

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, September 10, 2015
Commencing at 6:27 p.m.

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

KHALED DARDIR, (Arrived at 6:50 p.m.)
MARGARITA GUTIERREZ
MIGUEL ORTIZ
DAVID W. PRESSEY
JOHN MEDINA, Alternate No. 1
JOSEPH D. BONACCI, Alternate No. 2
VICTOR M. GRULLON, Acting Chairperson

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

HARLENNY E. JAVIER
ELISA FLORES, Alternate No. 3
ANDRES GARCIA, Chairman

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

CARLOS VALLEJO, Secretary to the Board

TOMAS R. PANEQUE, ESQ., Attorney for the Board

DAVID SPATZ, Consultant
Community Housing & Planning Associates, Inc.

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

J. ALVARO ALONSO, ESQ.,
Attorney for Applicant, 2000 West Street, LLC
AKA 526 Monastery Place

PETER M. FLANNERY, ESQ.,
Attorney for Applicant, 1312 Bergenline Avenue, LLC

J. ALVARO ALONSO, ESQ.,
Attorney for Applicant, 1901 Summit Avenue, LLC

ALAIN MULKAY, ESQ.,
Attorney for Applicant,
Thomar Chartier/Bellamy Congress, LLC

ALAIN MULKAY, ESQ.,
Attorney for Applicant, Larry D'Arrigo

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

3 Please take notice that on Thursday,
4 September 10, 2015, at six p.m., Regular Meeting
5 is scheduled for the City of Union City Zoning
6 Board of Adjustment, to be held in the Municipal
7 Chamber, located on second floor, 3715 Palisade
8 Avenue, Union City, New Jersey.

9 Everybody kindly please rise, Pledge of
10 Allegiance.

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 the agenda, to the
19 extent known, was sent to The Jersey Journal, The
20 Record, The Hudson Reporter, has been posted on
21 the bulletin board in the City Hall, and has been
22 made available to the public in the Office of the
23 Municipal Clerk.

24

25 **ROLL CALL:**

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THE SECRETARY: Roll call for tonight's
meeting.

4

Chairman Andres Garcia? Absent.

5

Mr. Grullon?

6

MR. GRULLON: Here.

7

THE SECRETARY: Mrs. Margarita Gutierrez?

8

MS. GUTIERREZ: Here.

9

THE SECRETARY: Mr. Miguel Ortiz?

10

MR. ORTIZ: Present.

11

THE SECRETARY: Mr. David Pressey?

12

MR. PRESSEY: Here.

13

THE SECRETARY: Mrs. Harlenny Javier?

14

Absent.

15

Mr. Khaled Dardir? Absent.

16

Mr. John Medina?

17

MR. MEDINA: Here.

18

THE SECRETARY: Mr. Joseph Bonacci?

19

MR. BONACCI: Here.

20

THE SECRETARY: Elisa Flores? Absent.

21

Let the record indicate there are six

22

members present.

23

Those absent tonight is Chairman Andres

24

Garcia, Harlenny Javier, Khaled Dardir and Elisa

25

Flores.

1 So, we have a Board made up of six members.

2

3 **ELECTION OF ACTING CHAIRPERSON:**

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5 THE SECRETARY: Tonight, we have a -- we
6 have to -- I need a motion to appoint a temporary
7 Chairperson.

8 Motion by Mr. David Pressey to appoint a
9 temporary chair --

10 Which is the person?

11 MR. PRESSEY: Mr. Grullon.

12 MS. GUTIERREZ: And I'm seconding.

13 THE SECRETARY: Second?

14 Okay. Mr. Victor Grullon, as an Acting
15 Chairperson.

16 David Pressey.

17 Second by Margarita Gutierrez.

18 Roll call on the motion.

19 Victor Grullon?

20 MR. GRULLON: Yes, I accept.

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: John Medina?

3 MR. MEDINA: Yes.

4 THE SECRETARY: Joseph Bonacci?

5 MR. BONACCI: Yes.

6 THE SECRETARY: Motion carries.

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1 **RESOLUTION:**

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3 (1) Resolution to appoint the Attorney for the
4 Zoning Board of Adjustment

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6 THE SECRETARY: Okay. We have -- the first
7 Resolution on tonight's agenda to appoint
8 attorney for the Zoning Board of Adjustment.

9 Can I have a motion to approve the
10 Resolution?

11 ACTING CHAIRPERSON GRULLON: I make a
12 motion to approve the Resolution.

13 THE SECRETARY: Motion by Acting Chairman
14 --

15 MS. GUTIERREZ: And I'm seconding.

16 THE SECRETARY: -- Grullon.

17 Second by Margarita Gutierrez.
18 Victor Grullon?

19 ACTING CHAIRPERSON GRULLON: Yes.

20 THE SECRETARY: Margarita Gutierrez?

21 MS. GUTIERREZ: Yes.

22 THE SECRETARY: David Pressey?

23 MR. PRESSEY: Yes.

24 THE SECRETARY: John Medina?

25 MR. MEDINA: Yes.

1 THE SECRETARY: Joseph Bonacci?

2 MR. BONACCI: Yes.

3 THE SECRETARY: Miguel Ortiz?

4 MR. ORTIZ: Yes.

5 THE SECRETARY: Motion carries, six in
6 favor.

7 ACTING CHAIRPERSON GRULLON: Just for the
8 record, it's to appoint --

9 THE SECRETARY: Congratulation, Mr. --

10 ACTING CHAIRPERSON GRULLON: -- to appoint
11 Tomas Paneque.

12 THE SECRETARY: -- Tomas Paneque.

13 MR. PANEQUE: Thank you.

14 MS. GUTIERREZ: Welcome.

15 MS. DILLON: Congratulations.

16 THE SECRETARY: The new Zoning Board of
17 Adjustment Attorney.

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1 **RESOLUTIONS:**

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3 (2) Juan Martin, 406 19th Street, Block 102, Lot
4 23, Legalization of 2nd floor apartment in an
5 existing two floor building

6 (3) RDK Royal Associates, LLC, 4510 Brown
7 Street, Block 274, Lot 6, Proposed to perform
8 residential renovation and legalization of a
9 fourth unit

10

11 THE SECRETARY: Okay.

12 We have two -- two Resolutions to approve
13 the previous approvals, or from previous meeting.

14 First one is Juan Martin, 406 19th Street.

15 Second is RDK Royal Associates, LLC, 4510
16 Brown Street.

17 Can I have a motion to approve these --

18 ACTING CHAIRPERSON GRULLON: I make a
19 motion to --

20 THE SECRETARY: -- Resolutions?

21 ACTING CHAIRPERSON GRULLON: -- to accept
22 the Resolutions.

23 THE SECRETARY: Motion by --

24 MS. GUTIERREZ: I'm seconding.

25 THE SECRETARY: -- Victor Grullon.

1 Second by Margarita Gutierrez.

2 Roll call to approve these Resolutions.

3 Victor Grullon?

4 ACTING CHAIRPERSON 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: John Medina?

12 MR. MEDINA: Yes.

13 THE SECRETARY: Joseph Bonacci?

14 MR. BONACCI: Yes.

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

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1 **Ronmar Realty, LLC - 116-120 Peter Street and**
2 **121 34th Street:**

3

4 THE SECRETARY: Okay. We have a -- the
5 application on tonight's agenda is Ronmar Realty,
6 LLC, 116-120 Peter Street, 121 34th Street.

7 Mr. Paneque?

8 MR. PANEQUE: Yes.

9 Mr. Vallejo, good evening.

10 Tomas R. Paneque, Attorney for the Zoning
11 Board, the City of Union City.

12 By letter dated September 8, 2015, the
13 attorney for the applicant, Mr. Carmine Alampi,
14 sent a letter to this office requesting an
15 adjournment.

16 That adjournment is being requested and the
17 matter be carried until the October 8th meeting.

18 THE SECRETARY: That's correct, Mr. Alonso
19 (sic).

20 Can I have a motion to adjourn the
21 application for October 8? No new notice
22 required.

23 ACTING CHAIRPERSON GRULLON: Just a
24 question.

25 Would -- do we have -- do we notify the

1 residents on this?

2 MR. PANEQUE: No. There's no notice
3 required. It's being adjourned with a request
4 that the notices from the prior hearing --

5 THE SECRETARY: It's a continuation.

6 MR. PANEQUE: -- be carried.

7 ACTING CHAIRPERSON GRULLON: It's a
8 continuation. Okay. All right.

9 MR. PANEQUE: Continuation.

10 ACTING CHAIRPERSON GRULLON: Okay. I make
11 a motion to accept.

12 THE SECRETARY: Motion --

13 MS. GUTIERREZ: And I'm seconding.

14 THE SECRETARY: -- Victor Grullon.

15 Second by Margarita Gutierrez.

16 Roll call.

17 Victor Grullon?

18 ACTING CHAIRPERSON GRULLON: Yes.

19 THE SECRETARY: Margarita Gutierrez?

20 MS. GUTIERREZ: Yes.

21 THE SECRETARY: Miguel Ortiz?

22 MR. ORTIZ: Yes.

23 THE SECRETARY: David Pressey?

24 MR. PRESSEY: Yes.

25 THE SECRETARY: John Medina?

1 MR. MEDINA: Yes.

2 THE SECRETARY: Joseph Bonacci?

3 MR. BONACCI: Yes.

4 THE SECRETARY: Motion carries. Six in
5 favor.

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

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3 THE SECRETARY: Second application on
4 tonight's agenda, Alberto and Ignazio Laguna, 201
5 New York Avenue.

6 Mr. Paneque?

7 MR. PANEQUE: Yes.

8 Thank you, Mr. Vallejo.

9 By letter dated September 4th, 2015, from
10 attorney Alain Mulkay, Mr. Mulkay is requesting
11 that his application be withdrawn, as they're not
12 intending to proceed at this time.

13 THE SECRETARY: Thank you, Mr. Paneque.

14 Next application on tonight's agenda, we
15 are going to --

16 MR. PRICE: What item? Sorry. What --
17 what item was that?

18 ACTING CHAIRPERSON GRULLON: Number 2.

19 MR. PRICE: Number 2?

20 ACTING CHAIRPERSON GRULLON: Yes.

21 THE SECRETARY: Yes, sir.

22 MS. DILLON: You can't speak from there,
23 Mr. Price, please.

24 * * *

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1 1901 Summit Avenue, LLC - 1901 Summit Avenue:

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3 THE SECRETARY: Next application on
4 tonight's agenda is 1901 Summit Avenue, LLC, 1901
5 Summit Avenue.

6 Mr. Paneque? That's the adjournment from
7 Mr. Alonso.

8 MR. SPATZ: I think that's the next one.
9 2000 West Street, I think is the one.

10 THE SECRETARY: Oh, no.

11 MR. PANEQUE: This is -- we're skipping to
12 number 4?

13 THE SECRETARY: I'm sorry. I'm sorry.

14 MS. GUTIERREZ: No, no.

15 THE SECRETARY: I apologize for that. We
16 have to go to --

17 I'm sorry -- scratch that out.

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1 **2000 West Street, LLC - AKA 526 Monastery Place -**

2 **2000 West Street:**

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4 THE SECRETARY: The next one is number 3
5 (sic), 2000 West Street, LLC.

6 MS. GUTIERREZ: Oh, now. Yes.

7 THE SECRETARY: A/K/A 526 Monastery Place.

8 Mr. Paneque request -- I'm sorry.

9 Mr. Alonso request that this application be
10 adjourned for the next hear -- for the October
11 8th.

12 MR. PANEQUE: Yes. That's number 5 on the
13 calendar, Mr. Vallejo?

14 THE SECRETARY: That's correct, Mr.
15 Paneque.

16 MR. PANEQUE: Yes.

17 Mr. Alonso was here earlier today.

18 A VOICE: He's here. He's here.

19 You're up.

20 MR. PANEQUE: And he advised us that he
21 wasn't -- wanted to carry this application for
22 October 8th.

23 Mr. Alonso, if you would approach?

24 That's 2000 West Street.

25 ACTING CHAIRPERSON GRULLON: Is this a

1 continuation? Did we acquire --

2 MR. PANEQUE: We haven't acquired
3 jurisdiction yet.

4 Mr. Alonso, do you want to establish
5 jurisdiction this evening?

6 MR. ALONSO: I do.

7 MS. DILLON: Your appearance?

8 MR. ALONSO: Yes.

9 Good afternoon, members of the Board.

10 For the record, Alvaro Alonso, Alonso
11 Navarette, on behalf of the applicant.

12 Provided counsel with proof of publishing
13 and notices.

14 I do want to indicate that the proof of
15 publication has not come back yet. I do have
16 correspondence with The Jersey Journal, and they
17 confirm that it was going to be on for a certain
18 date.

19 They mailed it out. They've been busy.
20 We're supposed to have it by tomorrow.

21 So, I would submit that subject to me
22 receiving the -- the publication, which since
23 we're carrying it anyway, I'll provide it to --
24 to you before the next hearing.

25 MR. PANEQUE: That is.

1 Mr. Alonso, do you know when the notice was
2 actually published? Do you have a date of
3 publication?

4 MR. ALONSO: I have an email from The
5 Jersey Journal.

6 MR. PANEQUE: You could just say it.

7 MR. ALONSO: Yeah. August 29th. It says
8 publication date confirmed.

9 MR. PANEQUE: Okay.

10 I've been provided with the certified mail
11 receipts, as well as an affidavit from Mr.
12 Alonso, and the certified mail list within -- all
13 owners within 200 feet.

14 We will check that, make sure everything's
15 in order.

16 Giving it to Mr. Vallejo.

17 With the understanding that at the next
18 meeting, Mr. Alonso provide the Affidavit of
19 Publication from The Jersey Journal, the
20 jurisdictional requirements are met.

21 Matter will be carried until the October
22 8th meeting.

23 THE SECRETARY: Okay. Can I have a motion
24 to --

25 ACTING CHAIRPERSON GRULLON: I motion.

1 THE SECRETARY: -- adjourn this
2 application?

3 ACTING CHAIRPERSON GRULLON: I make a
4 motion.

5 THE SECRETARY: Motion by --

6 MS. GUTIERREZ: I'm seconding.

7 THE SECRETARY: Second by Margarita
8 Gutierrez.

9 Motion by Mr. Grullon.

10 Victor Grullon, to adjourn --

11 ACTING CHAIRPERSON GRULLON: Yes.

12 THE SECRETARY: -- the application?

13 ACTING CHAIRPERSON GRULLON: Yes.

14 THE SECRETARY: Margarita Gutierrez?

15 MS. GUTIERREZ: Yes.

16 THE SECRETARY: Miguel Ortiz?

17 MR. ORTIZ: Yes.

18 THE SECRETARY: David Pressey?

19 MR. PRESSEY: Yes.

20 THE SECRETARY: John Medina?

21 MR. MEDINA: Yes.

22 THE SECRETARY: Joseph Bonacci?

23 MR. BONACCI: Yes.

24 THE SECRETARY: Motion carries.

25 MR. ALONSO: Thank you.

1 MR. PANEQUE: Thank you, sir.

2 THE SECRETARY: No further notice required,
3 with the condition they have to provide with a
4 publication, original publication notice.

5 Thank you.

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1 **Larry D'Arrigo - 207 New York Avenue:**

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3 THE SECRETARY: Okay. Now, we are going to
4 --

5 MR. PANEQUE: There was another request for
6 an adjournment, I believe from Mr. Mulkay.

7 MR. SPATZ: Right. Number 7. Right.

8 THE SECRETARY: Number 7. Right.

9 Okay. We are going to change a little bit
10 the order of the -- of the agenda for the
11 adjournment.

12 Next application, tonight's agenda, is
13 number 7, is going to be number 5 -- 4, I'm sorry
14 -- Larry D'Arrigo, 207 New York Avenue.

15 Mr. Mulkay?

16 MR. MULKAY: Mr. Chairman, members of the
17 Board, Alain Mulkay, from the firm of Mulkay and
18 Rendo, on behalf of the applicant, Larry
19 D'Arrigo.

20 We're requesting an adjournment. One of
21 our experts was unavailable tonight.

22 I've submitted the Notice of Publication,
23 along with the Certification of Mailing, to the
24 Board's attorney.

25 I would ask that you acquire jurisdiction

1 and that you adjourn the matter to October 8th,
2 2015.

3 MR. PANEQUE: For the record, Mr. Mulkay
4 has provided me with his Affidavit of Service,
5 signed by his client, as well as an Affidavit of
6 Publication in The Jersey Journal. Said
7 publication appeared on August 29, 2015,
8 providing notice for tonight's meeting on the
9 matter of 207 New York Avenue.

10 He has also provided all of the certified
11 mail slips, as well as the 200 foot list that
12 accompanied the notices that went out.

13 It appears that the jurisdictional
14 requirements have been met.

15 ACTING CHAIRPERSON GRULLON: Thank you.

16 THE SECRETARY: Thank you, Mr. Paneque.

17 ACTING CHAIRPERSON GRULLON: Make a motion
18 to carry the application --

19 THE SECRETARY: Motion to adjourn --

20 ACTING CHAIRPERSON GRULLON: -- for October
21 8.

22 THE SECRETARY: -- the application by Mr.
23 Victor Grullon.

24 Second by?

25 MR. BONACCI: I'll second.

1 THE SECRETARY: Mr. Joseph Bonacci.

2 Roll call to -- to adjourn this
3 application.

4 Victor Grullon?

5 ACTING CHAIRPERSON GRULLON: Yes.

6 THE SECRETARY: Margarita Gutierrez?

7 MS. GUTIERREZ: Yes.

8 THE SECRETARY: Miguel Ortiz?

9 MR. ORTIZ: Yes.

10 THE SECRETARY: David Pressey?

11 MR. PRESSEY: Yes.

12 THE SECRETARY: John Medina?

13 MR. MEDINA: Yes.

14 THE SECRETARY: Joseph Bonacci?

15 MR. BONACCI: Yes.

16 THE SECRETARY: Motion carries. No further
17 notice -- no new notice required.

18 ACTING CHAIRPERSON GRULLON: No new
19 notices.

20 THE SECRETARY: Thank you.

21 MR. PANEQUE: Mr. Vallejo, if I may suggest
22 that anybody who is here on applications number 5
23 and 7, those applications have been adjourned.
24 They don't necessarily have to stay, unless they
25 want.

1 THE SECRETARY: Yes, sir.

2 ACTING CHAIRPERSON GRULLON: And also, 1
3 and 2.

4 MR. PANEQUE: One and 2, as well. Yes.

5 THE SECRETARY: Wait, wait. Which one?

6 MR. PANEQUE: It would be 1, 2, 5, and 7.

7 MR. SPATZ: And 7. Right.

8 THE SECRETARY: One, 2, 5 -- yes. Now, we
9 --

10 MR. SPATZ: Right.

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1 **1312 Bergenline Avenue, LLC - 1312 Bergenline**
2 **Avenue:**

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4 THE SECRETARY: We going back to -- to the
5 regular agenda.

6 MR. SPATZ: Right.

7 THE SECRETARY: That is going to be 1312
8 Bergenline Avenue, LLC, 1312 Bergenline Avenue.

9 Mr. Faiella?

10 MR. FLANNERY: Yes.

11 Just a bit of housekeeping, one of my
12 witnesses is not yet here. I --

13 MS. DILLON: Your appearance?

14 MR. FLANNERY: Okay.

15 Peter Flannery, appearing for the
16 applicant, 1312 Bergenline, LLC.

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

19 MS. DILLON: Thank you so much.

20 MR. FLANNERY: As I had mentioned, one of
21 my witnesses is not yet here. I don't know if we
22 want to start with my first witness, and then
23 hopefully he'll show up, or if we want to have
24 the next application go forward.

