

City Hall
3715 Palisade Avenue
Union City, New Jersey

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

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

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

CARLOS VALLEJO, Secretary to the Board

TOMAS R. PANEQUE, ESQ., Board Attorney
WILFREDO J. ORTIZ, II, ESQ., Acting Board Attorney
(Left at 6:25 p.m.)

DAVID SPATZ, Consultant
Community Housing and Planning Associates

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

BIANCA P. PEREIRAS, ESQ.,
Attorney for Applicant, Lidia Nova

BIANCA P. PEREIRAS, ESQ.,
Attorney for Applicant, 1811 Bergenline Avenue, LLC

BIANCA P. PEREIRAS, ESQ.,
Attorney for Applicant, Zohara 1601, LLC

J. ALVARO ALONSO, ESQ.,
Attorney for Applicant, 541 42nd Street, LLC

J. ALVARO ALONSO, ESQ.,
Attorney for Applicant, BHD Investments

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Manuel Pereiras

11

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

3 Please take notice that on Thursday,
4 October 13, 2016, at six p.m., a Regular Meeting
5 is scheduled, the Union City Zoning Board of
6 Adjustment to be held in the Municipal Chamber
7 located on the second floor, 3715 Palisade
8 Avenue, Union City, New Jersey.

9 Pledge of Allegiance.

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

12

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

15

16 THE SECRETARY: Thank you.

17 Notice of this meeting has been provided as
18 follow:

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

1 **ROLL CALL:**

2

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

5 Andres Garcia? Absent.

6 Victor Grullon?

7 VICE CHAIRMAN GRULLON: Here.

8 THE SECRETARY: Margarita Gutierrez?

9 MS. GUTIERREZ: Here.

10 THE SECRETARY: Miguel Ortiz? Absent.

11 David Pressey?

12 MR. PRESSEY: Here.

13 THE SECRETARY: Harlenny Javier? Absent.

14 Khaled Dardir? Absent.

15 John Medina? Absent.

16 Joseph Bonacci?

17 MR. BONACCI: Here.

18 THE SECRETARY: Libero Marotta?

19 MR. MAROTTA: Here.

20 THE SECRETARY: Peter Doumas?

21 MR. DOUMAS: Here.

22 THE SECRETARY: Let the record indicate
23 there are six present.

24 Those absent tonight are Andres Garcia,
25 Harlenny Javier, Khaled Dardir, John Medina,

1 Miguel Ortiz.

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

3 We have a full quorum to establish any decision.

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1 **Lidia Nova -**

2 **704-706 New York Avenue:**

3

4 THE SECRETARY: We are going to change a
5 little bit the order of tonight's agenda.

6 We are going to go first to hearings and
7 applications.

8 Lidia Nova, 704-706 New York Avenue.

9 This is a continuation.

10 Mrs. Pereiras, please?

11 MS. PEREIRAS: Thank you.

12 MR. PANEQUE: For the record, this matter
13 came before the Board at the last meeting, at
14 which time counsel, Ms. Pereiras, presented her
15 jurisdictional proofs. They were accepted.

16 Upon presenting her jurisdictional proofs,
17 I determined that there was a conflict by myself
18 with this case, in that I have represented the
19 applicants in my private capacity, in my private
20 office, and therefore, the matter was carried
21 until tonight, so that there could be substitute
22 counsel for the Board.

23 We have here Mr. Wilfredo Ortiz, who will
24 be substituting me at this time.

25

1 (Whereupon, Tomas R. Paneque, Esquire was
2 recused and left the dais at 6:11 p.m.)

3

4 (Whereupon, Wilfredo J. Ortiz, II, Esquire
5 took his place at the dais at 6:11 p.m.)

6

7 MS. PEREIRAS: Good evening, counsel, Mr.
8 Chairman, members of the Board.

9 May it please the Board, Bianca Pereiras on
10 behalf of Lidia Nova.

11 Our property is located at 704-706 New York
12 Avenue, also known as Block 114, Lot 2.

13 What we have existing on-site right now is
14 a two story commercial building. There's a
15 bakery on the ground floor.

16 The client is looking to convert the top
17 story, which has commercial space to residential.
18 So, we are proposing two units for this Board.

19 We have one expert to testify before the
20 Board this evening, and that is our architect,
21 Mr. Manuel Pereiras.

22 MS. DILLON: Please raise your right hand.

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

25 MR. PEREIRAS: It is.

1 MS. DILLON: Please state your name for the
2 record.

3 MR. PEREIRAS: Manny Pereiras, Pereiras
4 Architects, 1116 Summit Avenue, Union City, New
5 Jersey.

6 MS. DILLON: Thank you.

7 VICE CHAIRMAN GRULLON: We accept his
8 qualification. He's been in front of the Board
9 on many occasions.

10 MR. PEREIRAS: Thank you so much.

11 VICE CHAIRMAN GRULLON: Okay.

12 MS. PEREIRAS: Mr. Pereiras, are you
13 familiar with the site known as 704-06 New York
14 Avenue?

15 MR. PEREIRAS: I am.

16 MS. PEREIRAS: And did you prepare the
17 drawings that are before the Board this evening?

18 MR. PEREIRAS: I have. And pardon me for
19 not being up on the easel, like I normally am,
20 but I'll -- I'll present from here.

21 It's a very simple project, and I think we
22 could -- we could take it from here.

23 It's an existing building, right on New
24 York Avenue. The -- the photograph describes it
25 very easily.

1 There's a party store on the ground floor.

2 I believe it actually has some history to
3 it. They came before this Board a long time ago,
4 in order to legalize commercial space above.
5 They wanted to do a type of school on the second
6 floor.

7 There -- it got stopped and this was done
8 by another architect, another team that -- that
9 spearheaded this thing. It got stopped. It
10 never was able to get permits. There were a lot
11 of legal reasons and Code reasons why it couldn't
12 happen.

13 So, the clients are left with the shell on
14 two stories above of shell that's empty space,
15 and nothing to do.

16 And they came to me to question, all right,
17 what could we do with this space? And the
18 logical response --

19

20 (Whereupon, Miguel Ortiz arrived at 6:14
21 p.m.)

22

23 MR. PEREIRAS: -- was to change it into
24 residential.

25 So, we're going something --

1 THE SECRETARY: Mr. Pereiras, excuse me.

2 Allow me for a second please.

3 MR. M. ORTIZ: Good evening, everyone.

4 THE SECRETARY: Let the record indicate
5 that Mr. Ortiz arrived to the meeting, six --

6 MR. SPATZ: Six --

7 THE SECRETARY: -- 6:38.

8 MR. SPATZ: Six fourteen.

9 THE SECRETARY: Oh --

10 MR. SPATZ: Six fourteen. The clock is
11 wrong.

12 THE SECRETARY: -- 6:14. I'm sorry. The
13 clock is wrong.

14 MR. SPATZ: Yeah.

15 MS. GUTIERREZ: All men. I'm the only
16 woman.

17 MR. W. ORTIZ: Please continue.

18 THE SECRETARY: Thank you.

19 MR. PEREIRAS: Be happy to.

20 So, they came to me with asking what they
21 could do with this space. And the logical
22 solution was, in conformance with our Master
23 Plan, to make it into a mixed use building so
24 that we have residential above.

25 So, what we're proposing is a very modest

1 request of creating two apartments in this
2 existing shell.

3 Let's make clear that the lot is 37 feet
4 wide by a depth of a hundred -- I believe it's a
5 hundred feet.

6 MS. PEREIRAS: Yes.

7 MR. PEREIRAS: Yes. It's a hundred feet.

8 So, we have a total lot size of 3,754.6
9 square feet. So, on -- so, this is definitely
10 within the boundaries of our density and within
11 the boundaries that this Board normally approves
12 very easily.

13 Let me walk you through the building.

14 If you go to our site plan, we see that the
15 building is sitting on the property line, along
16 the front yard. There's no setback. This is a
17 preexisting condition, as well as all the other
18 bulk dimensions that I'm going to mention.

19 They're all preexisting conditions and
20 we're not proposing any changes to the exterior
21 of the building.

22 We have a side yard setback of zero on one
23 side, and a side yard setback of five foot two on
24 the other. And we have a rear yard setback of 37
25 feet eight inches. So, we have a nice, huge

1 yard.

2 So, as you could see, the buildings
3 occupying a small percentage of the lot. It's
4 actually occupying only 44.45 percent of the lot.

5 So, from a zoning standpoint, we have no
6 variances or existing nonconformities, except for
7 the minimum side yard, because we do have that
8 zero foot on that one existing side.

9 And in addition to that, we have parking
10 variance. And that is true of all our projects.

11 MR. W. ORTIZ: Excuse me.

12 MR. PEREIRAS: We're proposing two new
13 apartments. We don't have the -- the ability to
14 add any parking spaces on the site. That's a
15 hardship that comes with the site in the existing
16 building.

17 So, those two new parking spaces would
18 create a total of four new, which is an expansion
19 of that -- of that nonconformance.

20 Let me walk you through the building
21 itself. The ground floor stays as commercial.

22 Let me just go straight to the proposed.
23 It will make more sense, and save us a little bit
24 of time.

25 The façade of our building stays the same.

1 The two -- the ground floor commercial stays the
2 same. What we're proposing to do is a very
3 simple two bedroom apartment on each floor. We
4 have -- two stairwells are existing to the
5 building. And we have a bathroom that's existing
6 to the building.

7 And we're basically creating the additional
8 new bedrooms and a new bathroom in the middle of
9 it.

10 So, we'll have it split up into a
11 living/dining room area, along the front, along
12 New York Avenue; a kitchen, an eat-in kitchen
13 area, along the rear of it; and then, two
14 bedrooms within it.

15 The same thing is happening on the floor
16 above. It's a very simple two bedroom apartment.
17 Nothing really extraordinary about this project,
18 but it fits in well with the neighborhood.

19 I'm open for questions.

20 VICE CHAIRMAN GRULLON: Mr. -- Mr.
21 Pereiras, the existing condition of the building,
22 as it is right now, it's one commercial and one
23 storage space on --

24 MR. PEREIRAS: So --

25 VICE CHAIRMAN GRULLON: -- on the second

1 floor.

2 MR. PEREIRAS: So --

3 VICE CHAIRMAN GRULLON: Please explain
4 that.

5 MR. PEREIRAS: Currently, the commercial
6 space on the ground floor is a bakery, party
7 supply kind of store.

8 VICE CHAIRMAN GRULLON: Yes.

9 MR. PEREIRAS: That has bled into the
10 floors above, and it's used as storage. Whether
11 that is a legal use or not, I'm not a hundred
12 percent sure.

13 However, the Zoning Board has approved that
14 for commercial, but it has never gone through the
15 full process to being used as the -- the final
16 Resolution that they had.

17 So, what we have now is basically two
18 floors that are considered storage.

19 VICE CHAIRMAN GRULLON: Okay.

20 But on -- on your plans here, where it says
21 third floor, that you're proposing apartment. I
22 don't see like any windows here on this -- on the
23 pictures.

24 MR. PEREIRAS: We have --

25 VICE CHAIRMAN GRULLON: Is it three floors

1 or two floors?

2 MR. PEREIRAS: It's -- it's three floors.
3 The third floor, we would be popping a new window
4 on the facade. It's a small, slightly smaller,
5 it's an attic space. And we're popping a new
6 window on the facade. The -- the rest of the
7 windows are along the side, and those are
8 existing.

9 VICE CHAIRMAN GRULLON: And there will be a
10 change in the façade.

11 MR. PEREIRAS: Yes.

12 VICE CHAIRMAN GRULLON: In the building.

13 MR. PEREIRAS: You're right. You caught me
14 there.

15 There is a new window on the third floor --

16 VICE CHAIRMAN GRULLON: Okay. I see.

17 MS. GUTIERREZ: Okay.

18 MR. PEREIRAS: -- on the front, which I
19 think will help the --

20 VICE CHAIRMAN GRULLON: Yeah. Yeah.

21 MR. PEREIRAS: -- the aesthetics --

22 VICE CHAIRMAN GRULLON: Definite --

23 MR. PEREIRAS: -- significantly.

24 VICE CHAIRMAN GRULLON: Definitely, will
25 be.

1 The -- my other question is, could you go
2 over again the square footage of the apartment?

3 MR. PEREIRAS: I'll be happy to. I
4 actually --

5 VICE CHAIRMAN GRULLON: The proposed
6 apartment?

7 MR. PEREIRAS: -- didn't mention it.

8 Each apartment occupies the entire floor
9 plate. And the floor plate is 1,600 square feet.

10 So, these are nice, big apartments.

11 VICE CHAIRMAN GRULLON: Yes. Yeah, I can
12 see that. The size of the bedrooms are -- are
13 very decent size.

14 MR. PEREIRAS: These are very spacious,
15 beautiful apartments.

16 MS. GUTIERREZ: They're bigger rooms.

17 VICE CHAIRMAN GRULLON: Okay.

18 And since the third floor is going to be
19 probably like an attic, up there, is the ceiling
20 high enough to hold an apartment?

21 MR. PEREIRAS: The ceiling height is
22 sufficient.

23 VICE CHAIRMAN GRULLON: And again, one more
24 question, is, the parking variance, are you -- I
25 know, existing condition. But if you -- if you

1 | were to have two commercial spaces there, what
2 | would be the requirement for parking?

3 | MR. PEREIRAS: It would be three hundred --
4 | one parking space for 300 square feet, which
5 | would take us to -- and I'll double check with
6 | our -- our professional planner, Mr. Spatz, the
7 | Board's planner, but I believe that we have an
8 | additional 3.8 spaces.

9 | So, we have an expansion of -- of our
10 | variance, 3.8 spaces for the commercial, and four
11 | for the residential.

12 | So, we would be required a total of 7.8
13 | spaces. Round it up, eight spaces. And we're
14 | providing none.

15 | VICE CHAIRMAN GRULLON: Okay.

16 | MR. SPATZ: But the -- I think the Chairman
17 | was asking, if -- if the space that's being used
18 | for the apartments were --

19 | MR. PEREIRAS: Oh.

20 | MR. SPATZ: -- commercial.

21 | MR. PEREIRAS: That's a --

22 | VICE CHAIRMAN GRULLON: Yeah.

23 | MR. PEREIRAS: That's a great -- a great
24 | comparison.

25 | VICE CHAIRMAN GRULLON: Yes.

1 MR. PEREIRAS: And smart question.

2 So, it would be four per floor. So, we're
3 actually reducing the nonconformity in -- in many
4 ways, because a -- it would be required, if it
5 was all commercial, to be 12 parking spaces. And
6 now, in our proposal, we're only required eight
7 parking spaces. So, we are actually reducing
8 that nonconformity.

9 MR. W. ORTIZ: By one-third.

10 MR. PEREIRAS: Yes.

11 VICE CHAIRMAN GRULLON: Yes.

12 MR. PEREIRAS: Great point.

13 VICE CHAIRMAN GRULLON: In that
14 neighborhood, it's a mixed -- mixed use
15 neighborhood.

16 MR. PEREIRAS: Yes, it is. The -- the
17 character of the neighborhood, as we all know, is
18 mixed use. There's lots of other businesses that
19 are commercial on the -- on the ground floor, and
20 residential above.

21 It's actually in the commercial
22 neighborhood district, the CN district.

23 So, yes, this is very much in character
24 with the neighborhood.

25 VICE CHAIRMAN GRULLON: Thank you, Mr.

1 Pereiras.

2 I don't have any more question.

3 Any other member of the Board?

4 MR. MAROTTA: Could you tell me, is the
5 applicant here?

6 MR. PEREIRAS: No.

7 MR. MAROTTA: Would you know -- because I
8 checked this out, and I see that they've owned
9 this property for 15 years or better.

10 What have they used that second floor for
11 over these 15 years? Do you know?

12 MR. PEREIRAS: They have tried desperately
13 to get that built into a -- they actually wanted
14 to do a catering school. And it came before this
15 Board years ago for that, and they've been in the
16 process with the Building Department for that.
17 And they have been unsuccessful on every attempt.

18 So, they've actually done a significant
19 amount of work up there. They've been having
20 inspections for years now, and they finally gave
21 up and they're trying to -- they came to us, and
22 they're trying this other solution.

23 MR. MAROTTA: So, it's been commercial for
24 all these years.

25 MR. PEREIRAS: It has been commercial --

1 MR. MAROTTA: Okay.

2 MR. PEREIRAS: -- for all these years.

3 MR. MAROTTA: That's what I wanted to know.
4 Thank you.

5 VICE CHAIRMAN GRULLON: Any other member of
6 the Board?

7 At this time, I'm just want to --
8 Do you have any other witness?

9 MS. PEREIRAS: No. That would be --

10 VICE CHAIRMAN GRULLON: Okay.

11 I just want to open to the public.

12 Any member of the public want to step
13 forward?

14 No one from the public.

15 Taking in consideration that by having
16 apartments above the businesses there, it's going
17 to bring it more into more -- something more
18 conforming use for the -- for the zone.

19 And by having another business on top of
20 that, on those two -- those two apartments, it
21 would increase the -- the amount of parking
22 spaces needed, I make a motion to grant this
23 application.

24 MS. GUTIERREZ: And I'm seconding.

25 THE SECRETARY: Motion to grant the

1 application by Mr. Grullon.

2 Second by Margarita Gutierrez.

3 Roll call on the motion.

4 Mr. Grullon?

5 VICE CHAIRMAN GRULLON: Yes.

6 THE SECRETARY: Mrs. Gutierrez?

7 MS. GUTIERREZ: Yes.

8 THE SECRETARY: Mr. Ortiz?

9 MR. M. ORTIZ: Yes.

10 THE SECRETARY: Mr. Pressey?

11 MR. PRESSEY: Yes.

12 THE SECRETARY: Mr. Bonacci?

13 MR. BONACCI: Yes.

14 THE SECRETARY: Mr. Marotta?

15 MR. MAROTTA: I -- I'd like to explain my
16 vote.

17 Since this has been owned by the one owner
18 for 15 years, and used exclusively for commercial
19 purposes, although I'm a little disappointed
20 because there is no parking, but because of the
21 fact of the many years that they've been there,
22 it hasn't been a hindrance to the public, so
23 therefore, I'll vote yes in favor of this
24 application.

25 THE SECRETARY: Mr. Doumas?

1 MR. DOUMAS: Yes.

2 THE SECRETARY: Seven in favor, zero
3 against.

4 MS. PEREIRAS: Thank you all.

5 THE SECRETARY: Motion carries.

6 MS. PEREIRAS: Thank you.

7 MS. GUTIERREZ: You're welcome.

8 MR. PEREIRAS: Thank you.

9 MS. GUTIERREZ: You're welcome.

10 MR. W. ORTIZ: I will be excusing myself,
11 for the record.

12 Thank you very much.

13 VICE CHAIRMAN GRULLON: Thank you, Mr.
14 Ortiz.

15 MS. GUTIERREZ: Thank you for coming.

16 VICE CHAIRMAN GRULLON: Good to see you.

17

18 (Whereupon, Wilfred J. Ortiz, II, Esquire
19 left the meeting at 6:25 p.m.)

20

21 (Whereupon, Tomas R. Paneque, Esquire
22 returned to the dais at 6:25 p.m.)

