

7 MR. HEITMANN: Correct?

8 MR. GILCHRIST: Yes.

9 MR. HEITMANN: Okay. Does the Board have
10 any questions for Mr. Gilchrist?

11 CHAIRMAN GARCIA: So, basically the
12 application is for three to four?

13 MR. HEITMANN: Correct.

14 CHAIRMAN GARCIA: And basically, are you --
15 are you planning to do -- to do any -- any
16 changes inside, or going to just -- doesn't going
17 to do any structure change, anything? You don't
18 want to build anything? Going to stay the same
19 or --

20 MR. GILCHRIST: There's -- there's -- it
21 will be refit. There is -- we're creating a
22 laundry room for the building.

23 This -- this new bedroom is to be
24 constructed. The boiler room is -- boiler that
25 exists. We'll put a wall around it. New

1 bathroom.

2 So, yes. There's construction on the -- in
3 the basement.

4 CHAIRMAN GARCIA: But internal?

5 MR. GILCHRIST: All internal.

6 CHAIRMAN GARCIA: Nothing in the --

7 MR. GILCHRIST: Nothing outside.

8 CHAIRMAN GARCIA: All internal.

9 And -- and actually, what is existing? It
10 is occupied right now, or it is -- is empty?

11 MR. GILCHRIST: It's empty.

12 CHAIRMAN GARCIA: And is your client here,
13 or no?

14 MR. HEITMANN: He is.

15 CHAIRMAN GARCIA: Can I -- can I -- can the
16 client come up front?

17 MR. HEITMANN: Sure.

18 Mr. Passante, please? Come up.

19 Right here.

20 MS. DILLON: Sir, please raise your right
21 hand.

22 Do you affirm the testimony you're about to
23 give this Board is the whole truth?

24 MR. PASSANTE: Yes.

25 MS. DILLON: Please state your name and

1 spell it for me.

2 MR. PASSANTE: It's Ralph S. Passante, Sr.

3 MS. DILLON: Spell your last name.

4 MR. PASSANTE: P, like in Peter,

5 A-S-S-A-N-T-E.

6 MS. DILLON: And the first name's Ralph?

7 MR. PASSANTE: Correct.

8 MS. DILLON: Thank you, sir.

9 MR. PASSANTE: And senior.

10 MS. DILLON: If you could stay by that
11 microphone for me? Right in front of you.

12 MR. PASSANTE: Stay here.

13 MS. DILLON: Okay. Thank you.

14 MR. PASSANTE: Sure.

15 CHAIRMAN GARCIA: Before I start to ask you
16 question, Mr. Isa --

17 MR. ISA: Yes?

18 CHAIRMAN GARCIA: -- the client is -- it's
19 an entity, not an individual.

20 MR. ISA: And --

21 CHAIRMAN GARCIA: So, he going to talk --

22 MR. ISA: You are --

23 CHAIRMAN GARCIA: -- a presentation of --
24 of that entity.

25 MR. ISA: You're --

1 CHAIRMAN GARCIA: Right?

2 MR. ISA: -- a member of the entity, or you

3 --

4 CHAIRMAN GARCIA: Because RDK is an entity.

5 Right?

6 MR. PASSANTE: Correct.

7 MR. HEITMANN: Yes.

8 MR. PASSANTE: It's an LLC.

9 MR. HEITMANN: It's an LLC.

10 CHAIRMAN GARCIA: It's an LC.

11 MR. HEITMANN: There would be one or more
12 members.

13 Mr. Passante, are you a member of RDK Royal
14 Associates?

15 MR. PASSANTE: Yes, I am. I'm the
16 President, but there's three owners.

17 MR. ISA: And you're authorized to speak on
18 behalf of --

19 MR. PASSANTE: My sons and I.

20 CHAIRMAN GARCIA: Okay. Perfect.

21 My question is, to the client, is which one
22 is the existing condition of -- of that apartment
23 right now?

24 MR. PASSANTE: What is the condition?

25 CHAIRMAN GARCIA: That -- it's -- yeah. It

1 is rented, is empty, is vacant?

2 MR. PASSANTE: Nothing. There's no one in.
3 We renovated all three floors. Redid the whole
4 -- the whole building, and now we're going to do
5 -- we want to do some work, clean up the outside,
6 as well.

7 CHAIRMAN GARCIA: Okay. But prior to that,
8 it used to -- there was --

9 MR. PASSANTE: There was -- it was prior to
10 that, a friend of mine, actually, owned it and
11 his aunt died. And -- and they had to sell it.
12 She didn't die. She's in a nursing home.

13 CHAIRMAN GARCIA: Okay.

14 MR. PASSANTE: Then, they sold it.

15 CHAIRMAN GARCIA: But basically you --

16 MR. PASSANTE: And she used to live there.

17 CHAIRMAN GARCIA: -- you bought it with the
18 -- with the four units.

19 MR. PASSANTE: I bought it the way with the
20 three units and the basement. Correct.

21 CHAIRMAN GARCIA: And the basement was --

22 My question is, is it -- is it --

23 MR. HEITMANN: Was the basement storage?

24 Was it -- was it used --

25 CHAIRMAN GARCIA: Was it storage? Was

1 empty?

2 MR. PASSANTE: Well, they had it --

3 CHAIRMAN GARCIA: What -- it used to be an
4 apartment, and then you --

5 MR. PASSANTE: It was fixed at some point.
6 Yes. It was -- they had some fixing that was in
7 there.

8 CHAIRMAN GARCIA: Was in there. Okay.

9 And -- and the building is completely empty
10 right now?

11 MR. PASSANTE: Correct.

12 CHAIRMAN GARCIA: Correct.

13 When -- when RDK acquired this -- this --

14 MR. BONACCI: Property.

15 CHAIRMAN GARCIA: -- this property?

16 MR. HEITMANN: I -- if Mr. Passante doesn't
17 know, I have the deed in my file.

18 MR. PASSANTE: I -- I believe it was
19 acquired approximately year and a half ago.

20 CHAIRMAN GARCIA: Year and a half ago, with
21 that condition. Okay.

22 And -- and you basically bought it as -- as
23 a four unit, not as a three unit.

24 MR. PASSANTE: Correct.

25 CHAIRMAN GARCIA: Okay. Okay. I have no

1 further question for the client.

2 MR. HEITMANN: Thank you.

3 MS. GUTIERREZ: Thank you.

4 CHAIRMAN GARCIA: Thank you very much.

5 To the architect, the -- can you go through
6 the size of the unit?

7 Basically, the one that you are asking for
8 -- for the legalize, and I'm understanding is the
9 basement.

10 MR. GILCHRIST: The floor is 1,174 square
11 feet. The floor above it, which I put first
12 floor plan, just as an example, again, 1,174
13 square feet. The -- the two floors above it are
14 -- are the same.

15 The actual living area of the apartment
16 will be somewhat smaller, because we have a -- a
17 laundry and the boiler room. But generally, in
18 the thousand square foot range.