25 MR. PANEQUE: Is the witness that you're

1 waiting on your architect?

2 MR. FLANNERY: Yes.

3 MR. PANEQUE: Okay. Usually, we start with
4 the --

5 ACTING CHAIRPERSON GRULLON: We start with
6 the architect.

7 MR. PANEQUE: -- architect's testimony.

8 MR. FLANNERY: Right.

9 MR. PANEQUE: So, I would suggest that we
10 then call you back.

11 MR. FLANNERY: Okay. Great.

12 Thank you.

13 And I don't know if we -- the notice
14 package was sent by my colleague.

15 I don't know if we want to address that now
16 or --

17 MR. PANEQUE: I -- do we have that, Mr.
18 Vallejo?

19 THE SECRETARY: Yes.

20 Right here, Mr. Paneque.

21 MR. PANEQUE: Thank you, sir.

22 Sorry for not getting up. I don't want to
23 trip over the wire.

24 THE SECRETARY: I know.

25 MR. PANEQUE: Thank you.

1 (Whereupon, there was a pause in the
2 proceedings.)

3 MR. PANEQUE: I'm looking for the Affidavit
4 of Publication; the newspaper.

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

8
9 MR. PANEQUE: Mr. Flannery, I'm looking at
10 the documents that were provided by, I guess one
11 of your partners.

12 MR. FLANNERY: Yes, one of my colleagues.

13 MR. PANEQUE: One of your partners from the
14 firm, and I have the certified mail slips, I have
15 the 200 foot list. I do not see the client's
16 affidavit.

17 MR. FLANNERY: The Affidavit of
18 Publication?

19 It should have been submitted.

20 MR. PANEQUE: Or the Affidavit of
21 Publication.

22 MR. FLANNERY: Hmm. Let me -- let me look
23 in the file.

24 MR. PANEQUE: Okay.

25 While you look for that, we'll proceed to

1 the next case. And then, when you come back up
2 with your architect, we'll address that.

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1 **1901 Summit Avenue, LLC - 1901 Summit Avenue:**

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3 THE SECRETARY: Okay. All right.

4 We are going to go to the next application
5 on tonight's agenda, 1901 Summit Avenue, LLC,
6 1901 Summit Avenue.

7 Mr. Alonso?

8 MR. ALONSO: Good evening, once again.

9 Alvaro Alonso, Alonso Navarette, on behalf
10 of the applicant.

11 I provided counsel with proof of
12 publication.

13 Again, with the publication, we have
14 confirmation from The Jersey Journal that it was
15 published on August 29th. They tried to get it to
16 me today; they never got it to me today.

17 I would ask that the Board accept
18 jurisdiction, subject to me providing the proof,
19 which supposed to be getting it by tomorrow.

20 MS. GUTIERREZ: Does that mean to adjourn?

21 MR. PANEQUE: The only concern I have, Mr.
22 Alonso, is that if the publication is not as it
23 was promised to you, then you would have
24 presented a case that cannot be actually acted
25 upon by the Board in any capacity, because of the

1 | ten day requirement.

2 | So, it's up to you.

3 | MR. ALONSO: Yeah. No. I'm ready to
4 | proceed. I believe that -- that it was
5 | published. We did get confirmation --

6 | MR. PANEQUE: Okay.

7 | MR. ALONSO: -- from them.

8 | Unfortunately, they just never sent me the
9 | -- the publication because of the Labor Day
10 | weekend, and the summer. They said they were
11 | really backed up.

12 | I told them I needed it for today. They
13 | promised they were going to try to get it to me
14 | today. They never did.

15 | MR. PANEQUE: Okay.

16 | Vice Chairman Grullon -- Acting Chairman
17 | Grullon, the Board can make a decision on whether
18 | it wants to proceed and hear this application.

19 | We don't have the actual proof of
20 | publication, and -- or the Affidavit of
21 | Publication from The Jersey Journal, but the
22 | representation from counsel is that he did get
23 | confirmation orally from the newspaper. However
24 | he does not have that with him tonight.

25 | The -- we can either proceed with the

1 understanding that if that publication was not
2 done, then everything that this Board would have
3 acted upon tonight, or heard tonight would have
4 been void, and they would have to start from the
5 very beginning.

6 ACTING CHAIRPERSON GRULLON: Okay. I mean,
7 if you understand that, Mr. Alonso, that --

8 MR. ALONSO: Absolutely.

9 ACTING CHAIRPERSON GRULLON: -- you will
10 proceed --

11 MR. ALONSO: And I anticipate it's going to
12 be relatively quick application.

13 This is an application that was previously
14 approved by this Board. We made some minor
15 modifications, so that we can submit our
16 construction drawings.

17 ACTING CHAIRPERSON GRULLON: Do you
18 understand that any decision that we take will be
19 upon --

20 MR. ALONSO: Absolutely.

21 ACTING CHAIRPERSON GRULLON: -- receiving
22 the --

23 MR. ALONSO: Absolutely.

24 ACTING CHAIRPERSON GRULLON: --
25 publication.

1 Okay. You may proceed, Mr. Alonso.

2 MR. ALONSO: Thank you.

3 This is an application that was previously
4 approved by this Board. Originally, it was an
5 application to construct a 26 unit building. And
6 that's the way it was presented.

7 Ultimately, it was approved as a 24 unit
8 building. The plans that were submitted were
9 never amended to reflect the 24 units. So, it
10 was just 26.

11 When my client went to prepare construction
12 drawings, there was some inconsistencies such as
13 that.

14 So, the -- the Building Department requires
15 us to come back to the Board and to make sure
16 that everything is in order.

17 My client also went ahead and he changed
18 architects. So, once he changed architects, then
19 these -- this new firm brought a different eye to
20 the project, and made certain recommendations.

21 Those recommendations actually totally
22 eliminated or reduced certain of the variances
23 that were previously granted.

24 I believe there's only one where it's
25 actually been expanded upon.

1 We believe, from a zoning perspective, this
2 is a much better project than what was previously
3 approved.

4 With that said, I have two witnesses this
5 evening. I have Albert Arencibia, who is the
6 architect, and I have Michael Kauker, the
7 planner, who will testify as to the changes with
8 respect to the zoning criteria.

9 So, with that, I'll have Mr. Arencibia.

10 MR. ARENCIBIA: Here?

11 MS. DILLON: Are you going to --

12 MR. ARENCIBIA: I was going to go there --

13 MS. DILLON: Okay.

14 MR. ARENCIBIA: -- if possible.

15 I was going to stand here and point.

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

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

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

22 MR. ARENCIBIA: I do.

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

25 MR. ARENCIBIA: Albert Arencibia,

1 A-R-E-N-C-I-B-I-A.

2 MS. DILLON: Thank you.

3 MR. ALONSO: Mr. Chairman, Mr. Arencibia
4 has been previously qualified --

5 ACTING CHAIRPERSON GRULLON: Sure.

6 MR. ALONSO: -- by this Board.

7 ACTING CHAIRPERSON GRULLON: We accept his
8 qualification. He has been here on many, many
9 occasion.

10 MR. ARENCIBIA: Thank you very much.

11 MR. ALONSO: Thank you.

12 Mr. Arencibia, your firm was not the
13 architectural firm that presented the original
14 application.

15 Is that correct?

16 MR. ARENCIBIA: That's correct.

17 MR. ALONSO: Okay.

18 Since then, have you had an opportunity to
19 review the -- the prior plans, as well as the
20 Resolution of approval?

21 MR. ARENCIBIA: Yes, we have.

22 MR. ALONSO: Okay.

23 And were you hired to prepare construction
24 drawings?

25 MR. ARENCIBIA: Yes, we were.

1 MR. ALONSO: Okay.

2 And did your firm make certain
3 recommendations on how to approve the application
4 that was previously approved?

5 MR. ARENCIBIA: Yes, we did.

6 MR. ALONSO: Okay.

7 And are those the plans that are before the
8 Board this evening?

9 MR. ARENCIBIA: That is correct. Yes.

10 MR. ALONSO: Okay.

11 And you prepared those plans?

12 MR. ARENCIBIA: Yes.

13 MR. ALONSO: Okay.

14 So, I'm going to ask you just to go through
15 the plans, and indicate, number one, what is the
16 approval that was previously granted, just to
17 refresh the Board's recollection. And just
18 indicate where the -- the changes are.

19 MR. ARENCIBIA: Okay. Yes.

20 Anyway, so the -- the previous application
21 is very similar to what we're proposing here.

22 One of the changes was they had come in
23 originally with 26 units for the previous
24 application and it was changed at the -- at the
25 meeting for 24 units; 23 two bedrooms and one two

1 -- one one bedroom.

2 This application is exactly the same thing:
3 23 two bedrooms and one one bedroom.

4 However, the previous application that was
5 submitted had 26 units, because that was what was
6 drawn and presented. So, there was never any
7 updated drawings.

8 What happens a lot of times, between the
9 Zoning Board and you go to the Building
10 Department, if the drawings do not match up, then
11 the Building Department sends you back down again
12 here, we have to do it all over again. So, in
13 essence, that's what we're doing here.

14 So, what we've done is we've updated the
15 drawings to show the actual -- only 24 units on
16 the actual building structure. And some of the
17 changes, of course, that we -- we did for -- as a
18 result of that, where on the previous
19 application, on the ground floor, there were two
20 residential units on the parking level.

21 So, we've taken out those two units from
22 the -- from the parking level itself. One of the
23 things that we did as a result of that, we were
24 able to pick up, for the residents of the area,
25 some additional amenity space on the ground

1 floor. Little like gym area, little office for
2 the -- for the management office of the building,
3 and also, the little like room to be able to be
4 shared by the residents in the actual building.

5 So, those spaces that were used for
6 residential units, we actually turned it into a
7 positive for community rooms.

8 And we also did, as a result of that, we
9 were able to tuck in, within the existing
10 footprint, so we actually made the building
11 footprint a little smaller, and brought in the
12 stair that actually encroached into the rear yard
13 before, and we brought it in within the -- the
14 actual confines of the building itself. So we
15 minimized that, so the actual building footprint
16 is actually smaller than what was presented
17 before.

18 So, those are basically the main changes on
19 the on the ground floor.

20 MR. ALONSO: Well, in addition to that,
21 were any changes with respect to the parking?

22

23 (Whereupon, Khaled Dardir arrived at 6:50
24 p.m.)

25

1 THE SECRETARY: Mr. Alonso, allow me one
2 second to put in the record that Mr. Khaled
3 Dardir arrived to the meeting.

4 Thank you, Mr. Alonso.

5 MR. ALONSO: Thank you.

6 With respect to the ground floor, were
7 there any changes to the parking?

8 MR. ARENCIBIA: Yes.

9 As a result of removing those units, the
10 parking was also modified. And as a result of
11 the modification, we actually picked up two more
12 additional parking spaces.

13 And as a result of that, as well, the way
14 we configured the parking, before there were 12
15 tandem parking spaces. We brought that down to
16 ten.

17 So, we picked that up. So, there's an
18 addition of more parking, and there's more
19 individual parking spaces. So, it helps as far
20 as when a resident has a visitor, they'll be able
21 to have access to parking, as well, too.

22 So, it's -- it's quite generous parking
23 layout.

24 MR. ALONSO: So, in terms of the parking
25 variance that was previously granted, this is

1 | actually an improvement, because we have two
2 | additional parking spaces, and we have less
3 | tandem.

4 | MR. ARENCIBIA: Two less tandem --

5 | MR. ALONSO: Okay.

6 | MR. ARENCIBIA: -- as well. Yes.

7 | MR. ALONSO: Okay.

8 | MR. ARENCIBIA: That is correct.

9 | So, as far as the parking, that is
10 | basically the issue.

11 | One of the other amenities that we did for
12 | the building was we also added a trash chute and
13 | the compactor within the building itself. This
14 | way, the trash could be easily hauled out of the
15 | building itself. So, it's a convenience, also,
16 | for the residents.

17 | So, we've actually improved the actual use
18 | of the building for the residents, and we
19 | actually made it smaller, so as far as minimizing
20 | pervious for the entire -- impervious for the
21 | entire size of -- of the area.

22 | Huh? Oh, yeah. I'm sorry. Yeah.

23 | There was also -- on the other floors, as a
24 | result of changing parking, we also picked up
25 | additional storage area for the actual residents.

1 Again, everything is a plus/plus on this
2 application.

3 Now, one -- one of the things, of course,
4 that we did, also, as a result of all that, we
5 made some changes to the exterior of the building
6 itself.

7 MR. ALONSO: We're going to mark this as
8 A-1.

9 And just please identify what A-1 is.

10

11 (Whereupon, Rendering was received and
12 marked as Exhibit A-1.)

13

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

16 MR. ARENCIBIA: Okay. So, basically, what
17 you're seeing here is the corner of the building,
18 the entrance.

19 I want to note that the previous pedestrian
20 ingress for the building for the lobby, where it
21 was located before, is same location where we
22 have our lobby.

23 In the ingress and the egress, also, the
24 parking are in the same general location.

25 So, that has not been effected whatsoever,

1 as far as the streetscape or the landscape and
2 the hardscaping in the front of the building
3 itself.

4 Well we did change -- we modernized
5 somewhat the building.

6 The previous application had more of like a
7 cornice, a heavy cornice, more of an older style
8 building.

9 What we've done is we've updated this
10 building a bit. We're showing some good masonry
11 materials along the base of the building. We
12 have blocks throughout the entire base of the
13 building to give a nice hard surface material to
14 the existing base of the building all around.

15 And we also have the sections that we
16 actually generated. We actually penetrate from
17 the corner, goes all the way up to the upper
18 rooftop level, and flanks on both ends of the
19 building up to the -- to the third floor level,
20 all brick buildings, all brick facades on both
21 sides.

22 So, as you could see, it creates a nice
23 contrast of color, gives it a more interesting,
24 like more powerful element on the corner of the
25 building itself, and a little more subtle

1 building setbacks on the sides.

2 The upper sections of the building, we're
3 going to have a hard cement stucco on the
4 building. And in between the -- the windows and
5 the solid walls will be a cement stucco finish.

6 But the entire base of the building, and
7 most -- most of the perimeter, most of the façade
8 of the building will all be finished with -- with
9 brick.

10 We're also proposing on having some
11 planters along the perimeter of the building
12 itself.

13 As you could see, we actually drop these
14 piers all the way to the ground, creating these
15 recesses and these recess. We create these
16 little niches where we're going to have some
17 plantings and -- and some pots around the
18 perimeter of the building itself.

19 There will be, of course, site lighting.
20 There will be lighting by the entrances, and also
21 along the columns. So that will be a continuous,
22 nice, uniform light throughout the entire
23 streetscape of the actual building.

24 MR. ALONSO: And the --

25 MR. ARENCIBIA: That's pretty much it.

1 MR. ALONSO: The total number of apartments
2 remains the same.

3 MR. ARENCIBIA: That is correct.

4 MR. ALONSO: And the total number of
5 bedrooms that was previously approved remains the
6 same.

7 MR. ARENCIBIA: That is correct.

8 ACTING CHAIRPERSON GRULLON: Before you
9 finish your presentation, could you go over the
10 side yards again, to compare to what -- what you
11 have, what was approved?

12 MR. ARENCIBIA: Okay.

13 Well, I'll have Mr. Kauker do that. He's
14 the planner, so he can go through all the
15 variances and all the setbacks and all that for
16 you.

17 I mean, I'm just trying to make it --

18 ACTING CHAIRPERSON GRULLON: No, no.

19 MR. ARENCIBIA: -- faster for everybody so
20 --

21 He's going to touch on that so --

22 ACTING CHAIRPERSON GRULLON: Okay. You
23 want to call your next witness?

24 MR. ARENCIBIA: And I'm out of battery
25 almost.

1 ACTING CHAIRPERSON GRULLON: No. We open
2 for questions later.

3 MR. ALONSO: Okay.

4 Mr. Kauker?

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

7 ACTING CHAIRPERSON GRULLON: Good evening,
8 Mr. Kauker.

9 MS. DILLON: Mr. Kauker, please raise your
10 right hand.

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

13 MR. KAUKER: I do.

14 MS. DILLON: Please state your name and
15 spell it for the record.

16 MR. KAUKER: I'm Michael F. Kauker. It's
17 K-A-U-K-E-R.

18 I'm a professional planner, licensed in the
19 State of New Jersey.

20 MS. DILLON: Thank you.

21 ACTING CHAIRPERSON GRULLON: It's our
22 pleasure to accept his qualification.

23 MR. ALONSO: Thank you, Mr. Chairman.

24 Mr. Kauker, did you testify in the prior
25 application that I indicated to earlier?

1 MR. KAUKER: Yes, I did.

2 MR. ALONSO: Okay. And you testified as a
3 planner?

4 MR. KAUKER: I did.

5 MR. ALONSO: Okay.

6 And I'm going to ask you, did you review
7 this -- the amended application prior to this
8 evening?

9 MR. KAUKER: Yes. I have reviewed it.

10 MR. ALONSO: And were you able to compare
11 and contrast the proposed amendment with the
12 prior application?

13 MR. KAUKER: I -- I did do that. Yes.

14 MR. ALONSO: Okay.

15 And can you please provide us the benefit
16 of your analysis?

17 MR. KAUKER: There are five subject areas,
18 modification, in terms of bulk and -- and parking
19 that are affected by this proposed modification.

20 The first is the increase in parking by
21 two; increasing the ratio from 1.8 to 1.84, and
22 that is a very, very -- of course, is a very high
23 ratio for this community. And it's very close to
24 the 2.1 that's required by RSIS for two bedroom
25 units.

1 The second modification relates to the
2 height of the building, which is limited to 50
3 feet. The original application proposed and --
4 and received approval for a small increase in
5 that height to 51.83 feet.

6 The modification brings the height back to
7 50 feet, on average. Therefore, there's no need
8 for that variance, and we comply with the
9 Ordinance.

10 The third modification related to maximum
11 lot coverage, which is set at 90 percent, the
12 original approval was for 90.12 percent, slightly
13 over.

14 The modification that you have before you
15 tonight reduces -- brings that down to 84.3
16 percent. A reduction of 5.82 percent, which
17 makes that particular dimensional variance go
18 away, because, in fact, we comply 84.3 versus the
19 max allowed of 90.

20 The fourth change relates to maximum
21 building coverage. There's a very, very small
22 reduction in the 76.9 percent building coverage
23 that was approved.

24 The current drawings bring that down to
25 76.7 percent, a very, very small reduction of .2

1 percent.

2 The fifth modification relates to side
3 yard. We had a side yard deviation of one foot
4 on the north side of the subject site, from five
5 feet to four feet.

6 The reconfigured drawings show that the
7 property line is actually askew slightly, and not
8 -- not completely parallel to the right-of-way.
9 And so, in effect, the new drawings show a
10 maximum of four feet, down to a minimum of two
11 feet one inch. And that is the only dimensional
12 aspect of this plan that -- where a -- where our
13 variance has been modified slightly.

14 That particular deviation is mitigated from
15 a point of view that the streetscape, as
16 originally proposed, and as shown to you tonight,
17 in terms of the width of the sidewalk and
18 everything else, remains the same. So, there's
19 no, essentially, visual or physical impact
20 related to that particular variance.

21 So, on balance, four out of the five
22 modifications, in terms of bulk and dimensional
23 setbacks are brought into greater compliance, if
24 -- and compliance, while only one of the five
25 variables that I presented to you represent a

1 slight increase in the nature of that variance.

2 MR. ALONSO: And with respect to the -- the
3 side yard variance, that would be a C-1 hardship
4 variance, because of the topographical conditions
5 of the -- of the lot.

