

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

REGULAR MEETING : TRANSCRIPT OF RECORDED
: PROCEEDINGS
:
:

City Hall
3715 Palisade Avenue
Union City, New Jersey

Thursday, November 17, 2016
Commencing at 6:23 p.m.

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

MARGARITA GUTIERREZ
MIGUEL ORTIZ, (Arrived at 6:28 p.m.)
JOHN MEDINA, Alternate No. 1
JOSEPH D. BONACCI, Alternate No. 2
LIBERO MAROTTA, Alternate No. 3,
(Left at 6:26 p.m., Returned at 6:55 p.m.)
VICTOR M. GRULLON, Vice Chairman

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

KHALED DARDIR
HARLENNY E. JAVIER
DAVID W. PRESSEY
PETER C. DOUMAS, Alternate No. 4
ANDRES GARCIA, Chairman

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

CARLOS VALLEJO, Secretary to the Board

TOMAS R. PANEQUE, ESQ., Board Attorney

DAVID SPATZ, Consultant
Community Housing and Planning Associates,
(Left at 6:42 p.m.)

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

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

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

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

BIANCA P. PEREIRAS, ESQ.,
Attorney for Applicant, Gerardo Tan

BIANCA P. PEREIRAS, ESQ.,
Attorney for Applicant, Joseph Sosa

I N D E X

	<u>PAGE</u>
CALL TO ORDER	9
SALUTE TO FLAG	9
ROLL CALL	9
APPROVAL OF PREVIOUS MEETING MINUTES	11
RESOLUTIONS	13
HEARINGS	
Iglesia Evangelica Apostoles y Profetas	227
541 42 nd Street, LLC	32
BHD Investments	111
1811 Bergenline Avenue, LLC	171
Gerardo Tan	193
Joseph Sosa	16
ADJOURNMENT	231

I N D E XJoseph Sosa - 640 36th StreetWITNESSPAGE

Orestes Valella

20

I N D E X

541 42nd Street, LLC
539-541 42nd Street

<u>WITNESS</u>	<u>PAGE</u>
Fernando Fernandez	39/88
David Karlebach	52/100
 <u>SWORN PUBLIC</u>	
Larry Price	93

E X H I B I T S

<u>NO.</u>	<u>DOCUMENT</u>	<u>PAGE</u>
A-1	Resolution Granting Variances and Site Plan Approval	107

I N D E XBHD Investments - 509-511 44th StreetWITNESSPAGE

Albert Arencibia
David Karlebach

112/146
130

SWORN PUBLIC

Larry Price

155

I N D E X

1811 Bergenline Avenue, LLC -
1811 Bergenline Avenue

WITNESSPAGE

Manuel Pereiras

172

SWORN PUBLIC

Larry Price

188

I N D E XGerardo Tan - 203 New York Avenue

<u>WITNESS</u>	<u>PAGE</u>
Manuel Pereiras	195
 <u>SWORN PUBLIC</u>	
Larry Price	220

1 THE SECRETARY: Please take notice that on
2 Thursday, November 17, 2016, at six p.m., a
3 Regular Meeting is scheduled for the Union City
4 Zoning -- Zoning Board of Adjustment to be held
5 in Municipal Chambers, located on the second
6 floor, 3715 Palisade Avenue, Union City, New
7 Jersey.

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

10

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

13

14 THE SECRETARY: Thank you.

15 Notice of this meeting has been provided as
16 follow:

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

24

25 **ROLL CALL:**

1

2

3

THE SECRETARY: Roll call for tonight's
meeting.

4

Andres Garcia? Absent.

5

Victor Grullon?

6

VICE CHAIRMAN GRULLON: Here.

7

THE SECRETARY: Margarita Gutierrez?

8

MS. GUTIERREZ: Here.

9

THE SECRETARY: Miguel Ortiz?

10

Miguel Ortiz is running a little bit late.

11

I have to write absent.

12

David Pressey? Absent.

13

Harlenny Javier? Absent.

14

Khaled Dardir? Absent.

15

John Medina?

16

MR. MEDINA: Here.

17

THE SECRETARY: Joseph Bonacci?

18

MR. BONACCI: Here.

19

THE SECRETARY: Libero Marotta?

20

MR. MAROTTA: Here.

21

THE SECRETARY: Peter Doumas? Absent.

22

Let the record indicate there are five

23

present. So, we have a Board made up five

24

members.

25

* * *

1 **APPROVAL OF PREVIOUS MEETING MINUTES:**

2

3 (1) Approval of previous meeting minutes from
4 October 13, 2016.