19 CHAIRMAN GARCIA: Okay.

20 I understand that it is not our problem --
21 we don't enforce this. I know that the Building
22 Department enforce that.

23 However, I'm not seeing any plans, any kind
24 of sprinkle system, or whatever. Are you -- did
25 you install all the sprinkle system, or they --

1 | they didn't install sprinkle?

2 | MR. GILCHRIST: No. We'll deal with that
3 | as part of the building permit process.

4 | CHAIRMAN GARCIA: Okay. Any other
5 | question?

6 | MR. GRULLON: Could you -- you say that
7 | everything is going to comply by Code.

8 | MR. GILCHRIST: Yes.

9 | MR. GRULLON: Could you tell me the height
10 | of the ceiling, of the basement?

11 | MR. GILCHRIST: I don't remember. It's --
12 | it's in excess of seven feet.

13 | MR. GRULLON: Yeah. It's over seven feet?

14 | MR. GILCHRIST: About seven and a half.

15 | A VOICE: Seven and a half feet.

16 | MR. GRULLON: And -- and the windows, are
17 | you proposing that they're going to be Code
18 | compliant?

19 | MR. GILCHRIST: The -- the Code compliant
20 | window is to get egress from a bedroom, emergency
21 | egress from a bedroom. We're going to give them
22 | a door, which is better.

23 | MR. GRULLON: Okay.

24 | MR. GILCHRIST: Yes, sir?

25 | MR. GRULLON: And -- and your client

1 mentioned that you're going to do some cleanup on
2 the façade of the building?

3 MR. HEITMANN: I think he said he already
4 did.

5 MR. GRULLON: Oh. He did.

6 MR. HEITMANN: He did -- he did some work.

7 Was it -- was it already done? You were
8 going to cleanup the -- the façade of the
9 building, Mr. Passante?

10 MR. PASSANTE: The outside?

11 MS. DILLON: He can't answer --

12 MR. HEITMANN: Yeah.

13 MS. DILLON: -- from there.

14 MR. PASSANTE: Work still has to be done on
15 --

16 MS. DILLON: Sir, you've got to come
17 forward.

18 MR. GRULLON: Yeah. I'd like you --

19 MR. HEITMANN: I'll allow my client to
20 answer that --

21 MR. GRULLON: If --

22 MR. HEITMANN: -- question, if you could
23 just repeat the question --

24 MR. GRULLON: Sure.

25 MR. HEITMANN: -- for the court reporter?

1 MR. GRULLON: My question was if you're
2 going to do any work on the exterior of the
3 building, like the façade of the building?

4 MR. PASSANTE: Yes. We want to -- we want
5 to clean it up nicer than what it is. It needs
6 some repairs. The door in the front, we have to
7 point some of the joints on the cement, and --
8 and fix it up much nicer than what it is, quite
9 frankly. It needs some work.

10 MR. GRULLON: Okay.

11 MR. PASSANTE: But that's all in our plan
12 to do it.

13 MR. GRULLON: All right. Thank you.

14 MR. GILCHRIST: Yes, sir?

15 MR. BONACCI: So, this new door that you
16 guys are --

17 MR. GILCHRIST: Yes.

18 MR. BONACCI: -- putting in, before that
19 door -- so like, what's there now? Has -- has --

20 MR. GILCHRIST: There's a door there.

21 MR. BONACCI: There's a door there now?

22 MR. GILCHRIST: Yeah. We're going to put a
23 door with a window.

24 MR. BONACCI: Okay.

25 MR. GILCHRIST: Get some light in the room.

1 MR. BONACCI: So, in and out, how does that
2 work, to get down to that basement currently?

3 MR. GILCHRIST: There's an internal stair.

4 MR. BONACCI: Okay.

5 MR. GILCHRIST: From the front door, front
6 door here, you would go down the stair. Or out
7 this door, there's some stairs up in the alley.
8 And then, as I said, the door at the back.

9 MR. BONACCI: Okay.

10 MR. GILCHRIST: To the backyard.

11 MR. BONACCI: So, there's going to be two
12 doors to that basement.

13 MR. GILCHRIST: There's -- there's three
14 ways out. Yeah.

15 MR. GRULLON: Three doors. Yeah.

16 MR. BONACCI: Okay. Three. Perfect.

17 CHAIRMAN GARCIA: Mr. Spatz, I have a
18 question for you.

19 MR. SPATZ: Yes?

20 CHAIRMAN GARCIA: This is the R zone.
21 Right?

22 MR. SPATZ: Yes.

23 CHAIRMAN GARCIA: And R zone is three -- is
24 three families permitted. Right?

25 MR. SPATZ: Right. One family, two family,

1 and three family. Correct.

2 CHAIRMAN GARCIA: And three family.

3 Okay. The -- I don't know. Did you have a
4 chance to visit the area? I mean, how is the --
5 I'm seeing that next to that is a one -- probably
6 six family.

7 On the other side, you have another, what,
8 is it two family house or three family house?

9 MR. HEITMANN: Mr. Chairman, I actually
10 have a planner here that can probably answer
11 those questions --

12 CHAIRMAN GARCIA: Oh, okay.

13 MR. HEITMANN: -- better than the
14 architect.

15 CHAIRMAN GARCIA: Perfect. Okay. Perfect.

16 MR. HEITMANN: She's coming up next.

17 CHAIRMAN GARCIA: Yeah. Okay. Okay.

18 MR. HEITMANN: If you'd like to bring her
19 up?

20 CHAIRMAN GARCIA: Thank you very much.

21 MR. HEITMANN: You're welcome.

22 Any other -- any -- anybody have any
23 questions for him?

24 CHAIRMAN GARCIA: No further question. Not
25 for now, but yes.

1 MR. HEITMANN: Okay.

2 MR. BONACCI: Thank you.

3 CHAIRMAN GARCIA: And the practice we have
4 is that we open to the public later on, for both,
5 for the -- for any expert.

6 MR. HEITMANN: Thank you.

7 Okay. At this time, I'd like to call
8 Brigitte Bogart.

9 MS. DILLON: Hi.

10 Do you have a card?

11 MS. BOGART: Yes.

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

14 MS. DILLON: Please raise your right hand.

15 Do you affirm the testimony you're about to
16 give this Board is the whole truth?

17 MS. BOGART: I do.

18 MS. DILLON: Please state your name and
19 spell it for me.

20 MS. BOGART: It's Brigitte Bogart,
21 B-R-I-G-E-T-T-E, and the last name is Bogart,
22 B-O-G-A-R-T.

23 MS. DILLON: Thank you.

24 MR. HEITMANN: Okay. Ms. Bogart, what is
25 your occupation?

1 MS. BOGART: I'm a professional planner in
2 the State of New Jersey.

3 MR. HEITMANN: Okay. And where are you
4 employed?

5 MS. BOGART: I am self-employed.

6 MR. HEITMANN: Okay. How long have you
7 been self-employed?

8 MS. BOGART: It will be three years next
9 week. Prior to that, I was partners with Burgis
10 Associates, which is a planning firm in Bergen
11 County. I'm also in Bergen County. So, May 20th
12 or so, three years ago, I started my own.