6 MR. KAUKER: Well, of the shape of the
7 property.

8 MR. ALONSO: The shape of the property.

9 MR. KAUKER: Yes, sir.

10 MR. ALONSO: Okay.

11 So, we're eliminating two of the variances
12 that were previously granted, and we're reducing
13 two other variances, to be more in compliance.

14 MR. KAUKER: That's correct.

15 MR. ALONSO: Now, does this analysis, in
16 any way, change your opinion, from the prior
17 application, with respect to the justification
18 for the overall granting of the variances for
19 this project?

20 MR. KAUKER: No, it does not. It improves
21 slightly the negative criteria aspect of my prior
22 testimony.

23 MR. ALONSO: Mr. Chairman, I have no
24 further questions.

25 ACTING CHAIRPERSON GRULLON: So, we're

1 going to leave the questions for the -- to the
2 end.

3 Do you have any other witness?

4 MR. ALONSO: I do not.

5 ACTING CHAIRPERSON GRULLON: Can you call
6 the architect? Mr. --

7 MS. DILLON: Just right there.

8 MR. ARENCIBIA: Yes. I got it.

9 MS. DILLON: Okay.

10 ACTING CHAIRPERSON GRULLON: Mr. Arencibia,
11 could you go over the -- the material proposed
12 now, and compare it to the one that were
13 approved? The material?

14 MR. ARENCIBIA: Okay.

15 MR. ALONSO: Well, you need the --

16 MS. DILLON: Now I need to wire you.

17 MR. ARENCIBIA: Oh.

18 I have the previous drawing here before, so
19 what I'll do is I'll --

20 MR. ALONSO: Well, you just need the
21 microphone.

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

24 MR. ARENCIBIA: Okay. This is basically
25 the previous application. Well, this is an

1 elevation in the previous application.

2 I'm sorry. This is the best I can do for
3 the Board right now.

4 This is the entrance of the building
5 before, which in essence, is the corner here. As
6 you could see, we have the canopy, the nice
7 projecting canopy, metal canopy going out to the
8 street, with some nice clean modern light
9 fixtures.

10 Oversee -- over here, you see you have sort
11 of like a hanging canopy here, and you have a
12 very traditional triangular pediment on -- on top
13 of the actual building.

14 The brick -- basically the base is brick
15 throughout the building, to a certain area. And
16 there's a combination of brick, some metal work,
17 with some bracket detailing. You see the copular
18 cornice, the old metal cornice. You'll attach
19 the metal cornice work with brackets. And this
20 -- there are sections throughout the facade that
21 have siding.

22 So, basically, it's siding and brick is
23 what they had on the previous application.

24 And I think -- again, this is another
25 elevation. As you could see, they have brick,

1 | you have siding. Again, the same cornice detail
2 | on the top.

3 | I think those are the only elevations that
4 | I have.

5 | ACTING CHAIRPERSON GRULLON: I mean, the
6 | reason of my question is because I remember on
7 | the previous application, it was presented to
8 | keep the existing -- you know, look of the
9 | building, like a brownstone building. And now, I
10 | see that we got other materials involved.

11 | Are we going to have demolition to the
12 | entire building now that was not proposed before?

13 | MR. ARENCIBIA: Oh, yes. The building is
14 | going to be taken down. Yes.

15 | I believe the building before was taken
16 | down, as well, too. On the previous application,
17 | you couldn't build what was proposed without
18 | taking down this building.

19 | ACTING CHAIRPERSON GRULLON: Okay.

20 | And do you -- you going to be using stucco,
21 | you say?

22 | MR. ARENCIBIA: Only in the upper sections
23 | here, and this general area here.

24 | I'd say about 80 percent of the façade is
25 | going to be a hard material, masonry material.

1 ACTING CHAIRPERSON GRULLON: You know how
2 the Board -- how this Board has been about
3 stucco.

4 MR. ARENCIBIA: Yes.

5 ACTING CHAIRPERSON GRULLON: Is any way
6 that you can use -- talk to your client and see
7 if you can use another type of brick?

8 MR. ARENCIBIA: I mean, I'd have to ask my
9 client.

10 I just want the Board to understand,
11 because I know the Board has an issue with the
12 EIFS, that stucco that has like the bone behind
13 there, but just so you know, this is really the
14 hard stucco. So, it's more like a concrete
15 finish. It goes on with a lath.

16 So, it's not the same stucco as other
17 projects in the area. But I -- yes, I do know
18 how the Board feels about it.

19 ACTING CHAIRPERSON GRULLON: Okay.

20 And the --

21 THE SECRETARY: Mr. Grullon, if you allow
22 me, I think is a Resolution by the Board of
23 Commissioner of the City of Union City, with
24 prohibiting materials to use on the buildings.

25 MR. ALONSO: That's correct.

1 MR. ARENCIBIA: That's correct.

2 THE SECRETARY: I don't know if you're
3 aware of that?

4 MR. ALONSO: Mr. Arencibia, you're --
5 you're familiar with the --

6 MR. ARENCIBIA: Yes.

7 MR. ALONSO: -- with the Ordinance.

8 MR. ARENCIBIA: Yes.

9 MR. ALONSO: And obviously, we comply with
10 the Ordinance that prohibits certain types of --

11 MR. ARENCIBIA: Absolutely.

12 MR. ALONSO: -- materials.

13 MR. ARENCIBIA: And it's -- and the stucco
14 we're proposing here is not the stucco that
15 you're familiar with.

16 ACTING CHAIRPERSON GRULLON: That is
17 prohibited. Okay.

18 MR. ARENCIBIA: This is a cement stucco.
19 This is different material all together.

20 ACTING CHAIRPERSON GRULLON: You say the --
21 the amount of units is reduced from the previous
22 application, like --

23 MR. ARENCIBIA: Well --

24 ACTING CHAIRPERSON GRULLON: -- from 26 to
25 24.

1 MR. ARENCIBIA: When they came in with the
2 original application, they proposed 26 units.
3 The approvals they received was for 24 units.

4 So, we're -- this is an application with 24
5 units. So, we did not change the number of
6 units, nor the number of bedrooms.

7 We did increase the parking, and we
8 minimized the -- the tandem parking.

9 ACTING CHAIRPERSON GRULLON: Yeah, okay.

10 And my last question, it may be for the
11 planner.

12 The parking -- the parking area, how did
13 that got increased if -- could you explain that?

14 MR. ARENCIBIA: Yes.

15 Well, there were two residential units on
16 the application that was presented.

17 ACTING CHAIRPERSON GRULLON: Oh, that were
18 presented.

19 MR. ARENCIBIA: So, we removed those --
20 those residential units from the -- from the
21 floor. We were able to reconfigure it, make the
22 parking more efficient. And that's where we'll
23 pick up the storage space, the compactor, the
24 amenities area.

25 So, we were able to juggle things around

1 and make it much more efficient and much better
2 layout for the building.

3 ACTING CHAIRPERSON GRULLON: Okay.

4 I don't have any more questions for the
5 architect.

6 Any of you have any question?

7 Thank you, Mr. Arencibia.

8 MR. ARENCIBIA: Thank you.

9 ACTING CHAIRPERSON GRULLON: Mr. Kauker,
10 could you please come up front?

11 The only question that I have for you is
12 the height, again.

13 The height of the building?

14 MR. KAUKER: Fifty feet, which --

15 ACTING CHAIRPERSON GRULLON: Did that --
16 did that --

17 MR. KAUKER: Which complies.

18 ACTING CHAIRPERSON GRULLON: -- did that
19 change?

20 Compared to the application that was
21 approved.

22 MR. KAUKER: The original approval was for
23 51.331 and a third feet higher.

24 ACTING CHAIRPERSON GRULLON: And you're not
25 -- you're not asking for variance now on the

1 height?

2 MR. KAUKER: That is correct.

3 MR. MEDINA: Excuse me? I have a question.

4 MR. KAUKER: Yes, sir.

5 MR. MEDINA: At this moment, the building
6 is empty. The building is empty right now.

7 Right?

8 MR. ALONSO: The building's empty.

9 MR. MEDINA: It just --

10 MR. ALONSO: The building's empty?

11 MR. MEDINA: It's empty?

12 MR. ALONSO: Yes.

13 MS. GUTIERREZ: Yeah, it is empty.

14 MR. MEDINA: Okay. And when you going to
15 start to build?

16 MR. ALONSO: Well, what happens now is --
17 subject to the approval by this Board.

18 MR. MEDINA: Okay.

19 MR. ALONSO: Then we'll have the
20 Resolution, hopefully, within 30 days. And
21 there's a 45 day appeal period.

22 In the meantime, my client will be
23 preparing construction drawings, which will be
24 submitted to the -- to the Building Department.

25 They'll review it, make whatever

1 modifications are necessary. And hopefully,
2 issue building permits.

3 So, December, hopefully, start.

4 MR. MEDINA: The reason I ask this question
5 is some time we approve by the Board, and they
6 take over six months, a year. When it's empty
7 building, it's not -- it's a risk to have an
8 empty building. There's nobody there.

9 So that's the reason I ask you that
10 question. How long it's going to take to start
11 to build?

12 MR. ALONSO: Absolutely. As a matter of
13 fact, my client will be required to have any
14 safeguard to the building, to protect the
15 building.

16 MR. MEDINA: Correct.

17 MR. ALONSO: Not only protect the building,
18 but also protect the pedestrians and the public,
19 so that, A, nothing is falling down; B, people
20 are not getting --

21 MR. MEDINA: Correct.

22 MR. ALONSO: -- inside there.

23 MR. MEDINA: And also we have a store just
24 across the street -- I mean, a school.

25 MR. ALONSO: Right.

1 MR. MEDINA: There's a school, Jose Marti.

2 ACTING CHAIRPERSON GRULLON: Okay. No more
3 question from the Board?

4 Going to open to the public at this time.

5 Open to the public.

6 Will you please come forward?

7 MR. NOVI: I have to come there?

8 ACTING CHAIRPERSON GRULLON: Yes, please.

9 MR. NOVI: Okay. My name is Pietro Novi.

10 MS. DILLON: Excuse me one second, sir.

11 MR. NOVI: 1911 -- yeah.

12 MS. DILLON: One second, sir.

13 MR. PANEQUE: He has to be sworn in. Yes.

14 MS. DILLON: Sir, I need you to please
15 raise your right hand.

16 MR. NOVI: Excuse me?

17 MS. DILLON: Please raise your right hand.
18 I need to swear you in.

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

21 MR. NOVI: I do.

22 MS. DILLON: Okay. Could you please state
23 your name, slowly, and spell it for me?

24 MR. NOVI: P-I-E-T-R-O, Pietro.

25 MS. DILLON: P or B?

1 MR. NOVI: Novi.

2 MS. DILLON: P or B?

3 MR. ALONSO: P. P as in Peter.

4 MS. DILLON: Okay. Last name?

5 MR. NOVI: Novi, N-O-V-I.

6 MS. DILLON: Okay. And your address?

7 MR. NOVI: 1911 Summit Avenue.

8 MS. DILLON: Thank you, sir.

9 MR. NOVI: Okay.

10 MS. DILLON: Thank you.

11 MR. PANEQUE: Mr. Novi, what is your
12 question?

13 MR. NOVI: Okay. Let me say that I'm not
14 familiar with the procedure in -- in a case like
15 that. I'm not a lawyer, and I don't have a
16 lawyer with me.

17 I am a simple U.S. citizen, and I'd like to
18 know something very, very important because one
19 side of my house is going to be greatly effected
20 by this eventual construction.

21 So, my question is very simple. What is my
22 compensation?

23 I will receive a great damage to my house.
24 So --

25 MR. PANEQUE: Yes, Mr. Novi, that is a

1 question that this Board cannot answer.

2 As you started out by saying, you come
3 before this Board without an attorney. With
4 respect to that question, I can only suggest that
5 you seek the legal advice of counsel on a private
6 basis.

7 But this Board cannot answer that question.
8 It's -- this Board can -- or the witnesses that
9 are before this Board can answer a question as to
10 the application that's before it.

11 But what you're asking is outside the scope
12 of what is before this Board.

13 MR. NOVI: So, in other words, tonight, you
14 will give the okay to construct this building?

15 ACTING CHAIRPERSON GRULLON: Mr. Pietro,
16 first, I want to say that this application was
17 previously approved, like -- I will say, like six
18 months ago.

19 And were you part of the meeting at that
20 time? Did they notify you?

21 MR. NOVI: No. I didn't know anything
22 about that.

23 ACTING CHAIRPERSON GRULLON: Okay. They're
24 -- they're only here to amend the site plan, on
25 something that was already approved.

1 And if this is granted, if -- what they're
2 asking -- if we approve what they're asking, you
3 will have to get an attorney, just to try to
4 answer your -- you know, your concerns.

5 MR. NOVI: Um hum.

6 MR. ALONSO: I can tell him, with respect
7 to damage -- I'm assuming you're talking about
8 physical damage to your building?

9 MR. NOVI: Not physical. No, no, no.
10 Damage in terms of view, and everything like
11 that.

12 MR. ALONSO: Okay. Well, there's --
13 there's been no testimony that it's going to --
14 that's going to happen.

15 MR. NOVI: Um hum.

16 MR. ALONSO: As a matter of fact, since
17 it's already been approved --

18 MR. NOVI: There is no testimony. You see
19 the plan of my house, and you will see that it
20 will be greatly effected.

21 MR. ALONSO: Okay. But that should have
22 been brought to the Board when it was originally
23 approved.

24 So, it's already approved.

25 MR. NOVI: So, why are we here tonight for?

1 MR. ALONSO: Just to make some minor
2 changes.

3 MR. NOVI: Oh, changes?

4 So, this is already approved?

5 MR. ALONSO: There was a prior application
6 that was approved. These are just some minor
7 changes, which actually --

8 MR. NOVI: Um hum.

9 MR. ALONSO: -- we believe, it's up to the
10 Board to decide, we believe we made improvements
11 to those prior approvals.

12 MR. NOVI: Okay. So, who do I have to
13 speak to?

14 MR. ALONSO: With respect to?

15 MR. NOVI: For the compensation?

16 I am not happy that this happens, just like
17 that.

18 MR. ALONSO: There is no compensation.

19 MR. NOVI: There's no compensation?

20 MR. ALONSO: All I can tell you is that
21 there is insurance in place, and there's a lot of
22 procedures in place to protect your property, so
23 that there is no damage to your property.

24 MR. NOVI: Um hum.

25 MR. ALONSO: But there is no compensation.

1 MR. NOVI: For the fact that the view is
2 greatly --

3 MR. ALONSO: We don't --

4 MR. NOVI: -- obstructed.

5 MR. ALONSO: We don't know that.

6 MR. NOVI: No compensation? How can I
7 accept that? I mean, it's a simple thing.

8 Now, I have air, light, sky. Tomorrow, I
9 will have cement, glass.

10 Is this normal?

11 ACTING CHAIRPERSON GRULLON: We understand,
12 Mr. Pietro.

13 MR. NOVI: Yeah.

14 ACTING CHAIRPERSON GRULLON: The only --
15 what they're proposing to build is permitted
16 there. They're not even asking for -- for a
17 height variance. They're proposing to build
18 something that is permitted.

19 Fifty feet high is permitted in that -- in
20 that zone.

21 MR. NOVI: Excuse me? Repeat the last
22 part.

23 ACTING CHAIRPERSON GRULLON: Fifty feet
24 height that they're proposing is permitted to
25 build in that zone, without any request for

1 approval.

2 MR. NOVI: Okay.

3 MR. ALONSO: Can I just ask you, and I know
4 the Board doesn't have the benefit of this
5 photograph, is this your house here?

6 MR. NOVI: Not that. My house is -- it's
7 -- has the yard in front of the house. It's
8 here. The one in the back. That's my house.

9 And the back of my house, I have a backyard
10 also. And that's just at the borderline of --
11 with the construction, eventual.

12 MR. ALONSO: Okay.

13 MR. NOVI: So, when I -- from my kitchen,
14 again, now I see sky, sun. Tomorrow, I will see
15 that thing over there. I -- I --

16 MR. PANEQUE: Mr. Novi, --

17 MR. NOVI: Yes.

18 MR. PANEQUE: -- as I previously indicated,
19 we are listening to your concerns. However,
20 those concerns are not to be brought up at this
21 time before this Board, because this application
22 has already been approved.

23 MR. NOVI: Okay.

24 MR. PANEQUE: Now, the only advice I can
25 give you is that you can seek legal private

1 counsel.

2 MR. NOVI: Of course.

3 MR. PANEQUE: And speak to an attorney.

4 MR. NOVI: Okay.

5 MR. PANEQUE: And get some clarification
6 from an attorney.

7 Neither this Board nor Mr. Alonso, nor
8 myself, can give you legal advice as to what you
9 should be doing or what you can do.

10 MR. NOVI: Okay.

11 Very good.

12 MR. ALONSO: And I'll give you my card, in
13 case when you get a lawyer --

14 MR. NOVI: Thank you.

15 MR. ALONSO: -- and he wants to call me --

16 MR. NOVI: I appreciate that.

17 MR. ALONSO: -- he can call me, I'll --
18 I'll speak with him.

19 MR. NOVI: Okay. My daughter is your
20 colleague. Okay.

21 I thank you, gentlemen, ladies -- okay --
22 for your time.

23 ACTING CHAIRPERSON GRULLON: Thank you, Mr.
24 Novi.

25 MS. GUTIERREZ: You're welcome.

1 MR. PANEQUE: Thank you, Mr. Novi.

2 MR. NOVI: Thank you so much.

3 MS. GUTIERREZ: You're welcome, sir.

4 MR. NOVI: Thank you.

5 ACTING CHAIRPERSON GRULLON: Any other
6 member of the public?

7 Mr. Price?

8 MS. DILLON: Mr. Price, please raise your
9 right hand.

10 Do you affirm the testimony you're about
11 give this Board is the whole truth?

12 MR. PRICE: I do.

13 MS. DILLON: Name and address, for the
14 record.

15 MR. PRICE: Larry Price, 1006 Palisade
16 Avenue.

17 MS. DILLON: Thank you.

18 MR. PRICE: I think my questions are to Mr.
19 Arencibia.

20 Okay. Essentially, they're the same
21 questions that Mr. Grullon had.

22 MS. DILLON: Just a little closer, Mr.
23 Arencibia.

24 MR. PRICE: Okay. The testimony originally
25 -- this is a greyfields development.

1 MR. ARENCIBIA: Um hum.

2 MR. PRICE: Okay. Yes? Yes.

3 MR. ARENCIBIA: Yes.

4 MR. PRICE: Okay.

5 The original testimony was that the -- that
6 the decor of the existing building, which is a
7 two story industrial building, was going to be
8 retained.

9 MR. ARENCIBIA: I wasn't here on that
10 application.

11 MR. PRICE: Okay. Fine. Okay.

12 But the -- the decor of the existing
13 building was being retained.

14 MR. ARENCIBIA: Okay.

15 MR. PRICE: You say that the plan now is to
16 demolish the existing building and build a new
17 building in replacement.

18 MR. ARENCIBIA: Yes.

19 MR. PRICE: Okay.

20 Okay. In which case, I have a few
21 questions.

22 This is a corner lot.

23 Correct?

24 MR. ARENCIBIA: Correct.

25 MR. PRICE: Okay.

1 What is the front yard?

2 MR. ARENCIBIA: The front yard is Summit
3 Avenue.

4 MR. PRICE: Okay. Summit Avenue.

5 What is the setback there?

6 MR. ARENCIBIA: It's zero.

7 MR. PRICE: In -- in your building, it's
8 zero.

9 MR. ARENCIBIA: Yes.

10 MR. PRICE: Okay.

11 What do you consider the -- there are two
12 side yards. What are they?

13 MR. ARENCIBIA: Nineteenth Street, and the
14 other internal.

15 MR. PRICE: And the other end.

16 MR. ARENCIBIA: Correct.

17 MR. PRICE: Okay.

18 And what are the setbacks there?

19 MR. ARENCIBIA: On the existing building?

20 MR. PRICE: No. No. On the building you
21 intend to build.

22 MR. ARENCIBIA: It starts at four foot on
23 the corner of Summit and 19th, and it goes down to
24 two foot one, as you're heading down 19th Street.