23

24 THE SECRETARY: Let the record indicate
25 that Mr. Paneque joined the meeting.

1 Thank you, Mr. Paneque.

2 MS. GUTIERREZ: Back to business.

3

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

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1 1811 Bergenline Ave., LLC -

2 1811 Bergenline Avenue:

3

4 THE SECRETARY: Next application on
5 tonight's agenda, 1811 Bergenline Avenue, LLC,
6 1811 Bergenline Avenue, Block 98, Lot 5.

7 Mrs. Pereiras, please?

8 MS. DILLON: She stepped out.

9 MR. PEREIRAS: You want to go out of order?

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

12 MS. GUTIERREZ: Thank you.

13 THE SECRETARY: You're welcome.

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

16 THE SECRETARY: Go ahead, Mrs. Pereiras.

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

19 MS. PEREIRAS: Again, Bianca Pereiras, on
20 behalf of 1811 Bergenline Avenue, LLC.

21 MR. PANEQUE: For the record, I've been
22 provided, by Ms. Pereiras, with a certification
23 as to publication and service, which has been
24 signed by her, indicating that notice was given
25 of tonight's hearing, with respect to the

1 property at 1811 Bergenline Avenue, Union City,
2 New Jersey.

3 I've also been provided with copies of the
4 certified mail receipts, and said certified mail
5 receipts indicate that they were placed in the
6 post office and postmarked on September 30th,
7 2016.

8 Also, attached to the documents is an
9 Affidavit of Publication from The Jersey Journal,
10 indicating that notice of tonight's hearing, with
11 respect to 1811 Bergenline Avenue, was published
12 in The Jersey Journal on September 30th, 2016.

13 Also, attached to the documents are the
14 green cards that have come back to date, as well
15 as certain envelopes that were returned as unable
16 to forward.

17 It appears from the documents submitted,
18 that all jurisdictional elements have been met,
19 and therefore, this Board has the jurisdiction to
20 hear this case.

21 Now, before we proceed with the
22 application, I had the opportunity to speak to
23 Ms. Pereiras be -- before the meeting started,
24 and bring to her attention the fact that we have
25 not received the memo from Martinetti's office,

1 the Building Department.

2 Without that memo, this application cannot
3 proceed because the Board needs that memo in
4 order to have a basis on which to make a
5 determination as to the application that's before
6 the Board.

7 Ms. Pereiras, based on that information,
8 it's going to be my recommendation that this
9 application be carried.

10 Since you have met the jurisdictional
11 proofs, there's not going to be any requirement
12 that you either re-notice or republish in the
13 newspaper. This will be carried to the next
14 meeting.

15 November 17th?

16 MR. SPATZ: Seventeenth.

17 THE SECRETARY: Yes, Mr. Paneque.

18 MR. PANEQUE: Without any requirements for
19 either publication or mailing.

20 Any questions from the Board?

21 Thank you.

22 MS. PEREIRAS: And I can confirm,
23 obviously, with Mr. Vallejo, prior to that
24 meeting, to make sure that that document was
25 received, so we can proceed on that occasion.

1 THE SECRETARY: Yes, ma'am.

2 MS. PEREIRAS: Thank you.

3 MS. GUTIERREZ: Was the 17th?

4 THE SECRETARY: Can -- can I have a motion
5 to adjourn this application?

6 VICE CHAIRMAN GRULLON: Make a motion to
7 adjourn it to --

8 THE SECRETARY: Motion by Mr. Grullon.

9 VICE CHAIRMAN GRULLON: -- November 17.

10 MS. GUTIERREZ: I'm seconding.

11 THE SECRETARY: Second by Margarita
12 Gutierrez.

13 Roll call on the motion to adjourn this
14 application for November 17, 2016, no further
15 notice required.

16 Mr. Grullon?

17 VICE CHAIRMAN GRULLON: Yes.

18 THE SECRETARY: Margarita Gutierrez?

19 MS. GUTIERREZ: Yes.

20 THE SECRETARY: Mr. Ortiz?

21 MR. M. ORTIZ: Yes.

22 THE SECRETARY: Mr. Pressey?

23 MR. PRESSEY: Yes.

24 THE SECRETARY: Mr. Bonacci?

25 MR. BONACCI: Yes.

1 THE SECRETARY: Mr. Marotta?

2 MR. MAROTTA: Yes.

3 THE SECRETARY: Mr. Doumas?

4 MR. DOUMAS: Yes.

5 THE SECRETARY: Seven in favor. Motion
6 carries.

7 Thank you, Mrs. Pereiras.

8 MR. PRICE: Could I ask a question about
9 that?

10 This is a vacant lot.

11 MR. PANEQUE: Yes.

12 MR. PRICE: What -- why do we need the memo
13 from the Building Department?

14 THE SECRETARY: We adjourn already.

15 MR. PRICE: The --

16 MR. PANEQUE: It's -- it just recently
17 became a vacant lot, from what I understand, Mr.
18 Price, based on the fact that the -- the
19 structure that was there, according to Ms.
20 Pereiras, was just recently demolished.

21 Okay?

22 We still need the memo from the Building
23 Department as to what was there, and what was an
24 existing legal use, so that this Board can make
25 an informative decision.

1 I understand --

2 MR. PRICE: That's -- that's the part I'm
3 kind of questioning.

4 MR. PANEQUE: Yeah.

5 MR. PRICE: Okay.

6 The memo is very useful -- you know, comes
7 in and say we got -- it's a two family house and
8 there are four units there, or this is commercial
9 and this is residential.

10 But when you got a vacant lot, it's a
11 vacant lot. And the prior use has no bearing.

12 MR. PANEQUE: I -- I understand that.
13 However, other than the verbal representation
14 from Ms. Pereiras that the property was just
15 recently demolished, as a result of an emergent
16 application, I have no verification of that.

17 And now, you're coming forward and telling
18 me that it is a vacant lot. We have no
19 verification of that.

20 MR. PRICE: I just --

21 MR. PANEQUE: So, it --

22 MR. PRICE: -- asked the owner.

23 MR. PANEQUE: Okay.

24 MR. PRICE: I said, is this -- I -- I
25 thought the lot was vacant. I don't know.

1 MR. PANEQUE: Well, if -- if Martinetti's
2 -- if the Building Department's memo confirms
3 that, then you're absolutely right. But --

4 MR. PRICE: You need confirmation that --

5 MR. PANEQUE: We need confirmation --

6 MR. PRICE: -- it's vacant.

7 MR. PANEQUE: -- in writing. All right.

8 MS. GUTIERREZ: Exactly.

9 MR. PANEQUE: And my understanding is that
10 this was just demolished because of a -- kind of
11 a dangerous situation that it presented.

12 So, I -- it's not that I distrust what's --
13 what I'm being told, but this Board can't proceed
14 unless we have written verification.

15 MR. PRICE: Right.

16 Okay. Very good.

17 Thank you.

18 THE SECRETARY: Thank you, Mr. Paneque.

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1 **Zohara 1601, LLC -**
2 **1601-1605 Manhattan Avenue:**

3

4 THE SECRETARY: Next application on
5 tonight's agenda, Zohara 1601, LLC, 1601-1605
6 Manhattan Avenue.

7 Mrs. Pereiras, please?

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

10 MR. PANEQUE: Let the record reflect that
11 I've been provided by Ms. Pereiras with certain
12 documentation with respect to the establishment
13 of jurisdictional authority of this Board.

14 First of all, I have a certification as to
15 publication and service, which has been signed by
16 Ms. Pereiras, indicating that notice of tonight's
17 meeting, with respect to the property at 1601
18 Manhattan Avenue, Union City, was published in
19 the newspaper and notices went out to the -- all
20 property owners within the 200 foot radius.

21 Attached to her notice is also the Tax
22 Assessor's list, which is dated September 26,
23 2016.

24 Attached to her -- to those documents are
25 also the certified mail receipts, with postmark

1 of September 30th, 2016.

2 And I have the green card receipts, which
3 have come back, as well as one envelope which has
4 come back as no such number.

5 The -- also, I have an Affidavit of
6 Publication from The Jersey Journal, which
7 indicates that notice was given of this hearing
8 for the 13th of October 2016, with respect to the
9 property at 1601-1605 Manhattan Avenue.

10 It appears that all jurisdictional
11 requirements have been met, and this Board,
12 therefore, has the authority to proceed and hear
13 this matter.

14 VICE CHAIRMAN GRULLON: You may --

15 MS. PEREIRAS: Thank you very much.

16 VICE CHAIRMAN GRULLON: -- proceed, Ms.
17 Pereiras.

18 MS. PEREIRAS: Again, Bianca Pereiras, on
19 behalf of the applicant, Zohara 1601, LLC.

20 This is for property located at 1601-1605
21 Manhattan Avenue, also known as Block 180, Lots
22 18 and 19.

23 We're right on the corner of Manhattan and
24 16th Street, and what we're looking to do is to
25 demolish an existing one -- industrial building,

1 and construct a new building, consisting of nine
2 residential units above parking.

3 So, we have one floor of parking and three
4 floors of residences above.

5 We are located in the R low density
6 residential zone. As such, we have a few experts
7 to testify before the Board this evening.

8 I'd like to begin with architecture, so we
9 have our architect, Mr. Manuel Pereiras.

10 MR. PEREIRAS: Still Manny Pereiras, and
11 still under oath.

12 MS. PEREIRAS: Mr. Pereiras, are you
13 familiar with 1601-1605 Manhattan Avenue?

14 MR. PEREIRAS: I am.

15 MS. PEREIRAS: And did you prepare the
16 drawings that are before the Board this evening?

17 MR. PEREIRAS: I have.

18 MS. PEREIRAS: And can you please describe
19 the project for the Board?

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

21 I'm very proud of this project. We're
22 taking an eyesore, an industrial use building,
23 and we're bringing it back to where it should be
24 in residential, and replacing it with a beautiful
25 building.

1 I'm going to use the easel, with the same
2 drawings that were submitted before the Board,
3 simply on the easel for -- for better
4 presentation, and I'll walk you through the
5 entire building.

6 First and foremost, on Sheet Z01, we have
7 the existing site plan, along the bottom left
8 corner of the -- of the sheet, and on the
9 proposed site plan on the top left corner.

10 As you could see, on the bottom left, the
11 building occupies almost the majority of the
12 site, and it's completely impervious.

13 That building has a zero foot setback along
14 the front, zero on both sides, zero on the rear
15 yard, and the space -- the doughnut space that
16 you see here is completely paved with a driveway,
17 a curb cut along this entire area, so vehicles
18 are coming in and out of that space.

19 What we propose to do, and let's talk a
20 little bit about the size of the lot.

21 It's a hundred foot deep and it's 60 feet
22 wide, slightly irregular. At one end, it opens
23 up a little bit more. And at the other end of
24 the site, the north end of the site, it's at 99
25 feet 11 inches.

1 So, technically, we have a variance for lot
2 depth, because we're one inch off. But the other
3 side does comply. But since it's slightly
4 irregular, we have a one inch difference that
5 triggers a lot depth variance.

6 We comply in area -- in lot area size and
7 in every other aspect. The -- the existing side
8 -- side yard setbacks are zero, and we propose to
9 maintain that.

10 We propose to have, along the north face, a
11 zero side yard setback. We feel this is
12 appropriate because of the adjacent uses.
13 There's a commercial, adult daycare there. And I
14 think -- believe it fits well into the
15 neighborhood.

16 And along Manhattan Avenue, there's a zero
17 -- along 16th Street, we have a -- a zero setback,
18 along the north -- the southeast corner, and it
19 floats back in order to provide some landscaping
20 along the front.

21 What we did with this building is we wanted
22 -- we oriented the pedestrian entryway along the
23 16th Street side. It's a lot more residential in
24 nature. It's a smaller scale. And we thought
25 that that would be appropriate.

1 So, as the building goes towards the west,
2 it actually creates more of a side yard setback,
3 and it opens up to that -- that side yard, so
4 that we're setback along the front from the face
5 of the building to the property line, 19 feet
6 three inches. And then, the building on the
7 ground level sets back a little bit more. And
8 I'll explain this as we go through the elevations
9 and the other floors.

10 So, the main pedestrian travel is from the
11 sidewalk on 16th Street and into the building
12 across here.

13 We completely removed and relocated the
14 vehicular traffic to Manhattan Avenue, so that we
15 have no conflict of people coming in and out, so
16 that our new curb cut that we're proposing,
17 actually we're reducing the size of the existing
18 curb cut. We're proposing it on Manhattan
19 Avenue, and we pushed it back from the -- from
20 the curb of the street.

21 So, we're 30 feet in from the curb of the
22 street to -- to reduce impact on traffic. And
23 our traffic consultant will talk more to -- at
24 length at -- at that.

25 I'm turning now -- and then, the building

1 -- the staircase and lobby, what we wanted to do
2 is create a -- a scaled down version of this
3 building, where it breaks down into pieces, so
4 that it feels very good with the neighborhood, it
5 feels very good with the people that are walking
6 through it.

7 So, as you walk into this backyard, you
8 have a shorter porch and lobby, and then a
9 stairwell behind that. And that is setback six
10 foot four from that edge. Okay? And it will
11 come to better understanding, as I move through
12 the drawings.

13 We have variances for lot depth, as I
14 mentioned.

15 Front yard, although it is prevailing, we
16 have a variance there.

17 Rear yard, we have a variance.

18 Side yard, there's a variance on the side.
19 We're at zero foot.

20 Building height.

21 We're at four stories, whereas three is
22 permitted in the neighborhood.

23 We are in compliance with -- with the lot
24 coverage of the building. We're only at 88.2
25 percent. And we have a variance for building

1 coverage, which is 60 percent allowed, and we're
2 at 81.4 percent.

3 I am turning now to Sheet Z02. On Sheet
4 Z02, we see our ground floor. And that shows,
5 first and foremost, a pedestrian path to the
6 lobby.

7 We walk in, we created a sidewalk with
8 landscaping along the side. This is a covered
9 path from one end to the other that enters you
10 into a lobby. We have a small mail room to the
11 left hand side. We have an elevator. This is an
12 elevator building that's fully accessible with
13 ADA compliance, and our main stairwell.

14 We have a second stairwell located to the
15 east of that.

16 Our vehicular entrance is through here. We
17 have parking for 11 cars, including a handicap
18 parking space. So, we're providing full 11
19 parking spaces, no tandem spaces, and the spaces
20 are in complete compliance.

21 And the aisle width is 22 feet, five
22 inches, so it's very easy to maneuver a car
23 through this.

24 The parking spaces are varying in width.
25 They're eight foot six to eight foot two. It's

1 still comfortable for a car to -- to enter. And
2 the depth is over 18 feet in depth.

3 So, they're very comfortable parking spaces
4 to get in, that work well.

5 I'm turning now to page Z03, and we have
6 our typical floor plate. This is the same for
7 second, third and fourth floors.

8 We have divided three apartments within
9 this floor. We created a small intimate hallway,
10 that leads from stairwell to stairwell, with the
11 elevator lobby. And that leads you into each of
12 these three apartments.

13 Each of the three apartments are two
14 bedroom apartments; beautiful, ample, nice
15 spaces. We're right on Manhattan Avenue.

16 So, the first apartment is a two bedroom,
17 1,185 square feet. And this is typical of my
18 designs.

19 You know that when you walk into the
20 apartments I like designing, you walk into a
21 nice, big open space.

22 So, we have an open floor plan that goes
23 from the second you enter, all the way to the
24 windows along the back. And what we're proposing
25 is beautiful floor to ceiling windows.

1 So, this is going to be filled with light
2 and -- and there's going to be beautiful
3 apartments.

4 Flanked to the side of that is the
5 bedrooms. So, we have two bedrooms, and each
6 bedroom has its bathroom and a walk-in closet.
7 The -- the second bedroom, or the -- the kids'
8 bedroom has a shared bathroom with the rest of
9 the apartment. Washer and dryer is in the
10 apartments, and a beautiful kitchen with a nice
11 island.

12 If we go to apartment number B, we walk in;
13 same concept. You open into a nice, open floor
14 plan layout. And then, you turn into a hallway
15 which is a more private sector, where you have
16 the master bedrooms, the -- the kids' bedroom and
17 the ADA bathroom.

18 Apartment C.

19 It's slightly different. We wanted to
20 utilize that corner and create a very beautiful
21 living room space in that corner. So, we have
22 floor to ceiling windows along that corner. And
23 so, it's a Z shaped apartment.

24 You walk in, you have your kitchen and
25 dining area, and then your living room along

1 here. And then, two bedrooms along the top. And
2 the two bedrooms are one master suite, with a
3 bathroom, and walk-in closet; and the other, the
4 secondary kids' bedroom.

5 Talking about the elevations. I think it's
6 easier and better to talk about them using a full
7 sized rendering.

8 So, this is the building we propose. I
9 like to think it's a beautiful building, but --
10 you know, it's my baby, so that's biased.

11 But we're proposing a brick building, with
12 a curtain wall -- glass curtain wall system for
13 the windows.

14 As you could see, the base level is the
15 parking level, and that's solid brick. Very
16 beautiful. Creates a nice base to the building.

17 And then, we continue the brick all the way
18 up to create these vertical elements that really
19 split the building up so that you're not looking
20 at a large mass.

21 So, it's broken up, and each of these is a
22 bay for, for example, bedroom, living room,
23 bedroom, living room, and then living room,
24 bedroom.

25 Along here, it works out very beautifully,

1 creates a beautiful aesthetic on the inside of
2 it, where you have these floor to ceiling
3 windows.

4 And remember, we have amazing views here,
5 or at least partially amazing views of the
6 Manhattan skyline.

7 So, we're taking advantage of that, and we
8 skewed the building and created this saw tooth
9 shape in order to emphasize the angle and the
10 view towards Manhattan. And it also creates a
11 nice scale concept, where everything's broken
12 down.

13 So, you're not looking at a large massive
14 building. It's really broken down for you.

15 Then, it's simply capped with a metal
16 cornice along the top. Simple and elegant.

17 MR. PANEQUE: Mr. Pereiras, may we have
18 that marked for identification?

19 MS. DILLON: I'll mark it A-1.

20 I'll mark it on the back.

21 MS. PEREIRAS: Thank you.

22

23 (Whereupon, Rendering was received and
24 marked as Exhibit A-1.)

25

1 MR. PEREIRAS: I'm open for questions.

2 Thank you.

3 VICE CHAIRMAN GRULLON: Do you have any
4 other witness?

5 MS. PEREIRAS: We do. We have a planner
6 and a traffic consultant.

7 VICE CHAIRMAN GRULLON: Yeah.

8 And let's go over the witness and then --

9 MS. PEREIRAS: Absolutely.

10 VICE CHAIRMAN GRULLON: -- we open for
11 questions.

12 MS. PEREIRAS: I think you can tell from
13 the testimony of the architect, we played
14 particular concern to any type of vehicular or
15 pedestrian traffic to our building.

16 So, I'd like to follow up with our traffic
17 consultant, Mr. Craig Peregoy.

18 MR. MAROTTA: Excuse me, Mr. Chairman?

19 Could we question the architect now?

20 VICE CHAIRMAN GRULLON: Typically, what we
21 do is we let them do the presentation. Then, we
22 -- we start our questions.

23 MR. MAROTTA: I'm going to ask that we --
24 we be permitted to question the witness after the
25 witness finishes, rather than wait until the end.

1 | It's the same way as in a courtroom. You don't
2 | wait. When a witness testifies, you get a chance
3 | to question that witness.

4 | VICE CHAIRMAN GRULLON: But that's the
5 | procedure we've been following.