13 MR. HEITMANN: Okay. And is there -- are
14 you licensed?

15 MS. BOGART: I'm a licensed planner in the
16 State of New Jersey. I also have recognition by
17 the American Institute of Certified Planners,
18 national recognition. And I'm also a certified
19 grant writer.

20 MR. HEITMANN: Okay. And give us a brief
21 educational background?

22 MS. BOGART: Sure.

23 I have a bachelors in environmental design
24 and architecture from North Carolina State
25 University.

1 I have a masters in city and regional
2 planning from the University of Pennsylvania.

3 As I mentioned, I'd been working in the
4 State of New Jersey since, I think, 2001.

5 Currently, on my own, representing four
6 municipalities and also, the other half of my
7 business is representing private clients.

8 MR. HEITMANN: Okay. At this time, I'd
9 like to move to have Ms. Bogart qualified as an
10 expert.

11 CHAIRMAN GARCIA: Yes. Our pleasure to
12 accept your qualification.

13 MS. BOGART: Thank you.

14 MR. HEITMANN: Ms. Bogart, were you asked
15 by our client to prepare a report?

16 MS. BOGART: I was. I prepared a report.
17 Basically, it's the outline for my testimony. It
18 describes all my research I had prepared. And
19 what I'd like to do is just briefly run through
20 the report. Obviously, not read it page for
21 page, but just give you an idea of what my
22 analysis is. And this just provides some
23 additional information for the Board.

24 MR. HEITMANN: Would everybody on the Board
25 like a copy of the report?

1 CHAIRMAN GARCIA: Yes, please.

2 MS. GUTIERREZ: Yes, please.

3 MR. ISA: We should mark that into
4 evidence.

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

7 (Whereupon, Planning Report Prepared by
8 Brigitte Bogart dated 5/14/15 was received and
9 marked as Exhibit A-1.)

10 MS. BOGART: So, the report is dated with
11 today's date. It is an eight page analysis of
12 our site, the City's Master Plan, the Zoning
13 Ordinance, the variances we're requesting, and
14 obviously, the statutory criteria.

15 As you heard from our architect, he's
16 basically addressed the property description.
17 What I'd like to talk about is the surrounding
18 development pattern, because I think that's
19 important from a planning perspective.

20 If you look at your own Master Plan,
21 starting on page 1 of the report, I have taken a
22 clip of the map in your Master Plan, and looked
23 at the surrounding uses.

24 So, you'll see the map identifies the uses
25 as identified in your Master Plan, but when you

1 | actually go out to the neighborhood, it's
2 | slightly different than what the mapping is in
3 | the Master Plan.

4 | I'm starting on the south side of 45th
5 | Street. There are several industrial uses.
6 | There's also a vacant lot.

7 | And then, as you move north towards the
8 | site, we have two -- one multi-family building,
9 | and an apartment building, or mixed use building
10 | fronting on 45th Street. And then, you move into
11 | Brown Street.

12 | I should note that the Master Plan
13 | indicates a single family home immediately
14 | adjacent to the site. That's not the case.

15 | As you move on to pages 2 and 3 of the
16 | report, I provided a photographic inventory,
17 | identifying the lot and block, and also the
18 | number of units that currently exist, as I saw it
19 | when I went out to the neighborhood, just looking
20 | at meters, doorbells, and just trying to get a
21 | reach feel for the character of the neighborhood.

22 | As you'll see from the chart on pages 2 and
23 | 3, the neighborhood is really a mix of four and
24 | five family units. And then, you have those two
25 | apartment buildings.

1 So, you'll see the first one on the chart
2 is our -- our building. As you heard, our client
3 said that it was a three or four dwelling unit
4 building.

5 And then, you move on. Immediately
6 adjacent, we actually have six dwelling units in
7 that building.

8 The corner apartment buildings, there's 20
9 dwelling units.

10 The one across the street, we're not really
11 sure. I wasn't able to identify how many units,
12 but that's the mixed use building across the
13 street.

14 Then, you have a couple of two and three
15 family dwelling units up and down Brown Street,
16 to the north of the property.

17 But then, also -- but across the street,
18 you have a building of five units, and also eight
19 dwelling units.

20 So, you can see, from a planning
21 perspective, the difference between three and
22 four units really does not make a substantial
23 difference in this neighborhood. I think that is
24 consistent with the surrounding development
25 pattern.

1 As you can see, it is very varied, from
2 industrial uses to large multi-family apartment
3 buildings. And then, all the way down to the two
4 story dwelling units.

5 So, I think, from a planning perspective,
6 what we are proposing is consistent with that
7 neighborhood and consistent with a lot of your
8 Master Plan goals.

9 As I mentioned to you, this report includes
10 a lot of information on your City Master Plan.
11 And I think that's important when you're
12 evaluating any variance situation.

13 And you'll see, on page 4, I delineate some
14 of the goals and objectives of your Master Plan.
15 And I believe that we further those goals.

16 For example, we're providing a broad array
17 of housing choices. We are promoting and
18 reinforcing an attractive environment.

19 As you heard from our client and architect,
20 we're rehabbing the unit. The one thing you
21 haven't heard is that the new unit is going to be
22 utilized for an on-site supervisor. So, they're
23 going to be there to take care of any maintenance
24 issues on the property, to ensure that it is
25 continually maintained.

1 So, from those perspectives, I think that
2 we further the Master Plan.

3 The one other thing that I would note in
4 the Master Plan, is that -- there's a typo in the
5 report, but immediately to the east of the
6 property, there's an area identified for
7 redevelopment for higher density, mixed use
8 development, sort of a takeoff with the Weehawken
9 development.

10 And I think that by allowing for one
11 additional dwelling unit in our property, that
12 actually furthers this concept of providing
13 additional density to the east, because
14 additional residents will populate and actually
15 attend retail uses that are proposed to the east
16 of the site.

17 So, I think, in that perspective, again, we
18 are consistent in furthering the goals of the
19 Master Plan.

20 The architect went through the variances.
21 Really, what we're looking for is a D-1 variance
22 for the additional dwelling unit.

23 We, obviously, need a parking variance,
24 because we have no parking on-site. And
25 technically, through RSIS, we would be required

1 | eight spaces on-site, which is silly,
2 | particularly in this neighborhood.

3 | The -- page 6 of the report -- actually, I
4 | did a research on the census data. And you'll
5 | see page 6 provides identification of the census
6 | tract and the car ownership, as reported in this
7 | area.

8 | And 58 percent -- I just want to see --
9 | yeah, 58 percent of your households do not own
10 | cars, because they utilize mass transit, which is
11 | typical.

12 | And therefore, I think that that's one of
13 | the basis for our variance request. And I think
14 | that we're also consistent with the surrounding
15 | development pattern.

16 | As I mentioned to you, we need the D-1 use
17 | variance for the four units. And one of -- in
18 | order to -- for this Board to grant the use
19 | variance, we have to prove that we further the
20 | goals of the Master Plan, as I indicated to you
21 | earlier, and also further detailed in this
22 | report; but also, further the goals of the
23 | Municipal Land Use Law.