25 MR. PRICE: How about the other side?

1 MR. ARENCIBIA: It's zero.

2 MR. PRICE: Okay.

3 And the rear yard would be the opposite
4 from -- from Summit Avenue. That would be the
5 rear yard.

6 MR. ARENCIBIA: Yes.

7 MR. PRICE: Okay. And how big is that rear
8 yard setback then?

9 MR. ARENCIBIA: Twenty-five feet.

10 MR. PRICE: Twenty-five feet. Okay.

11 Okay. They've -- well, I'll just make a
12 comment.

13 They've told you about all the things
14 they're reducing. They aren't really telling you
15 about the things they're increasing.

16 I mean, they've got a -- they're required,
17 in a greyfield, to have total side yard setbacks
18 of 15 feet. Five and ten, essentially.

19 And they're required to have a front yard
20 setback of ten feet.

21 Now, the original application didn't give
22 that, but the original application had a good --
23 whatever.

24 They were going to use the existing
25 building, which is built on the property line,

1 essentially.

2 If they're going to demolish that building,
3 then -- then they have to justify, I think -- on
4 Summit Avenue, instead of having a ten foot
5 setback, they have zero.

6 Instead of -- on 19th Street, instead of
7 having a five -- a five foot setback, they're
8 having -- they have two feet.

9 On the other side, they're required to have
10 ten, they have zero.

11 The only setback requirement that they meet
12 is the rear yard setback, which must be 25 feet
13 and is, in fact, 25 feet.

14 But anyway, there are some variances that
15 are going away on this application, but there are
16 some variances that are coming up.

17 And I haven't heard any justification as to
18 -- you know -- you know, for the exist -- for the
19 grant of those variances, so --

20 Thank you.

21 MR. ARENCIBIA: Um hum.

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

24 MR. ALONSO: I'm just going to have Mr.
25 Kauker come up and -- and address some of those

1 | comments.

2 | MR. KAUKER: Well, in all actuality, and
3 | not withstanding the fact that a portion of the
4 | core of the building was proposed to be re-
5 | utilized in the prior application.

6 | ACTING CHAIRPERSON GRULLON: Yes.

7 | MR. KAUKER: The perimeter outbound
8 | dimensions of the building, essentially, number
9 | one, remain the same.

10 | And number two, the actual height of the
11 | proposed building is reduced by a foot and
12 | change, so that the -- that the physical
13 | relationship between what is now before you, and
14 | what was approved as a zero lot line situation
15 | doesn't change one iota, because the skin and the
16 | outbound framing of the building remains exactly
17 | in the same place, at a reduced height, as
18 | compared to the application -- the portions of
19 | the application that were approved by this Board,
20 | and -- and not changed as a product of this
21 | redesign.

22 | So, there's no net negative effect on the
23 | integrity of those original variances. They
24 | essentially remain the same, as originally
25 | approved.

1 ACTING CHAIRPERSON GRULLON: You're saying
2 that there is no increase in the variance for
3 side yards?

4 MR. KAUKER: But for that side yard
5 dimension, from four feet -- ranging from four
6 feet, which was exactly what was approved, down
7 to the two foot one inch.

8 MR. ALONSO: What happened is once an
9 updated survey was obtained, it was determined
10 that the line was a little skewed.

11 So, it wasn't a straight line for the four
12 feet. It was -- it started at the four feet,
13 which was the way it was approved, but the actual
14 line comes in a little bit. So, it goes from
15 four feet to two feet.

16 And that's why there's an increase, and
17 that's why Mr. Kauker testified earlier that it's
18 a -- it's a hardship because of the -- the layout
19 of the lot.

20 ACTING CHAIRPERSON GRULLON: Rear -- rear
21 yard remain the same? The rear yard?

22 MR. KAUKER: That's correct. Yes.

23 ACTING CHAIRPERSON GRULLON: Okay. Any
24 other member of the public?

25 MR. PRICE: Let me --

1 MS. DILLON: Name for the record.

2 MR. PRICE: Larry Price, again.

3 A rebuttal here. I mean, this has nothing
4 to -- my objection has nothing to do with the
5 height. My object -- and Mr. Kauker is right,
6 but he's also wrong. He's saying there are no
7 changes from what was approved before, but what
8 was approved before was approved because this
9 Board had no choice. They were going to use the
10 existing building shell. And it was built on the
11 property line, so you had no choice.

12 So, it was either approve it with those
13 variances, or disallow the whole project.

14 Now, they've changed their plans, and
15 they're going to demolish the whole building.

16 They need -- they are required, by our
17 Ordinance, to have ten feet in the front. They
18 got zero.

19 They are required to have five feet on one
20 side, and ten feet on the other, in terms of side
21 yard setbacks.

22 And they have the ability, now, to meet
23 those requirements. They're not -- they're not
24 captured by a building envelope.

25 So, at this point, if they want those side

1 yard -- it's no longer -- you can't say, well it
2 was approved before. It was approved before
3 because we were using an existing building.

4 So, those -- those reasons no longer apply.
5 So, if they want those side yard setbacks, they
6 have to come up with a new justification. And
7 the fact that the building's two feet -- you
8 know, shorter is not it. So --

9 ACTING CHAIRPERSON GRULLON: We understand
10 your concern, Mr. Price.

11 MR. PRICE: Okay.

12 MR. ALONSO: Mr. Chairman --

13 MR. PRICE: Mr. Novi's attorney will have
14 that same thing, because Mr. --

15 MR. ALONSO: You -- you don't know what Mr.
16 Novi's attorney is going to have.

17 MR. PRICE: Neither do you, Mr. Alonso, and
18 --

19 MR. ALONSO: I understand.

20 MR. PRICE: -- where -- where I come from,
21 Mr. Alonso --

22 ACTING CHAIRPERSON GRULLON: Mr. Price?

23 MR. PRICE: -- you don't interrupt people.
24 Okay? It's impolite.

25 MR. ALONSO: You're done. Okay. Have a

1 seat.

2 Mr. Chairman --

3 MR. PRICE: No. I am not done. Okay.

4 Mr. Novi -- you know, apparently, lives
5 next door.

6 MR. ALONSO: Mr. Chairman --

7 MR. PRICE: He is --

8 MR. ALONSO: Do you represent Mr. Novi?

9 MR. PRICE: Would you -- would you please
10 ask the attorney to --

11 ACTING CHAIRPERSON GRULLON: Mr. Price?
12 Mr. Price, could you please address your concern.
13 Let's leave Mr. Novi -- he already expressed --

14 MR. PRICE: He's entitled --

15 ACTING CHAIRPERSON GRULLON: -- his
16 concern.

17 MR. PRICE: -- to a ten foot setback. He's
18 getting zero.

19 Okay. He said -- you know, what it -- I
20 live next door. I'm going to look at cement.
21 Okay?

22 I think it's incumbent on this Board, if
23 you're not going -- if you're to, in effect,
24 grant a variance for a ten foot setback that is
25 required, that there be some evidence introduced.

1 Before, we had to accept it. Now you don't.

2 It's a new building.

3 ACTING CHAIRPERSON GRULLON: Thank you, Mr.
4 Price.

5 MR. ALONSO: Mr. Chairman, I'm just going
6 to call one other witness, Mr. Mattheis (sic).

7 MS. DILLON: Sir, please raise your right
8 hand.

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

11 MR. DeMATTHEIS: Yes, ma'am.

12 MS. DILLON: Got to keep your voice up.

13 MR. DeMATTHEIS: Yes.

14 MS. DILLON: Please state your name, and
15 spell it for me.

16 MR. DeMATTHEIS: Steve DeMattheis, D --
17 Steve, S-T-E-V-E-N, DeMattheis,
18 D-E-M-A-T-T-H-E-I-S.

19 MR. ALONSO: Mr. DeMattheis, what is your
20 relationship to they applicant?

21 MR. DeMATTHEIS: I'm the owner of the
22 property.

23 MR. ALONSO: Were you the owner of the
24 property during the first application?

25 MR. DeMATTHEIS: During the first

1 application, I was not. I was working with
2 somebody at that time, who was the owner.

3 MR. ALONSO: And were you familiar with the
4 application that was presented at that time?

5 MR. DeMATTHEIS: I was responsible for
6 securing the approvals for that application, and
7 every aspect related to them.

8 MR. ALONSO: Is there anything that you
9 need to respond to, with respect to the comments
10 made by Mr. Price?

11 MR. DeMATTHEIS: Not necessarily to those
12 comments, just that when we were putting the
13 plans together for this property, that building
14 is unsound. You, sir, requested when we would be
15 planning to take it down.

16 That building was built circa 1930 or
17 earlier. The structural foundation of that
18 building does not come in any way, shape, or form
19 close to what the requirements are today.

20 It cannot be used. It's -- it's impossible
21 to make that happen.

22 That was not ever mentioned in the
23 Resolution that we got approvals for. It was
24 never stipulated that that was a requirement to
25 keep the skin of that building. We had

1 structural engineers look at that property, and
2 say it simply cannot be done.

3 ACTING CHAIRPERSON GRULLON: Yeah. I mean,
4 we -- we understand that, as a Board.

5 But the situation now is that we're not
6 using the existing footprint of the building, and
7 it's going to be a demolition.

8 Now you have the opportunity to provide at
9 least the five foot, because I see that you're
10 removing two apartment from the ground floor, and
11 -- and you might be able to speak to your
12 architect and try to provide some setbacks, at
13 least to minimize that. Give the five -- the
14 five foot that you need at the 19th Street side,
15 and see if you can try to do another five -- five
16 feet on the Summit -- on the Summit line.

17 MR. ALONSO: You're talking about just on
18 the ground floor, or the entire building?

19 ACTING CHAIRPERSON GRULLON: The entire
20 building, because you have large apartment. You
21 have an opportunity, now, to provide a building
22 fit into the area, and it's not going to be
23 generating a variance for -- for the footprint of
24 the building.

25 Before I know, I -- and I agree with that.

1 First time that I agree with Mr. -- with Mr.
2 Price, but before we were forced to accept it the
3 way it was, because we were using the existing
4 footprint.

5 As the gentleman mentioned that it's not
6 possible because of the condition of the
7 footprint of the building, now we have your --
8 you have the opportunity to come up and try to
9 reduce a little bit that variance for side --
10 side -- side yard.

11 MR. DeMATTHEIS: We have a dilemma that we
12 have to resolve tonight.

13 I have invested way too much capital into
14 this project. Okay? I'm a small developer. I
15 have my life savings into this project.

16 I have tried for the past year and three
17 quarters --

18 ACTING CHAIRPERSON GRULLON: Yes.

19 MR. DeMATTHEIS: -- to bring something to
20 the township, which I'm proud of, which my
21 company has spent --

22 MS. DILLON: You just have to come back to
23 the microphone. You can bring it with you.

24 MR. DeMATTHEIS: Which we've spent enormous
25 amount of effort and time.

1 I do not want to be in a township that
2 doesn't want what we are going to bring to the
3 township. I do not have unlimited resources to
4 keep amending plans.

5 There is a very real economic component to
6 this. Every square foot of this building is
7 calculated for, because every square foot of that
8 building costs me \$200.00 to build.

9 Every aspect of the gym, the services for
10 when they come downstairs and they get their
11 coffee, and they go out to the street, and they
12 get their buses and their trains, and their six
13 by nine storage facilities that they can put
14 their bicycles in and their golf -- golf bags in,
15 their holiday decorations.

16 There is a very real science to the
17 economic viability of this project and how it
18 relates to being able to go out to the -- to the
19 world and the financing world, after 2008.

20 I'm a blue chip credit guy. They are
21 killing me to get the loan on this.

22 I have 800 credit scores across all the
23 data bases. I am dealing with banks. I know for
24 years, and because of the government and what
25 happened in 2008, that we were not part of, that

1 Wall Street created and capsized our economy, I
2 am now faced with a very serious situation, which
3 is I need to be able to secure the financing, to
4 develop this property.

5 The bank has committed and approved me for
6 the loan. I have an existing project that I can
7 build and develop.

8 The skin of the building, not because I
9 don't want to -- the skin of the building simply
10 cannot be utilized.

11 And I don't want to be one of those
12 developers who comes in before you, spends all
13 this effort and time, to get your blessing and
14 approval, to bring a good project to the town,
15 and then be forced, where I end up in a -- in a
16 negative burn, where my capital resources are
17 dwindling, and end up being that developer who
18 wastes time with Marty Martinetti, Sal Ferlise,
19 the attorneys, the Board, and turn around and
20 say, I can't do it. Put a sign on the building
21 that says, for sale. I'm out.

22 And then, you end up in a process, because
23 I -- when the world capsized in 2008, I was
24 previously the CEO of a company. And I brought
25 our portfolio from zero to almost a million and a

1 half square feet of distressed assets. Assets
2 that defaulted. Couldn't pay their mortgages.

3 I was the guy behind the scenes that worked
4 with those institutions, getting back to this --

5 ACTING CHAIRPERSON GRULLON: I understand
6 that, Mr. --

7 MR. DeMATTHEIS: There's plenty of these
8 projects that are littered all over the
9 landscape. They don't come online. They don't
10 get to pay their taxes. That hurts the
11 municipality. It doesn't support the community.
12 The people who are looking for jobs, because
13 they're out-priced in New York City, and they
14 can't rent \$8,000.00 a month, can't come here and
15 be part of this community and spend money in this
16 community.

17 I am not trying to hurt the community, but
18 believe me when I say this, there is a very real
19 component to this.

20 I don't have the ability to come back
21 another month for this. We have a construction
22 timetable. I've been working on this approval
23 since January 1st, 2013. And I do have approval.

24 So, somehow, if we can resolve this
25 tonight, with the assistance of Mr. Price, and be

1 | able to move forward, because if that doesn't
2 | happen, I may very likely be in a situation where
3 | I just post a sign, I get some New York maniac,
4 | who's willing to pay some stupid money, and I
5 | jump out of it.

6 | I don't want to do that. I didn't spend
7 | two and a half years of my life to end up in that
8 | situation.

9 | ACTING CHAIRPERSON GRULLON: Yes, Mr.
10 | DeMattheis. I understand that, but what we're
11 | asking here now is by complying with the side
12 | yard, let's say, on the 19th Street side, it's two
13 | feet that you're short, would that sacrifice your
14 | project? Would that make a big change to the --

15 | MR. DeMATTHEIS: Presently, and -- and you
16 | can help me, Christiano (phonetic), because I'm
17 | different than other developers.

18 | I know every aspect of this, probably as
19 | good or better than even my professionals.

20 | We have bedrooms right now that are six
21 | inches small in our two bedrooms. Our two
22 | bedroom apartments, of which we have 23 two
23 | bedrooms, we are six inches smaller in dimension,
24 | and up to as much as 11 inches smaller, compared
25 | to our competitors.

1 However, the way the building and the lot
2 is configured, I'm not saying -- I have 24 units.
3 There's people out there who have properties this
4 size, they're building 38 units.

5 We came into the Board the first time. We
6 had 26. You asked me, at that meeting, take a
7 caucus, go outside, can you do 24? I said yes,
8 we will.

9 If -- if we shift that building, is -- can
10 you add your professional component -- if we
11 shift dimensions on that building, it skews every
12 single unit in the building, because they're
13 stacked.

14 I wish I could. I've gone over this every
15 which way I can.

16 ACTING CHAIRPERSON GRULLON: Can you do the
17 ground floor?

18 MR. DeMATTHEIS: Can we what?

19 ACTING CHAIRPERSON GRULLON: Do the ground
20 floor only?

21 MR. ARENCIBIA: The problem with the ground
22 floor --

23 MS. DILLON: I'm sorry. Go ahead, Al. Go
24 ahead.

25 MR. ARENCIBIA: The issue with the ground

1 floor, as the Board knows, we can make the ground
2 floor smaller, if we make some of the parking
3 spaces a little smaller.

4 But as the Board knows, typically, the
5 ground floor, it's basically the parking
6 configuration, the layout, which we actually
7 maximize, and we did a really job with it.

8 We could make it a little smaller, let's
9 say, and instead of an 18 foot deep parking
10 space, we can go, say, with a 16 feet. Maybe we
11 can take a foot out of the drive aisle, instead
12 of having -- we could take a foot out, and have
13 23 feet.

14 We could possibly make it a little smaller,
15 as far as that's concerned.

16 So, if the Board would consider --

17 MR. DeMATTHEIS: The other -- the other
18 component -- and I know this is -- I just want to
19 be transparent.

20 This is --

21 MS. DILLON: Back to the microphone.

22 MR. DeMATTHEIS: Oh, I'm sorry.

23 This is a challenging property because
24 there's two levels of parking. So, the only way
25 we could arrive at something that would work, and

1 I'm -- and I'm not a typical developer, where I'm
2 putting ten -- you know, the same ten pounds in a
3 two pound bag.

4 We have designed something with tremendous
5 amenities, tremendous parking, 1.84. I mean, in
6 -- in other areas, they're down as 1.25, 1.3.

7 My challenge here, to make this
8 economically viable, as this property slopes down
9 19th, we have a second level of concrete deck,
10 which is like a noose on my neck.

11 And -- and I said in order for this project
12 to be viable, we need that parking. That's what
13 makes this whole thing desirable, because at the
14 end of the day, there is a customer who wants it.
15 And that customer is not going to want a two
16 bedroom, with one parking space.

17 That economic challenge is what we're
18 trying to overcome.

19 And it -- I can't stress enough, every
20 square foot and inch of this building, Christiano
21 and I, have gone over to come up with the best
22 possible end result.

23 ACTING CHAIRPERSON GRULLON: Yes. But I
24 want you to understand that we, here,
25 representing the community. And I can see here,

1 on your picture, that you have houses next to the
2 project.

3 MR. DeMATTHEIS: Yes, sir.

4 ACTING CHAIRPERSON GRULLON: That they have
5 -- still have -- have the front, side yards away
6 -- more than ten feet.

7 And if that -- the building, if you come
8 from the ground floor, all the way to the
9 property line, is going to -- is going to affect
10 the neighborhood area.

11 And what I'm asking was to see if you can
12 reduce the footprint of the first -- of the
13 ground floor, just even if you have to do eight
14 by -- eight by six, in some of the parking areas,
15 and 16 -- 16 and a half.

16 Only the ground floor, just to bring it in,
17 to reduce it a little, and keep -- keep your 24
18 apartments the same size.

19 MR. DeMATTHEIS: I -- I don't know the
20 feasibility of that.

21 Can I ask --

22 ACTING CHAIRPERSON GRULLON: Sure. Go
23 ahead.

24 MR. DeMATTHEIS: -- this question?

25 ACTING CHAIRPERSON GRULLON: We're -- going

1 to take a moment.