6 | MR. MAROTTA: But there's a specific reason
7 | for that, --

8 | VICE CHAIRMAN GRULLON: Yeah.

9 | MR. MAROTTA: -- Mr. Chairman.

10 | The reason for that is that the witness
11 | forgets and -- and the interrogator forgets what
12 | was said before.

13 | VICE CHAIRMAN GRULLON: He's going to come
14 | forward again, and we may ask any questions, but
15 | --

16 | MR. MAROTTA: Well, all right. I think we
17 | have to change --

18 | VICE CHAIRMAN GRULLON: -- for now, we just
19 | --

20 | MR. MAROTTA: -- our procedure.

21 | VICE CHAIRMAN GRULLON: -- continue the
22 | same way we've been doing this.

23 | MS. DILLON: Mr. Peregoy, please raise your
24 | right hand.

25 | Do you affirm the testimony you're about to

1 give this Board is the whole truth?

2 MR. PEREGOY: Yes, I do.

3 MS. DILLON: Could you please state your
4 name and spell it for the record?

5 MR. PEREGOY: Sure.

6 My name is Craig Peregoy, P-E-R-E-G-O-Y.

7 MS. DILLON: Thank you.

8 MS. PEREIRAS: And Mr. Peregoy has
9 testified before this Board --

10 VICE CHAIRMAN GRULLON: Yes.

11 MS. PEREIRAS: -- on numerous occasions.

12 VICE CHAIRMAN GRULLON: He's been in front
13 of this Board on many occasions. It's our
14 pleasure.

15 MR. PEREGOY: Wow.

16 VICE CHAIRMAN GRULLON: Thank you. Welcome
17 back.

18 MS. PEREIRAS: Mr. Peregoy, are you
19 familiar with 1601-1605 Manhattan Avenue?

20 MR. PEREGOY: I am.

21 MS. PEREIRAS: And you -- have you had a
22 chance to review the plans prepared by the
23 architect?

24 MR. PEREGOY: I have.

25 MS. PEREIRAS: And can you please describe

1 the project from a traffic perspective?

2 MR. PEREGOY: Sure.

3 Really, essentially, this is a net positive
4 in all aspects, from a traffic perspective.

5 Today, you have garage door entrances on
6 Manhattan Avenue, pretty much right at the
7 intersection. Vehicles can back out of those,
8 right into a signalized intersection,
9 essentially.

10 And then, along 16th Street, you have a
11 pretty wide open curb cut that leads to two more
12 garage doors and -- and a parking area for the
13 former automotive use.

14 We are shifting the driveway on Manhattan
15 Avenue farther from the intersection. People are
16 going to come front out of it, no more backing
17 out of it. Eliminating the driveway on 16th
18 Street, gaining probably two on-street parking
19 spaces in that location, where currently it's
20 blocked off, obviously, because of the driveway.

21 As far as traffic -- you know, I typically
22 tell you about the weekday morning and evening
23 peak hours.

24 And this building, during those time
25 periods, would generate on the order of five to

1 six trips, with nine units.

2 The automotive facility that was there, as
3 a repair garage, using the same -- the same
4 material that I used to make those projections,
5 the ITE Trip Generation Manual, that would
6 generate 16 trips in the morning peak and 14
7 trips in the evening peak hour. So, about three
8 times as much traffic.

9 Albeit, both of them very low traffic
10 generators, but still, three times as much if
11 that were just reopened and used as a -- as an
12 auto repair facility.

13 So, from a traffic impact perspective, and
14 a design perspective, in terms of the driveway
15 locations, it's a net positive in -- in both
16 cases.

17 In terms of the parking, the RSIS would
18 technically require us to have two spaces per
19 unit, at 18 spaces. But if you look at the high
20 rise apartments, which I always say I think are
21 more appropriate for a walkable and mass transit
22 type of environment like you have here in Union
23 City, then it would require 1.3 spaces per unit,
24 and we have actually 1.44 spaces per unit.

25 And if you look a little bit deeper in this

1 census tract, based on U.S. Census data, the
2 average household has about 0.98. So, about one
3 vehicle per unit. And again, we're providing
4 1.44.

5 So, I think the parking supply is generous.
6 The layout in the garage works well. It's
7 generous for this type of use where you have
8 assigned parking. Same -- same person goes in
9 and out of the same space every day. They know
10 how to -- how to get in and out, and the layout
11 works -- works very well.

12 That's it, unless you want me to keep going
13 on and on.

14 VICE CHAIRMAN GRULLON: You have another
15 witness? You have a planner?

16 MS. PEREIRAS: We do. We have one more
17 witness.

18 VICE CHAIRMAN GRULLON: Yeah. Please.

19 MS. PEREIRAS: We have a planner.

20 VICE CHAIRMAN GRULLON: Bring your planner.

21 MS. PEREIRAS: Thank you very much.

22 VICE CHAIRMAN GRULLON: We'd like to hear
23 from the planner.

24 MS. DILLON: Hello, Mr. Kauker.

25 MR. KAUKER: How are you?

1 MS. DILLON: How are you today?

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

4 MS. DILLON: Okay.

5 MR. KAUKER: I wish I could be as short as
6 Mr. Peregoy.

7 MS. DILLON: Please raise your right hand.

8 MR. KAUKER: Not much longer.

9 MS. DILLON: Please raise your right hand.

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

12 MR. KAUKER: I do.

13 MS. DILLON: Please state your name for the
14 record.

15 MR. KAUKER: Michael F. Kauker, K-A-U-K-E-R.

16 MS. DILLON: Thank you.

17 VICE CHAIRMAN GRULLON: Yes, Mr. Kauker has
18 been in front of this Board many times.

19 MR. KAUKER: Thank you, Mr. Chairman.

20 VICE CHAIRMAN GRULLON: Many occasion.

21 It's our pleasure to have you here.

22 Thank you.

23 MR. KAUKER: Nice to see you again.

24 MS. PEREIRAS: Mr. Kauker, are you familiar
25 with the site in question, as well as the

1 | drawings prepared by the architect?

2 | MR. KAUKER: Yes, I am. I visited the site
3 | on two occasions, and certainly have reviewed in
4 | great detail the proposed site plan and
5 | architectural design, as well as visited the site
6 | and surrounding area, in order to be able to
7 | present a -- a adequate, rational case for the
8 | use variance that we're placing before you.

9 | MS. PEREIRAS: And would you kindly
10 | describe the project from a planning perspective?

11 | MR. KAUKER: I'd be pleased to.

12 | This site is currently occupied by a
13 | nonconforming use. And one of the benefits and
14 | products of the application would be to bring it
15 | in closer conformity with the R residential
16 | district, but not withstanding the fact that the
17 | R low density district permits up to three units.

18 | One special condition, or particular
19 | suitability aspect of this site is that it's
20 | almost three times the minimum lot area, 2500, at
21 | 6150 feet -- 50 square feet.

22 | So, that certainly provides an adequate
23 | back drop to be able to propose the nature of the
24 | building that we propose, in addition to the nine
25 | dwelling units on the site.

1 This site is particularly suited to
2 accommodate the proposed multi-family use for the
3 following reasons:

4 Firstly, it's a corner lot. Therefore, the
5 fact that we have zero setbacks for side yards
6 and front yard is mitigated by the fact that we
7 have light and air on two sides of the building,
8 number one.

9 Number two, site is located, obviously, on
10 Manhattan Ave., which is a major collector road.
11 And many of the uses along Manhattan Ave., as the
12 Board is well aware, are currently residentially
13 used, as -- so as to be conforming with the R
14 district.

15 Catty-corner, across the street from the
16 site, in terms of existing conditions, are -- is
17 a well designed, older, well kept, a four story
18 condominium structure.

19 Adjacent to that, for two particular
20 properties, are older single family homes that
21 have seem to be outlive their economic life and
22 are currently boarded up.

23 In addition, to the left of the subject
24 site, across Manhattan Ave., as you go down
25 Mountain Ave., is a -- a third, smaller

1 residential property that is boarded up.

2 And I think that -- that's a product of a
3 project that was ongoing before the Board for
4 some time.

5 Adjacent to the site, as Manny had
6 testified, is an adult daycare center, in a one
7 story structure.

8 Across the street, at the intersection of
9 16th and Manhattan Ave., is a three story
10 structure, two residential apartment levels and
11 stores on the first floor. And adjacent to that
12 is a -- a very well kept, well designed church
13 facility.

14 So, the property has a mixed use character,
15 one that needs, I think, a certain element of
16 rehabilitation, and an introduction of new, or
17 more viable -- more closely conforming uses.

18 The use variance gives rise to several
19 variances, which, essentially, in accordance with
20 Mr. Spatz's review memorandum, are --
21 essentially, all those bulk variances are
22 subsumed into the use variance.

23 And in that context, we deal with the fact
24 that we're over on maximum lot coverage. Sixty
25 percent allowed. We're 81 percent. We're 21

1 | percent over.

2 | The rationale in support of that variance
3 | is the fact that this -- this property and this
4 | proposal includes interior parking, which adds to
5 | the stability of the neighborhood, lessens
6 | impacts of on-street parking, and, essentially,
7 | we need that coverage on the first floor to
8 | accommodate a well designed parking spaces.

9 | The number of spaces -- Manny mentioned 11,
10 | but I believe it's 12 plus one handicap. So,
11 | that would be 13 spaces. We're at about a 1.44
12 | ratio, which I think is acceptable to the Board,
13 | given your past practices.

14 | This property is additionally particularly
15 | well suited to accommodate the proposed use
16 | because of the excessive lot area.

17 | And I would remind the Board that the nine
18 | units that are proposed are -- range, as per Mr.
19 | Spatz's memo, 1100 square feet to -- they range
20 | from 1185 square feet to 1649 square feet. So,
21 | they are luxurious units. And essentially, the
22 | building design itself, with the large windows,
23 | affords adequate view points through the adjacent
24 | development, over the escarpment in -- out toward
25 | Manhattan.

1 I think that's a significant aspect of the
2 particular suitability of the site, as well.

3 In terms of positive benefits, and another
4 aspect of the Burbridge case, which the Board is
5 well aware of, in terms of particular
6 suitability, we meet several of the particular
7 criteria set forth in the purposes of the
8 Municipal Land Use Act.

9 And I won't describe them all, but they are
10 subsections A, B, C, G and I.

11 I believe that this site can be developed
12 for the proposed purpose, and it will have a
13 positive renewing effect on the surrounding
14 neighborhood. And it can be adequately
15 accommodated, in terms of the parking sizes that
16 we -- or number of parking spaces we show on the
17 site, as well as providing an aesthetic
18 improvement to the neighborhood itself.

19 I -- given the unique location of this
20 site, I don't believe that the Board's
21 consideration would unduly impact the intent and
22 purpose of the zone plan, number one.

23 And number two, I believe that the public
24 welfare would be served by providing, along
25 Manhattan Ave., in this southerly portion of

1 Union City, higher end type, new injection of
2 residential living units, which can only
3 complement the neighborhood.

4 That concludes my comments.

5 I'd be happy to answer any questions you
6 may have.

7 MR. MAROTTA: I want to go to the architect
8 first.

9 VICE CHAIRMAN GRULLON: Yes. Would that
10 conclude your presentation?

11 MS. PEREIRAS: That would conclude. Yes.

12 VICE CHAIRMAN GRULLON: No other witness?

13 MS. PEREIRAS: No.

14 VICE CHAIRMAN GRULLON: Mr. Pereiras,
15 before we forget --

16 MS. DILLON: Mr. Kauker, let me take the
17 mic.

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

20 VICE CHAIRMAN GRULLON: You want to go
21 first, Mr. --

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

24 MR. MAROTTA: I just have a few questions.
25 Tell me, when you were retained by the

1 developer here, or the applicant about the site,
2 did you tell him it's in the R zone?

3 MR. PEREIRAS: Yes.

4 MR. MAROTTA: Did you tell him that?

5 MR. PEREIRAS: Yes.

6 MR. MAROTTA: Did you tell him that what
7 he's proposing is not permitted on this site?

8 MR. PEREIRAS: Otherwise we would not be
9 before this Board.

10 MR. MAROTTA: Excuse me. I didn't hear
11 you.

12 MR. PEREIRAS: If I didn't, we would not be
13 before this Board, if it wasn't the case. That's
14 your whole purpose, because we are not permitted.

15 MR. MAROTTA: I'd appreciate it if you'd
16 answer my question.

17 MR. PEREIRAS: I did.

18 MR. MAROTTA: Rather than be sarcastic and
19 tell me if we wouldn't be before this Board.

20 I wasn't being smart, I was asking a
21 question.

22 MR. PEREIRAS: But the whole -- for me
23 being before this Board, it's because it's not a
24 permitted use.

25 I'm not trying to be smart. I'm trying to

1 be clear.

2 MR. MAROTTA: In your direct testimony, you
3 didn't tell this Board it's not a permitted use,
4 did you?

5 MR. PEREIRAS: Mr. Marotta, we're before
6 the Zoning Board of Adjustment.

7 MR. MAROTTA: I have no more questions.
8 I have no more questions.

9 VICE CHAIRMAN GRULLON: Mr. Pereiras, we --
10 we understand that if you're before this Board,
11 it is because it's not permitted. And I know
12 that you're asking for variance, and we want to
13 go over some of the variances.

14 MS. PEREIRAS: No problem.

15 MR. PEREIRAS: And we have a planner. And
16 --

17 MR. MAROTTA: I have --

18 MR. PEREIRAS: -- that's our submission.

19 MR. MAROTTA: -- one more question, Mr.
20 Chairman.

21 MR. PEREIRAS: Thank you.

22 MR. MAROTTA: I thought of another
23 question.

24 Since this is in the R zone, low density,
25 would you be able to prepare plans in conformity

1 with the zone?

2 MR. PEREIRAS: Absolutely. And I'm glad
3 you pointed that out, because let's talk about
4 that. Let's talk about --

5 MR. MAROTTA: No. It just -- I asked -- I
6 asked you one question.

7 MR. PEREIRAS: And I'm responding --

8 MR. MAROTTA: Your answer was yes.

9 MR. PEREIRAS: I'm --

10 Please --

11 MR. MAROTTA: Thank you.

12 MR. PEREIRAS: -- allow me to answer your
13 question, sir.

14 MR. MAROTTA: You answered it. You said
15 yes.

16 MR. PEREIRAS: No. Let me answer the
17 question.

18 MR. MAROTTA: I asked you if --

19 MR. PEREIRAS: I respected your question.
20 Allow me to answer. Please.

21 VICE CHAIRMAN GRULLON: Mr. --

22 MR. MAROTTA: I asked you if you could
23 develop plans for the R zone, and your answer was
24 yes. That's all I asked.

25 MR. PEREIRAS: May I continue?

1 VICE CHAIRMAN GRULLON: Yes. Yes.

2 You want to explain, Mr. Pereiras?

3 MR. PEREIRAS: Thank you, Mr. Chairman, and
4 Board members. I really appreciate that.

5 The question was posed, can I propose
6 something in conformance in the R zone?

7 I'd like the Board to understand what would
8 be in conformance with the R zone, and what we
9 can present before this Board, so that you can
10 make an understandable, and a reasonable
11 judgement between what's allowed and what I'm
12 requesting.

13 It's a very important distinction to make.

14 We have a lot, and let's go to our site
15 plan.

16 MR. MAROTTA: I'm going to object to this
17 speech.

18 You know, I asked the question, I got an
19 answer and that's it.

20 VICE CHAIRMAN GRULLON: Yes, Mr. --

21 MR. MAROTTA: I didn't ask any more
22 questions.

23 VICE CHAIRMAN GRULLON: Mr. Marotta, let
24 him explain. You asked him a question. He's
25 trying to explain --

1 MR. MAROTTA: He answered it.

2 VICE CHAIRMAN GRULLON: -- now what's
3 permitted.

4 MR. MAROTTA: Explain what?

5 VICE CHAIRMAN GRULLON: No, he's going to
6 explain what's permitted. He's going to go over
7 the lot size. Let him explain. Please.

8 MR. PEREIRAS: We have a lot --

9 VICE CHAIRMAN GRULLON: Proceed.

10 MR. PEREIRAS: -- that's 60 foot wide and a
11 hundred foot deep. A permitted lot size in Union
12 City is 25 by 100. Okay? So, we have, in
13 theory, more than two lots side by side.

14 Let's just assume, for one split second,
15 that we just have 50 feet. Okay. We have more.
16 We have sixty-something. Let's assume we have
17 50.

18 We would be allowed, as of right, that we
19 would not be presented before this Board, how Mr.
20 Marotta requested, and go only before the
21 Planning Board, if we did a three family house on
22 each of these two lots. All right?

23 So, we would create a three family house.
24 Each of these three family houses, in theory,
25 will have three bedrooms for each of the units.

1 We're talking a nine bedroom and a nine
2 bedroom. Okay? We're talking a total of 18
3 bedrooms proposed on this site, as of right.

4 Okay?

5 What are we proposing on this project?

6 We're proposing nine apartments, of two
7 bedrooms each. That's 18 bedrooms. We're not
8 proposing a one bedroom, or no. We're proposing
9 exactly what is permitted and allowed in this
10 zone, as a residential unit.

11 However, we have a much better project than
12 two, three family houses. Much, much better.

13 First and foremost, the number one reason
14 that you could explain that it's a lot better is
15 that we have ten feet more times a hundred feet.
16 We have a thousand square feet more than what is
17 that minimum.

18 Yet, we're not proposing more bedrooms.
19 We're not proposing anything additional. We're
20 not asking for more than is actually permitted
21 and allowed in this district.

22 Okay?

23 Beyond that, let's talk about what a three
24 family house looks like.

25 You have those nine bedrooms. How does the

1 parking work in a three family house in Union
2 City?

3 We've done and we've seen them. We live in
4 them, a lot of us.

5 How does the parking work?

6 At best -- at best, with variances granted,
7 you have two cars side by side, and two within.
8 That means you have four parking spaces at best
9 in a three family house typically permitted in
10 Union City.

11 And those four parking spaces are tandem
12 spaces. So, now, you have nine -- nine bedrooms,
13 sharing four parking spaces, or let's say, 18
14 bedrooms, sharing eight parking spaces that are
15 tandem, and are difficult to get to, and you have
16 to coordinate.

17 What are we proposing?

18 We're proposing 18 bedrooms. Well, we have
19 13 parking spaces. Not only do we have more
20 parking spaces, but those parking spaces aren't
21 tandem, they're not squeezed. You don't have to
22 coordinate with your neighbor. No, you go in and
23 out. And guess what? We have one garage door
24 for all those 13 parking spaces. Whereas if we
25 were to build two three families, we would have

1 two big garage doors, because you would have to
2 fit double cars in each one, and you eliminate
3 all the possibility of parking on the street. We
4 lose all that, and you have two entry and egress
5 points.

6 And we have an expert in traffic, but I
7 don't need an expert to know that two big garage
8 doors is not as good as one garage door.