24 | On page 7, I identified two goals, goals A
25 | and E. A is to provide -- encourage municipal

1 action to guide appropriate use and development
2 of all lands.

3 I think by allowing this fourth unit is
4 definitely an appropriate development perspective
5 from your Master Plan, and also your surrounding
6 development pattern.

7 And purpose E is to establish appropriate
8 population densities. Again, as you notice on
9 the other pages, I think this is an appropriate
10 density for this neighborhood.

11 Lastly, for a use variance, we have to
12 prove the negative criteria.

13 There's no substantial detriment to the
14 public good. We are improving the property, so I
15 think we're good. I think that we are actually
16 promoting the public good.

17 And there's no substantial detriment to
18 your Master Plan.

19 And as I mentioned earlier, I don't believe
20 so.

21 Can I just grab my water? Sorry.

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

24 MS. BOGART: So, again, on page 7, just to
25 finalize the use variance criteria. I think the

1 | site is particularly suited for our development.
2 | And from that perspective, we meet the Medici
3 | criteria.

4 | With regard to the parking variance, we
5 | basically have to identify the purposes of the
6 | Municipal Land Use Law. Again, it furthers the
7 | benefits, outweigh the detriments.

8 | And again, address the negative criteria.

9 | The purposes are similar to the D-1
10 | variance. And they are listed on page 7.

11 | I think the benefit of not providing the
12 | eight spaces on-site are clear. It would be
13 | consistent with the -- the surrounding
14 | development pattern. It's consistent with what
15 | the census tract information shows. And it
16 | provides development at a greater intensity as
17 | proposed by your Master Plan.

18 | So, from all those perspectives, I believe
19 | that this Board has a right to grant the use
20 | variance for the fourth unit, as well as the
21 | parking variance.

22 | And that's basically the conclusion of the
23 | report, as a whole.

24 | And if I ran to -- through it too quickly,
25 | let me know.

1 CHAIRMAN GARCIA: Okay.

2 MR. HEITMANN: That's all I have for the
3 witness, if the Board has any questions for her?

4 CHAIRMAN GARCIA: That's all you have.
5 Okay.

6 Yes. I have a question.

7 In your report, you mentioned that you have
8 ten -- you identify property with the units.

9 MS. BOGART: Um hum.

10 CHAIRMAN GARCIA: And one that is unknown,
11 that you didn't know how many units. You have
12 the six of those plus ten that you identified the
13 number of units are --

14 MS. BOGART: Um hum.

15 CHAIRMAN GARCIA: -- are three or less
16 units. Right?

17 MS. BOGART: Five. One, two, three, four,
18 five.

19 CHAIRMAN GARCIA: Five. If we include
20 yours is six. Right?

21 MS. BOGART: That's correct.

22 CHAIRMAN GARCIA: Okay. And basically, the
23 -- you're also including those one, you have --
24 you have two. There are, like two units.

25 MS. BOGART: That's correct.

1 CHAIRMAN GARCIA: That's correct.

2 Mr. Spatz, I have a question for you.

3 MR. SPATZ: Sure.

4 CHAIRMAN GARCIA: We didn't -- I don't see
5 the report, but however, can you at least give --
6 give your opinion, I mean, in respect to, like a
7 brief report, briefly to -- to us, member of the
8 Board, regarding that?

9 I know this is an R zone. I know that it
10 is three unit, to legalize the fourth. However
11 -- I mean, seeing this report that she provided,
12 the planner provided, can you help us to clarify
13 in our mind?

14 MR. SPATZ: Sure.

15 Well, you know, again, the Board would have
16 to determine the -- and balance the positive and
17 -- and the negative criteria, but it seems that
18 Brown Street, in the vicinity of this property,
19 has a mixture of -- of multi-family, as well as
20 lower and permitted uses within that zone.

21 So, it isn't a zone that is uniform in its
22 development. So, I think -- you know, you have
23 to determine whether the one additional unit is
24 in character with the neighborhood, and whether
25 the one bedroom apartment, which is conforming as

1 to size in our Zoning Ordinance, whether that one
2 additional unit would create a -- something out
3 of balance with the rest of the neighborhood.

4 CHAIRMAN GARCIA: Right.

5 MR. SPATZ: But it is a mixed unit type
6 development, neighborhood.

7 CHAIRMAN GARCIA: Yeah. Actually that
8 building is between six and two, I think so.

9 MS. BOGART: Mr. Chairman, if I may?

10 CHAIRMAN GARCIA: Yeah.

11 MS. BOGART: The chart provides ten --
12 basically ten properties, 11 including ours.
13 Five of them are two and three story -- family
14 units, and the others are greater than that, so
15 --

16 CHAIRMAN GARCIA: Right.

17 MS. BOGART: -- our proposal --

18 (Whereupon Miguel Ortiz arrived at 6:45
19 p.m.)

20 MS. BOGART: -- fits right in the middle of
21 it.

22 CHAIRMAN GARCIA: Okay.

23 One of the -- my --

24 THE SECRETARY: If you allow me one second,
25 Mr. Chairman.

1 Let the record indicate that Mr. Ortiz
2 joined the meeting.

3 CHAIRMAN GARCIA: The -- the architect, can
4 I bring -- can -- you can stay there.

5 Can -- can the architect give us a better
6 picture about the -- the condition of -- of that
7 basement?

8 Because you are trying to legalize the
9 basement. Right?

10 MR. HEITMANN: Yes.

11 CHAIRMAN GARCIA: I mean, can you -- I
12 mean, it's something like -- was no people are
13 living there. You rebuilt the basement and it's
14 a new unit that you built there.

15 MR. GILCHRIST: There's -- there is
16 evidence that this may have been used as a
17 residence.

18 CHAIRMAN GARCIA: Okay.

19 MR. GILCHRIST: But not recently. It's not
20 in good shape. It's -- it's in disrepair.

21 CHAIRMAN GARCIA: Okay. Okay.

22 Thank you.

23 I think that -- you have any other --
24 further question?

25 No? Okay.

1 We're going to open to the public, and then
2 we -- okay.

3 Any member of the public wants to step
4 forward?

5 MS. DILLON: Mr. Price, please raise your
6 right hand.

7 Do you affirm the testimony you're about to
8 give this Board is the whole truth?

9 MR. PRICE: I do.

10 MS. DILLON: Name and address for the
11 record.

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

14 MS. DILLON: Just take one step on the
15 other side of the mic, if you're going to face
16 that way. Perfect.

17 MR. PRICE: Okay. Actually, I'm going to
18 face this way.

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

21 CHAIRMAN GARCIA: No, no, no. I just want
22 Mr. Spatz to ask a question.

23 You can continue?

24 MR. SPATZ: Hmm?

25 CHAIRMAN GARCIA: No. You can continue.

1 MS. DILLON: I -- I'm done.

2 CHAIRMAN GARCIA: Oh, you're done?

3 Okay. Mr. --

4 MR. PRICE: Okay. Okay.

5 MS. GUTIERREZ: We were waiting for you.

6 MR. PRICE: By the way, first --

7 CHAIRMAN GARCIA: Well, you have a question
8 for them, or you are --

9 MR. PRICE: Well, first of all, just put in
10 -- first, I have a question for Mr. Isa.

11 CHAIRMAN GARCIA: Go ahead.

12 MR. PRICE: Did we get a memorandum from
13 the Building Department about this property?

14 CHAIRMAN GARCIA: We do.

15 MR. ISA: Yes, we do.

16 THE SECRETARY: Yes. Yeah, we do.

17 CHAIRMAN GARCIA: Three units.

18 MR. PRICE: Three units.

19 CHAIRMAN GARCIA: Yes.

20 MR. PRICE: That's the official --

21 Okay. The second thing I'll do is to enter
22 an objection about this planning report. It was
23 not submitted ten days -- it's -- it's being
24 relied on by the applicant as one of their
25 primary --