2 MR. DeMATTHEIS: We're trying not to
3 violate height.

4 I -- if we were to shift to seven units a
5 floor, instead of having eight, we have --

6 ACTING CHAIRPERSON GRULLON: No, no, no.

7 MR. DeMATTHEIS: -- two levels of parking
8 --

9 ACTING CHAIRPERSON GRULLON: No, no. I'm
10 not talking about the units, just the parking.

11 MS. GUTIERREZ: Talking about parking.

12 ACTING CHAIRPERSON GRULLON: Just the
13 parking area.

14 MR. ARENCIBIA: Just --

15 MR. DeMATTHEIS: Well, no. I'm with you on
16 that. We -- we can explore that.

17 ACTING CHAIRPERSON GRULLON: Yes.

18 MR. DeMATTHEIS: Absolutely.

19 But, let me ask this. If we -- if you
20 wanted those dimensions on all floor levels --
21 no?

22 ACTING CHAIRPERSON GRULLON: No.

23 MR. ARENCIBIA: No. No.

24 ACTING CHAIRPERSON GRULLON: Just --

25 MR. DeMATTHEIS: We could go up another

1 floor, and then pull everything in.

2 ACTING CHAIRPERSON GRULLON: Yes.

3 MR. DeMATTHEIS: We could, but I don't know
4 if you'll grant --

5 MR. DARDIR: What's the height?

6 MR. DeMATTHEIS: -- a height variance.

7 MR. ARENCIBIA: Then it's a D variance.

8 MR. DARDIR: How much?

9 MR. ARENCIBIA: You don't want to --

10 MR. DeMATTHEIS: We don't want to do that.

11 MR. ARENCIBIA: I don't think so.

12 ACTING CHAIRPERSON GRULLON: No, no, no.

13 MR. DeMATTHEIS: So, we just have to figure
14 out how to do it on the ground.

15 MS. GUTIERREZ: On the ground floor.

16 MR. ARENCIBIA: Yeah. We're basically, so
17 overhang it. So, basically, from the transfer
18 deck --

19 ACTING CHAIRPERSON GRULLON: Just to --
20 just to do --

21 MS. GUTIERREZ: Just to open up a little
22 bit.

23 MR. ARENCIBIA: -- above, we maintain that,
24 and you set -- you set in the inside.

25 ACTING CHAIRPERSON GRULLON: To give the

1 five feet on the 19th Street side, and at least
2 see if you can give me five feet on the Summit
3 side.

4 MR. ARENCIBIA: What?

5 ACTING CHAIRPERSON GRULLON: Five feet on
6 the Summit side.

7 Can you do that?

8 MR. ARENCIBIA: You're taking ten feet out
9 of the building? That's a lot.

10 ACTING CHAIRPERSON GRULLON: On the ground
11 floor.

12 MR. ARENCIBIA: In other words, you're
13 saying five feet on one side, and five feet on
14 the other?

15 ACTING CHAIRPERSON GRULLON: Or, actually,
16 two --

17 MR. ARENCIBIA: We're at two one, so that's
18 --

19 ACTING CHAIRPERSON GRULLON: -- two on one
20 side, because you already got --

21 MR. ARENCIBIA: That's eight feet. That's
22 a lot.

23 ACTING CHAIRPERSON GRULLON: You already
24 got four and a half, and two at the -- at the end
25 of the lot.

1 MR. ARENCIBIA: Well, I have zero on one.
2 And I have four, and then, it goes down to two --
3 two -- 2.1, two feet.

4 ACTING CHAIRPERSON GRULLON: Yes.

5 MR. ARENCIBIA: So, if we go five feet
6 there -- I can do five feet on the corner of --

7 ACTING CHAIRPERSON GRULLON: Just --

8 MR. ARENCIBIA: -- Summit and 19th Street.
9 And then, I'll go down to three. And then I can
10 kick in the interior lot, say maybe a couple
11 feet, two feet?

12 ACTING CHAIRPERSON GRULLON: Yeah. Okay.
13 That's fine. That's fine.

14 As long as you -- you give me some setback
15 from the -- from the -- right now, you have zero
16 proposed.

17 MR. ARENCIBIA: Right. But again, it's
18 only going to be on the ground floor that you're
19 talking about.

20 ACTING CHAIRPERSON GRULLON: The ground
21 floor. Just ground floor.

22 Any other member of the Board?

23 MR. PRESSEY: No.

24 MR. ORTIZ: Oh --

25 ACTING CHAIRPERSON GRULLON: Or actually,

1 we're closed to the Board.

2 MS. GUTIERREZ: Hold on one second. Miguel
3 wants to --

4 MR. ORTIZ: I would advise the Board that
5 they --

6 MS. DILLON: Just speak up, Mr. Ortiz.

7 MR. ORTIZ: I would advise that they have a
8 talk with Mr. Pietro being that he wasn't
9 notified, being that he's getting zero from --
10 from the yard.

11 And another point is that this -- the
12 approval of this building was made in the basis
13 that they were going to use the building.

14 Now, we're seeing that they going to
15 practically demolish this building. I believe a
16 new set of rules applies to this new building.

17 ACTING CHAIRPERSON GRULLON: Okay. We
18 agree then on the ground floor? If you can give
19 me the five foot, and then the two?

20 Mr. Price, you want to come forward?

21 MR. ALONSO: Is five -- I'm sorry. I just
22 want -- I'm just making notes.

23 Five feet where?

24 MR. ARENCIBIA: At the corner of 19th and
25 Summit.

1 ACTING CHAIRPERSON GRULLON: On the -- on
2 the 19th Street side.

3 MS. GUTIERREZ: The 19th Street side.

4 MR. ARENCIBIA: And then go down --

5 MS. GUTIERREZ: And Summit.

6 MR. ARENCIBIA: -- to three, and then we'll
7 kick in two feet on the opposite side.

8 This way, we can still be able to maintain
9 the parking --

10 MR. ALONSO: Two feet on the interior lot
11 line.

12 MR. ARENCIBIA: Correct.

13 MS. GUTIERREZ: Um hum.

14 MR. ARENCIBIA: And we can reduce a little
15 bit the drive aisle width, so we'll be able to
16 accommodate that.

17 ACTING CHAIRPERSON GRULLON: Do you have
18 another suggestion?

19 MR. PRICE: Oh, actually, I wanted to ask
20 Mr. DeMattheis a couple questions.

21 ACTING CHAIRPERSON GRULLON: You have any
22 objection to that?

23 MR. ALONSO: No objection.

24 MR. PRICE: All -- all testimony is subject
25 to cross examination. He testified.

1 MR. DeMATTHEIS: Sure.

2 MS. DILLON: At the microphone.

3 MR. PRICE: How many square feet in this
4 building as proposed right now?

5 MR. DeMATTHEIS: Christiano? Let me ask
6 him specifically.

7 Albert?

8 MR. ARENCIBIA: Yes.

9 MR. DeMATTHEIS: Can you answer some of
10 these specifics, please?

11 MR. ARENCIBIA: Sure.

12 MR. PRICE: How many square feet in the
13 building?

14 Don't have to be exact, just --

15 MR. ARENCIBIA: The area of the largest
16 floor was 9678. That's from the previous
17 application.

18 We have 9588. So, we're roughly a hundred
19 square feet smaller.

20 MR. PRICE: Well, okay, but the total
21 square footage in the building?

22 You got -- you've got three floors. You've
23 got parking.

24 What is it, 40,000 square feet in total?

25 MR. ARENCIBIA: So -- yeah. So, figure

1 | basically, it's a hundred square feet per floor,
2 | times four floors. So 400 square feet less.

3 | MR. PRICE: I'm not calculating the
4 | difference. I'm just -- I'm saying -- my
5 | question is, what is the total square footage --

6 | MR. ARENCIBIA: Roughly 40,000.

7 | MR. PRICE: Forty thousand square --

8 | Okay. Mr. DeMattheis, your -- your
9 | testimony was that your cost will be \$200.00 per
10 | square foot.

11 | Correct?

12 | MR. DeMATTHEIS: Give -- give or take,
13 | yeah.

14 | MR. PRICE: Correct. Okay.

15 | That's on 40,000 square feet. You're
16 | looking -- you're saying you're looking -- you
17 | calculated, or somebody's calculated a total
18 | project cost of \$8 million?

19 | MR. DeMATTHEIS: We're -- we're in that
20 | vicinity. We have --

21 | MR. PRICE: Okay.

22 | MR. DeMATTHEIS: -- to go out to final
23 | bids. We have to go out to the market --

24 | MR. PRICE: Okay.

25 | MR. DeMATTHEIS: -- to see what the market

1 will provide.

2 MR. PRICE: Who prepared these numbers?

3 You or accountants or --

4 MR. DeMATTHEIS: No. I have cost take offs

5 of --

6 MS. DILLON: Can you speak up?

7 MR. DeMATTHEIS: I have take offs of

8 consultants.

9 They produce take offs on the costs.

10 MR. PRICE: You use outside consultants.

11 MR. DeMATTHEIS: Yes.

12 MR. PRICE: Okay. They said project cost

13 is \$8 million.

14 MR. DeMATTHEIS: They're in that arena,

15 yes.

16 MR. PRICE: Okay. And that's hard

17 construction cost?

18 MR. DeMATTHEIS: Until I bid the project,

19 that cost number can vary. I don't know what the

20 market holds.

21 MR. PRICE: Okay. Fine.

22 But we're only looking at hard construction

23 cost.

24 Correct?

25 MR. DeMATTHEIS: With that figure, yes.

1 MR. PRICE: Okay. We're not counting land,
2 or soft construction cost, or financing cost.

3 Correct?

4 MR. DeMATTHEIS: Those costs are in that
5 number. That 200 number includes those costs.
6 My soft cost, my lawyers, my architects, that's
7 in that number.

8 MR. PRICE: As a rough percentage, for
9 those financing, soft construction cost --

10 MR. DeMATTHEIS: Yes. I --

11 MR. PRICE: -- legal cost, how much -- as a
12 percentage of the eight million, how much is it?

13 MR. DeMATTHEIS: That's -- that's -- that
14 depends on every project.

15 I have some projects that will be ten
16 percent. I have other projects that show as high
17 as 25, 27 percent, 28 percent.

18 It depends on the project. I can't pin
19 that down on a project by project basis.

20 MR. ALONSO: Mr. Chairman, I'm just going
21 to ask for Mr. Price to provide a proffer as to
22 the relevance.

23 I understand that there was a number that
24 was given out, at \$200.00 a square foot. That
25 number was thrown out there. The Board can

1 accept it or not accept it.

2 The rules of evidence don't technically
3 apply here. He doesn't have the right to just go
4 into an area that's not really relevant for
5 purposes of the zoning application.

6 MR. PRICE: It's --

7 MR. ALONSO: So, if he just wants to ask
8 him questions all night long about financing and
9 cost, I don't think it's really an issue before
10 the Board.

11 ACTING CHAIRPERSON GRULLON: Yeah. Mr.
12 Price, did he answer your question?

13 MR. PRICE: I think he has, basically --
14 you know, what I'm looking at is the per square
15 foot hard construction costs, which he basically
16 has said he -- he can't calculate, or hasn't
17 calculated.

18 So, whatever. So, anyway, there's always a
19 right of cross examination of --

20 ACTING CHAIRPERSON GRULLON: Yes.

21 MR. PRICE: -- of testimony. And in -- on
22 direct, he said its \$200.00 a square foot. I'm
23 saying, well, what's the basis of --

24 MR. ALONSO: It's not an unlimited -- it's
25 not an unlimited right.

1 MR. PRICE: Three -- three minutes worth.

2 Anyway, yeah. He's -- he's basically
3 answered my question to the best he can.

4 So, I'm happy.

5 ACTING CHAIRPERSON GRULLON: Okay.

6 Thank you, Mr. --

7 Any -- any other member of the public?

8 At this -- at this time, I just want to
9 close it to the public. Close to the public.

10 And I want to make a motion to grant the --
11 to grant the amendment, the application
12 amendment, with the condition to provide the
13 publication from the newspaper, and also please
14 revise drawing for the setbacks of the ground
15 floor.

16 With those two condition, I make a motion
17 to grant the amendment.

18 THE SECRETARY: Motion to grant the
19 application, with a condition, by Acting Chairman
20 Victor Grullon.

21 Second by?

22 MS. GUTIERREZ: I'm seconding.

23 THE SECRETARY: Second by Margarita
24 Gutierrez.

25 Roll call to grant this application.

1 Acting Chairman Grullon?

2 ACTING CHAIRPERSON GRULLON: Yes.

3 THE SECRETARY: Margarita Gutierrez?

4 MS. GUTIERREZ: Yes, with all the
5 condition.

6 THE SECRETARY: Miguel Ortiz?

7 MR. ORTIZ: Yes, with all the stated
8 conditions.

9 THE SECRETARY: David Pressey?

10 MR. PRESSEY: No.

11 THE SECRETARY: Khaled Dardir?

12 MR. DARDIR: No.

13 THE SECRETARY: John Medina?

14 MR. MEDINA: Yes.

15 THE SECRETARY: Joseph Bonacci?

16 MR. BONACCI: I vote yes with the condition
17 of the setbacks.

18 THE SECRETARY: Motion carries. Six in --
19 five in favor, two -- two deny.

20 MR. SPATZ: To approve.

21 THE SECRETARY: To approve.

22 MR. ALONSO: Thank you very much.

23 Have a good evening.

24 THE SECRETARY: Motion carries, with the
25 conditions.

1 MR. ARENCIBIA: Thank you very much,
2 everybody.

3 Good to see you all again.

4 ACTING CHAIRPERSON GRULLON: Good night.

5 MR. ARENCIBIA: See you next month.

6 ACTING CHAIRPERSON GRULLON: See you next
7 month. See you on the 8th.

8 (Whereupon, there was a pause in the
9 proceedings.)

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1 **1312 Bergenline Avenue, LLC - 1312 Bergenline**
2 **Avenue:**

3

4 THE SECRETARY: Next application -- we are
5 going back on application 1312 Bergenline Avenue,
6 LLC, 1312 Bergenline Avenue.

7 Mr. Faiella?

8 MR. FLANNERY: Yes. As I -- it's Peter
9 Flannery, in place of Adam Faiella, for the
10 applicant, 1312 Bergenline, LLC.

11 I have located the Affidavit, Proof of
12 Service. My apologies. I'm not sure why it
13 wasn't submitted with -- with the rest of the
14 package.

15 I do have the same issue as the previous
16 applicant. It turns out that I have a sworn
17 Affidavit indicating that publication was made in
18 The Jersey Journal on August 28th. And I have a
19 cover letter indicating that the Affidavit of
20 Publication not yet been received. I do not have
21 the actual Affidavit of Publication.

22 MR. PANEQUE: May I see what you have?

23 Thank you.

24 MR. FLANNERY: I did speak with Mr. Faiella
25 yesterday, and he prepared the materials, and he

1 confirmed to me that it had been published. He
2 had spoken to someone.

3 If the Board's willing we can move forward,
4 and as a condition, we have to provide the
5 Affidavit of Publication.

6 MR. PANEQUE: You have -- in the previous
7 application, the attorney was able to provide
8 email correspondence that he had in his hand,
9 from the newspaper, indicating that the
10 publication was done.

11 MR. FLANNERY: Right.

12 MR. PANEQUE: Do you have anything to that
13 effect?

14 MR. FLANNERY: I don't have anything to
15 that effect, though I do have a sworn Affidavit.

16 MR. PANEQUE: Well --

17 MR. FLANNERY: An attorney --

18 MR. PANEQUE: The sworn Affidavit that we
19 have here indicates that notices were sent out by
20 certified mail.

21 MR. FLANNERY: Right. And if you read
22 down, it says notice was published on August 28th,
23 in The Jersey Journal.

24 MR. PANEQUE: Okay. Nothing from the
25 newspaper, though?

1 MR. FLANNERY: No. I don't have any
2 correspondence from the newspaper.

3 MR. PANEQUE: Mr. Vice Chairman Grullon, it
4 would be up to the Board. If this publication
5 were to proceed, it would be with the
6 understanding that the Affidavit of Publication
7 would have to be submitted. Otherwise, this
8 application would have to start from de novo,
9 brand new.

10 MR. FLANNERY: Understood.

11 MR. PANEQUE: Is that understood, Mr.
12 Flannery?

13 MR. FLANNERY: Yes. That's perfectly
14 acceptable.

15 MR. PANEQUE: Mr. Price?

16 MR. PRICE: There -- sorry, wrong one.

17 Here's a copy of your legal notice, August
18 28th.

19 MR. FLANNERY: Oh, thank you, Mr. Price.

20 Mr. Price has a copy.

21 Oh, the one time Mr. Price actually helping
22 an applicant. I appreciate it.

23 MR. PRICE: Boy, will it cost you.

24 MR. FLANNERY: Yeah. I'm sure it will.

25 MR. PANEQUE: He still has to submit it,

1 yes.

2 MS. GUTIERREZ: Oh, my God. I never seen
3 this before.

4 ACTING CHAIRPERSON GRULLON: Now you may
5 proceed.

6 MR. FLANNERY: I'm a little scared to see
7 what's going to come next, but thank you.

8 MS. GUTIERREZ: He saved your life.

9 MR. PANEQUE: For the record, by the grace
10 of Mr. Larry Price, who has provided us and the
11 Board with a copy of a cutout of Friday, August
12 28, 2015 Jersey Journal, page 32, classifieds,
13 which has, in fact, the notice of the application
14 for 1312 Bergenline Avenue, which is before the
15 Board.

16 We still have the condition, Mr. Flannery,
17 that --

18 MR. FLANNERY: Absolutely. Yes.

19 MR. PANEQUE: -- the Affidavit has to be
20 submitted.

21 MR. FLANNERY: It will be.

22 MR. PANEQUE: But this actually goes a long
23 way towards what you were indicating.

24 MR. FLANNERY: Right.

25 MR. PANEQUE: Okay?

1 MR. FLANNERY: Thank you.

2 MR. PANEQUE: Thank you, Mr. Price.

3 I'm going to return this to you. I'm sure
4 it's part of your --

5 MR. FLANNERY: Yeah. Thank you.

6 MR. PANEQUE: All right.

7 MR. FLANNERY: Thank you.

8 The applicant, 1312 Bergenline Avenue, LLC,
9 is the owner of property located at 1312
10 Bergenline Avenue, here in Union City, Block 64,
11 Lot 18, in the CN, neighborhood commercial zone
12 district.

13 Currently, there are two buildings on the
14 property, the front building and a rear building.
15 Both residential buildings.

16 The front building has two residential
17 units on the first floor, two residential units
18 on the lower level.

19 The rear building has three residential
20 units, one on each floor. Second floor, first
21 level -- first floor, and lower level. And
22 there's a courtyard between the two buildings.

23 This is somewhat of an unusual application.
24 The applicant is coming before this Board for
25 certification that five units within these two

1 buildings, this property, are legal nonconforming
2 uses. You know, construction prior to 1977.
3 Three units in the front building, two units in
4 the rear building.

5 In 2009 -- I'm just going to -- if the
6 Board will indulge --

7 ACTING CHAIRPERSON GRULLON: Please.

8 MR. FLANNERY: -- indulge me, I'm going to
9 into a little bit of a history here.

10 In 2009, this Board approved seven units
11 for this property. As existing. Four in the
12 front building, and -- and three in the rear
13 building.

14 As part of the findings in that Resolution
15 of memorialization that was submitted as part of
16 the packet, the Board recognized that five units
17 in the building were legal, nonconforming units.

18 However, the applicant has gone back to the
19 Building Department to make some changes to the
20 building, and seeking to actually reduce the
21 units from seven to five.

22 And the Building Department is not
23 satisfied with the 2009 Resolution. The Zoning
24 Officer, specifically, is not satisfied with the
25 2009 Resolution, and wants the applicant to

1 receive confirmation from this Board that, in
2 fact, the five units; the three units in the
3 front building, the two units in the rear
4 building are, in fact, legal, nonconforming
5 residential units.