9 So, there is a significant difference in
10 what is permitted as of right and what we're
11 proposing.

12 We know that. That's why we're before this
13 Board, and that's why we're presenting this
14 project.

15 And I do that, and I have great pride in
16 what I present you.

17 VICE CHAIRMAN GRULLON: Mr. Spatz --

18 MR. PEREIRAS: We do that because it's a
19 better situation.

20 VICE CHAIRMAN GRULLON: Excuse me?

21 Mr. Spatz, just for clarification for the
22 Board.

23 MR. SPATZ: Yes.

24 VICE CHAIRMAN GRULLON: Is that permitted,
25 two family houses?

1 MR. PEREIRAS: Three family.

2 MR. SPATZ: Three family houses are
3 permitted in -- in the R zone.

4 VICE CHAIRMAN GRULLON: Thank you, Mr.
5 Pereiras, for the explanation.

6 I have a question.

7 It's totally different, but on your design,
8 in the picture, will you bring it up again?

9 MR. PEREIRAS: Be happy to.

10 MR. MAROTTA: You know, Mr. Chairman, this
11 witness testified and finished his testimony.
12 Now he's being permitted to re-testify again.

13 I'd like an opinion from our counsel.

14 MR. PANEQUE: Mr. Marotta, the witness is
15 now under questioning. And in order for him --

16 MR. MAROTTA: One question. He answered
17 the question.

18 MR. PANEQUE: Well, Mr. Marotta, let me --
19 let me finish.

20 In order for him to answer the questions,
21 he must give explanations, not just yes and no
22 answers.

23 MR. MAROTTA: You got to be kidding.

24 MR. PANEQUE: So you --

25 MR. MAROTTA: You got --

1 MR. PANEQUE: You open --

2 MR. MAROTTA: I'll accept. Okay. Okay.

3 MR. PANEQUE: You opened up --

4 MR. MAROTTA: Okay. All right.

5 MR. PANEQUE: -- the door --

6 MR. MAROTTA: Okay.

7 MR. PANEQUE: -- by asking the question --

8 MR. MAROTTA: Okay.

9 MR. PANEQUE: -- you did, Mr. Marotta.

10 MR. MAROTTA: All right.

11 MR. PANEQUE: And that question deserves --

12 MR. MAROTTA: Wow.

13 MR. PANEQUE: -- explanation. And this

14 Board is entitled to receive the explanation.

15 If the door had not been opened, then we
16 wouldn't be here.

17 MR. MAROTTA: The explanation is that this
18 is a much better project.

19 What do you expect him to say?

20 MR. PANEQUE: The explanation is --

21 MR. MAROTTA: It's not much better than --

22 MR. PANEQUE: Well --

23 MR. MAROTTA: -- what's permitted.

24 MR. PANEQUE: This Board can make its own
25 conclusion, once it hears. But in cross

1 examination, which is what's taking place now,
2 the witness is entitled to answer the questions
3 that are being posed.

4 You posed the --

5 MR. MAROTTA: One question.

6 MR. PANEQUE: You posed the question.

7 VICE CHAIRMAN GRULLON: And if -- if we ask
8 a question, we would like to hear an explanation.

9 MR. MAROTTA: All right. All right.

10 VICE CHAIRMAN GRULLON: Right now, my
11 question, Mr. Pereiras, is those glasses. I know
12 that your building is located, like on top of the
13 hill of Manhattan Avenue.

14 MR. PEREIRAS: Yes.

15 VICE CHAIRMAN GRULLON: On the northwest
16 corner.

17 MR. PEREIRAS: Yes.

18 VICE CHAIRMAN GRULLON: And those glasses,
19 are they going to reflect out with the sunlight
20 to the cars? Did you take that into
21 consideration?

22 MR. PEREIRAS: Yes. We took that into
23 careful consideration.

24 First and foremost, as you could see, the
25 glass doesn't go down to the ground level. So

1 | that's an important aspect.

2 | As you're coming up the viaduct, you won't
3 | be staring into reflected glass.

4 | That said, the glass has to be specified
5 | specifically to be anti-glare and anti-
6 | reflection. And we could definitely do that.

7 | And -- and that doesn't come in this
8 | process of it, but it comes into a later process,
9 | when we're doing the construction document
10 | specifications.

11 | And if this Board so see it fit, it could
12 | even be part of the Resolution requested that a
13 | non-reflective glass be used.

14 | VICE CHAIRMAN GRULLON: Okay.

15 | I believe my next question will be for the
16 | -- probably for your traffic expert, which is
17 | about the parking spaces.

18 | MS. PEREIRAS: Sure.

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

21 | VICE CHAIRMAN GRULLON: Okay. Could you
22 | explain again the sizes of the spaces, and what's
23 | permitted? What are the minimum requirements for
24 | the parking space?

25 | MR. PEREGOY: Yeah.

1 The Residential Site Improvement Standards
2 ask for nine by 18 spaces.

3 Our spaces -- they vary in width because
4 obviously, the columns are there. The smallest
5 is eight feet two inches. There are some that
6 are eight feet four, and some that are eight and
7 a half feet wide.

8 The -- the ADA compliant spaces are the
9 full compliant width that it needs to be.

10 For low -- this is a low turnover,
11 obviously, assigned space type of garage. Those
12 spaces are more than generous for the largest
13 vehicles on the road.

14 And the drive aisle. Twenty feet is enough
15 for the largest vehicles to make that swing in
16 one swing. And we're at 22 feet five inches.
17 So, maneuverability is good, especially in this
18 kind of a project. A garage --

19 VICE CHAIRMAN GRULLON: That's the width of
20 the parking spaces.

21 What about the length? Are they 18? Do
22 they meet the requirement?

23 MR. PEREGOY: I believe they are 18 feet.

24 Right? The length?

25 Eighteen.

1 MR. PEREIRAS: Ask the question again.

2 MR. PEREGOY: The length --

3 MS. PEREIRAS: The length of the parking
4 spaces.

5 MR. PEREGOY: -- of the spaces are 18 feet.
6 Right? Yes. Yeah.

7 MR. PEREIRAS: Yes. They're 18 feet.

8 VICE CHAIRMAN GRULLON: They're 18 feet.

9 MR. PEREGOY: It's not dimensioned on here.
10 But yeah, they are.

11 VICE CHAIRMAN GRULLON: Okay.

12 Now, this 8.2 and like that one, they --
13 they be considered like com -- for compact cars?

14 MR. PEREGOY: Wouldn't have to. Eight foot
15 two spaces is fine for an SUV. It's a little bit
16 tighter, but again, you're not looking at a
17 situation where you have people in and out of it
18 all day. Somebody pulls out once in the morning
19 and comes back.

20 It's their space. They know it. They
21 access it.

22 They're also reserved for the unit. So,
23 you can actually take the smaller vehicles and
24 fill the smaller spaces first, because the
25 management is going to be able to control that.

1 VICE CHAIRMAN GRULLON: You mentioned
2 something about the -- the alleyway where the
3 cars travel.

4 MR. PEREGOY: The aisle width is 22 feet
5 five inches.

6 VICE CHAIRMAN GRULLON: What's the
7 requirement?

8 MR. PEREGOY: Where 24 feet is required.
9 So, we're 18 inches short.

10 Twenty feet is wide -- is -- is wide enough
11 for the turning radius of the largest SUVs out
12 there on the road.

13 So, they could certainly make that turn in
14 one swing.

15 VICE CHAIRMAN GRULLON: It's only one
16 entrance to the garage. No?

17 MR. PEREGOY: Yes.

18 VICE CHAIRMAN GRULLON: Only -- only one
19 curb cut.

20 MR. PEREGOY: Only one curb cut.

21 VICE CHAIRMAN GRULLON: How big is that
22 curb cut on the sidewalk?

23 MR. PEREGOY: It's about the same. It's
24 about that 22 feet. It lines up with the garage
25 door.

1 And today, keep in mind you have two curb
2 cuts, or one large one that leads to two garage
3 doors. So, this is much better situation.

4 VICE CHAIRMAN GRULLON: But for example,
5 like parking number one. If you have a car
6 there, that space would be sufficient for the car
7 to drive back to get out of the parking lot?

8 MR. PEREGOY: This -- more than likely,
9 these first --

10 VICE CHAIRMAN GRULLON: No, no. I mean,
11 number one at the end.

12 MR. PEREGOY: Oh, on the end?

13 VICE CHAIRMAN GRULLON: Yes.

14 MR. PEREGOY: Oh, yes. Absolutely. There
15 actually -- there is actually a slight one foot
16 maneuvering area beyond that -- that end space,
17 because of the column. So, they actually do have
18 a little bit of maneuvering area to -- to angle
19 the vehicle as they pull back.

20 But yes, they can certainly pull out.

21 And -- and the worst comes to worst, it's
22 -- somebody is not a good driver has a large
23 vehicle, they maybe have to make a three point
24 turn, this is such a low volume, low turnover
25 use, it's really inconsequential.

1 VICE CHAIRMAN GRULLON: You know, I don't
2 see here, like -- like any strobe lights, or --
3 or mirrors.

4 Right now, that's in an area that is near a
5 school zone. You have children there.

6 MR. PEREGOY: It is. And that's a good
7 point. And -- and we certainly can put the --
8 the pedestrian warning that you see throughout
9 the city. I think this is -- especially in this
10 location.

11 And -- and to your point, the two garage
12 doors that are there now, you have people backing
13 out. You know, when this was an auto repair
14 facility, people were backing out. And you do
15 have the school nearby, and people walking more
16 so on that sidewalk. So, this is an improvement
17 over what you have today.

18 And I agree with you. We should have the
19 pedestrian warning.

20 VICE CHAIRMAN GRULLON: I don't have any
21 more question for him.

22 Do you?

23 MR. M. ORTIZ: Yes.

24 VICE CHAIRMAN GRULLON: Mr. -- Mr. Marotta?

25 MR. M. ORTIZ: Mr. Peregoy, what day was

1 your study conducted? Your traffic study?

2 MR. PEREGOY: We -- I -- we generate less
3 traffic than what's there today. So, there was
4 really no need to do traffic counts.

5 I do have traffic counts that we had done
6 for another project, just to the south, from July
7 of this year.

8 And we also did the adult daycare, back in
9 2009. So, I had that data. I actually had the
10 number of pedestrians and everything.

11 So, I have -- I had a lot of information
12 available to me, but in this case, it's -- it's
13 immaterial, because you're actually reducing the
14 traffic generating potential of the property.

15 MR. M. ORTIZ: Thank you.

16 VICE CHAIRMAN GRULLON: My next question is
17 for the -- for your planner.

18 MS. PEREIRAS: Sure.

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

21 MR. KAUKER: Yes, sir.

22 VICE CHAIRMAN GRULLON: Mr. Kauker, could
23 you please explain the 200 foot radius
24 neighborhood, the characteristic of that
25 neighborhood?

1 Like how many buildings?

2 MR. KAUKER: Yes, I'd be pleased to.

3 VICE CHAIRMAN GRULLON: Yes, please.

4 MR. KAUKER: As a matter of fact, when I
5 sat down on reflection, I neglected to point out
6 the one significant aspect of the surrounding
7 use, character, and that's the height of the
8 buildings. That relates to the four story --

9 VICE CHAIRMAN GRULLON: Yes.

10 MR. KAUKER: -- structure -- condo
11 structure that I mentioned across the street.
12 And also, the very large six story project, which
13 has been there for a number of years, between the
14 triangle created by Mountain Ave. and Manhattan
15 Ave., to the northeast of subject site, an
16 integral part of the neighborhood.

17 That, in addition to the stores on the
18 corner, which are a mixed use element, as well as
19 a church and the adult -- and the adult daycare
20 center. They all contribute to a multi-faceted
21 surrounding residential neighborhood character,
22 of which this particular proposed use fits right
23 into that.

24 In addition, the height variance that we've
25 requested, that 44 feet as opposed to 40, and the

1 four stories, are justified by the Grasso case,
2 whereby if the surrounding heights are reasonably
3 comparable, and create a -- the use environment
4 that is higher than what -- that which is
5 permitted in the zone, which is in -- in place
6 here, or present within a neighborhood, that
7 justifies the additional height that we propose
8 within the fabric of this application.

9 So, in addition to the fact that we
10 certainly are not proposing anything that's
11 substantially greater, in terms of use intensity
12 than that which is permitted if you subdivide it,
13 as Manny had described; in addition to the fact
14 that I think that the consolidation of the
15 parking in one coordinated parking area within
16 the building, as opposed to parking cars in a
17 driveway, which is typical of a three family
18 home, is another significant benefit and design
19 aspect of the application.

20 VICE CHAIRMAN GRULLON: But again, Mr.
21 Kauker, the buildings on the -- in the area, any
22 buildings greater than 55 feet?

23 MR. KAUKER: Yes. The six story, for all
24 intents and purposes, is probably at least 60
25 feet.

1 And that is the two major buildings on a
2 triangular site that I mentioned, at six stories,
3 which are very, very close to the subject site.

4 And the four story is probably closer to 50
5 feet, but not 60 feet.

6 The 55 feet that we're proposing includes
7 the parapet and the -- the tower for the
8 elevator.

9 But all intents, purposes the average
10 height of the structure, not including the
11 parapet, right at the top of the living area, is
12 44 feet four inches, which is not significantly
13 over the 40 foot height max requirement.

14 So, that building, essentially, appears as
15 a four story, 44 foot building.

16 And the fourth story is certainly, I think,
17 justified by virtue of the fact that it -- it
18 enables one to add to the quality of the project
19 by having interior parking on the first floor.

20 VICE CHAIRMAN GRULLON: I'm not sure that
21 you can answer this question for me.

22 It's -- I know you're required for parking
23 variance.

24 MR. KAUKER: Yes.

25 VICE CHAIRMAN GRULLON: And did you make

1 any study of public transportation around the
2 area there?

3 MR. KAUKER: Well, first of all, Manhattan
4 Ave., as we all well know, has public
5 transportation. I think that's a factor that
6 would allow for a -- the amount of parking spaces
7 that we've provided, number one.

8 Number two. We do have all two bedroom
9 units, whereas with regard to a design as zoned,
10 you would have -- you could have three or four
11 bedroom units.

12 The standard that we deviate from is the
13 RSIS, as David had mentioned in his memorandum
14 and report, which requires 18 spaces. We have a
15 total, inclusive, of, obviously, the handicap of
16 13.

17 And as I do recall a number of years ago,
18 the Board had a -- a rule of thumb, standard of
19 1.20. We're at 1.44, and I think for a luxury
20 apartment of this nature, or luxury condominium,
21 whichever it ultimately becomes, in terms of
22 ownership for sale or rental, further adds to the
23 quality of the project.

24 VICE CHAIRMAN GRULLON: And my last
25 question.

1 School aged children, for this type of
2 unit; two bedrooms apartment.

3 MR. KAUKER: I think it would be on the
4 actual -- absolute minimum side, more than
5 likely, no more than one school aged child for
6 every ten units.

7 So, therefore, you would more than likely
8 generate -- you could generate a school aged
9 child. Absolutely no more than two school aged
10 children.

11 VICE CHAIRMAN GRULLON: I don't have any
12 more question.

13 Do you have any question for the planner?

14 MR. MAROTTA: Go ahead.

15 MR. PRESSEY: For Mr. Pereiras.

16 VICE CHAIRMAN GRULLON: Oh, for Mr.
17 Pereiras?

18 MR. PRESSEY: Yes.

19 VICE CHAIRMAN GRULLON: Mr. Pereiras, will
20 you step?

21 MS. DILLON: Manny, just right in front of
22 the microphone.

23 MR. PRESSEY: Mr. Pereiras, I was just
24 wondering, has the owner thought about, since
25 it's a nice building, outside cameras?

1 MR. PEREIRAS: Outside cameras? Cameras?
2 Absolutely.

3 MS. GUTIERREZ: A beautiful building.

4 MR. PEREIRAS: The -- the owner will, of
5 course, have absolute concern about the security
6 of his own building. He wants this to be a safe,
7 beautiful environment.

8 I have no doubt that we'll have cameras
9 everywhere across this building on the outside,
10 and we'd be happy to comply with your request.

11 MR. MAROTTA: Mr. Kauker?

12 MR. KAUKER: Yes, sir.

13 MR. MAROTTA: I believe you initially, when
14 you started your testimony, you said that the
15 site is presently --

16 MR. KAUKER: Particularly suited.

17 Sorry.

18 MR. MAROTTA: Excuse me.

19 MR. KAUKER: Okay.

20 MR. MAROTTA: Could you hear me?

21 MR. KAUKER: I'm listening.

22 MR. MAROTTA: I think you said the site is
23 presently occupied by a nonconforming use.

24 MR. KAUKER: That's correct.

25 MR. MAROTTA: Correct?

1 And what you're proposing this Board to do
2 is to replace a nonconforming use with another
3 nonconforming use.

4 Isn't that correct?

5 MR. KAUKER: That is correct.

6 MR. MAROTTA: And then, I think in answer
7 to questions from the Chairman, you made
8 reference to a six story building that's across
9 the street.

10 MR. KAUKER: Yes, and to the --

11 MR. MAROTTA: And also a four story
12 building which you believe may be as much as 50
13 feet in height.

14 MR. KAUKER: That's correct.

15 MR. MAROTTA: Right.

16 Aren't those preexisting, nonconforming
17 uses?

18 MR. KAUKER: Yes, they are.

19 MR. MAROTTA: They weren't approved by this
20 Board to let that go up.

21 MR. KAUKER: That -- apparently so. I
22 don't believe by this Board.

23 MR. MAROTTA: Right.

24 So, you're -- you're trying to justify this
25 because of preexisting, nonconforming uses.

1 Isn't that correct?

2 MR. KAUKER: No. I'm justifying it by
3 virtue of the fact --

4 MR. MAROTTA: Exc -- excuse me.

5 Why did you use them, then?

6 MR. KAUKER: Because they exist within the
7 neighborhood. And not withstanding the fact that
8 they may well be nonconforming, relative to the R
9 district, they form a part of the surrounding
10 fabric and character of the neighborhood.

11 You can't deny the physical reality that
12 they are there and they -- they are dominant
13 uses, and they provide a foundational backdrop
14 for the nature of this application.

15 MR. MAROTTA: Are you utilizing these
16 nonconforming uses to justify your nonconforming
17 use?

18 That's my question.

19 MR. KAUKER: Yes, I am.

20 MR. MAROTTA: Okay. That's what I asked
21 you before.

22 Let me ask you this. The Ordinance allows
23 a coverage of 60 percent.

24 MR. KAUKER: That's correct.

25 MR. MAROTTA: And the proposed building is

1 81 percent.

2 MR. KAUKER: That is correct.

3 MR. MAROTTA: My mathematics tells me
4 that's 35 percent more than what's permitted.

5 MR. KAUKER: That's also correct.

6 MR. MAROTTA: Isn't that substantial?

7 MR. KAUKER: It's substantial, but it's
8 justified by virtue of the fact that we're
9 providing an amenity on-site, which has residual
10 benefits to the neighborhood in the form of
11 interior parking.

12 And the geometric layout and the demand for
13 parking -- compliant parking, ingress and egress,
14 as well as the aisle and the space sizes, which
15 are generous, is necessary, and is the principal
16 reason why we're asking for that additional
17 coverage.

18 In addition to the fact that the existing
19 building has similar zero setback
20 characteristics.

21 The other benefit of this application that
22 I neglected to mention, and I apologize, is the
23 patio area in the rear, that Manny adequately
24 described, that patio area is 895 square feet in
25 area, which comprises about 14.5 percent of the

1 total site area.