1 CHAIRMAN GARCIA: Mr. Price, let me tell
2 you something. One second.

3 The only -- the one -- I understand that,
4 but the way that I accept it, as -- the Board
5 accept is just in writing, whatever she testify
6 there. It's not like -- that's what we were
7 taking.

8 So, that's -- that's the way that she
9 presented.

10 MR. ISA: She -- she presented -- she made
11 a -- an oral presentation. This is just --

12 CHAIRMAN GARCIA: And I would love that all
13 the planner could come here with this.

14 MR. PRICE: But it -- it should have --

15 CHAIRMAN GARCIA: Because it clarify us.

16 MR. PRICE: It -- if it's going to be
17 submitted, and it has been, and it's --

18 CHAIRMAN GARCIA: Yes.

19 MR. PRICE: -- given an exhibit number, it
20 should have been submitted ten days in advance,
21 so that any interested party could -- could look
22 at it. It wasn't done, so -

23 MR. ISA: I mean --

24 CHAIRMAN GARCIA: And that's what -- I
25 understand your point and that it has to be part

1 of the application. However, I'm seeing like
2 it's -- it's something like reading whatever
3 she's saying. And also, the same thing, the same
4 picture they presented at any meeting.

5 That's what I'm accepting. You know what I
6 mean?

7 MR. PRICE: Okay. But I'll --

8 CHAIRMAN GARCIA: And that's the way that I
9 understand it.

10 MR. PRICE: I'll still enter the objection
11 -

12 MR. ISA: Understood.

13 CHAIRMAN GARCIA: Okay. Okay. I understand.

14 MR. PRICE: -- just for -- for the record.

15 CHAIRMAN GARCIA: Yeah.

16 MR. PRICE: Okay. I think I want to be up
17 -- Mr. Gilchrist?

18 MR. GILCHRIST: Gilchrist.

19 MR. PRICE: Gilchrist. Because I --

20 MR. GILCHRIST: You want me to stand up?

21 MR. PRICE: You're still wired. Right?

22 MR. GILCHRIST: I'm still sworn in.

23 MR. PRICE: Oh, well, sure. But you're
24 wired. That's it.

25 MS. DILLON: Mr. Price, here you go.

1 MR. PRICE: Mr. Gilchrist?

2 MR. GILCHRIST: Yes, sir.

3 MR. PRICE: About the -- about the
4 apartment, whatever, you indicated that the
5 apartment -- the -- the entire floor contains
6 1134 square feet.

7 Correct?

8 MR. GILCHRIST: Eleven seventy-four.

9 MR. PRICE: Eleven seventy-four. Okay.

10 What if -- what -- what's the square
11 footage of the actual apartment, X the furnace
12 room, X the laundromat, which is not part of the
13 apartment.

14 MR. GILCHRIST: You know, I'm guessing that
15 it's about a thousand square feet. I -- I don't
16 --

17 MR. PRICE: About a thousand.

18 MR. GILCHRIST: -- have the calculations.

19 MR. PRICE: Okay. This is a one bedroom --

20 MR. GILCHRIST: Yes.

21 MR. PRICE: -- apartment. Okay. That --
22 Okay. What's the approximate age of this
23 building?

24 MR. GILCHRIST: I don't know.

25 MR. PASSANTE: About 1920. Something like

1 '20.

2 MR. GILCHRIST: Hundred years. No. That
3 would be -- yeah, almost, 95 years old.

4 MR. PRICE: Okay. Did you examine the
5 neighborhood?

6 MR. GILCHRIST: I -- you know, I was in the
7 neighborhood. I -- I took some pictures. Yes.

8 MR. PRICE: Okay. What would you say the
9 age of the buildings in the neighborhood was?

10 MR. GILCHRIST: Some are -- some are old
11 and some are new.

12 MR. PRICE: New, being what?

13 MR. GILCHRIST: Brand new, within the last
14 couple of years.

15 MR. PRICE: Okay. You wouldn't remember
16 the addresses of the new building?

17 MR. GILCHRIST: Maybe the planner would
18 remember.

19 MR. PRICE: Okay.

20 MR. GILCHRIST: I didn't pay particular
21 attention to them.

22 MR. PRICE: Okay.

23 MR. GILCHRIST: But across -- right across
24 the street, there's some nice looking new
25 buildings.

1 MR. PRICE: Okay. Those -- with the
2 exception of 4501 Brown, though, the only -- the
3 only properties enumerated in this report are the
4 ones on the east side of the street, not across
5 the street, so --

6 MR. GILCHRIST: Okay. It's not my report.

7 MR. PRICE: Okay. Okay. Does this
8 building provide parking?

9 MR. GILCHRIST: No.

10 MR. PRICE: Okay. I think I -- for now --
11 Thank you.

12 MR. GILCHRIST: Thank you.

13 MR. PRICE: Ms. Bogart, could I --

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

16 MR. PRICE: Okay. Ms. Bogart, I'm going to
17 ask you about the properties in the neighborhood.

18 MS. BOGART: Okay.

19 MR. PRICE: Particularly the ones that
20 you've enumerated here.

21 MS. BOGART: Okay.

22 MR. PRICE: You've -- you've -- mostly, I
23 see pictures of front doors, which are not --
24 whatever -- too helpful.

25 What -- what are the ages of these

1 buildings?

2 MS. BOGART: I didn't get into the age. We
3 are not discussing the age tonight, we're talking
4 about the number of units.

5 The pictures of the front doors are merely
6 to show the street addresses. And the chart was
7 merely to identify the number of units based upon
8 mailboxes and meters, as I had testified to.

9 MR. PRICE: Okay. There are ten buildings
10 on this block, on the east side of Brown Street.

11 Correct?

12 MS. BOGART: On the chart, yes. Yes. On
13 the chart.

14 MR. PRICE: Okay. And put it this way.
15 You do have a picture of the building on the
16 corner.

17 MS. BOGART: That's correct.

18 MR. PRICE: What would you say the
19 approximate age of that building is?

20 MS. BOGART: As I mentioned, I did not
21 identify that.

22 MR. PRICE: I'm asking -- you're an expert.
23 Experts can address hypotheticals. Okay.

24 What -- what's the age of that building?

25 MS. BOGART: I thought you were supposed to

1 question me on my testimony provided. I did not
2 talk about the age of the buildings.