6 The applicant purchased this property in
7 2008, when it was a seven unit property. And
8 there were DCA certifications and Union City Rent
9 Leveling Board certifications that it was a seven
10 unit property.

11 However, the Tax Assessor records show it
12 as a five unit property. And that's why the
13 applicant went to this Board in 2009.

14 So, essentially, just to sum up, tonight,
15 the applicant is seeking a Certificate of Legal
16 Nonconforming Use for five residential units.
17 Three in the front building, two in the rear.

18 And I have tonight two witnesses. Primary
19 witness, my first witness is Mr. Nick
20 Tsapatsaris, RA and PE, of Nick Tsapatsaris
21 Associates, who is the architect expert.

22 He did an inspection of the property and
23 the units at issue. And he's going to discuss
24 those at length.

25 I'd like to call Mr. Tsapatsaris. Have him

1 sworn in.

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

4 MS. DILLON: Sir, please raise your right
5 hand.

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

8 MR. TSAPATSARIS: Yes.

9 MS. DILLON: Can you please state your name
10 and spell it for the record?

11 MR. TSAPATSARIS: Nicholas Tsapatsaris.
12 That's Nicholas, N-I-C-H-O-L-A-S, Tsapatsaris,
13 T-S-A-P-A-T-S-A-R-I-S, Tsapatsaris.

14 MS. DILLON: Thank you.

15 MR. FLANNERY: Mr. Tsapatsaris, if you
16 could just briefly describe your education,
17 licensure, experience and background for the
18 Board?

19 MR. TSAPATSARIS: Yes.

20 I am a graduate of Worcester Polytechnic
21 Institute in civil and structural engineering.
22 I'm also a graduate of MIT in real estate
23 development.

24 I've been practicing architecture, as well
25 as engineering in the State of New Jersey, for

1 greater than 20 years. I'm licensed in both.

2 And as you all are doing here this evening,
3 I volunteered my time before the Village of
4 Ridgewood Board of Adjustment ad Planning Board
5 and Historic Preservation Commission for over 15
6 years. So, that's another part of what I've done
7 over the past 20 years.

8 ACTING CHAIRPERSON GRULLON: Is -- is your
9 first time in front of this Board?

10 MR. TSAPATSARIS: I have been here before
11 the Building Department a few times. I believe
12 it's my first time before your --

13 MS. GUTIERREZ: Yeah.

14 MR. TSAPATSARIS: -- Board formally. Yeah.

15 ACTING CHAIRPERSON GRULLON: Yeah. We
16 accept your qualifications.

17 Thank you.

18 MR. TSAPATSARIS: Thank you.

19 MR. FLANNERY: Thank you.

20 Mr. Tsapatsaris, I believe you have one
21 exhibit, with handouts, as well as a board, same
22 exhibit.

23 MR. TSAPATSARIS: Yes.

24 MR. FLANNERY: This will be A-1.

25 Can you just describe that exhibit briefly?

1 MS. DILLON: I can mark a copy --

2 Thank you.

3 MR. TSAPATSARIS: How shall I mark it?

4 MS. DILLON: A-1.

5 MR. TSAPATSARIS: A-1?

6

7 (Whereupon, Existing Conditions Photos was
8 received and marked as Exhibit A-1.)

9

10 MR. TSAPATSARIS: Does everybody have the
11 handout?

12 ACTING CHAIRPERSON GRULLON: Yes.

13 MR. TSAPATSARIS: Good.

14 The handout is identical to what I created
15 on the board.

16 The purpose of the handout is to visually
17 show you my inspection of the property, inside
18 and out, on September 3rd.

19 The purpose of my inspection was to
20 determine how old the building was, and whether
21 or not the units in question are older than 1977.

22 What I --

23 MR. FLANNERY: Just a little bit of
24 housekeeping.

25 The architectural plans that the Board has,

1 it shows plans for five units. Those five units
2 are the units that Mr. Tsapatsaris is discussing.

3 MR. TSAPATSARIS: So, to make it easy for
4 the visual references to be understood by the
5 Board, I've taken the exhibit and split it left
6 to right. The front building and the rear
7 building.

8 At the top of each of the sides of the
9 board, I show the front of the front building,
10 and the front of the back building.

11 I'm pointing now to an aerial shot. So
12 that everybody is aware of how the property is
13 situated, there's a building in the front that
14 existed, and a building in the back that existed,
15 separated by a courtyard.

16 So, right in the middle, there's an open
17 area where the back of the front building, and
18 the front of the other building meet. And that
19 was an area where people, I guess, would sit.

20 This is not uncommon in my experience in
21 older city, where the lots were developed
22 initially on the lot line, and then the back was
23 developed with another home.

24 So, again, you can see on the left hand
25 side, the front residential building, and then

1 the right residential -- the rear residential
2 building.

3 The photographs below begin to describe the
4 engineering and architectural elements that I
5 identified in the building that proved to me that
6 the units were greater, or older than 1977. Not
7 all of them, though.

8 There was a unit in the lower level of the
9 front building that I found evidence may not have
10 existed prior to 1977. The remainder, though, I
11 found were.

12 So, to begin with those elements, if we
13 start with the front building, and you look at
14 the top left picture that I'm pointing to, you'll
15 see that the foundation, or the façade of that
16 front building is made in a very large field, in
17 a very large stone that is no longer typical of
18 construction today.

19 This is something that occurred in the
20 early part of the century. And unless somebody
21 is using this with a veneer, people do not build
22 single width masonry -- not even masonry, a
23 single width stone foundations in the manner
24 anymore.

25 MR. FLANNERY: That's early 20th century.

1 Right?

2 MR. TSAPATSARIS: Yes. Yes. Yes.

3 Correct. Early --

4 That is correct.

5 MR. FLANNERY: Just want to clarify --

6 MR. TSAPATSARIS: Been around awhile, so it
7 has been excellent, at this point.

8 So, another element that told me that the
9 buildings were older than 1977, you'll see at the
10 bottom right, the structure is not made of a
11 typical two by eight or two by ten or 12 that you
12 would see nowadays, with a nominal thickness of
13 one by in that lighter color. This is a solid
14 sawn -- a sawn, three by timber, which used to
15 occur, again, in the early part of the last
16 century. They used to make beams a lot wider,
17 and they weren't an inch and a half at those --
18 in those days. They were just wider and the
19 depth was not the same as they are nowadays.

20 So, that's another piece of evidence that I
21 found.

22 On the left of that photograph, there's a
23 panel that was last produced in the late '70s.

24 And that was in the back second floor apartment.

25 So, the electrical panel has been there, in

1 my opinion, for at least 50 years. Way before
2 that time.

3 Another -- another very important piece of
4 evidence that I found that would lead me to the
5 conclusion that the units in the back existed, is
6 the configuration of the stair.

7 Had this been a different type of
8 architecture, you would have seen, perhaps, you
9 walk into a living room, and a different type of
10 layout.

11 The middle photograph, on the right hand
12 side, shows that the back building had an
13 apartment door to the left, as you walked in, a
14 typical residential stair to the right, and an
15 apartment door in the back.

16 You can see the bottom left moldings are
17 evidence that they were changed, not from
18 residential single family, but that was an
19 apartment dwelling. A typical apartment dwelling
20 where you walk in, and the stairs split the first
21 floor, a two family layout.

22 You go upstairs to the other apartment, to
23 the right, at the rear building. I pulled back
24 the ceiling tile and then proved again that the
25 plaster and lath above that door.

1 So, again, plaster and lath is not
2 something we do today. Buildings of 1930, 1940
3 are probably, maybe even the -- not even the
4 '50s, early part, 1930, 1920 is when you would
5 see the plaster and lath. And if the plaster and
6 lath is above the drop ceiling, then it does
7 transfer down, meaning that that apartment door
8 has been there for awhile.

9 There was an -- there is also another lower
10 level unit in the back building, which my client
11 is, at this time, not asking me to prove existed
12 before 1977. And I'm not quite sure I can. This
13 seems to be a new entrance, as you can see, the
14 top right photograph. That may have been added
15 at some point after. I don't know.

16 But again, this is one of the units that
17 counsel and my client has told me will not be
18 requested before this Board.

19 Moving over back to the front building,
20 there is a front unit and a back unit. Okay?
21 And then one lower level unit.

22 For the same reasons that I had come up
23 with for the back building, it is my opinion that
24 the two units layout in the configuration of the
25 stair, as well as the configuration of the units,

1 as units that have existed prior to 1977.

2 The lower level contains two units today,
3 and the upper level contains another two units.

4 It's my opinion that only one of the lower
5 units existed prior to 1977, because I uncovered,
6 as you can see in the photograph to the right of
7 the left hand side, meters, water meters, and
8 other meters that were probably part of a
9 basement, not too long ago.

10 Now again, this could have existed prior to
11 1977, but I find evidence here that make it
12 difficult for me to affirm it, as well, as this
13 window that looked to the door that goes to the
14 sidewalk, is not something that I believe may
15 have existed.

16 And again, my client has asked for that
17 unit, which is the front of the front building,
18 lower level, to be discontinued and to be used
19 for storage, and what it was at one time, when
20 the building was constructed, as you can see,
21 behind the sheet rock that they opened up for us.

22 One compelling piece of evidence that I
23 found, architecturally, that the lower unit that
24 is being requested to remain existed is the
25 windows.

1 As you can see, if you look at the
2 photograph to the left of the front, which is the
3 façade of the back of the building, those two
4 windows are typical of a design that would have
5 had a habitable area.

6 If it was a basement, the wall would have
7 been solid. Those have been there since the
8 beginning.

9 The lower part of the left one has been
10 blocked in, but in my opinion, the way the
11 architecture lays out, the way that it's a
12 walkout basement, it's a walkout lower level.
13 It's not a basement, because the door is right
14 there.

15 So, in my opinion, that -- that front --
16 that front of the back of the building, of the
17 front building, is a residential unit, and has
18 been that way for quite awhile.

19 And that's my testimony in general.

20 It's, in conclusion, my opinion that five
21 units, I can affirm, existed prior to 1977.

22 The unit on the lower level in the back
23 building, as well as the unit in the lower level
24 of the front building, the front of the front
25 building, may not have.

1 And so, five units -- it is my opinion that
2 five units have existed prior to that time.

3 MR. FLANNERY: Thank you.

4 And just to sum up, the five units are the
5 three units in the front building, two on the
6 first floor, one on the lower level --

7 MR. TSAPATSARIS: Correct.

8 MR. FLANNERY: -- the rear.

9 And the other two are the two in the -- in
10 the rear building, second floor and first floor.

11 MR. TSAPATSARIS: Correct.

12 MR. FLANNERY: Thank you.

13 Those are all the questions I have of this
14 witness.

15 ACTING CHAIRPERSON GRULLON: Did you say
16 that you have another witness?

17 MR. FLANNERY: I have the applicant, if the
18 Board wants to hear from the applicant, just to
19 confirm when he purchased the property, how many
20 units were on the property when he purchased it,
21 and sort of the history of the application.

22 I could certainly bring him up.

23 ACTING CHAIRPERSON GRULLON: Could you
24 bring him forward, please?

25 Thank you, Mr. Tsapatsaris.

1 MR. TSAPATSARIS: Thank you.

2 MR. FLANNERY: My next witness is Mr. Doug
3 Oberfield, principal of the applicant, 1312
4 Bergenline.

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

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

9 MR. OBERFIELD: I do.

10 MR. FLANNERY: Thank you.

11 Mr. Oberfield --

12 MS. DILLON: I just need him to state his
13 name and spell it for the record.

14 MR. OBERFIELD: My full name is Douglas
15 Oberfield, D-O-U-G-L-A-S, O-B-E-R-F-I-E-L-D.

16 MS. DILLON: Thank you.

17 MR. FLANNERY: Mr. Oberfield, you are a
18 principal of the applicant, 1312 Bergenline, LLC.

19 MR. OBERFIELD: Yes, I am.

20 MR. FLANNERY: Owner of the building.
21 You purchased the property in 2008?

22 MR. OBERFIELD: I did. Yes.

23 MR. FLANNERY: When you purchased it, there
24 were seven units in the building, four in the
25 front --

1 MR. OBERFIELD: There was seven units that
2 the prior owner had used. We knew it to be
3 legally a five unit building.

4 MR. FLANNERY: Okay.

5 From the tax record?

6 MR. OBERFIELD: Right. From what we
7 received from City Hall.

8 MR. FLANNERY: And you had documentation
9 from the Union City Rent Leveling Board, from DCA
10 showing it as a seven unit building --

11 MR. OBERFIELD: Correct. Yeah, --

12 MR. FLANNERY: -- from the tax --

13 MR. OBERFIELD: -- we had the green card
14 from the State, the Rent Control, and the -- the
15 Tax Certificate from -- from Union City.

16 MR. FLANNERY: And then, you went before
17 this Board in 2009 for seven units, to legalize
18 the other two?

19 MR. OBERFIELD: Correct. I went --
20 actually, first I went to the Building
21 Department. They told me that I had to go to the
22 Zoning Department.

23 At which point, we went to the Zoning
24 Department in order to legalize the two
25 additional units, which is what we did in 2009.

1 MR. FLANNERY: And they directed you to the
2 Board and --

3 MR. OBERFIELD: Right.

4 MR. FLANNERY: -- you received approvals.

5 And now, you're proposing to decommission
6 two units, the front lower level in the front
7 building, and the lower level unit in the rear
8 building.

9 MR. OBERFIELD: Correct. We're going to
10 bring it back to the five units, in an effort to
11 satisfy all parties and -- you know, just be done
12 with this.

13 MR. FLANNERY: Right. Okay.

14 Thank you.

15 ACTING CHAIRPERSON GRULLON: Mr. Oberfield,
16 all the units are occupied right now?

17 MR. OBERFIELD: Yes. The five units are.
18 The other -- the two that we are looking to
19 decommission, have already had the kitchens
20 removed, and all the plumbing capped.

21 My -- one of my issues right now is the
22 architectural plans you have were just to bring
23 the units into Code compliance, to satisfy the
24 Building Department.

25 They, however, won't issue permits until

1 | this zoning issue is cleared.

2 | And most notably, one of the things the
3 | architect, which has been a concern, that the
4 | Building Department will not budge on is that
5 | electrical panel that's in one of the apartments,
6 | they're sort of notorious for catching fire.

7 | ACTING CHAIRPERSON GRULLON: Yes.

8 | MR. OBERFIELD: It's a Federal --

9 | MR. FLANNERY: That's photo 5.

10 | MR. OBERFIELD: Federal Pacific Stab-Lok
11 | circuit breaker. And I'd like to have it removed
12 | and replaced, but they won't issue the permit,
13 | again, until this is done. And we've been doing
14 | this dance now for a year.

15 | So, my hope is just to -- to move forward
16 | and -- and get the work finished.

17 | ACTING CHAIRPERSON GRULLON: Thank you, Mr.
18 | Oberfield.

19 | MR. FLANNERY: Thank you.

20 | ACTING CHAIRPERSON GRULLON: Question for
21 | the architect.

22 | MS. DILLON: If you can just go right over
23 | to the microphone?

24 | ACTING CHAIRPERSON GRULLON: Mr.
25 | Tsapatsaris?

1 MR. TSAPATSARIS: Yes.

2 ACTING CHAIRPERSON GRULLON: First, could
3 you go over the proposed construction inside the
4 building, if there's any?

5 MR. TSAPATSARIS: I did not, but I can
6 answer questions as a registered architect, and
7 as a PE, if you'd like.

8 ACTING CHAIRPERSON GRULLON: All right. I
9 -- Mr. Oberfield just -- his testimony say that
10 two of the units that are vacant, they're going
11 to be removed.

12 How is that going to affect the other
13 units?

14 MR. TSAPATSARIS: I witnessed it. I went
15 to every part of the building. I looked at the
16 lower level of the back building. I looked at
17 the lower level of the front building, in the
18 front. And they have been vacated. The -- it is
19 not habitable.

20 Firstly, the building in the back is
21 autonomous. The basement is separate. There's
22 no way to get up and down, so the two units up
23 above can function independent of it.

24 At this point, one can call it a basement.
25 It's not habitable, though. It's not a --

1 they've removed sheet rock. They've removed
2 habitable elements, and that's shown in my
3 photographs.

4 I can show you that unit, if you'd like.

5 The same thing they've done with the one
6 that's not occupied in the front.

7 ACTING CHAIRPERSON GRULLON: Yeah.

8 MR. TSAPATSARIS: I can show you.

9 If you look at this photograph, bottom
10 right.

11 ACTING CHAIRPERSON GRULLON: Yes.

12 MR. TSAPATSARIS: When that was taken in
13 the ceiling of the basement of the back unit. I
14 call it a basement, because in the back -- not in
15 the front -- the front building is lower level.

16 ACTING CHAIRPERSON GRULLON: Is that -- is
17 that one of the unit that has been removed?

18 MR. TSAPATSARIS: Correct.

19 And so, this is evidence that it's already
20 looking more like a basement, and not like a
21 lower level.

22 Okay?

23 Another piece of evidence, I think, that
24 answers your question is on photograph number 9,
25 and photograph number 12.

1 That is another unit that's being requested
2 to be decommissioned. It is in the front of the
3 front building. And you can see the sheet rock
4 has been open. It's now non-habitable. I didn't
5 see any kitchens or things like that. It's a
6 storage area at this time.

7 That goes, too.

8 ACTING CHAIRPERSON GRULLON: Yeah. Like
9 right now, we're trying to understand.

10 I know you're going to have two units on
11 the first floor.

12 MR. TSAPATSARIS: Yes.

13 ACTING CHAIRPERSON GRULLON: Two on the
14 ground floor, and one basement -- basement unit.

15 MR. FLANNERY: One lower level unit.

16 ACTING CHAIRPERSON GRULLON: Lower level
17 unit.

18 MR. FLANNERY: In the front building, it
19 will be two on the first floor, and one in the
20 lower level.

21 MR. TSAPATSARIS: Correct.

22 ACTING CHAIRPERSON GRULLON: Okay.

23 MR. FLANNERY: In the rear building, it
24 will have -- it was the two story building.
25 You'll have one on the second floor, one on the

1 first floor.

2 ACTING CHAIRPERSON GRULLON: And the -- the
3 bedrooms count for each of the units. Do you
4 know?

5 MR. FLANNERY: It's on the plans.

6 MR. OBERFIELD: Yeah. I -- I can go over
7 it with you.

8 And for what it's worth, too, it's -- it's
9 difficult to see from the photographs. The way
10 the lot's laid out, the first floor, when you
11 enter off the street, in the -- the courtyard
12 between the buildings, it's actually lower than
13 street level.

14 So, in effect, the lower level is walkout.
15 It's actually at ground height.

16 ACTING CHAIRPERSON GRULLON: I'm trying to
17 see here where the units that are going to be
18 decommissioned are demolished, where they're
19 going to go? To unit one, two, three?

20 MR. OBERFIELD: Oh, no. They're -- they're
21 independent. There's no access other than --
22 they -- they have their own entryway. There's no
23 way they --

24 MR. FLANNERY: So, there will be, in the
25 front building, essentially, a wall sealing off

1 --

2 MR. OBERFIELD: Yes.

3 MR. FLANNERY: -- the --

4 MR. OBERFIELD: Yeah. There is actually --
5 and that's one of the things the -- the
6 architectural drawings showed was to do the
7 double sheet rock, to separate the two spaces, to
8 separate the vacant -- the decommissioned unit
9 from the occupied unit.

10 ACTING CHAIRPERSON GRULLON: Those units,
11 how they going to be used in the future?

12 MR. OBERFIELD: I'm just -- I'm storing my
13 own materials down there. They're not for tenant
14 use. I'm the only one who has the keys.