2 That open space I think is a unique
3 characteristic of this application.

4 MR. MAROTTA: All right. Now, can I get
5 back to a question?

6 MR. KAUKER: Sorry.

7 MR. MAROTTA: Aside from your justification
8 that you just gave us, isn't it a fact that if
9 there's a substantial detriment to the intent and
10 purpose of the plan, you don't meet the negative
11 criteria?

12 Isn't that so?

13 MR. KAUKER: If we -- if we don't meet the
14 negative criteria.

15 MR. MAROTTA: I said aside from your
16 justification --

17 MR. KAUKER: Um hum.

18 MR. MAROTTA: -- you said that 35 percent
19 is a substantial amount.

20 MR. KAUKER: Yes, it is.

21 MR. MAROTTA: So, it's a substantial
22 impairment to the zone plan, isn't it?

23 MR. KAUKER: No, it is not. And may I tell
24 you why?

25 MR. MAROTTA: No. I said --

1 MR. KAUKER: It is not.

2 MR. MAROTTA: -- excluding your
3 justification.

4 I understand your justification.

5 MR. KAUKER: Right.

6 MR. MAROTTA: But if there was no
7 justification, would 35 percent, in your opinion,
8 be a substantial impairment of the plan?

9 MR. KAUKER: It's a substantial deviation
10 from the Ordinance criteria, but it doesn't pose
11 a substantial detriment --

12 MR. MAROTTA: Okay.

13 MR. KAUKER: -- because we are a corner lot
14 and we don't need -- we have -- we have a setback
15 which is equal to the -- the depth of the right-
16 of-way, the width of the right-of-way, in
17 addition to the building setbacks on adjacent
18 streets.

19 MR. MAROTTA: Could you give me the
20 definition, the dictionary definition of
21 deviation?

22 MR. KAUKER: Deviation?

23 MR. MAROTTA: Yeah. You just used it.

24 MR. KAUKER: A -- a departure from a
25 particular standard or requirement.

1 MR. MAROTTA: Um hum.

2 And when you depart from it, to an extent
3 of 35 percent, you're not impairing it, are you?

4 MR. KAUKER: No, you're not, if you have
5 reasons --

6 MR. MAROTTA: Okay.

7 MR. KAUKER: -- to -- to essentially
8 support that opinion.

9 MR. MAROTTA: Okay. Now, let me ask you
10 this.

11 The Ordinance permits three stories.

12 MR. KAUKER: That's correct.

13 MR. MAROTTA: At 40 feet.

14 MR. KAUKER: Right.

15 MR. MAROTTA: You're going 50 feet.

16 MR. KAUKER: Fifty-five in one particular
17 instance, to accommodate the --

18 MR. MAROTTA: So that --

19 MR. KAUKER: -- the riser for the elevator.

20 MR. MAROTTA: That's better than 30
21 percent.

22 MR. KAUKER: Yes, it is.

23 MR. MAROTTA: Right? Which is also
24 substantial, isn't it?

25 MR. KAUKER: It's -- it's a substantial

1 deviation. Yes.

2 MR. MAROTTA: Um hum.

3 The Ordinance permits three stories and
4 you're going four stories.

5 Right?

6 MR. KAUKER: That's correct.

7 MR. MAROTTA: That's 30 percent. That's
8 also substantial, isn't it?

9 MR. KAUKER: Maybe it's 25 as opposed to
10 30, but that's a big number.

11 MR. MAROTTA: Well, 25 is --

12 MR. KAUKER: That's a good number.

13 MR. MAROTTA: -- substantial also.

14 MR. KAUKER: Absolutely. You're adding one
15 story on a three story standard, that's
16 substantial.

17 MR. MAROTTA: And the Ordinance requires a
18 rear yard of 25 feet, and this plan has no rear
19 yard at all. No feet.

20 Is that correct?

21 MR. KAUKER: But it has a cantilevered
22 patio space, which --

23 MR. MAROTTA: Does it have a rear yard?

24 MR. KAUKER: No, it does not. We --

25 MR. MAROTTA: Thank you.

1 MR. KAUKER: We have zero.

2 MR. MAROTTA: Thank you.

3 Now, tell me, what's the special reasons
4 for this Board granting this?

5 MR. KAUKER: Special reasons? Number one
6 --

7 MR. MAROTTA: Yeah.

8 MR. KAUKER: -- this site's particularly
9 suitable to accommodate the proposed use.

10 Number two. We meet five of the specific
11 criteria in the Municipal Land Use Law, pursuant
12 to the Burbridge case.

13 MR. MAROTTA: Isn't it so that to say a
14 site is uniquely suited for the use, isn't there
15 a prerequisite to show that there are no other
16 locations in the surrounding area that could --

17 MR. KAUKER: No, there is not. As a matter
18 of fact, you -- are you familiar with --

19 MR. MAROTTA: Okay.

20 MR. KAUKER: -- Mr. Price's --

21 MR. MAROTTA: Okay.

22 MR. KAUKER: -- Supreme Court decision?

23 MR. PRICE: Ask him who the planner was on
24 that.

25 MR. MAROTTA: Now, let me ask you this.

1 The justification that you gave before,
2 that took several minutes, could you give me any
3 literature that supports that? Or does that come
4 from yourself?

5 MR. KAUKER: It arises out of the criteria
6 evolving -- or that has evolved out of the
7 Municipal Land Use Law, and it evolves as a
8 matter over a number of years, as to succeeding
9 cases which provide greater clarification of the
10 Municipal Land Use Law in the form of
11 principally, Appellate Court decisions.

12 It also is founded and grounded in a
13 consolidated publication, called Cox, which
14 essentially brings all of those dynamic factors
15 together.

16 MR. MAROTTA: But you can't give me a
17 citation of any literature.

18 Right?

19 MR. KAUKER: I cited Burbridge. I cited
20 the -- the case that supports the height
21 variance. And I cited the MLUL. And I cited, as
22 did Mr. Spatz, the Puleio case.

23 MR. MAROTTA: And since you're so familiar
24 with Supreme Court cases, could you give me a
25 Supreme Court's case that supports your

1 justification?

2 MR. KAUKER: Price versus Himeji.

3 MR. MAROTTA: Larry Price?

4 MR. KAUKER: Manhattan Ave. Yes, sir.

5 MR. MAROTTA: You don't have the citation,
6 do you?

7 MR. KAUKER: Very recent case. Two years
8 old.

9 MR. PRICE: Two sixty-two N.J. --

10 MS. PEREIRAS: Of course you would know it.

11 MR. KAUKER: You got it memorized.

12 MR. MAROTTA: Mr. Kauker?

13 MR. KAUKER: Yes, sir.

14 MR. MAROTTA: Our Zoning Ordinance -- the
15 purpose of our Zoning Ordinance is to establish a
16 pattern for the use of land and buildings, based
17 on the land use element of the Master Plan.

18 MR. KAUKER: That's correct.

19 MR. MAROTTA: Right?

20 And the Master Plan calls for low density
21 in this area.

22 MR. KAUKER: Yes, it does.

23 MR. MAROTTA: So -- so, the -- the project
24 doesn't follow the purposes of the pattern.

25 MR. KAUKER: Not the exact letter of the

1 dictates --

2 MR. MAROTTA: Yeah.

3 MR. KAUKER: -- of the R zone.

4 MR. MAROTTA: And --

5 MR. KAUKER: That's correct.

6 MR. MAROTTA: -- also, a purpose of our
7 zoning, according to our Ordinance, is to
8 regulate the use of land within zoning districts,
9 and to limit and restrict buildings and
10 structures to specified zones.

11 So, if -- if we're to approve this, we're
12 going against what the Zoning Ordinance says.

13 Isn't that correct?

14 MR. KAUKER: Well, we have -- the --
15 according to Municipal Land Use Law, there's a
16 process that allows for deviations from that --
17 the strict requirements of those principles. And
18 certainly, that's why we're here before you.

19 MR. MAROTTA: Now, you also said, in your
20 direct testimony, that if this Board was to
21 approve it, you will be providing resident --
22 residential living instead of a garage.

23 Isn't that correct?

24 MR. KAUKER: Which is in closer conformity
25 to the objectives and purpose of the R zone.

1 MR. MAROTTA: But -- but if it were -- if
2 it were developed according to the zone plan, it
3 would be not close to, it would be in accordance
4 with.

5 Right?

6 MR. KAUKER: Yes, it would.

7 MR. MAROTTA: And you say close to, because
8 --

9 MR. KAUKER: Closer conformity. That's the
10 --

11 MR. MAROTTA: Close to --

12 MR. KAUKER: -- phrase I used.

13 MR. MAROTTA: In other words, 50 feet is
14 close to conformity.

15 MR. KAUKER: No. I'm speaking to the use.
16 Residential --

17 MR. MAROTTA: Eighty-one percent coverage
18 is close to conformity.

19 Is that what you're telling us?

20 MR. KAUKER: No. You never asked me a
21 question about that. You asked me about
22 residential for residential.

23 MR. MAROTTA: I might have asked you this,
24 and if I -- if I did, I -- I'm sorry to repeat
25 it, but I forget.

1 Could you tell me what special reasons
2 exist?

3 MR. KAUKER: I -- I believe we went over
4 that.

5 MR. MAROTTA: I -- I'm ask --

6 MR. KAUKER: Yes, we did, sir.

7 MR. MAROTTA: I -- I forgot. Could you
8 repeat it?

9 You repeated a lot before. Could you tell
10 me again?

11 MR. KAUKER: We're on a major collector
12 roadway. We're in a mixed use environment that
13 allows for diversity in this neighborhood, in
14 terms of the surrounding use character.

15 We have a highly developable, oversized
16 lot, almost three times the minimum lot area --

17 MR. MAROTTA: Okay.

18 MR. KAUKER: -- of 2500 square feet.

19 We have a -- evidence of much higher
20 density over the years in this immediate
21 neighborhood vicinity, than the R standards would
22 suggest.

23 MR. MAROTTA: I re --

24 MR. KAUKER: Those four major --

25 MR. MAROTTA: Oh, I'm sorry.

1 MR. KAUKER: -- things, as well as
2 consistency with the MLUL.

3 MR. MAROTTA: I remember, maybe a year or
4 so ago, when I was questioning you on the other
5 side, you told me you're not only familiar with
6 reading zoning ordinances, but you've written
7 zoning ordinances for different municipalities.

8 Isn't that correct?

9 MR. KAUKER: Yes, sir.

10 MR. MAROTTA: But tonight, you're not here
11 for a -- tonight you're representing a developer.

12 Right?

13 MR. KAUKER: That's correct.

14 MR. MAROTTA: I have no further questions.

15 MR. KAUKER: Thank you.

16 MS. DILLON: Mr. Kauker?

17 MR. KAUKER: Oh, sorry.

18 VICE CHAIRMAN GRULLON: Mr. Pereiras, can
19 you come forward?

20 MR. KAUKER: I'm going to walk out of here
21 with these.

22 VICE CHAIRMAN GRULLON: I have a question
23 for you.

24 MR. KAUKER: Sorry.

25 MS. DILLON: That's all right.

1 MR. KAUKER: Here you go.

2 VICE CHAIRMAN GRULLON: Mr. Pereiras, can
3 you go over the height of the building?

4 MR. PEREIRAS: I'd be happy to.

5 VICE CHAIRMAN GRULLON: You know, like for
6 the -- the height to the roof, for example.

7 MS. DILLON: Are you going to go to your --

8 VICE CHAIRMAN GRULLON: Why -- why you have
9 55 feet?

10 MS. DILLON: -- plans?

11 VICE CHAIRMAN GRULLON: Could you explain
12 that, please?

13 MR. PEREIRAS: References were made to a 55
14 foot height. And they were made to a 30 percent
15 over the height.

16 Our Ordinance clarifies, and is very clear
17 that stair bulkheads and elevator bulkheads are
18 excluded and not included in the height
19 requirements of zoning in this -- in our -- in
20 our city.

21 The 55 foot reference, and I -- I do that
22 because I want to be clear with this Board, we
23 have a 55 foot bulkhead. It's a stair and
24 elevator bulkhead. That is it. That is all it
25 is and that's because the elevator has an

1 | override. It has to have -- the elevator cab has
2 | equipment that goes above it. And the stairs
3 | have to lead to the roof, because there is
4 | equipment on the roof. There is a parapet along
5 | the perimeter of our building.

6 | But the building itself is actually 44 feet
7 | in height. And 44 feet is a ten percent
8 | difference in height from what's permitted in the
9 | district. We have permitted 40 feet and we are
10 | at 44 feet, which is a ten percent difference.
11 | It actually doesn't -- I'm not sure if -- when
12 | you're actually at ten percent, triggers a D
13 | variance or not. I'll -- I'll refer to my
14 | planner whether it's a C variance or D variance.

15 | But in any case, those are consume --
16 | subsumed by the use variance that we have.

17 | So, we are definitely within that. It's
18 | not 30 percent. It's a ten percent difference.
19 | And I felt, at least as an architect, and the
20 | scale as what I read and understand buildings,
21 | that it was absolutely appropriate for this site,
22 | because immediately across the street, and we're
23 | not talking -- we're not referencing buildings
24 | further away or in the neighborhood, we're
25 | talking literally across the street. You have a

1 six story residential structure that is about 70
2 feet in height.

3 So, you have a much taller structure
4 directly across the street. And it is in scale
5 and in conformance with -- with the neighborhood
6 to have this height at a corner. We're not
7 within the middle of the block. We're not any --
8 we're at the corner and we're establishing the
9 corner.

10 And I think -- and -- and talking about
11 aesthetics, and aesthetics are completely
12 subjective, but that's an entry point to Union
13 City. When you're coming up the viaduct, and
14 you're looking at that corner, now you're going
15 to be granted with two beautiful buildings, side
16 by side. This old masonry structure. That's a
17 beautiful condo building. It's a -- it's
18 rehabbed from warehouse to -- to residential.
19 And our building, which is going to be a
20 beautiful brick building, that's going to fit
21 with the character of what Union City is. And
22 it's going to really establish that corner.

23 So, I think the height is justified in that
24 aesthetic aspect, as well. And that's why we
25 designed it in that particular way.

1 VICE CHAIRMAN GRULLON: Mr. Spatz, could
2 you guide us --

3 MR. SPATZ: Yes.

4 VICE CHAIRMAN GRULLON: -- there, with the
5 height of the buildings? The -- is the elevator
6 considered high -- part of the height of the
7 building?

8 MR. SPATZ: No. Bulkheads, staircases, et
9 cetera, on the -- on a roof, antennas, those
10 sorts of things are not included within the
11 height calculation. It's measured to the highest
12 point of the roof beam.

13 VICE CHAIRMAN GRULLON: To the roof.

14 MR. SPATZ: So, on a flat roof, it wouldn't
15 in --

16 VICE CHAIRMAN GRULLON: Which is 44.4
17 inches.

18 MR. SPATZ: Right.

19 VICE CHAIRMAN GRULLON: In this case.

20 MR. SPATZ: It wouldn't include the
21 parapets, either.

22 MR. PEREIRAS: Um hum.

23 MR. SPATZ: It's just the -- the roof beam
24 itself.

25 VICE CHAIRPERSON GRULLON: Okay.

1 MR. PEREIRAS: Yeah.

2 And if this Board see -- sees fit, that
3 44.4, if you want us to get rid of that .4, we'd
4 be happy to do it. It's -- that .4 won't do any
5 harm to our building.

6 VICE CHAIRMAN GRULLON: Sure. We would
7 love that, keep the percent --

8 MR. PEREIRAS: Let's do that. Let's
9 consider that we're going to lose that .4.

10 Okay?

11 VICE CHAIRMAN GRULLON: Your building is
12 providing an elevator.

13 MR. PEREIRAS: It is.

14 VICE CHAIRMAN GRULLON: Yes.

15 MR. PEREIRAS: It's really important, from
16 Code perspective. This is in compliance with
17 federal guidelines for Americans with
18 Disabilities Act.

19 So, every single one of our units are
20 what's called adaptable. So, someone in a
21 wheelchair can access each one of these units,
22 which provides a very important housing stock for
23 the city.

24 VICE CHAIRMAN GRULLON: You have four
25 floors, but the first floor is going to be

1 utilized for parking.

2 MR. PEREIRAS: Yes, sir.

3 VICE CHAIRMAN GRULLON: It's not
4 underground parking, it's just first floor
5 parking.

6 MR. PEREIRAS: Correct. It's ground level
7 parking.

8 VICE CHAIRMAN GRULLON: Because that --
9 that's one of the reason why you -- that you are
10 requesting for a height variance, I believe.

11 MR. PEREIRAS: Absolutely.

12 So, with our intentions to provide parking,
13 it simply means that we had to raise the building
14 in order to provide that parking, and not
15 excavate. We have a lot of rock in that
16 particular area, as well.

17 VICE CHAIRMAN GRULLON: Okay.

18 This -- if you don't have any more
19 question, I want to open to the public at this
20 time.

21 Open to the public.

22 Mr. Price? No?

23 Any member of the public? No?

24 MR. MAROTTA: If there's no other
25 questions, I have --

1 VICE CHAIRMAN GRULLON: Do you want to make
2 a --
3 MR. MAROTTA: I want to make a --
4 VICE CHAIRMAN GRULLON: -- comment before
5 we --
6 MR. MAROTTA: Yeah. A comment. Yeah.
7 MS. GUTIERREZ: Closed to the public.
8 VICE CHAIRMAN GRULLON: Closed to the
9 public.
10 Mr. Marotta?
11 MR. MAROTTA: Yeah.
12 VICE CHAIRMAN GRULLON: Could you -- going
13 to allow --
14 MR. MAROTTA: Thank you.
15 VICE CHAIRMAN GRULLON: -- Mr. Marotta.
16 MR. MAROTTA: You know, I don't -- I don't
17 doubt --
18 MR. PANEQUE: Wait.
19 MR. PRICE: Can I make one comment?
20 MS. GUTIERREZ: Oh, okay.
21 MS. DILLON: Just right in front of the
22 microphone.
23 Please raise your right hand.
24 Do you affirm the --
25 MS. GUTIERREZ: Price.

1 MS. DILLON: -- testimony you're about to
2 give this Board is the whole truth?

3 MR. PRICE: I do.

4 MS. DILLON: Name and address for the --

5 MR. PRICE: Larry --

6 MS. DILLON: -- record.

7 MR. PRICE: Larry Price, 1006 Palisade.

8 I want to correct Mr. Pereiras on one
9 comment.

10 He said that the height variance is
11 subsumed in a D-1 use variance.

12 A VOICE: No, it doesn't.

13 MR. PRICE: That's -- that's not true
14 because it's 44 feet. The rules say if it's ten
15 feet, or ten percent, whichever is less -- more,
16 the -- the standard is 40 feet. It's 44 feet
17 five inches, or whatever. So, that's more than
18 ten percent more.

19 That's a D-6 height variance, and D
20 variance -- the C variances are subsumed in the
21 D-1 use variance. But the D variances are not.

22 So -- but Mr. Kauker gave testimony in
23 support of it. Basically, the test is -- you
24 know, whether it -- it's consistent with the
25 neighborhood. And the neighborhood is --

1 By the way, it's a -- 1620 Manhattan
2 Avenue, which is the building across the street,
3 is a five story building, not a six story.
4 Everybody keeps saying --

5 But you should -- by the way, it has only
6 19 apartments. It's actually three buildings and
7 only 19 apartments.

8 Those apartments range up in size -- one
9 apartment is 6400 square feet. Let me tell you,
10 you're in that -- you're in that apartment,
11 you're not in Union City anymore.