3 MR. PRICE: No. I'm not restricted to --

4 MS. BOGART: I --

5 MR. PRICE: -- your direct.

6 MS. BOGART: -- believe you are.

7 MR. PRICE: This is not a trial. It's a
8 hearing before a board.

9 MS. BOGART: Okay.

10 MR. PRICE: There's --

11 Counsel?

12 MR. ISA: She can answer, if she -- I mean,
13 if she doesn't have an answer for you, she
14 doesn't have an answer for you --

15 MR. PRICE: She can't look --

16 MR. ISA: -- Mr. Price.

17 MR. PRICE: -- at a picture -- okay.

18 MR. ISA: She doesn't have --

19 MR. PRICE: We adopted --

20 MR. ISA: -- to answer it if she doesn't
21 know the answer to that question. She didn't
22 address -- she didn't look into the age. You
23 know, and just like you can ask a question that
24 wasn't part of her direct testimony.

25 MR. PRICE: But she is -- she's under an --

1 MR. ISA: If she doesn't know the answer to
2 your question --

3 MR. PRICE: -- obligation to respond to the
4 question --

5 MR. ISA: And the response --

6 MR. PRICE: -- not --

7 MR. ISA: -- can be --

8 MR. PRICE: -- not to -- to stonewall.

9 MR. ISA: -- I don't have an answer for you
10 --

11 CHAIRMAN GARCIA: Mr. Price?

12 MR. ISA: -- Mr. Price.

13 CHAIRMAN GARCIA: Mr. Price, --

14 MR. PRICE: Okay.

15 CHAIRMAN GARCIA: -- she's answered the
16 question, but she's not answering the --

17 MR. PRICE: No. She has --

18 CHAIRMAN GARCIA: She's answering, but she
19 said that she doesn't know. So, that's the
20 answer so --

21 MR. PRICE: Okay.

22 MR. ISA: That's it.

23 CHAIRMAN GARCIA: It is. It is --

24 MR. PRICE: Okay. So --

25 CHAIRMAN GARCIA: It is not -- it is not

1 the answer you're expecting, but it's an answer.

2 MR. PRICE: Okay.

3 MR. ISA: That's it.

4 MR. PRICE: We adopted zoning in Union City
5 for the first time in 1974.

6 In your professional opinion, is it likely
7 that this building was constructed prior to or
8 after 1974?

9 MS. BOGART: I have no idea. I did not
10 look into that.

11 MR. PRICE: I didn't say -- you have a
12 picture.

13 MS. BOGART: I do.

14 MR. PRICE: You are so unacquainted with
15 construction histories that you can't look at a
16 picture and say, it's probable --

17 MS. BOGART: I believe that's beyond my
18 professional capability.

19 MR. PRICE: Ah, thank you. Thank you.

20 Okay. Okay.

21 The ten properties that are on the east
22 side, that are enumerated in your report, east
23 side of Brown Street, one, two, three, four --
24 four have more than -- than three units.

25 Correct?

1 MS. BOGART: One, two, three, four, five.
2 Five.

3 MR. PRICE: But would you -- five? Then
4 would you please enumerate them?

5 MS. BOGART: 4508 Brown Street; 4506 Brown
6 Street; 4501 Brown Street --

7 MR. PRICE: Wait a minute. I said on the
8 east side; 4501 Brown Street is not on the east
9 side, it's on the west side.

10 MS. BOGART: Okay. Then, you -- you are
11 correct. There are --

12 MR. PRICE: Okay. So, when you say that an
13 extra unit is in character with the neighborhood,
14 at least as far as your -- the east side of Brown
15 Street, you're talking about four of the ten
16 units are -- four of the ten structures that are
17 on the east side of -- of Brown Street.

18 Correct?

19 MS. BOGART: And you're including our
20 subject property as one of the ten?

21 MR. PRICE: One of the ten.

22 MS. BOGART: I'm just trying to identify,
23 because you've set your own parameters and --

24 MR. PRICE: It is currently --

25 MS. BOGART: -- it's not --

1 MR. PRICE: -- a three -- three unit
2 property. We know that. Okay.

3 MS. BOGART: I understand that, but I think
4 the most appropriate thing to do is pull the
5 subject site out of it.

6 And I did my analysis based upon what I
7 thought was appropriate to review from a planning
8 perspective. And those conclusions were
9 testified to.

10 MR. PRICE: Fine. All I'm saying is, four
11 out of ten are more than three units.

12 MS. BOGART: Excluding the one on the west
13 side. That's correct.

14 MR. PRICE: Okay. That's -- okay. I have
15 -- okay.

16 There's a lot of talk here about
17 preexisting, whatever. The existence of another
18 -- of a fourth unit here, other than the use
19 variance, will create also some additional, by
20 it's very -- whatever -- a parking variance.

21 Correct?

22 MS. BOGART: Which I testified to.

23 MR. PRICE: Okay. Why do you say that a
24 parking variance is a -- is like a use variance?

25 MS. BOGART: I did not say that.

1 MR. PRICE: Okay. Okay. I'll -- I'll go
2 to the transcript. Thank you.

3 Okay. The existence of a new unit prompts
4 the need for a parking variance.

5 Correct?

6 MS. BOGART: That's correct.

7 MR. PRICE: Okay. It prompts the need for
8 a use variance.

9 Correct?

10 MS. BOGART: Yes.

11 MR. PRICE: Okay. I'll -- I'll stop.

12 Thank you.

13 MS. BOGART: Thank you.

14 CHAIRMAN GARCIA: Okay. Any other member
15 of the public wants to step forward?

16 Okay. Closed to the public.

17 Any other question?

18 No more question.

19 One of the -- one of reason that we usually
20 need to clarification regarding the preexisting
21 condition, that we are talking about the -- how
22 old is the building, is -- is because we -- we
23 have the situation that -- we have a lot of
24 situation that in R zone, we have four units
25 structure with three legal unit and one basement

1 | that was not legalized. However, the applicant
2 | could prove the preexisting situation.

3 | And now, like one of the member of the
4 | public mentioned about the -- when the new
5 | Ordinance, and also, the prior Ordinance in 1973,
6 | remember, '74, now we have the -- in the R zone
7 | is only permitted the three units.

8 | And we -- I know that we're having a lot of
9 | issues, a lot of -- a lot of -- a lot of cases in
10 | the Superior Court regarding -- for also for
11 | granting the preexisting situation.

12 | And just for you guys, one of the reason,
13 | most of the time, when I make my motion to grant
14 | is because I feel like the applicant present
15 | enough evidence that this is a preexisting
16 | condition, that in reality, it's there, and going
17 | to be more detriment than improvement, if we
18 | order to don't have that unit there.