15 And again, all the -- the plumbing has
16 already been capped, and all the kitchen and
17 everything has been removed. And there's no --
18 you know, we're not -- we're not going to put it
19 back in there.

20 MR. FLANNERY: And it's been under the
21 supervision of the Building Department. They're
22 aware.

23 MR. OBERFIELD: Yeah. But again, I just --
24 in order to get everything signed off by them, I
25 need them to --

1 MR. FLANNERY: Correct.

2 MR. OBERFIELD: -- issue the permits after
3 the Zoning Resolution here.

4 ACTING CHAIRPERSON GRULLON: That means
5 there --

6 MR. FLANNERY: Right.

7 ACTING CHAIRPERSON GRULLON: -- is no
8 construction, no demolition or construction
9 inside the building?

10 MR. OBERFIELD: No, no. It's just --
11 again, just the addition of the -- another layer
12 of sheet rock, in order to provide a fire rated
13 wall.

14 ACTING CHAIRPERSON GRULLON: Okay.

15 All right.

16 MR. PANEQUE: Mr. Grullon, before you
17 finish.

18 Explore the access to this property.

19 ACTING CHAIRPERSON GRULLON: Yes. That --
20 that was one of my question, because that's --
21 the one on the back, the unit -- it's unit number
22 2? On the -- on the second floor.

23 MR. OBERFIELD: Yeah. What it is, is there
24 -- it's effectively not a breezeway, because you
25 actually have to enter through the front

1 building. And that hallway continues through,
2 into the courtyard, where you access the rear
3 building.

4 MR. PANEQUE: Okay. Is that depicted
5 anywhere on your drawings?

6 MR. OBERFIELD: Yeah. It should be.

7 Am I allowed to come up here and just point
8 on the drawing?

9 MR. PANEQUE: Sure.

10 ACTING CHAIRPERSON GRULLON: Yes.

11 MR. OBERFIELD: So --

12 ACTING CHAIRPERSON GRULLON: It's here.

13 MR. OBERFIELD: So, this is -- okay. So,
14 this is -- what am I looking at here?

15 Okay. Yes. So, this is Bergenline Avenue
16 here. This is the front of the building. This
17 entryway.

18 You come in. There's a hallway straight
19 through. You go down these stairs, and then it
20 picks up here. This is the lower level and it
21 comes straight out, and then into the courtyard,
22 which then you have the access to the rear
23 building here.

24 It's a -- you come out here, and there's
25 the rear -- it's difficult. There -- the aerial

1 | photograph may give you a little bit more.

2 | Yeah. So, this is -- this is --

3 | MR. FLANNERY: Mr. Tsapatsaris, I know he
4 | mentioned that before. Maybe he can explain a
5 | little better, in terms of the lower level
6 | courtyard.

7 | MS. DILLON: Just step forward.

8 | MR. TSAPATSARIS: Sure.

9 | Even though I didn't prepare these
10 | drawings, I've taken a quick look at them.

11 | So, to further elaborate on what my client
12 | was saying, the front of the building, you would
13 | walk in the corridor, which existed, will remain.
14 | And I believe the source of your question was how
15 | we're going to separate the one on the lower
16 | level that remains from the rest of it.

17 | There is a fire wall right here that
18 | they're adding. And that is this partition, this
19 | tick note, shows a fire rated partition.

20 | So that part of the lower level of the
21 | front building, that has daylight and has the
22 | windows, gets carved out and stays.

23 | But the part that's really a basement,
24 | which is in the front of the building, gets
25 | sealed off. And that's the extent of the

1 construction, which would secure the livable
2 space from the non-livable space.

3 The rest of it stays the way it is. So,
4 all of this existed. As Doug said, you come out
5 to the courtyard over here.

6 And in the other building, it's much easier
7 in the back building, because we just stop using
8 the lower level, and that's it.

9 And all of this, of course, if this is
10 approved, would then go to the Building
11 Department for approval from the New Jersey
12 Rehabilitation Sub-Code, and the Building Code.

13 ACTING CHAIRPERSON GRULLON: Because I see
14 on the -- on the site plans here, you got --
15 you're showing seven units.

16 MR. OBERFIELD: Yeah. They kept the -- the
17 numbering system the same, but there's -- it's
18 five -- it's no longer seven units. They just
19 did that in order to identify each unit.

20 So, unit -- unit 5, which actually says
21 here, to be decommissioned.

22 This -- this is the lower level. And this
23 one, again, everything's already been removed, at
24 least all the -- the kitchen area, the ceiling.

25 ACTING CHAIRPERSON GRULLON: We're going to

1 request that as a condition to provide revised
2 plans for the Building Department, showing five
3 units.

4 MR. OBERFIELD: Yeah.

5 ACTING CHAIRPERSON GRULLON: Okay?

6 MR. OBERFIELD: Well, it does. This is
7 just using it to -- to identify them as it
8 currently exists, which it clearly states to be
9 decommissioned. So --

10 ACTING CHAIRPERSON GRULLON: Okay. I don't
11 have any more questions.

12 Do you guys?

13 MR. MEDINA: I'm kind of confused to be
14 honest with you.

15 ACTING CHAIRPERSON GRULLON: Okay.

16 MR. MEDINA: On the ground floor and so far
17 in --

18 ACTING CHAIRPERSON GRULLON: At this point,
19 I just want to open it to the public.

20 Open to the public.

21 MR. OBERFIELD: Didn't he have something?

22 MR. FLANNERY: We had --

23 MR. PANEQUE: Well, I think we have a Board
24 member with a question.

25 MR. FLANNERY: -- a question one of the

1 Board members had.

2 MR. MEDINA: No. I just say that it's --
3 so you want to try something, the basement and
4 something try to do in the basement. Right?
5 That's a little kind of confused.

6 Maybe you can explain to me better, because
7 I don't get it.

8 You have one front, and also in the back,
9 you say?

10 ACTING CHAIRPERSON GRULLON: I'm sorry, Mr.
11 Price.

12 MR. OBERFIELD: So it's -- so it's --

13 ACTING CHAIRPERSON GRULLON: I can't hear
14 him talking.

15 MR. OBERFIELD: Okay. Yeah. So you -- if
16 you look at the survey, there's -- it's actually
17 two --

18 MR. MEDINA: Okay. Because I don't have
19 one.

20 MR. OBERFIELD: -- it's -- oh.

21 MR. MEDINA: That's okay. That's fine.
22 That's fine.

23 MR. OBERFIELD: So, it's two separate
24 structures on -- on the lot.

25 So, what happens is you -- you enter the

1 front building here. This is --

2 MR. MEDINA: Okay.

3 MR. OBERFIELD: This is the first -- the
4 front building. And here, again.

5 You come in. The stair -- the hallway
6 starts on the street level of Bergenline Avenue.

7 MR. MEDINA: Bergenline.

8 MR. OBERFIELD: And then there's stairs
9 down. And then it picks up here.

10 So this is actually below Bergenline
11 Avenue, but when you come out this door, it's at
12 ground level.

13 So I guess, and maybe at some point in
14 time, there was a hill there --

15 MR. MEDINA: Hmm.

16 MR. OBERFIELD: -- and this building was
17 built into the hill. So, street level on
18 Bergenline is -- is level. But when you come out
19 the courtyard, you're actually looking up and --

20 MR. MEDINA: Exactly.

21 MR. OBERFIELD: -- it's like a second
22 floor.

23 So, it's separated by this -- it's just a
24 straight shot through with a stair -- stairwell
25 straight in the middle.

1 MR. MEDINA: You -- you are 25 by hundred
2 lot.

3 MR. OBERFIELD: Twenty-five by a 125.

4 MR. BONACCI: Bless you.

5 MS. GUTIERREZ: Bless you.

6 MR. MEDINA: Bless you.

7 MR. OBERFIELD: So, it's actually a little
8 bit deeper. It's actually identical -- you see
9 here, too.

10 The building next door is the exact same
11 setup. But actually, the rear building is
12 taller.

13 MR. MEDINA: It's a little question that I
14 didn't know. I don't know. Maybe --

15 MR. OBERFIELD: Yeah. No, I understand it.

16 MR. MEDINA: I have one question for you,
17 too.

18 MR. OBERFIELD: It is a little bit
19 confusing.

20 MR. MEDINA: Here, the picture show -- it
21 say here on number 9, utility front wall.

22 MR. OBERFIELD: Um hum.

23 MR. MEDINA: From the lower. Is -- this is
24 the cover, or you open on purpose --

25 MR. BONACCI: They opened it up.

1 MR. MEDINA: -- because this look like some
2 -- you never getting violation ticket on these
3 things? No?

4 MR. OBERFIELD: No, no, no, no.

5 MR. BONACCI: -- the picture.

6 MR. OBERFIELD: No. This was -- that's in
7 this unit that's being decommissioned. That's
8 actually right here, location-wise. In this
9 front wall.

10 MR. MEDINA: This is just like that.

11 MR. OBERFIELD: That is in the rear
12 building, the lower level. That is just like
13 that. The ceilings are -- we removed the
14 ceilings. I just stuffed some insulation in
15 there.

16 MR. MEDINA: Okay. Okay.

17 ACTING CHAIRPERSON GRULLON: Thank you, Mr.
18 Oberfield, for the clarification.

19 Mr. Price, you may proceed.

20 MR. PRICE: Still Larry Price, still 1006,
21 still under oath.

22 I spent a lot of time on this block, legal
23 -- legally. I was actually in this building, not
24 -- not in the apartments, but in the courtyard.

25 It's as they've described -- you know, you

1 | come in the front, you go down a passageway, you
2 | can go downstairs, you go out.

3 | ACTING CHAIRPERSON GRULLON: You get access
4 | to the --

5 | MR. PRICE: And you're out at the ground
6 | level, because the courtyard is about a story
7 | lower than that other. I was viewing the --
8 | whatever.

9 | This building is a dump, but this building
10 | is really, really old. It was there before 1974,
11 | so -- you know, I wish Mr. Oberfield --

12 | MR. OBERFIELD: Thanks.

13 | MR. PRICE: -- would tear it down and start
14 | again, but what he's got is probably -- is -- is
15 | legal, and at least he's taking two of the
16 | apartments out, so --

17 | MR. PANEQUE: Mr. Price, just as a
18 | clarification, when you say this building, are
19 | you referring to both the front structure and the
20 | rear structure?

21 | MR. PRICE: I'm -- I'm really referring to
22 | both, because what I was doing, there was some
23 | legal things on that building on 13th Street,
24 | which was, actually, adjacent to this property.
25 | And we were standing in the courtyard, looking at

1 | that building.

2 | So, we -- to get to the courtyard, of
3 | course, we had to go through the front building.
4 | And of course, we're standing right in front of
5 | the rear building.

6 | So, both -- both properties are very old
7 | and they've been there for awhile, so I'm sure --
8 | I'm sure they not only annodate (sic) -- you
9 | know, zoning and -- which is, by the way, 1974,
10 | not 1977, but they -- they've probably annodate
11 | (sic) it for a couple of decades before so --

12 | MR. PANEQUE: Thank you.

13 | MR. PRICE: Thank you.

14 | ACTING CHAIRPERSON GRULLON: Any other
15 | member of the public?

16 | No one else from the public?

17 | Closed to the public.

18 | Taking in consideration that the -- the
19 | testimony shows that all the apartments are
20 | preexisting from the Zoning Ordinance, 1977, I
21 | make a motion to grant the application with the
22 | condition to bring the --

23 | MR. FLANNERY: Yes. Affidavit of
24 | Publication --

25 | ACTING CHAIRPERSON GRULLON: Yes.

1 MR. FLANNERY: -- Jersey Journal.

2 MS. GUTIERREZ: And I'm seconding.

3 THE SECRETARY: Motion to approve this
4 application by Acting Chairman Victor -- Victor
5 Grullon.

6 Second by Margarita Gutierrez.

7 Roll call on the motion.

8 Victor Grullon?

9 ACTING CHAIRPERSON GRULLON: Yes.

10 THE SECRETARY: Margarita Gutierrez?

11 MS. GUTIERREZ: Yes.

12 THE SECRETARY: Miguel Ortiz?

13 MR. ORTIZ: Yes.

14 THE SECRETARY: David Pressey?

15 MR. PRESSEY: Yes.

16 THE SECRETARY: Khaled Dardir?

17 MR. DARDIR: Yes.

18 THE SECRETARY: John Medina?

19 MR. MEDINA: Yes.

20 THE SECRETARY: Joseph Bonacci?

21 MR. BONACCI: Yes.

22 THE SECRETARY: Motion carries, seven in
23 favor.

24 MR. FLANNERY: Thank you --

25 THE SECRETARY: Thank you.

1 MR. FLANNERY: -- very much.

2 MS. GUTIERREZ: You're welcome.

3 THE SECRETARY: With the conditions.

4 MR. PANEQUE: Mr. Flannery, don't forget
5 that there is the condition of the Affidavit of
6 Publication.

7 MR. FLANNERY: I'm calling them first thing
8 tomorrow morning.

9 MR. PANEQUE: Thank you.

10 MR. FLANNERY: Thank you.

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

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1 **Thomar Chartier/Bellamy Congress, LLC - 913 New**
2 **York Avenue:**

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4 THE SECRETARY: Next -- next application on
5 tonight's agenda, Bellamy Congress, LLC/Thomar
6 Chartier, 913 New York Avenue.

7 Mr. Mulkay?

8 (Whereupon, there was a pause in the
9 proceedings.)

10 MR. MULKAY: Good evening, Mr. Chairman,
11 members of the Board.

12 My name is Alain Mulkay, M-U-L-K-A-Y,
13 Mulkay and Rendo, on behalf of the applicant.

14 I would submit a Notice of Publication, and
15 Proof of Publication to the Board's Attorney, and
16 ask that he confirm with the Board that we have
17 -- the Board has acquired jurisdiction.

18 MR. PANEQUE: For the record, Mr. Mulkay
19 has provided us with the Affidavit of Service,
20 which indicates that on August 27th, via certified
21 mail, he served within -- all owners within 200
22 feet of the property in question, notice of
23 tonight's application.

24 Mr. Mulkay has also provided this Board
25 with the Affidavit of Publication, from The

1 Jersey Journal, which indicates that the notice
2 was duly published on August 29, thereby falling
3 within the jurisdictional limit, and therefore,
4 this court -- this Board has jurisdiction to hear
5 this application.

6 MR. MULKAY: Mr. Chairman, members of the
7 Board, we have two witnesses -- two expert
8 witnesses. Today, the owner of the property is
9 also here today.

10 And before we begin, just to give you a
11 little bit of background regarding this property.

12 This property -- there was an application
13 before this Board last year, where the Board
14 granted variance relief to construct a five unit
15 -- five story, five -- five residential unit and
16 one commercial space, retail space on the ground
17 floor.

18 That matter was approved by way of a
19 Resolution in March of 2015. The Board granted
20 the -- the Resolution was approved.

21 Mr. Price, who's here in court today,
22 appealed the approval. My client looked at the
23 project, had some discussions with Mr. Price, and
24 based on those discussions, decided to amend the
25 original application and come back before the

1 Board.

2 There was a Consent Order entered in the
3 courts, where the parties consented that the
4 matter be remanded to this Board for further
5 hearings, and -- for further hearings, on the
6 amended application.

7 The Consent Order was made part of your
8 package and you should have a copy of the -- of
9 the Consent Order.

10 Today, our first expert is the architect in
11 the matter, and I'd like to introduce him. I
12 believe he's been recognized by this Board as an
13 expert numerous times.

14 MS. DILLON: Sir, please raise your right
15 hand.

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

18 MR. MELIA: I do.

19 MS. DILLON: Please state your name, and
20 spell it for the record.

21 MR. MELIA: First name's Adrian,
22 A-D-R-I-A-N. Last name Melia, M-E-L-I-A.

23 MS. DILLON: Thank you.

24 MR. MULKAY: If the Board needs, he could
25 go through his credentials, but he's appeared

1 before --

2 ACTING CHAIRPERSON GRULLON: Yeah. Could
3 you please because --

4 MR. MULKAY: -- this Board numerous times.

5 ACTING CHAIRPERSON GRULLON: Yes.

6 MR. MULKAY: You want him to go --

7 Could you please explain to this Board your
8 credentials?

9 MR. MELIA: I'm a graduate from the Dublin
10 Institute of Technology in Dublin, Ireland.

11 I've been working as an architect in New
12 Jersey since 2002. And I've been licensed since
13 2011. I've appeared in front of this Board,
14 Jersey City Zoning Board, Hudson County Planning
15 Board numerous times.

16 ACTING CHAIRPERSON GRULLON: We accept your
17 qualifications.

18 Thank you.

19 You may proceed.

20 MR. MULKAY: Mr. Melia, did your office
21 prepare the revised plans that were submitted to
22 this Board?

23 MR. MELIA: Yes, we did.

24 MR. MULKAY: Could you explain to the Board
25 what the amended plans for the proposed project

1 is today? And in doing so, could you go over and
2 highlight the changes from the previous plan?

3 MR. MELIA: Yup.

4 As Mr. Mulkey explained, this application
5 was previously approved for five stories and five
6 residential and one retail unit.

7 We're now proposing a reduced density to
8 three residential and one retail, and a reduction
9 in the stories from five to four, but within the
10 same bulk that was previously approved, which is
11 50 feet in height.

12 If we look at Sheet Z-1, 913 New York
13 Avenue is on the southwest corner of New York and
14 10th Streets. It's 2500 square feet. I have a
15 photo of the existing structure, which is two and
16 a half stories on New York Avenue and a one story
17 garage structure, which extends all the way to
18 the back of the property.

19 MS. DILLON: Mr. Melia, let me just mark
20 the exhibit.

21 A-1?

22 MR. MULKAY: A-1.

23

24 (Whereupon, Photo Board was received and
25 marked as Exhibit A-1.)

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MR. MULKAY: And then for purposes of the record, the -- the architectural drawings that were submitted to the Board are marked Z-1, Z-2 and so forth.

6

7

MS. DILLON: Do you want the set marked as A-2?

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MR. MULKAY: We'll just mark them -- yes. Let's mark them as A-2, Z-1 --

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MS. DILLON: All right. I'll mark --

MR. MELIA: Z-1 through Z-5.

MS. DILLON: I'll mark the whole set.

MR. MULKAY: The Board's copy.

MS. DILLON: Carlos, can I have a set of the plans?

THE SECRETARY: Yes.

MR. MELIA: Okay.

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

(Whereupon, Drawings Z-1 through Z-5, were received and marked as Exhibit A-2.)

MR. MULKAY: So, A-2 for the record is Z-1 through Z-5, the architectural drawings that were

1 submitted with the application.

2 MR. MELIA: You may also want to mark this
3 exhibit. It's a 3D view of the bulk of the
4 proposed building.

5
6 (Whereupon, Photo Board was received and
7 marked as Exhibit A-3.)

8
9 MR. MELIA: There's no change from this to
10 the previously approved application in that we're
11 proposing 50 feet going back, 50 feet in height,
12 going back 80 feet. And then, an additional 20
13 feet, one story garage structure in the rear.

14 So, the green volume is as of right. And
15 the yellow volume is -- requires a variance --

16 MR. MULKAY: And the picture --

17 MR. MELIA: -- for lot coverage.

18 MR. MULKAY: And the picture that you're
19 referring to has been marked as A-3.

20 MR. MELIA: Yes.

21 MR. MULKAY: Correct?

22 MR. MELIA: So, that is also illustrated on
23 drawing 1Z2. What's also shown is a six foot
24 balcony, off the third floor, which I'll come
25 back to.

1 We look at drawing Z-3. The first floor
2 plan, there's been no change from the previous
3 application. At the previous hearing, the Board
4 did have some concerns about continuity of the
5 aesthetic of the lighting on New York Avenue.