12 And whatever.

13 The floors are very -- the -- the ceilings
14 are 14 feet high. They are stunning apartment.

15 There's one available for a million three,
16 as we speak, if any of you would like to --
17 whatever.

18 The building -- I think this is actually to
19 the parapet level, it's one of the buildings,
20 they have to work on a parapet, is something like
21 74 feet high. That's across the street. So,
22 it's kind of consistent with the neighborhood.

23 MS. PEREIRAS: Thank you, Mr. Price.

24 MR. PEREIRAS: The -- the building across
25 the street is six stories. Here's a photograph

1 of it. And --

2 MR. PRICE: Oop.

3 MR. PEREIRAS: Yeah.

4 And I mentioned the .4 --

5 MR. PRICE: I stand corrected. He's right.

6 MR. PEREIRAS: And -- and I -- I mentioned
7 the .4, in order to drop us off that, and let it
8 be subsumed by the -- if the Board -- yeah.

9 MR. PRICE: Okay.

10 VICE CHAIRMAN GRULLON: Mr. Marotta?

11 MR. MAROTTA: Okay.

12 Thank you.

13 VICE CHAIRMAN GRULLON: Yes, go ahead.

14 MR. MAROTTA: Mr. Chairman, members of the
15 Board, I don't question that this is a very
16 attractive building.

17 I don't question that the apartments are
18 going to be very nice.

19 However, we don't grant variances because a
20 building is beautiful or because the apartments
21 are nice.

22 We grant a variance if the applicant proves
23 its case. And in my opinion, the applicant has
24 failed to prove its case this evening on this
25 matter.

1 Number one, the proposal here --

2 Number one, first of all, the fact that
3 they could develop this according to the zone, in
4 my opinion, eliminates special reasons, when you
5 could build according to the zone, and they can
6 do that.

7 All right?

8 Mr. Kauker, who, tonight, is wearing the
9 hat for the developer, tells us that the -- the
10 coverage of 81 percent is -- is substantial. But
11 he says it's a deviation.

12 Actually, the 35 percent is an impairment
13 of our zone, of our plan. And he could play with
14 words all he wants to play with, but 35 percent
15 is an -- is an impairment of the zone.

16 And in addition to that, the 30 percent and
17 the 25 percent, because of the three stories and
18 the 40 foot height, is an impairment of our zone.

19 Our zone also requires a 25 foot yard, and
20 there is no backyard, no rear yard, which is an
21 impairment of our zone.

22 And according to my knowledge of land use
23 law, the applicant must show, by an -- an
24 enhanced -- an enhanced quality of proof that the
25 grant of the requested variance is consistent

1 with the intent and purpose of the plan and our
2 Ordinance.

3 And I submit to the members of the Board
4 that this application tonight is not consistent
5 with our Zoning Ordinance.

6 You say that what's more practical for that
7 neighborhood, that contains one and two family --
8 in fact -- you know, I lived there. I lived a
9 hundred feet away from this site for maybe four
10 years.

11 What's more -- what's more practical to --
12 to being consistent with the neighborhood? A
13 four story building, that violates our plan,
14 which is a nonconforming use that they want us to
15 put up, or doing the -- developing this according
16 to the zone?

17 You put two three family homes there,
18 you're more consistent with the plan, you're more
19 consistent with the neighborhood.

20 So, in my opinion, they failed to meet
21 their proofs, and I would vote against granting
22 this ordinance -- variance.

23 VICE CHAIRMAN GRULLON: Okay.

24 Thank you, Mr. Marotta.

25 Since there is no more members of the

1 public, it's closed to the public.

2 First, I want to say, taking in
3 consideration that the commercial space is being
4 -- it wasn't conforming and it's going to be
5 replaced with a nonconforming -- they're
6 requesting for a nonconforming use to replace,
7 but it's a better use than what is there now.
8 And the commercial space requires 18 parking
9 spaces. This is reducing the park -- the parking
10 space variance required.

11 The two family -- two family homes, we have
12 two curb cuts. Will -- again, will take away
13 another parking space from the neighborhood,
14 which is going to be, instead of 18, it's going
15 to be 19 spaces required.

16 And this proposed building, which is 44
17 point -- 44 feet high, one of the reason is
18 because it's providing adequate parking
19 underneath the building, and providing an
20 elevator which is better for the quality of
21 living of the resident of the building.

22 I make a motion to grant the application
23 with the condition to have glare -- the glare
24 glass, the reflection.

25 MS. GUTIERREZ: The reflection.

1 VICE CHAIRMAN GRULLON: And remove that .4,
2 the -- the 40 -- 40 --

3 THE SECRETARY: Motion to grant the
4 application by Mr. Grullon.

5 MS. GUTIERREZ: And I'm seconding.

6 THE SECRETARY: Second by Margarita
7 Gutierrez.

8 Roll call on the motion.

9 MR. PRESSEY: What about the cameras?

10 THE SECRETARY: Victor Grullon?

11 MS. GUTIERREZ: Oh, the cameras.

12 VICE CHAIRMAN GRULLON: Hold it.

13 MS. GUTIERREZ: Hold on.

14 VICE CHAIRMAN GRULLON: Yes. Yes.

15 And also, we -- we want to add in our
16 request, security cameras.

17 THE SECRETARY: Wait. Hold on one second.

18 MS. PEREIRAS: We'd be happy to.

19 VICE CHAIRMAN GRULLON: And the -- for the
20 --

21 MS. GUTIERREZ: And the mirror.

22 VICE CHAIRMAN GRULLON: -- garage door.

23 MS. GUTIERREZ: And the mirror.

24 MS. PEREIRAS: The mirrors.

25 VICE CHAIRMAN GRULLON: All those strobe

1 | lights and the mirrors.

2 | MS. GUTIERREZ: The mirror.

3 | MS. PEREIRAS: We'd be happy to provide --

4 | VICE CHAIRMAN GRULLON: Yes.

5 | MS. PEREIRAS: -- those.

6 | MS. GUTIERREZ: So --

7 | VICE CHAIRMAN GRULLON: Thank you, Mr. --

8 | THE SECRETARY: Right. Motion by Mr.

9 | Grullon.

10 | Second by Mrs. Gutierrez.

11 | Roll call on the motion.

12 | Mr. Grullon?

13 | VICE CHAIRMAN GRULLON: Yes.

14 | THE SECRETARY: Mrs. Gutierrez?

15 | MS. GUTIERREZ: Yes.

16 | THE SECRETARY: Mr. Ortiz?

17 | MR. M. ORTIZ: Yes, with all the stated
18 | conditions.

19 | THE SECRETARY: Mr. Pressey?

20 | MR. PRESSEY: Yes.

21 | THE SECRETARY: Mr. Bonacci?

22 | MR. BONACCI: Yes.

23 | THE SECRETARY: Mr. Marotta?

24 | MR. MAROTTA: No.

25 | THE SECRETARY: Mr. Doumas?

1 MR. DOUMAS: Yes.

2 THE SECRETARY: Six in favor, one again --
3 zero -- one against. Motion carries.

4 MS. PEREIRAS: Thank you all very much.

5 Good night.

6 MS. GUTIERREZ: Good night.

7 MR. PEREIRAS: Thank you everyone. Good
8 night.

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

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1 **541 42nd Street, LLC -**

2 **539-541 42nd Street:**

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4 THE SECRETARY: May I have your attention,
5 please?

6 Next application on tonight's agenda, 541
7 42nd Street, LLC, 539-541 42nd Street.

8 Mr. Alonso, please?

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

11 MR. PANEQUE: For the record, I've been
12 provided by Mr. Alonso with an Affidavit signed
13 by him, indicating that notice of tonight's
14 hearing was published in the local paper, as well
15 as notices sent out to all property owners within
16 200 feet of the property located at 539-541 42nd
17 Street, City of Union City.

18 I've also been provided with a copy of --
19 well, actually, this is the original Affidavit of
20 Publication from The Jersey Journal, indicating
21 that notice was published on October 1st, giving
22 notice of tonight's hearing, October 13, for
23 property at 541 42nd Street.

24 I also have been provided with a Tax
25 Assessor's list, indicating all property owners

1 within the 200 foot radius of Block 239, Lots 49
2 and 50, also known as 539-41 42nd Street, as well
3 as the certified mail receipts, postmarked by the
4 Post Office October 1st, 2016, and the return
5 green cards, which have come back to date.

6 Based on the documents that have been
7 presented, this Board has the jurisdiction to
8 proceed and hear this matter.

9 VICE CHAIRMAN GRULLON: Please proceed, Mr.
10 Alonso.

11 MR. ALONSO: Thank you, Mr. Paneque, Mr.
12 Chairman, members of the Board.

13 For the record, Alvaro Alonso, from the
14 firm Alonso Navarette, on behalf of the
15 applicant, 541 42nd Street, LLC.

16 Some of you may be familiar with this
17 property. I originally got this property
18 approved prior to 2008, as a six unit multi-
19 family building.

20 In 2008, construction started. It was a
21 different client at the time.

22 If you recall, in 2008, is when the market
23 crashed.

24 Originally, this was intended to be a
25 condominium development, so the apartments were

1 very large.

2 Given the -- the fact that the construction
3 continued into 2009, and based on the market
4 crashing -- market crashing, the developer went
5 into financial trouble.

6 Ultimately, the -- the developer lost the
7 property in a foreclosure and the bank took it
8 over.

9 The property has been sitting vacant, in a
10 state of disrepair, and unfinished since 2009.

11 Unfortunately, because of that condition,
12 it was subjected to the -- the elements and the
13 weather, and a lot of the work that was done in
14 the interior portions of the building was
15 damaged.

16 What happens is, there's substantial cost
17 involved in trying to repair all the work that
18 was done. You have to do some -- some demolition
19 in the interior. There was some mold issues
20 going on, so there was health concerns.

21 And the market has changed. It's no longer
22 a condominium market, it's a rental market. The
23 rental market requires smaller apartments.

24 So, given the cost to -- to bring this
25 building up to Code, because there are new Codes

1 | now, so we're bringing it up to the current Code,
2 | to repair the damage that was done, in order to
3 | make it a viable project, so we could finish it
4 | and -- and stop it from being the eyesore that it
5 | is, for the neighborhood, my client is coming
6 | back to this Board and requesting an amended
7 | approval, so that we can convert it from a six
8 | unit to a nine unit.

9 | The architect will -- will testify and you
10 | will learn that the number of bedrooms don't
11 | increase. We're actually reducing some of the
12 | three bedrooms, in order to accommodate the same
13 | number of bedrooms that were there currently.

14 | So, with that said, I'm going to have Mr.
15 | Fernandez sworn in, as our architect.

16 | MS. DILLON: Mr. Fernandez, please raise
17 | your right hand.

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

20 | MR. FERNANDEZ: I do.

21 | MS. DILLON: If you could please state your
22 | name for the record.

23 | MR. FERNANDEZ: Fernando Fernandez.

24 | MS. DILLON: Thank you.

25 | MR. ALONSO: Mr. Chairman, Mr. Fernandez

1 has appeared before this Board in the past.

2 VICE CHAIRMAN GRULLON: He's been on many
3 occasions.

4 MR. ALONSO: I would ask that his
5 qualifications --

6 VICE CHAIRMAN GRULLON: Yes, our pleasure
7 to --

8 MR. FERNANDEZ: Thank you.

9 VICE CHAIRMAN GRULLON: -- have him back.

10 MR. ALONSO: -- be continued.

11 MR. FERNANDEZ: Thank you.

12 MR. ALONSO: Thank you.

13 VICE CHAIRMAN GRULLON: Thank you.

14 MR. ALONSO: Mr. Fernandez, have you had an
15 opportunity to prepare the plans that are before
16 the Board this evening?

17 MR. FERNANDEZ: Yes.

18 We were the original architects for the
19 original six unit building. That was approved in
20 2007 by the Zoning Board of Union City.

21 We have been at the building at least three
22 times since we've been hired to, basically, go
23 back and check to see the existing conditions,
24 and archive the as-built conditions of the
25 building.

1 As the attorney said, the building pretty
2 much was a finished building. They had all the
3 sheetrock up, the doors were up. There was no
4 cabinets, but there was ceramic tile, the
5 finished flooring was up -- was done.

6 But the -- basically, the building was left
7 unattended for about five -- at least five years,
8 and it had suffered some water damage.

9 The new build -- the new owner has taken it
10 over and has met with the Building Department, on
11 various occasions, even at the site, to make the
12 building comply with Code, and bring it up to
13 health standards, due to mold and deteriorated
14 materials that have -- that have occurred during
15 that time lapse of the building, basically, not
16 being taken care of.

17 The existing build -- the building as is
18 now, is a six unit building. It was pretty much
19 built as per the approved Zoning Board and the
20 permit drawings at that time.

21 There's six units; three units of three
22 bedrooms, and three units of two bedrooms.

23 The units are -- the large unit, the three
24 bedrooms, are about 1600 square feet, a little
25 bit more than 1600 square feet.

1 The two bedrooms are about 1400 square
2 feet. A little bit more than 1400 square feet.

3 The three bedrooms have two bathrooms. The
4 -- the two bedrooms -- the three bedrooms have
5 two bathrooms each, and the two bedrooms have two
6 bathrooms each, for a total of 12 bathrooms that
7 are there now. They're there now. They're there
8 now. They have the plumbing. It's all set up.
9 The only thing that they need is to install the
10 fixtures into the plumbing pipes.

11 What we're proposing to do is, basically,
12 reduce the size of these units and provide three
13 additional units. Three additional one bedroom
14 units, so basically, you'll have six two bedroom
15 units and three one bedroom units.

16 We're going to eliminate three of the
17 bathrooms, and they'll be -- they'll be picked up
18 by three kitchens.

19 The bedroom counts is the same. We're
20 going to have the same amount of bedrooms that
21 was previously approved. We're basically
22 providing the same amount of bedrooms.

23 In fact, we show you the plans. I would
24 like, at least, to talk to you about the
25 building.

1 The building is -- we're not doing anything
2 to the building, the exterior of the building.
3 The building is -- is built. It's four stories
4 high. It's a finished roof. The -- the top of
5 the roof is about 40 feet off the ground. It has
6 three foot six parapets. It's a flat roof. It
7 has stair bulkheads in the south and in the north
8 side. The north side is the street façade.

9 So, the building, as a whole, from the
10 exterior, will remain as is. We're not -- we're
11 not going to increase the footprint of the
12 building. We're not going to increase the height
13 of the building. We're not going to touch any of
14 the windows, any of the openings on the outside,
15 except for there's three existing windows at the
16 rear stairs that we're going to remove the
17 windows, and provide rated glass block to -- in
18 the openings, in the existing openings.

19 There's also -- the builder added a second
20 door from one of the apartments to a roof deck
21 that is in the south side of the building. And
22 that door is going to be removed, and we're going
23 to place a window. And that's at the rear of the
24 building, that you won't see from the -- you
25 won't see any of these two changes that we're

1 | proposing from the street.

2 | One is on the south side, and one is on the
3 | east side.

4 | If I could just show you, if -- I'll show
5 | -- I'll, basically, just show you the proposed.
6 | The proposed layout, which is what you have
7 | there, it's on -- shown on page A-6, starts on
8 | A-6. From A-1 -- from CS-1 to A-6 is basically
9 | showing existing conditions. That's what you
10 | have there now.

11 | The -- we're requiring six -- six
12 | variances, but those are preexisting variances.

13 | The building -- the first floor has the
14 | parking, which is what was there before, has
15 | parking for 11 spaces.

16 | This is the street. This is 42nd Street,
17 | which is a one way going east.

18 | The entrance is through here for the cars.
19 | There's 11 spaces. Each space is eight foot six
20 | by 16 feet. Nothing has changed from the
21 | previous approval.

22 | There's a rear stair here, for second means
23 | of egress, and the main stairs here in the front,
24 | with a lobby out to the -- to the street.

25 | There's an elevator, elevator shaft there

1 now. There's -- there's no elevator cab there
2 now. No equipment. It's just the shell that's
3 there now.

4 So, basically, this part, and this part
5 will stay as is. As is -- as it was built. In
6 this side of the building, in the northeast side,
7 we have the electrical room, the gas and water
8 meter room, and garbage containers. That will
9 stay.

10 There's ventilation for the garage through
11 the side and air will come in through the roof,
12 and down to ventilate this, and out through the
13 -- through these vents.

14 And also, the garage will -- door will have
15 openings to get fresh air into the building.

16 The building will be, basically, Code
17 compliant to the latest Code. When it was built,
18 it was compliant for 2008. Now, it has to be
19 compliant 2015.

20 It will have a fire sprinkler system to
21 comply with the latest Code. It will -- all of
22 the apartments will be ADA compliant. There's
23 going to be ADA access through the elevator.

24 The elevator will be compliant with the
25 latest Code.

1 What we've done, as far as the apartments,
2 if you look at Sheet A-7, this is, basically, the
3 first of the proposed -- the first floor -- the
4 second floor, which is the floor above the
5 garage. This is the first floor that we will
6 change.

7 Basically, what used to be is an elevator
8 shaft, with elevator entrance to each of the two
9 apartments.

10 What we're doing now is, basically,
11 eliminating the entrance to the apartments, and
12 providing a common hallway, which will provide
13 access to the two means of egress. And this
14 common hallway will provide entrance to three of
15 the -- three apartments per floor.

16 The first floor -- the first apartment on
17 the northeast side of the building will have two
18 bedrooms, one bath, kitchen, living room, and a
19 small den. Then, the second -- this apartment
20 will be 1,080 square feet.

21 The -- this -- the apartment behind that
22 one to the -- to the back of the -- of the
23 building will be one bedroom apartment, 570
24 square feet. It basically will have a bathroom,
25 kitchen, living room, bedroom.

1 Then, on this side of the -- of the
2 building, on the west side of the building, we
3 have a two bedroom apartment, which is about
4 1,060 square feet.

5 That's in -- this is common in the second
6 and fourth floor.

7 On the third floor, we have this room here
8 is taking over by a common laundry room. So,
9 we're going to be providing a common laundry room
10 for the building. And the units will -- these
11 two units will stay the same, two bedrooms, one
12 bedroom. This will stay as a two bedroom, but a
13 little smaller. It will turn -- it will lose 80
14 square feet. It will be a thousand square feet.
15 And this will be a common laundry room for the
16 three floors, for the nine units.

17 The intent is to provide three washers,
18 three dryers, one per floor.

19 The fourth floor is similar to the second
20 floor, which basically is 1,080 square feet, two
21 bedroom apartment; a 570 square feet, one bedroom
22 apartment; and 1,060 square feet, two bedroom
23 apartment.

24 All of the apartments will have two means
25 of egress, elevator access, will be ADA

1 compliant, will comply with the latest Code.

2 The roof plan -- basically, it's a flat
3 roof. You have stairwells for access to the
4 mechanical units on the roof.

5 It has a built parapet now that is three
6 foot six high. It's three foot six above the
7 roof level.

8 What we're proposing to do is locate the
9 mechanical units on this corner of the building,
10 which is the northeast. And these will be below
11 the parapet so you won't see them from the
12 street.

13 And we're proposing to do two banks of --
14 of solar panels in the -- on each half of the
15 building.

16 The intent of the owner is to pursue LEED
17 certification for this building. So, this will
18 be a LEED certified building. That's the intent
19 of what the owner will pursue.