19 | However, in this particular case, it's my
20 | own opinion, you have your own opinion, I don't
21 | see enough evidence here to show me that to grant
22 | the four unit in R zone, when it's three units.

23 | I'm going to make my motion to deny the
24 | application, because I don't see any -- any -- I
25 | mean, a lot of missing information to prove that,

1 in reality, it's a preexisting condition.

2 It is no -- it is no -- I mean, for me, the
3 evidence presented here is we're going to have a
4 new apartment in the basement.

5 So, I make my motion to deny this
6 application, with the stated situation.

7 THE SECRETARY: Motion to deny the
8 application by Chairman Andres Garcia.

9 Second?

10 Any second?

11 CHAIRMAN GARCIA: I have no second?

12 MR. HEITMANN: If I may, Mr. Chairman?

13 MS. GUTIERREZ: Second.

14 THE SECRETARY: Second by Margarita
15 Gutierrez.

16 MR. ISA: Mr. Chairman, I think he wants --

17 THE SECRETARY: Any other motion?

18 Seeing no other motion --

19 MR. ISA: Hold on. Hold on.

20 CHAIRMAN GARCIA: I'm going to give you the
21 courtesy. However, we don't -- when we vote, we
22 vote and that's it.

23 But if you have any --

24 Go ahead.

25 MR. HEITMANN: I apologize.

1 MS. DILLON: Please come forward.

2 MR. HEITMANN: I apologize for that, but I
3 would -- I would just like to ask that if -- if
4 you'd like to adjourn the meeting, so we can come
5 back and give you some more information about the
6 preexisting condition, I can -- I can certainly
7 do that. And I believe that that was --

8 CHAIRMAN GARCIA: Okay. Let me tell you
9 something. I mean, everybody, as a professional,
10 deserve respect. Okay?

11 And I'm going to tell you, and I -- and it
12 probably going to sound to be rude, what I going
13 to say.

14 However, when you bring -- when you bring
15 an architect here, and we ask the height of the
16 building, of the -- of the ceiling, and doesn't
17 have the -- that information, come on. We have
18 time.

19 I mean, we are here to serve the community.
20 Your architect get paid to come here without any
21 information. We're not -- we're not kids.

22 MR. HEITMANN: I understand that.

23 CHAIRMAN GARCIA: Okay?

24 MR. HEITMANN: I apologize.

25 CHAIRMAN GARCIA: So, I think that we

1 | deserve more respect.

2 | MR. HEITMANN: Absolutely.

3 | CHAIRMAN GARCIA: Yes. I'm going to give
4 | you the courtesy to adjourn this application for
5 | next meeting. And I hope that you bring -- that
6 | you come more prepared for the next meeting.

7 | MR. HEITMANN: I certainly will. Thank you
8 | for that.

9 | CHAIRMAN GARCIA: Okay. I make my motion
10 | to adjourn this application.

11 | MR. HEITMANN: Thank you.

12 | MS. GUTIERREZ: And I'm seconding.

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

15 | Second by Margarita Gutierrez.

16 | Roll call to adjourn the meeting -- for the
17 | next meeting, June 11, 2015.

18 | CHAIRMAN GARCIA: Yes.

19 | THE SECRETARY: No further notice required.
20 | Andres Garcia?

21 | CHAIRMAN GARCIA: Yes.

22 | THE SECRETARY: Victor Grullon?

23 | MR. GRULLON: Yes to adjourn.

24 | THE SECRETARY: Margarita Gutierrez?

25 | MS. GUTIERREZ: Yes.

1 THE SECRETARY: Miguel Ortiz?

2 MR. ORTIZ: Abstain.

3 THE SECRETARY: Harlenny Javier?

4 MS. JAVIER: Yes.

5 THE SECRETARY: Khaled Dardir?

6 MR. DARDIR: Yes.

7 THE SECRETARY: Joseph Bonacci?

8 MR. BONACCI: Yes.

9 THE SECRETARY: Motion carries. Six in
10 favor, one abstain.

11 Next meeting June 11, 2015. No further
12 notice required.

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1 **Alberto & Ignazio Laguna, 201 New York Avenue:**

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3 CHAIRMAN GARCIA: Two minute break.

4 MR. ISA: We're done.

5 CHAIRMAN GARCIA: No, we have another one.

6 MR. ISA: Is the other -- is the other
7 applicant here?

8 MS. GUTIERREZ: Yeah. Number one.

9 MR. ISA: Can you call them to see if
10 they're here?

11 CHAIRMAN GARCIA: Number one. Oh, they're
12 not here.

13 THE SECRETARY: Next application on
14 tonight's agenda is Alberto, Ignazio Laguna, 201
15 New York Avenue.

16 MR. ISA: Is -- is Alberto, Ignazio Laguna
17 here?

18 MR. HEITMANN: Thank you.

19 CHAIRMAN GARCIA: Thank you.

20 MS. GUTIERREZ: You're welcome.

21 CHAIRMAN GARCIA: Thank you very much.

22 MR. BONACCI: I don't see them here.

23 THE SECRETARY: The applicants or
24 representative is not here, Mr. Chairman.

25 CHAIRMAN GARCIA: Let's -- let's give the

1 | courtesy to adjourn this application for next
2 | meeting, because we don't know the reason they're
3 | not here.

4 | THE SECRETARY: Motion to adjourn this
5 | application --

6 | MR. ISA: But with -- with notices?

7 | THE SECRETARY: -- by Chairman Andres
8 | Garcia.

9 | CHAIRMAN GARCIA: Huh?

10 | MS. GUTIERREZ: Second.

11 | THE SECRETARY: Second by --

12 | CHAIRMAN GARCIA: One -- one second. One
13 | second. One second. One second.

14 | MS. GUTIERREZ: Wait. What happened?

15 | MR. ISA: I mean, typically -- they didn't
16 | request a note -- an adjournment. They send a
17 | representative.

18 | I mean, we can adjourn it.

19 | CHAIRMAN GARCIA: Yeah. But my -- my
20 | concern is that I know this application been here
21 | many times, and they wait all the way to the end.

22 | MR. ISA: Is that that gentleman --

23 | CHAIRMAN GARCIA: Yes, old man. And he --
24 | and he --

25 | MR. ISA: Yes.