6 So with that in mind, we added two new
7 street lights on 10th Street, to continue the --
8 the lighting aesthetic around the corner. And
9 the sidewalk itself will match New York Avenue.

10 But there's been no -- no change from the
11 previous application --

12 MR. MULKAY: Before you move on, just
13 before, could you explain to the Board the
14 dimensions of the commercial space and the --

15 MR. MELIA: Sure.

16 MR. MULKAY: -- and the parking.

17 MR. MELIA: The parking. They're all Code
18 conforming spaces. There's one required ADA
19 space. We provided two.

20 The commercial space is 628 square feet on
21 the corner, with the entry off New York Avenue.

22 Also, the -- the entry for the apartments
23 is off 10th Street.

24 The commercial space has a basement, as it
25 did in the previous application. There's no

1 change to the floor plan there.

2 There's an elevator serving the units. The

3 --

4 MR. MULKAY: You're now referring to Z-4.

5 MR. MELIA: Yes. Sheet Z-4. Again, no
6 change proposed to the basement or first floor
7 plan.

8 The second floor plan has a deck off the
9 rear, approximately 355 square feet. It's a 1711
10 square foot unit, so most likely be a three
11 bedroom. Generous size three bedroom.

12 The third floor is also the same size, but
13 it doesn't have the deck. So, we're proposing,
14 as part of this application, it wasn't on the
15 previous application, to add a six foot deep deck
16 off the back, so that unit has some outdoor
17 living space.

18 And the main change from the previous
19 application and this one is that we've reduced
20 the unit count from five to three, and we've done
21 that by only providing one unit on the fourth
22 floor plan, and eliminating the fifth floor
23 completely.

24 In place of the fifth floor, the fourth
25 floor unit will have a mezzanine. So, the fourth

1 floor until will be a 20 foot high unit with two
2 levels.

3 So, technically, it's a four story
4 building. And it's all within the previous bulk
5 of 50 feet, which was permitted.

6 Again, this is on Sheet Z-5. It indicates
7 the mezzanine, which is permitted by Code that
8 this floor is not considered a story, if it's
9 limited to one third of the area served.

10 So, this shaded area represents the floor
11 area of the upper level of the fourth floor unit.
12 Now, so it's limited to one third of this volume
13 below.

14 So that unit will be 1711 square feet on
15 the lower floor, and one third of the mezzanine
16 is 570 square feet. So, the total area for unit
17 3 will be 2281 square feet. So, that could be a
18 three bedroom, a four bedroom.

19 No change to the roof plan. We're
20 proposing a private deck for that third floor
21 unit, so the first residential unit gets the deck
22 on top of the first floor garage. The second
23 residential unit gets the six foot balcony. The
24 top unit gets the roof deck.

25 We haven't had to change anything on the

1 | elevations at all. It's the same aesthetically.
2 | The only addition is the six foot balcony off the
3 | third floor.

4 | Rendering remains the same. The mezzanine
5 | has no impact on the windows, except for these
6 | would be non-operable in locations where the
7 | double height space.

8 | ACTING CHAIRPERSON GRULLON: Concludes your
9 | presentation?

10 | Does that conclude your presentation?

11 | MR. MELIA: Yes.

12 | ACTING CHAIRPERSON GRULLON: Do you have
13 | another witness?

14 | MR. MULKAY: We do. We have actually the
15 | planner --

16 | ACTING CHAIRPERSON GRULLON: Okay.

17 | MR. MULKAY: -- here to testify.

18 | ACTING CHAIRPERSON GRULLON: Yes. Could
19 | you bring him forward?

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

22 | MS. DILLON: Mr. Kolling, please raise your
23 | right hand.

24 | Do you affirm the testimony you're about to
25 | give this Board is the whole truth?

1 MR. KOLLING: Yes, I do.

2 MS. DILLON: If you could please state your
3 name, and spell it for the record?

4 MR. KOLLING: Name is Edward Kolling,
5 K-O-L-L-I-N-G.

6 MS. DILLON: Thank you.

7 MR. MULKAY: Mr. Kolling, could you please
8 tell the Board your expertise in planning? Could
9 you give background?

10 MR. KOLLING: Certainly.

11 I'm a licensed professional planner in New
12 Jersey. I've been licensed since 1982. I've
13 been -- I graduated from Rutgers in 1974. I've
14 been practicing planning for over 40 years now.

15 Formerly, a Planning Director in Jersey
16 City, in the early 1980s; Director of Economic
17 Development in the City of Elizabeth, all through
18 the 1990s. I've been in private practice now
19 since 1989.

20 And I've appeared before this Board, Union
21 City Planning Board, and many, many Boards
22 throughout --

23 ACTING CHAIRPERSON GRULLON: Yes.

24 MR. KOLLING: -- Hudson County, New Jersey.

25 ACTING CHAIRPERSON GRULLON: Yes, yes. It's

1 | our pleasure to have you back. You've been in
2 | front of the Board on many occasions.

3 | MR. KOLLING: Thank you.

4 | The property is located in the CN
5 | neighborhood commercial district. And this is
6 | somewhat of an unusual use variance, really,
7 | because the uses are essentially permitted. In
8 | this zone, ground floor commercial is permitted,
9 | and apartments above are permitted.

10 | But the way it's defined is that it has to
11 | be within what's called a low or mid-rise
12 | apartment building. A low or mid-rise apartment
13 | building can only be an apartment building if it
14 | has four or more units. We have three units.

15 | So, that's where the -- the anomaly comes
16 | in.

17 | But although we don't meet the actual
18 | definition, we still promote the purposes of the
19 | zone plan, which is to provide commercial sales
20 | and services to the adjoining neighborhoods.

21 | And again, as I mentioned, the apartments
22 | are also permitted.

23 | Also, within the -- the Master Plan, this
24 | area is discussed as a specific recommendation
25 | area. It's called Area number 7. And it talks

1 about the -- that this area has a particularly
2 high concentration of retail stores that service
3 the surrounding area. And it also states that
4 the area is characterized by one to four family
5 structures.

6 And that's, again, exactly what we're
7 doing. We're within one to four families, and we
8 do have commercial. So, we're very, very much in
9 keeping with the character as -- as specified
10 within the Master Plan.

11 The Master Plan goes on to recommend that
12 this neighborhood commercial district should be
13 created as a corridor, with shops and
14 restaurants, street level residential units, and
15 the floor -- upper floors being residential.

16 So, it sort of echoes what the Zoning
17 Ordinance requires. And again, that's exactly
18 what we're doing.

19 So, we're in conformance with the purpose
20 of the zone plan. We're in conformance with the
21 recommendations of the Master Plan.

22 The project also promotes purposes of the
23 Municipal Land Use Law. Because we are
24 consistent with those -- with the Master Plan and
25 the Zoning Ordinance, we do promote the general

1 welfare because we are real -- essentially
2 implementing what the Zoning Ordinance is asking
3 for.

4 The project also promotes the establishment
5 of appropriate population density. The number of
6 units that would be permitted here actually could
7 be greater if the units were smaller.

8 I think that would be -- that this plan,
9 actually, is better because what you have are
10 larger units, that can accommodate families,
11 which usually mean -- means that people will stay
12 in a unit longer. And that promotes sort of
13 stability within the community. And I think that
14 that's a good -- a good thing in the area and for
15 the community.

16 It also promotes a desirable visual
17 environment. The building that's there now is a
18 little older, it's tired. There are garages --
19 five garages in the rear that are somewhat
20 unsightly, which also ends up resulting in a
21 multiple amount of curb cuts. It must -- has to
22 be 50 feet wide or so.

23 When this project was developed, that will
24 -- all that will be replaced by an attractive
25 building. The curb cut that's now 50 feet or

1 more will be replaced with a single 16 foot wide
2 curb cut. And that will provide more on-street
3 parking for -- not only for the use of this
4 building, but for the community in general.

5 In terms of parking, we are providing for
6 four spaces, which will be at least one per unit,
7 plus one additional, which could serve as a
8 second parking space for, say, the larger unit.

9 Commercial parking is not required because
10 of the lot size. And therefore, there's no
11 parking required. That essentially could be met
12 on the street. As we're saying, we're creating
13 additional parking on the street.

14 So, I think that the -- you know, the use
15 variance can be granted because the site is -- is
16 particularly well suited for this purpose,
17 because in the CN zone, because it promotes the
18 purposes of that zone, and because it's a corner
19 -- corner lot, and I think it promotes -- because
20 it promotes the purposes of zoning, as well as
21 the Master Plan, we meet the positive criteria.

22 There would be no substantial detriment
23 because the types of uses that are being proposed
24 are exactly what the Master Plan and the Zoning
25 Ordinance anticipates.

1 So, there will be no substantial detriment
2 to either the intent of the zone plan, or the
3 surrounding community because that's what you
4 would anticipate to be on New York Avenue, this
5 type -- this type of use. And the impacts would
6 be what would be expected.

7 Parking. We do need a parking variance,
8 but as I mentioned, we have more than -- we have
9 more than one per unit. The area is well
10 serviced by bus lines along New York Avenue,
11 Bergenline Avenue, Palisade Avenue. So, I think
12 that that further mitigates the impact, if any
13 deviation from parking.

14 We do have a lot coverage and a rear
15 setback variance. That is exactly the way it is
16 today, though. We have the same hundred percent
17 lot coverage today. We have the same rear yard
18 setback at the ground floor. It's going to be
19 continued.

20 Because it's similar, the impacts would not
21 be any greater. So, I don't see any substantial
22 detriment to the zone plan or to the surrounding
23 area.

24 Above the ground floor, we do set back 20
25 feet, which is what's proposed, or what's

1 required. And we do have 80 percent above there,
2 except for the deck that has been -- that has
3 been mentioned by the architect.

4 So, I don't think that there's any
5 substantial detriment by granting the variance,
6 because we are complying, as we go -- as we go
7 higher.

8 And I think you can look at this as being
9 the benefit substantially outweighing any
10 detriment.

11 The idea of promoting the zone plan,
12 promoting the Master Plan, promoting the
13 Municipal Land Use Law purposes are all
14 considered beneficial aspects of the project.

15 The addition of the on-street parking is a
16 beneficial aspect of the -- of the project.

17 So, when you look at those benefits, it
18 would substantially outweigh any detriment, which
19 is the C2 criteria for the granting of the C
20 variances.

21 ACTING CHAIRPERSON GRULLON: Thank you, Mr.
22 Kolling.

23 Question. Let me start with a question for
24 you.

25 The parking that you're providing, you're

1 providing four parking spaces.

2 MR. KOLLING: Yes.

3 ACTING CHAIRPERSON GRULLON: Correct?

4 It says seven here.

5 MR. KOLLING: Well, when you -- if you
6 count the three spaces on the street, yes.

7 There's something in your Zoning Ordinance
8 that allows for -- where there's -- where there's
9 frontage alongside of a commercial use, the
10 amount of frontage that you have -- that parking
11 can be allocated to -- to the property, or
12 counted as the property.

13 It really is not restricted just to this
14 property. So, it really becomes a benefit to
15 everybody.

16 ACTING CHAIRPERSON GRULLON: Yes. Um hum.

17 MR. MULKAY: And -- and the reason that
18 you're indicating three is because we're
19 eliminating the cutout, where now there'll be
20 three parking spaces that didn't exist before.

21 MS. DILLON: Come a little closer, Mr.
22 Mulkey.

23 MR. MULKAY: I'm sorry. I'm sorry.

24 MS. DILLON: Backing up.

25 MR. MULKAY: I'm sorry.

1 MR. KOLLING: Yes. There is some parking
2 already on that side of the street. It's closer
3 to the corner. But the size of this curb cut
4 that's there today restricts a significant
5 portion. At least 50 percent or more of that lot
6 length is restricted. And that will be reduced
7 to only a 16 foot curb cut, so you'll get more
8 parking spaces along there.

9 ACTING CHAIRPERSON GRULLON: And again, you
10 mentioned that for the commercial space, no
11 parking required.

12 MR. KOLLING: None is required. I mean,
13 it's possible to use one of the spaces that's --

14 ACTING CHAIRPERSON GRULLON: Yes.

15 MR. KOLLING: -- in the building as -- as
16 for the tenant. That's -- you know, that would
17 be a good thing. It could be shared because of
18 the ability that sometimes commercial use there,
19 they might need the parking. When they're not
20 there, another resident could use it.

21 So, there's multiple ways that it could be
22 used. But I think it's more than sufficient to
23 meet the demand.

24 ACTING CHAIRPERSON GRULLON: Because you
25 got three units and four parking spaces.

1 MR. KOLLING: Yes.

2 ACTING CHAIRPERSON GRULLON: You could
3 almost use the -- the extra one for the --

4 MR. KOLLING: Yes.

5 ACTING CHAIRPERSON GRULLON: My other
6 questions are regarding the -- the deck or the
7 balcony.

8 Maybe the architect can answer that.

9 MR. KOLLING: Sure.

10 ACTING CHAIRPERSON GRULLON: The deck and
11 the balcony, are they -- are they on the rear of
12 the building?

13 MR. MELIA: Correct. Yes.

14 ACTING CHAIRPERSON GRULLON: On top of the
15 parking garage.

16 MR. MELIA: The -- the parking garage, the
17 deck for the first residential floor unit on the
18 second floor, there's a deck directly on the roof
19 of the parking garage.

20 ACTING CHAIRPERSON GRULLON: Oh, okay.

21 MR. MELIA: And then, there is -- for the
22 -- for the third floor of the building, there is
23 a six foot deck.

24 ACTING CHAIRPERSON GRULLON: But it's not
25 showing in the picture.

1 MR. MELIA: It's --

2 MR. MULKAY: Right there. Right there.

3 Right there.

4 ACTING CHAIRPERSON GRULLON: Okay.

5 MR. MELIA: Z4.

6 ACTING CHAIRPERSON GRULLON: This here.

7 MR. MELIA: Third floor --

8 ACTING CHAIRPERSON GRULLON: Okay. This is
9 not showing.

10 That's on the rear of the building, not on
11 the --

12 MR. MELIA: Correct. This is --

13 ACTING CHAIRPERSON GRULLON: -- New York
14 Avenue side.

15 MR. MELIA: -- New York, this is 10th.

16 MR. MULKAY: Essentially, Mr. Melia,
17 essentially, the deck on the second floor will be
18 the equivalent of a parking space -- will be
19 equivalent of a backyard, if it was on the ground
20 level.

21 Is that correct?

22 MR. MELIA: I'm sorry. Say that again.

23 MR. MULKAY: The deck up on the second
24 floor apartment --

25 MR. MELIA: Yes.

1 MR. MULKAY: -- that will be the same as a
2 -- as a backyard if it was on the ground floor.

3 MR. MELIA: Exactly. It will be --

4 MR. MULKAY: It's just an elevated
5 backyard.

6 MR. MELIA: Correct.

7 MR. MULKAY: Okay. And with the deck on
8 the third floor, it's not a deck that's fronting
9 either one of the streets, it's to the backyard.
10 It's only to the private property of the
11 backyard.

12 ACTING CHAIRPERSON GRULLON: And the third
13 and fourth floor, it's only one unit. Duplex --

14 MR. MELIA: Correct.

15 ACTING CHAIRPERSON GRULLON: -- unit?

16 Like the windows on the third floor, could
17 be like two floor size.

18 MR. MELIA: This is one unit.

19 ACTING CHAIRPERSON GRULLON: Okay.

20 MR. MELIA: So, these would be operable for
21 the living space. And then, these ones would
22 just be inoperable, just like a large, double
23 height volume --

24 ACTING CHAIRPERSON GRULLON: A really high
25 ceiling.

1 MR. MELIA: They'd be clear story windows.

2 Yup.

3 ACTING CHAIRPERSON GRULLON: Okay.

4 I don't have any -- I don't have any more
5 questions.

6 You have?

7 MR. PRESSEY: Yes.

8 Regarding the commercial use, is there an
9 area for, like loading and unloading?

10 MR. MELIA: In the Ordinance, it says that
11 --

12 MS. DILLON: I really have to put this on
13 you. It's getting a little more involved.

14 MR. MELIA: In the Ordinance, it says that
15 on a lot of this size, a loading zone isn't
16 required, because it's only 2500 square feet. If
17 we were more than 2500 square feet, we would
18 require a loading zone.

19 It just so happens that there is actually a
20 loading zone outside on New York Avenue already.
21 So, that's where people deliver right now, and
22 that's probably where they would deliver moving
23 forward.

24 MR. PRESSEY: And also, regarding parking
25 entrance and exit, is there like a -- a light or

1 something?

2 MR. MELIA: Yes. We have -- it's on the
3 plan.

4 It's a pedestrian warning device that will
5 go above the door. So, flashing signal, with --
6 you know, a horn --

7 MR. PRESSEY: Yes.

8 MR. MELIA: -- that people that are
9 visually impaired could hear, once the garage
10 door opens.

11 MR. PRESSEY: Thank you.

12 ACTING CHAIRPERSON GRULLON: Any other
13 questions?

14 Okay. At this time, we're going to open to
15 the public.

16 Mr. Price?

17 MR. PRICE: Larry Price, 1006.

18 Mr. Melia, would you turn to Z-5, please?

19 The mezzanine area. The mezzanine area in
20 the left hand --

21 MR. MELIA: Yeah.

22 MR. PRICE: How large is that mezzanine
23 area?

24 MR. MELIA: It says 570 square feet.

25 MR. PRICE: Five hundred and --

1 MR. MELIA: Five seven zero.

2 MR. PRICE: Okay. And if you turn to Z-4,
3 the floor immediately below is --

4 MR. MELIA: Seventeen eleven.

5 MR. PRICE: Okay.

6 Thank you.

7 ACTING CHAIRPERSON GRULLON: Okay.

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

10 Anybody else?

11 Closed to the public.

12 Taking in consideration that it's providing
13 at least one parking space per unit, and one
14 extra space to share with the -- with the
15 commercial space, and the resident, I make a
16 motion to grant the application.

17 THE SECRETARY: Motion to grant the
18 application by Acting Chairman Victor Grullon.

19 MS. GUTIERREZ: And I'm seconding.

20 THE SECRETARY: Second?

21 Second by Margarita Gutierrez.

22 Roll call to grant the application.

23 Acting Chairman Victor Grullon?

24 ACTING CHAIRPERSON GRULLON: Yes.

25 THE SECRETARY: Margarita Gutierrez?

1 MS. GUTIERREZ: Yes.

2 THE SECRETARY: Miguel Ortiz?

3 MR. ORTIZ: Yes.

4 THE SECRETARY: David Pressey?

5 MR. PRESSEY: Yes.

6 THE SECRETARY: Khaled Dardir?

7 MR. DARDIR: Yes.

8 THE SECRETARY: John Medina?

9 MR. MEDINA: Yes.

10 THE SECRETARY: Joseph Bonacci?

11 MR. BONACCI: I abstain.

12 THE SECRETARY: Abstain by Mr. Bonacci.

13 Motion carries. Six in favor and one
14 abstain.

15 Thank you, Mr. Mulkay.

16 MR. MULKAY: Thank you.

17 MS. GUTIERREZ: You're welcome.

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1 **ADJOURNMENT:**

2

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

6 MS. GUTIERREZ: I make a motion.

7 THE SECRETARY: Motion by Miguel Ortiz.
8 Second by David Pressey.

9 All in favor, say aye.

10

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

12

13 THE SECRETARY: The ayes have it.

14 Thank you.

15 Have a good night everyone.

16

17 (Whereupon, the proceedings were concluded
18 at 8:51 p.m.)

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

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25 Monitored and proofread by: Deborah Dillon