20 They will hire a LEED consultant to assist
21 to put the team together, to make the building
22 LEED certified building.

23 That's, basically, it in a nutshell. We're
24 not doing anything to the front façade. We're
25 not doing anything to the building, as a whole.

1 Very minor changes. If I could go back to
2 explain what we're doing, as far as these are the
3 three windows. There's three existing windows
4 here in the stairwell.

5 After we met with the Building Department,
6 they wanted us to make that rated glass block,
7 which we would do. We will remove the windows
8 that are there now and make them rated glass
9 block.

10 And there's a door in here, now, that was
11 being used by the -- this enlarged apartment,
12 which will be removed, and it will be made into a
13 window.

14 That's the only changes on the exterior
15 that we're proposing.

16 MR. ALONSO: Now, Mr. Fernandez, do you
17 have a zoning analysis attached to your -- to
18 your plans?

19 MR. FERNANDEZ: Yes. We have it in Sheet
20 CS-1.

21 MR. ALONSO: Are there any new variances
22 that are being created, or are we expanding upon
23 any variances that were previously granted in the
24 prior application?

25 MR. FERNANDEZ: As far as physical

1 | variances, none, we are not. The building will
2 | stay as is. The only difference is that we're
3 | providing a six -- from a six unit to a nine
4 | unit. The bedroom count will stay the same. The
5 | bathrooms will be less. There's three window --
6 | three kitchens that will take over the three
7 | bathrooms that we're eliminating.

8 | They units are large enough, and compliant
9 | with our -- the Union City requirements for
10 | apartment sizes. They used to be over --
11 | oversized for a different type of use.

12 | These will be rental units. The original
13 | design was for condominium.

14 | MR. ALONSO: Okay.

15 | Mr. Chairman, I have no further questions.

16 | VICE CHAIRMAN GRULLON: Do you have any
17 | other witness?

18 | MR. ALONSO: I do not.

19 | Mr. Chairman, and normally, we would have a
20 | planner testify.

21 | VICE CHAIRMAN GRULLON: Yes.

22 | MR. ALONSO: But since we are not creating
23 | any new variances, that was previously testified
24 | to and approved by the Board, and since we're not
25 | increasing the variances that were previously

1 impacted, we don't believe that the planning
2 testimony is required.

3 However, we'll always defer to the Board.
4 If you'd like us to bring a planner just to say
5 that nothing's changed, then we could do that
6 also.

7 VICE CHAIRMAN GRULLON: Mr. Alonso, but you
8 mentioned, you have an existing approval on a six
9 family. Six --

10 MR. ALONSO: Correct.

11 VICE CHAIRMAN GRULLON: Six apartment.

12 MR. ALONSO: Correct.

13 VICE CHAIRMAN GRULLON: That is valid as of
14 now.

15 MR. ALONSO: It's valid, and under the
16 Permit Extension Act, even though the work had
17 ceased, it -- the permits themselves fall within
18 the Permit Extension Act.

19 So, all my client would have to do is go
20 back, apply, transfer the -- the permits into his
21 name, submit new construction plans, or revised
22 construction plans to -- to meet the current
23 Codes.

24 And then, the permits would be reissued
25 under his name, and he could continue.

1 The difference is, we would be constructing
2 three bedroom apartments, as opposed to this
3 proposal, which we're eliminating the three
4 bedroom apartments.

5 As we know, when you have 1600 square foot,
6 three bedroom apartments, a lot of times, in
7 order to meet the rents, the tenants start
8 bringing in a lot of people.

9 VICE CHAIRMAN GRULLON: Yeah.

10 MR. ALONSO: Which is not just your typical
11 husband and wife and two children, it's other
12 family members and friends and it becomes a more
13 intense use.

14 VICE CHAIRMAN GRULLON: Mr. Fernandez, for
15 that -- for the bedroom count, could you repeat
16 again for the six units that you had before, what
17 was the layout?

18 MR. FERNANDEZ: The six -- the existing --

19 VICE CHAIRMAN GRULLON: For the six units
20 that you have approved.

21 MR. FERNANDEZ: The six units that are
22 approved are three, three bedrooms, which are on
23 the east side of the building.

24 VICE CHAIRMAN GRULLON: Is nine.

25 MR. FERNANDEZ: And then -- and then, two

1 of three bedrooms on the west side of the
2 building, for a total of six units, for a total
3 of -- three times three is nine, and six --

4 VICE CHAIRMAN GRULLON: Fifteen. Okay.

5 MR. FERNANDEZ: -- 15 apartment --

6 VICE CHAIRMAN GRULLON: Is --

7 MR. FERNANDEZ: Fifteen bedrooms.

8 VICE CHAIRMAN GRULLON: Remain the same --

9 MR. FERNANDEZ: And the bedrooms will --

10 VICE CHAIRMAN GRULLON: -- amount of
11 bedroom.

12 MR. FERNANDEZ: -- stay the same.

13 MR. ALONSO: Eighteen.

14 MR. FERNANDEZ: Yeah.

15 MR. ALONSO: Wasn't it three --

16 MR. FERNANDEZ: Three times three is nine,
17 and three times two is six.

18 MR. ALONSO: You're right.

19 MR. FERNANDEZ: Fifteen.

20 MR. ALONSO: Fifteen.

21 VICE CHAIRMAN GRULLON: And you're not
22 doing any changes on the -- on the outside of the
23 building?

24 MR. FERNANDEZ: None whatsoever.

25 VICE CHAIRMAN GRULLON: Height or setbacks?

1 MR. ALONSO: That's all constructed.

2 VICE CHAIRMAN GRULLON: The footprint of
3 the building is remaining the same.

4 Okay.

5 I don't have any more questions.

6 You have a question?

7 MR. MAROTTA: Yeah.

8 I take it that the applicant is not here.

9 MR. ALONSO: The applicant is here.

10 MR. MAROTTA: Yeah.

11 I'd like to know from the applicant, would
12 you come up, please?

13 MR. ALONSO: He needs to be sworn in.

14 MS. DILLON: Right in front of this
15 microphone, sir.

16 Please raise your right hand.

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

19 MR. FAHMIE: I do.

20 MS. DILLON: Could you please state your
21 name and spell it for the record?

22 MR. FAHMIE: Steven, last name, Fahmie. F
23 as in Frank, A-H-M as in Michael I-E.

24 MS. DILLON: And how do you spell Steven?

25 MR. FAHMIE: S-T-E-V-E-N.

1 MS. DILLON: Thank you.

2 MR. ALONSO: Mr. Fahmie, what's your
3 relationship to 541 42nd Street, LLC?

4 MR. FAHMIE: I'm the owner.

5 MR. ALONSO: And managing member?

6 MR. FAHMIE: Yes. That's right.

7 MR. ALONSO: Yeah. I believe Mr. Marotta
8 has a question.

9 MR. MAROTTA: I have -- I have one
10 question.

11 Why do you want to expand this
12 nonconforming use that has six units to nine
13 units? Why?

14 MR. FAHMIE: I feel like the apartments are
15 too large for rental apartments. You know,
16 especially the 1600 plus square foot three
17 bedroom apartments.

18 MR. MAROTTA: Did you do a feasibility
19 study with respect to the income you would
20 receive from nine units as compared to six units?

21 MR. FAHMIE: I did.

22 MR. MAROTTA: You'd get more income from
23 nine units.

24 Isn't that correct?

25 MR. FAHMIE: I think I'll get more income

1 from nine units.

2 MR. MAROTTA: All right. That's all. No
3 -- no more questions.

4 MR. FAHMIE: Thank you.

5 MR. MAROTTA: Thank you.

6 VICE CHAIRMAN GRULLON: Any other member of
7 the Board?

8 Closed to the Board.

9 Going to open it to the public.

10 Mr. -- Mr. Price, would you please step
11 forward?

12 MR. PRICE: Larry Price, 1006 Palisade.

13 Mr. Fernandez, are you -- you're saying no
14 new variances are created.

15 Are you requesting a D-2 variance for --

16 MR. FERNANDEZ: Well, the -- we're
17 increasing the density of the -- of the building
18 by three units.

19 MR. ALONSO: Right. The density is defined
20 under the Ordinance now, is based on the size of
21 the apartments, and there's a schedule where if
22 you don't meet -- if you don't meet the size
23 requirements, the Board has interpret that to
24 mean that that's a density variance.

25 MR. PRICE: Well, the question is, are you

1 -- are you requesting a D-2 variance for
2 expansion of a nonconforming use?

3 MR. ALONSO: I'll tell you, one second.

4 MR. FERNANDEZ: I -- I'm not a planner, so
5 I cannot respond to that.

6 MR. PRICE: Yeah. They're going from --
7 you know, the building stays the same and may --
8 and the bedroom count stays the same, but they're
9 going from six apartments to nine apartments.

10 The building, quite clearly, is as a result
11 of the Land Development Ordinance, adopted in
12 2012, it's R zone. So, it's a -- it's an -- it's
13 a nonconforming use. So, it's a preexisting
14 nonconforming use.

15 But they're increasing the intensity and
16 case law is pretty clear that if you increase the
17 intensity of -- of a preexisting non -- you need
18 a D-2 variance.

19 MR. ALONSO: But I --

20 MR. PRICE: So --

21 MR. ALONSO: I believe we're not increasing
22 the intensity because the number of bedrooms
23 stays the same, and the Board has defined density
24 with respect to the size of the units -- size of
25 the bedrooms, as opposed to the number of units,

1 number one.

2 Number two, we believe that although it is
3 nine units versus six units, the three bedrooms
4 units, the more intense use, because of the --
5 generally, you have more school aged children
6 that come in with -- with three bedroom
7 apartments.

8 And we know that, unfortunately, they start
9 to get subdivided, and you start bringing in more
10 people, who start living in the -- the three
11 bedroom apartments, than you would do in a two or
12 a one.

13 And we're introducing the one bedroom
14 apartments, which don't currently exist.

15 So, we believe that, for those reasons,
16 we're not intensifying the use, and it's not
17 required.

18 MR. MAROTTA: Mr. Chairman, according to
19 the memo presented to us by Mr. Spatz, our
20 Planner, the applicant is seeking a D-2 use
21 variance.

22 And I understand, from our Secretary, that
23 he mails to every attorney representing
24 applicants, a copy of the memo.

25 So, if you received a copy of the memo,

1 | you'd see that Mr. Spatz says that this is an
2 | expansion of a nonconforming use, and a D-2 use
3 | variance is required.

4 | MR. ALONSO: I did not get that memo.

5 | MR. MAROTTA: You didn't get it? Okay.

6 | But that's according to Mr. Spatz. So,
7 | we're dealing here with a D-2 --

8 | VICE CHAIRMAN GRULLON: Yes, --

9 | MR. MAROTTA: If you have any more --

10 | VICE CHAIRMAN GRULLON: -- Mr. Alonso?

11 | MR. MAROTTA: -- Larry?

12 | MR. ALONSO: Thank you.

13 | MR. MAROTTA: Larry, you have any more
14 | questions?

15 | VICE CHAIRMAN GRULLON: You want to take a
16 | minute to review that memo and --

17 | MS. GUTIERREZ: We're going to take a
18 | break.

19 | MR. ALONSO: Yeah. Let me just take a
20 | minute, just to review it.

21 | VICE CHAIRMAN GRULLON: Yes. We're going
22 | to take two minute break.

23 | MR. ALONSO: Okay.

24 | THE SECRETARY: Two minute break.

25 | Thank you.

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(Whereupon, the Board recessed from 8:12 p.m. to 8:21 p.m.)

MS. DILLON: Whenever you're ready. You're on.

THE SECRETARY: All right. May I have your attention, please?

Back in business.

Mr. Alonso, please?

MR. ALONSO: Mr. Chairman, as -- I'm just checking my calendar real quick.

Okay. I reviewed the memo with my client, and with Mr. Fernandez. What we're going to do is we're going to ask that the matter be carried to the next hearing.

We will be bringing in a planner to provide testimony with respect to a D-2 variance, and to the extent it's required for a D-1 variance. We'll just cover all bases.

VICE CHAIRMAN GRULLON: Okay, Mr. Alonso.

And I have one request for Mr. Fernandez.

Could you please submit revised plan for page A -- A-1, with the layout of the parking?

MR. FERNANDEZ: Oh, okay. Because --

1 VICE CHAIRMAN GRULLON: Yes.

2 MR. FERNANDEZ: -- what we did is we showed
3 existing condition. It hasn't been striped.

4 VICE CHAIRMAN GRULLON: Oh, okay.

5 MR. FERNANDEZ: It's just what's there.
6 It's just a concrete slab on the -- that's the
7 as-built condition now.

8 VICE CHAIRMAN GRULLON: Oh, okay. But
9 could you just --

10 MR. FERNANDEZ: Oh, we can show it. We can
11 show it.

12 VICE CHAIRMAN GRULLON: The proposed.

13 MR. FERNANDEZ: Okay.

14 VICE CHAIRMAN GRULLON: The proposed
15 layout.

16 MS. GUTIERREZ: Um hum.

17 MR. FERNANDEZ: Okay.

18 MR. ALONSO: And Mr. Chairman --

19 MR. PRICE: Oh, I was going to ask the same
20 thing.

21 MR. ALONSO: To the -- to the --

22 MR. PANEQUE: We have a proposed layout.

23 There is a -- Mr. Fernandez --

24 VICE CHAIRMAN GRULLON: Is there one?

25 MR. PANEQUE: -- isn't there a proposed

1 layout of the parking in one --

2 MR. FERNANDEZ: Yes.

3 MR. PANEQUE: -- of your exhibits here?

4 MR. FERNANDEZ: We --

5 MR. PRICE: Yeah.

6 MR. FERNANDEZ: We have it.

7 MR. PANEQUE: Oh.

8 MR. PRICE: You had a green sheet.

9 MR. FERNANDEZ: It's on page A-6.

10 MR. PANEQUE: That one. A-6.

11 VICE CHAIRMAN GRULLON: Oh.

12 MR. PANEQUE: You have the proposed.

13 MR. FERNANDEZ: So, the existing condition

14 --

15 MS. GUTIERREZ: Check in the back.

16 MR. FERNANDEZ: -- doesn't have the painted
17 stalls.

18 MR. PANEQUE: Um hum.

19 MR. FERNANDEZ: The proposed will have it.

20 MR. PANEQUE: Yeah. So, A-1 --

21 VICE CHAIRMAN GRULLON: Yes. Yes.

22 MR. PANEQUE: -- through A-5 is what's
23 there now.

24 MR. FERNANDEZ: A -- exactly.

25 MS. GUTIERREZ: It is. It is.

1 VICE CHAIRMAN GRULLON: Yes. It is.

2 MR. FERNANDEZ: A-1 through 5.

3 VICE CHAIRMAN GRULLON: Yes. It is.

4 MR. FERNANDEZ: So, you don't need it.

5 VICE CHAIRMAN GRULLON: No, I don't need
6 it.

7 MR. FERNANDEZ: Okay.

8 VICE CHAIRMAN GRULLON: Thank you. Thank
9 you.

10 MR. FERNANDEZ: Thank you.

11 VICE CHAIRMAN GRULLON: Thank you, Mr.
12 Paneque for showing me that.

13 MR. ALONSO: Too many vacations.

14 MR. PANEQUE: Mr. Alonso, then, your
15 request is to carry this matter till the next
16 meeting?

17 MR. ALONSO: Correct.

18 MR. PANEQUE: That would be November 17th.

19 MR. ALONSO: Correct.

20 MR. PANEQUE: And that's based on the fact
21 that you were given the memorandum from Mr. David
22 Spatz on this evening. And as a result of
23 reading that memorandum, you're now of the
24 opinion that you must provide a planner.

25 MR. ALONSO: That's correct.

1 MR. PANEQUE: Okay.

2 MR. ALONSO: And what -- what I'm going to
3 do is I'm going to review my notice, and I'm
4 going to make sure that the notice was correct,
5 because I did not notice for a D-2.

6 So, what I'll do is, I'll have Mr.
7 Fernandez come back, we'll re-notice for the --
8 for the D-2, just to cover my bases.

9 MR. PANEQUE: Okay.

10 MR. ALONSO: We'll have Mr. Fernandez
11 testify again, everything that he's testified to
12 today.

13 And we'll have the planner testify at the
14 next meeting.

15 MR. PANEQUE: Okay.

16 If you're going to re-notice, it would also
17 be required that you publish in the paper.

18 MR. ALONSO: Absolutely.

19 MR. PANEQUE: The entire requirements.

20 MR. ALONSO: Absolutely. Just -- just to
21 be conservative --

22 MR. PANEQUE: Okay.

23 MR. ALONSO: -- and make sure all the bases
24 are covered.

25 VICE CHAIRMAN GRULLON: Thank you.

1 I make a motion to --

2 THE SECRETARY: Motion to carry --

3 VICE CHAIRMAN GRULLON: -- carry to --

4 THE SECRETARY: -- for November 17, --

5 VICE CHAIRMAN GRULLON: -- November 17.

6 MS. GUTIERREZ: And I'm seconding.

7 THE SECRETARY: -- 2016, by Mr. Grullon.

8 Second by Mrs. Gutierrez.

9 Roll call on the -- on the motion.

10 Mr. Grullon?

11 VICE CHAIRMAN GRULLON: Yes.

12 THE SECRETARY: Mrs. Gutierrez?

13 MS. GUTIERREZ: Yes.

14 THE SECRETARY: Mr. Ortiz?

15 MR. M. ORTIZ: Yes.

16 THE SECRETARY: Mr. Pressey?

17 MR. PRESSEY: Yes.

18 THE SECRETARY: Mr. Bonacci?

19 MR. BONACCI: Yes.

20 THE SECRETARY: Mr. Marotta?

21 MR. MAROTTA: Yes.

22 THE SECRETARY: Mr. Doumas?

23 MR. DOUMAS: Yes.

24 THE SECRETARY: Seven in favor. Motion

25 carries.

1 No -- no new notice required.

2 MR. ALONSO: Thank you very much.

3 THE SECRETARY: You're welcome.

4 MR. PANEQUE: Strike that.

5 THE SECRETARY: Oh, I'm sorry. I apologize
6 for that.

7 New -- new notice required.

8 MR. SPATZ: Right.

9 MR. PANEQUE: Yeah. Notice will be
10 required for the next meeting.

11 MR. ALONSO: Yes. I will -- I'll resubmit
12 new notice.

13 MR. PANEQUE: Thank you.

14 THE SECRETARY: New notice required.

15 MR. SPATZ: Right.

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

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1 **BHD Investments -**

2 **509-511 44th Street:**

3

4 THE SECRETARY: Next application on
5 tonight's agenda, BHD Investments, 509-511 44th
6 Street.

7 Mr. Alonso, please?

8 MR. ALONSO: Good evening, Mr. Chairman,
9 members of the Board.

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

12 I'm going to be requesting an adjournment.
13 I provided my notices.

14 Unfortunately, our planner was not
15 available to come this evening. So, my client
16 has -- has asked me to carry this matter, so that
17 we have the testimony of the architect and the
18 planner at the same time. That way, the planner
19 can provide his opinion, based on the testimony
20 of the architect.

21 MR. PANEQUE: Okay.

22 For the record, I've been provided, by Mr.
23 Alonso, with the following documents:

24 I have an Affidavit that states that on
25 October 3rd, notices were mailed out to all

1 property owners within the 200 foot radius of
2 509-51 44th Street, Union City, New Jersey.