1 CHAIRMAN GARCIA: -- deserve the courtesy
2 to adjourn it just because I don't know about the
3 notice. I mean, legally, I hope that you --

4 MR. ISA: No, --

5 CHAIRMAN GARCIA: -- handle it.

6 MR. ISA: I think --

7 CHAIRMAN GARCIA: But remember, all the
8 member of the public, that application is third
9 time they came here --

10 MR. ISA: Yes.

11 CHAIRMAN GARCIA: -- always the last one.

12 MR. ISA: Yup.

13 CHAIRMAN GARCIA: And they probably saw
14 that they going to be here late, and they're --
15 it's only 7:05.

16 MR. ISA: No, no. You're -- you're -- I
17 didn't --

18 CHAIRMAN GARCIA: You know what I mean?

19 MR. ISA: You're right about who it was.

20 CHAIRMAN GARCIA: So, I don't want to --

21 MR. ISA: No, we --

22 CHAIRMAN GARCIA: I want --

23 MR. ISA: We can --

24 CHAIRMAN GARCIA: -- I don't want to be
25 unfair.

1 MR. ISA: We can adjourn it with -- you
2 know, it's the Board's discretion how we adjourn
3 it.

4 CHAIRMAN GARCIA: No.

5 MR. ISA: So you know, if you would like to
6 -- to adjourn it to the next meeting and that --

7 MS. GUTIERREZ: Yeah. We can do that.

8 MR. ISA: -- that's fine.

9 MS. GUTIERREZ: Yeah.

10 MR. ISA: With no new notices.

11 CHAIRMAN GARCIA: I don't think they need
12 -- need new --

13 MR. ISA: No.

14 CHAIRMAN GARCIA: -- notices, because
15 already is in the agenda.

16 MR. ISA: No. It's --

17 CHAIRMAN GARCIA: Was in the agenda.

18 MR. ISA: No, you're --

19 CHAIRMAN GARCIA: And we -- we already
20 adjourn it last time. And I think --

21 MR. ISA: Mr. Chairman, you're right. I --
22 typically, when the person doesn't show up we --
23 you know, we --

24 CHAIRMAN GARCIA: Right.

25 MR. ISA: -- the person doesn't show up.

1 But I understand that in this particular
2 case, there are extenuating circumstances. I
3 agree.

4 And it is the Board's discretion to adjourn
5 the matter --

6 CHAIRMAN GARCIA: Yes.

7 MR. ISA: -- however we want to adjourn it.

8 CHAIRMAN GARCIA: Yes.

9 MR. ISA: So --

10 CHAIRMAN GARCIA: So I --

11 MS. GUTIERREZ: Yes. Yes.

12 CHAIRMAN GARCIA: If any member of the
13 public oppose it, but then I -- I'm going to make
14 my motion to adjourn --

15 Yeah, Mr. Price? You have a comment, for
16 the record? You can put on the record.

17 MS. DILLON: Come forward.

18 CHAIRMAN GARCIA: Come, Mr. -- Mr. Price.

19 MR. PRICE: This is -- Larry Price, 1006
20 Palisade.

21 This -- if -- if I -- actually, if I were
22 you -- it doesn't bother me that much, but if I
23 were in your position, I'd be -- these guys show
24 up. They haven't got an attorney. They haven't
25 got a -- they're asking for a D variance. They

1 don't show up with a planner.

2 Then they -- you know, then they show up
3 last time, but don't make a presentation.

4 Now -- now, they -- this time, they don't
5 even show up.

6 I mean, they're --

7 MR. ISA: No, I --

8 CHAIRMAN GARCIA: Yeah. But the thing is,
9 Mr. Price --

10 MR. PRICE: They're not taking the Board --

11 CHAIRMAN GARCIA: We are --

12 MR. PRICE: -- seriously.

13 CHAIRMAN GARCIA: We are -- we are --
14 fortunately, I will try to do -- we -- we're
15 going to try to be on time now. But remember,
16 now we -- last --

17 MR. PRICE: Is that a promise?

18 CHAIRMAN GARCIA: Five meetings -- last
19 five, six meetings, we been starting the meeting
20 at quarter to seven. Whatever. I mean --

21 MR. PRICE: Well --

22 CHAIRMAN GARCIA: -- I just want to be
23 fair. That's the only thing.

24 MR. PRICE: Your -- your -- your
25 discretion, but --

1 CHAIRMAN GARCIA: Yes.

2 MR. PRICE: -- but I tell you, if I were
3 sitting where you're sitting --

4 CHAIRMAN GARCIA: Yeah, I know.

5 MR. ISA: It's within the Board's
6 discretion.

7 CHAIRMAN GARCIA: Yeah. So I -- if no
8 oppose, I'm going to make my motion to adjourn
9 this application to -- without notice for next
10 meeting.

11 THE SECRETARY: Motion to adjourn this
12 application by Chairman Andres Garcia.

13 MR. BONACCI: Second.

14 THE SECRETARY: Second by Mr. Joseph
15 Bonacci.

16 Roll call to adjourn this application.
17 Andres Garcia?

18 CHAIRMAN GARCIA: Yes.

19 THE SECRETARY: Victor Grullon?

20 MR. GRULLON: Yes.

21 THE SECRETARY: Margarita Gutierrez?

22 MS. GUTIERREZ: Yes.

23 THE SECRETARY: Miguel Ortiz?

24 MR. ORTIZ: Yes.

25 THE SECRETARY: Yes.

1 Harlenny Javier?

2 MS. JAVIER: Yes.

3 THE SECRETARY: Khaled Dardir?

4 MR. DARDIR: Yes.

5 THE SECRETARY: Joseph Bonacci?

6 MR. BONACCI: Yes.

7 THE SECRETARY: Motion carries. Seven in
8 favor.

9 MS. DILLON: Date and notice.

10 THE SECRETARY: No further notice required.

11 The next meeting --

12 MR. ISA: June.

13 THE SECRETARY: -- for June 11, 2015.

14 MR. ISA: No new notices.

15 THE SECRETARY: Same place, same time.

16 MR. ISA: No new notices.

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1 **ADJOURNMENT:**

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

6 MS. GUTIERREZ: I make a motion.

7 THE SECRETARY: Motion by Margarita
8 Gutierrez.

9 MR. BONACCI: For the record.

10 THE SECRETARY: Second by?

11 MR. BONACCI: Second.

12 MR. ISA: Bonacci. Bonacci.

13 THE SECRETARY: By Miguel Ortiz.

14 Roll call.

15 Andres Garcia, to adjourn the application.

16 CHAIRMAN GARCIA: Yes.

17 THE SECRETARY: I'm sorry. The meeting.

18 CHAIRMAN GARCIA: Yes.

19 THE SECRETARY: Yes.

20 Victor Grullon?

21 MR. GRULLON: Yes.

22 THE SECRETARY: Margarita Gutierrez?

23 MS. GUTIERREZ: Yes.

24 THE SECRETARY: Miguel Ortiz?

25 MR. ORTIZ: Yes.

1 THE SECRETARY: Harlenny Javier?

2 MS. JAVIER: Yes.

3 THE SECRETARY: Mr. Dardir?

4 MR. DARDIR: Yes.

5 THE SECRETARY: Joseph Bonacci?

6 MR. BONACCI: Yes.

7 THE SECRETARY: Motion carries. Seven in
8 favor.

9 Let the record show that the meeting has
10 ended.

11 Thank you everyone and have a beautiful
12 night.

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14 (Whereupon, the proceedings were concluded
15 at 7:08 p.m.)

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1 STATE OF NEW JERSEY :

2 :

3 COUNTY OF ESSEX :

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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 ZONING BOARD OF
9 ADJUSTMENT held on Thursday, May 14, 2015 and
10 digitally recorded.

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25 Monitored and Proofread by: Deborah Dillon