3 I've also been provided with an Affidavit
4 of Publication from The Jersey Journal,
5 indicating that on October 1st, notices were given
6 of the application that's before the Board
7 regarding 509-511 44th Street for tonight's
8 meeting, October 13th, 2016.

9 I also have been provided with a list from
10 the Tax Assessor, which is dated September 30th,
11 and contains all of the property owners within
12 the 200 foot radius of Block 254, Lots 18, 19,
13 also known as 509-511 44th Street.

14 I also have, in these set of documents, a
15 set of certified mail receipts, with postmark
16 dated October 3rd, 2016, which makes it fall
17 within the ten day required statutory timeframe,
18 as well as the green cards which have come back
19 to date.

20 It appears, from the documents that have
21 been submitted, that this court -- strike that --
22 that this Board would have jurisdiction to hear
23 this application.

24 VICE CHAIRMAN GRULLON: And Mr. Alonso, you
25 are requesting an adjournment on this?

1 MR. ALONSO: Yes, I am, Mr. Chairman.

2 VICE CHAIRMAN GRULLON: Okay.

3 And the reason is because you don't have
4 your planner here today.

5 MR. ALONSO: That's correct.

6 VICE CHAIRMAN GRULLON: And the adjournment
7 you want is for the next meeting.

8 MR. ALONSO: Yes, please.

9 VICE CHAIRMAN GRULLON: I make a motion to
10 adjourn it to the --

11 THE SECRETARY: Motion --

12 VICE CHAIRMAN GRULLON: -- next meeting.

13 THE SECRETARY: -- to adjourn the --

14 MS. GUTIERREZ: I'm seconding.

15 THE SECRETARY: -- application for November
16 17, 2016, by Mr. Grullon.

17 Second by Mrs. Gutierrez.

18 Roll call on the motion.

19 Mr. Grullon?

20 VICE CHAIRMAN GRULLON: Yes.

21 THE SECRETARY: Mrs. Gutierrez?

22 MS. GUTIERREZ: Yes.

23 THE SECRETARY: Mr. Ortiz?

24 MR. M. ORTIZ: Yes.

25 THE SECRETARY: Mr. Pressey?

1 MR. PRESSEY: Yes.

2 THE SECRETARY: Mr. Bonacci?

3 MR. BONACCI: Yes.

4 THE SECRETARY: Mr. Marotta?

5 MR. MAROTTA: Yes.

6 THE SECRETARY: Mr. Doumas?

7 MR. DOUMAS: Yes.

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

10 No new notice required.

11 MR. ALONSO: Thank you very much.

12 THE SECRETARY: You're welcome.

13 Good evening.

14 MR. ALONSO: Good evening.

15 MS. GUTIERREZ: Good evening.

16 VICE CHAIRMAN GRULLON: Good evening.

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1 **APPROVAL OF PREVIOUS MEETING MINUTES:**

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3 (1) Approval of previous meeting minutes from
4 September 8, 2016.

5

6 THE SECRETARY: Don't leave.

7 MS. GUTIERREZ: I'm ready.

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

10 THE SECRETARY: All right. We are going
11 back to the agenda.

12 May I have your attention, please?

13 Approval of previous meetings -- meeting.
14 Sorry.

15 Approval of previous meeting minutes from
16 September 8, 2016.

17 Can I have a motion to adopt the previous
18 meeting?

19 Motion by Mr. Pressey.

20 MS. GUTIERREZ: Second by.

21 THE SECRETARY: Second by Margarita
22 Gutierrez.

23 Roll call on the motion.

24 Mr. Grullon?

25 VICE CHAIRMAN GRULLON: Yes.

1 THE SECRETARY: Mrs. Gutierrez?

2 MS. GUTIERREZ: Yes.

3 THE SECRETARY: Mr. Ortiz?

4 MR. M. ORTIZ: Yes.

5 THE SECRETARY: Mr. Pressey?

6 MR. PRESSEY: Yes.

7 THE SECRETARY: Mr. Bonacci?

8 MR. BONACCI: Yes.

9 THE SECRETARY: Mr. Marotta?

10 MR. MAROTTA: Yes.

11 THE SECRETARY: Mr. Doumas?

12 MR. DOUMAS: Yes. Yes.

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

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1 **RESOLUTIONS:**

2

3 (1) 108 36th Street, Palisade Emergency
4 Residence Corporation, Block 217, Lots 20, 21,
5 44, and 45. Applicants are seeking six (6)
6 months extension. First Resolution extension was
7 adopted May 12, 2016.

8

9 THE SECRETARY: We have one Resolution.

10 108 36th Street, Palisade Emergency
11 Residential (sic) Corporation.

12 The applicant seeking six month extension.
13 Resolution was adopted May 12, 2016.

14 VICE CHAIRMAN GRULLON: Make a motion to
15 accept the --

16 THE SECRETARY: Motion by --

17 VICE CHAIRMAN GRULLON: -- to adopt the
18 Resolution.

19 MS. GUTIERREZ: I'm seconding.

20 THE SECRETARY: -- Mr. Grullon.

21 Seconded by Mrs. Gutierrez.

22 Mr. Grullon?

23 VICE CHAIRMAN GRULLON: Yes.

24 THE SECRETARY: Roll call on the motion.

25 Mrs. Gutierrez?

1 MS. GUTIERREZ: Yes.

2 THE SECRETARY: Mr. Ortiz?

3 MR. M. ORTIZ: Yes.

4 THE SECRETARY: Mr. Pressey?

5 MR. PRESSEY: Yes.

6 THE SECRETARY: Mr. Bonacci?

7 MR. BONACCI: Yes.

8 THE SECRETARY: Mr. Marotta?

9 MR. MAROTTA: Yes.

10 THE SECRETARY: Mr. Doumas?

11 MR. DOUMAS: Yes.

12 THE SECRETARY: Seven in favor. Motion
13 carries.

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1 **CORRECTIVE RESOLUTIONS:**

2

3 (1) Ruth Slutsky, 727 32nd Street, Block 174,
4 Lot 15. Appeal on Zoning Determination Letter
5 and interpretation. Resolution was memorialized
6 September 8, 2016.

7

8 THE SECRETARY: We have three Corrective
9 Resolutions.

10 First one, Ruth Slutsky, 727 32nd Street.

11 This Resolution was memorialized on
12 September 8, 2016.

13 MR. PANEQUE: Mr. Vallejo, if I may explain
14 to the Board the reason why this Resolution is
15 coming back as a Corrective Resolution on
16 tonight's agenda?

17 THE SECRETARY: Please.

18 MR. PANEQUE: Ladies and gentleman of the
19 Board, this Resolution was approved at the last
20 meeting, and the Resolution that was drafted by
21 me, indicated that a site plan was presented.

22 I failed, when I was preparing the
23 Resolution, to realize that this application was
24 brought before the Board not as an approval of a
25 site plan, but as a determination by this Board

1 of a -- the legalization of the two residential
2 apartments that were behind the commercial space.

3 Since the Resolution indicated that there
4 was a site plan introduced, which was not the
5 case, the applicant, when they went to the
6 Building Department, was asked to produce the
7 site plan, which they were not, because there was
8 never a site plan presented to this Board.

9 This Board made a determination, under its
10 statutory powers, under 70A and 70B, to determine
11 that these apartments had preexisted in that
12 location. And therefore, this Board legalized
13 those apartments.

14 The Resolution that you have before you
15 tonight, it's basically a redrafting of the
16 Resolution to remove that there was a site plan
17 presented, and to indicate that what was done by
18 this Board was to determine that the apartments
19 behind the commercial store were preexisting, and
20 that they were legal, and that this Board was
21 making a determination of the legality of those
22 apartments.

23 So, what we have is a correction to that
24 effect.

25 MR. BONACCI: Thank you.

1 THE SECRETARY: The only --

2 MS. GUTIERREZ: Thank you.

3 THE SECRETARY: The only Board members can
4 vote on this Resolution, in this Corrective
5 Resolution is Mr. Grullon, Mr. Ortiz, Mr. Dardir,
6 Mr. Medina, and Mr. Bonacci.

7 Can I have a motion?

8 VICE CHAIRMAN GRULLON: I make a motion to
9 adopt the Correct -- Corrective Resolution for
10 this matter.

11 THE SECRETARY: Motion to adopt this Reso
12 -- the Corrective Resolution by Mr. Grullon.

13 MS. GUTIERREZ: Mr. Ortiz.

14 THE SECRETARY: Second by Mr. Ortiz.

15 Roll call on the motion.

16 Mr. Grullon?

17 VICE CHAIRMAN GRULLON: Yes.

18 THE SECRETARY: Mr. Ortiz?

19 MR. M. ORTIZ: Yes.

20 THE SECRETARY: Mr. Bonacci?

21 MR. BONACCI: Yes.

22 THE SECRETARY: Three in favor. Motion
23 carries.

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1 **CORRECTIVE RESOLUTIONS:**

2

3 (2) 419 13th Street, LLC, 419 13th Street, Block
4 61.02, Lots 12 & 13. Legalize existing five unit
5 multi-family building to be converted to six unit
6 multi-family building. Resolution was
7 memorialized December 10, 2015.

8

9 THE SECRETARY: Next Corrective Resolution,
10 419 13th Street, LLC, 419 13th Street.

11 MR. PANEQUE: If I may have --

12 THE SECRETARY: This Resolution was
13 memorialized on December 10, 2015.

14 Mr. Paneque, please?

15 MR. PANEQUE: Thank you, Mr. Vallejo.

16 This Resolution is coming before the Board
17 this evening on a request from the Building
18 Department for a clarification of the language in
19 the Resolution.

20 The Resolution was an approval of a fourth
21 apartment in the rear of the front building.

22 This property consisted of two buildings, one in
23 the front and one in the rear.

24 The front building had the four units and
25 the rear building had the two units.

1 However, the Building Department only
2 recognized three of the units in the front
3 building as legal units, and the fourth unit,
4 which was in the rear of the front building, was
5 not recognized.

6 So, the applicant came before this Board on
7 a request to approve the site plan, and legalize
8 that fourth unit, thereby converting the -- the
9 site from a five family to a six family.

10 The Resolution indicated everything that I
11 just said. And the plans indicated everything
12 that I just said.

13 However, Mr. Sal Ferlise, from the Building
14 Department, wanted a clarification that the
15 Resolution read that it went from a five unit to
16 a six unit, and not just an explanation of the
17 units that were legalized.

18 As such, the only addition that has been
19 made is in the body of the Resolution, I added
20 the language, the building was converted from a
21 five to a six unit, which was the entire intent
22 of this Board.

23 And that is why this Corrective Resolution
24 is being presented.

25 THE SECRETARY: The only Board members can

1 | vote in this Corrective Resolution is Mr.
2 | Gullon, Mrs. Gutierrez, Mr. Ortiz, Mr. Pressey,
3 | Mr. Bonacci and Mr. Doumas.

4 | Can I have a motion?

5 | VICE CHAIRMAN GRULLON: I make a motion to
6 | adopt this Correct Resolution.

7 | THE SECRETARY: Motion by Mr. Gullon.

8 | Any second?

9 | By Mr. Pressey.

10 | Roll call on the motion.

11 | Mr. Gullon?

12 | VICE CHAIRMAN GRULLON: Yes.

13 | THE SECRETARY: Mr. -- Mrs. Gutierrez?

14 | MS. GUTIERREZ: Yes.

15 | THE SECRETARY: Mr. Ortiz?

16 | MR. M. ORTIZ: Yes.

17 | THE SECRETARY: Mr. Pressey?

18 | MR. PRESSEY: Yes.

19 | THE SECRETARY: Mr. Bonacci?

20 | MR. BONACCI: Yes.

21 | THE SECRETARY: Mr. Doumas?

22 | MR. DOUMAS: Yes.

23 | THE SECRETARY: Six in favor. Motion
24 | carries.

25 | * * *

1 **CORRECTIVE RESOLUTIONS:**

2

3 (3) 304-306 New York Ave. Prop., LLC, 304-306
4 New York Avenue - Construct nine unit multi-
5 family building. Resolution was memorialized
6 September 11, 2014.

7

8 THE SECRETARY: Next Corrective Resolution,
9 number 3; 304-306 New York Avenue.

10 This Resolution was memorialized on
11 September 11, 2014.

12 Mr. Paneque, please?

13 MR. PANEQUE: Thank you.

14 Ladies and gentlemen of the Board, we have
15 this Corrective Resolution coming to us today as
16 a request of the applicant's attorney, Ms.
17 Pereiras.

18 This Resolution was approved, as stated by
19 Mr. Vallejo, back in September 11th, 2014.

20 At the time that the Resolution was
21 drafted, there were a series of errors and
22 typographical mistakes, as well as just plain
23 errors in the Resolution.

24 Ms. Pereiras pointed out the six errors.
25 Number one being that the name of the LL -- of

1 the LLC that owns the property was misspelled.

2 Number two. The physical address was
3 incorrect.

4 Number three. The block and lot was
5 incorrect in the Resolution. Not only was it a
6 completely different block and lot, but it was --
7 in sections of the Resolution, it was left blank.

8 Number four. The -- this -- this matter
9 came before the Board on two occasions, June 12,
10 2014 and July 10, 2014. The Resolution only made
11 mention of the July 10th meeting, and did not make
12 mention of the July -- of the June 12th meeting.

13 The Resolution -- the fifth item was that
14 it improperly noted the zone as the RM zone,
15 where -- where, in fact, it's the R low density,
16 residential zone.

17 And the sixth item was also in another
18 paragraph where the RM zone was cited as the zone
19 for that, which was an incorrect zone.

20 The sixth items that were mentioned in Ms.
21 Pereiras' letter have been corrected, and the
22 Resolution that you have before you tonight is
23 the Corrective Resolution amending all of those
24 mistakes.

25 THE SECRETARY: Can I have a motion to

1 adopt the --

2 MS. GUTIERREZ: Who can vote?

3 THE SECRETARY: -- Corrective Resolution?

4 VICE CHAIRMAN GRULLON: Who all can vote?

5 MS. GUTIERREZ: Who can vote?

6 MR. PANEQUE: Well --

7 THE SECRETARY: Everybody can except for
8 Mr. Doumas can abstain.

9 MR. PANEQUE: Yeah, if I may, this
10 Resolution predates my time here on the Board.
11 And probably every member of our --

12 MR. DOUMAS: Mine, too.

13 MR. PANEQUE: -- some members here, Mr.
14 Doumas.

15 Mr. Doumas, you weren't here in 2014.

16 MS. GUTIERREZ: And Mr. Marotta wasn't.

17 MR. DOUMAS: Wasn't. Correct.

18 MR. PANEQUE: Mr. Marotta wasn't here in
19 2014.

20 MR. BONACCI: Neither was I.

21 MS. GUTIERREZ: You was here? You were
22 here?

23 MR. PRESSEY: Um hum.

24 MR. PANEQUE: Mr. Pressey was here. Mr.
25 Ortiz was here. Ms. Gutierrez and Mr. Grullon.

1 MS. GUTIERREZ: And Mr. --

2 MR. BONACCI: No. No, no, no.

3 MR. PANEQUE: No. Mr. Bonacci --

4 MS. GUTIERREZ: You wasn't here?

5 MR. PANEQUE: -- was not here.

6 MR. PRICE: I can tell you who attended the
7 September 11th meeting.

8 MR. PANEQUE: Mr. -- Mr. Price?

9 MS. GUTIERREZ: Go ahead. Go ahead.

10 MR. PRESSEY: Go ahead.

11 MS. GUTIERREZ: Go ahead.

12 MR. PANEQUE: Please, enlighten us.

13 MS. DILLON: Will you do it by the
14 microphone, Mr. Price?

15 MR. PANEQUE: Walk up to the microphone,
16 please.

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

19 MR. PRICE: We won't count Mr. Garcia. But
20 the people who are -- Victor Grullon, Margarita
21 Gutierrez, Mr. Ortiz and Stacy (phonetic). Who
22 was Stacy?

23 MR. BONACCI: (Indiscernible).

24 MS. GUTIERREZ: No.

25 MR. PRICE: There were only five members

1 here at that --

2 MR. PANEQUE: Okay.

3 MR. PRICE: -- meeting.

4 MR. PANEQUE: So, we have --

5 MS. GUTIERREZ: All right.

6 MR. PANEQUE: -- three members that --

7 MR. PRICE: You --

8 MR. PANEQUE: -- can vote.

9 MR. PRICE: -- only need one to --

10 MR. PANEQUE: Okay.

11 VICE CHAIRMAN GRULLON: I make --

12 MR. PRICE: -- to do it.

13 VICE CHAIRMAN GRULLON: -- a motion to --

14 MR. PRICE: So, Garcia -- sorry. Grullon,

15 Gutierrez and Ortiz --

16 MS. GUTIERREZ: And I'm seconding.

17 VICE CHAIRMAN GRULLON: Yes.

18 MR. PRICE: -- can vote.

19 VICE CHAIRMAN GRULLON: I make a motion to

20 adopt --

21 THE SECRETARY: Motion --

22 VICE CHAIRMAN GRULLON: -- the Corrective

23 Resolution.

24 THE SECRETARY: -- to adopt this Corrective

25 Resolution by Mr. Grullon.

1 VICE CHAIRMAN GRULLON: And Mr. Paneque,
2 thank you for finding all those errors.

3 THE SECRETARY: Second by Mrs. Gutierrez.
4 Roll call on the motion.

5 Mr. Grullon?

6 VICE CHAIRMAN GRULLON: Yes.

7 THE SECRETARY: Mrs. Gutierrez?

8 MS. GUTIERREZ: Yes.

9 THE SECRETARY: Mr. Ortiz?

10 MR. M. ORTIZ: Yes.

11 THE SECRETARY: Three in favor. Motion
12 carries.

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1 **ADJOURNMENT:**

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

6 MS. GUTIERREZ: I make a motion.

7 THE SECRETARY: -- meeting?

8 Motion by Margarita Gutierrez.

9 Second by?

10 Second by Mr. Bonacci.

11 Roll call.

12 Mr. Grullon?

13 VICE CHAIRMAN GRULLON: Yes.

14 THE SECRETARY: Mrs. Gutierrez?

15 MS. GUTIERREZ: Yes.

16 THE SECRETARY: Mr. Ortiz?

17 MR. M. ORTIZ: Yes.

18 THE SECRETARY: Mr. Pressey?

19 MR. PRESSEY: Yes.

20 THE SECRETARY: Mr. Bonacci?

21 MR. BONACCI: Yes.

22 THE SECRETARY: Mr. Marotta?

23 MR. MAROTTA: Yes.

24 THE SECRETARY: Mr. Doumas?

25 MR. DOUMAS: Yes.

1 THE SECRETARY: Motion carries.

2 Before we close tonight's meeting, can we

3 -- can we congratulate Mr. Bonacci.

4 MS. GUTIERREZ: Yay.

5 THE SECRETARY: He just got married.

6

7 (Applause.)

8

9 MR. DOUMAS: Oh, congratulations, man.

10 MR. BONACCI: Thank you.

11 THE SECRETARY: Let the record show that
12 the meeting has ended.

13 Thank you.

14 Good night everyone.

15

16 (Whereupon, the proceedings were concluded
17 at 8:41 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 heard on Thursday, October 13, 2016
10 and digitally recorded.

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25 Monitored and proofread by: Deborah Dillon