5

6 THE SECRETARY: Okay.

7 On tonight's agenda, we have approval of
8 previous meeting.

9 Can I have a motion to approve previous
10 meeting from --

11 VICE CHAIRMAN GRULLON: Make a motion to
12 approve the minutes --

13 THE SECRETARY: -- October 13, 2016?

14 VICE CHAIRMAN GRULLON: -- from the last
15 meeting.

16 MS. GUTIERREZ: And I'm seconding.

17 THE SECRETARY: Motion by Mr. Grullon.

18 Second by Mrs. Gutierrez.

19 Roll call on the motion.

20 Mr. Grullon?

21 VICE CHAIRMAN GRULLON: Yes.

22 THE SECRETARY: Mrs. Gutierrez?

23 MS. GUTIERREZ: Yes.

24 THE SECRETARY: Mr. Medina?

25 MR. MEDINA: Yes.

1 THE SECRETARY: Mr. Bonacci?

2 MR. BONACCI: Yes.

3 THE SECRETARY: Mr. Marotta?

4 MR. MAROTTA: Yes.

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

7

8 (Whereupon, Libero Marotta left the meeting
9 at 6:26 p.m.)

10 * * *

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 **RESOLUTIONS:**

2

3 (1) Lidia Nova - 704-706 New York Avenue, Block
4 37, Lot 17. Mixed use, bakery on ground floor
5 and two apartments above.

6 (2) Zohara 1601, LLC - 1601-1605 Manhattan
7 Avenue. New construction of a multi-family
8 building with nine residential units.

9

10 THE SECRETARY: We have two Resolutions on
11 tonight's agenda.

12 First Resolution.

13 Lidia Nova, 704-706 New York Avenue, Block
14 37, Lot 17.

15 And the second Resolution.

16 Zohara 1601, LLC, 1601-1605 Manhattan
17 Avenue.

18 Can I have a motion to adopt these
19 Resolutions?

20 VICE CHAIRMAN GRULLON: Make a motion to
21 adopt the Resolutions.

22 MS. GUTIERREZ: I'm seconding.

23 THE SECRETARY: Motion by Mr. Grullon.

24 Second by Mrs. Gutierrez.

25 Roll call on the motion.

1 The only Board members can vote on this --
2 on these Resolutions is Mr. Gullon, Mrs.
3 Gutierrez, Mr. Ortiz is not present, Mr. Pressey
4 is not present, Mr. Bonacci.

5 Only three Board members, they are present;
6 Mr. Gullon, Mrs. Gutierrez, and Mr. Bonacci.

7 Can I have a motion to adopt these
8 Resolutions?

9 VICE CHAIRMAN GRULLON: I make -- I make a
10 motion to --

11 THE SECRETARY: Motion by --

12 VICE CHAIRMAN GRULLON: -- adopt the
13 Resolution.

14 THE SECRETARY: -- Mr. Gullon.

15 MR. BONACCI: I'll -- I'll second that.

16 THE SECRETARY: Second by Mr. Bonacci.

17 Roll call on the motion to adopt these
18 Resolutions.

19 Mr. Gullon?

20 VICE CHAIRMAN GRULLON: Yes.

21 THE SECRETARY: Mrs. Gutierrez?

22 MS. GUTIERREZ: Yes.

23 THE SECRETARY: Mr. Bonacci?

24 MR. BONACCI: Yes.

25 THE SECRETARY: Three in favor.

1 Motion carries.

2 * * *

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 **Joseph Sosa - 640 36th Street:**

2

3 THE SECRETARY: We are going to change on
4 tonight's agenda, little bit, the order.

5 We are going to start with Joseph Sosa, 640
6 36th Street, Block 200.01 (sic), Lot 6.

7 Mrs. Pereiras, please?

8 MS. PEREIRAS: Thank you.

9 MR. PANEQUE: Thank you.

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

12 MR. SPATZ: But since he left the room, you
13 actually only -- four Board members.

14 THE SECRETARY: What happen? What -- we
15 do.

16 May I --

17 MR. SPATZ: Nothing --

18 THE SECRETARY: One second.

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

21 MR. SPATZ: Technically, you only got four
22 members here. You lost a quorum.

23 MR. PANEQUE: Yeah, we did. We lost --

24 MR. SPATZ: It's up -- yeah.

25 A PANEQUE: Yeah, we did.

1 MR. SPATZ: You have to -- yeah.

2 I think you can't do it if he's not in the
3 room.

4 MR. PANEQUE: Mr. Vallejo --

5

6 (Whereupon, Miguel Ortiz arrived at the
7 meeting at 6:28 p.m.)

8

9 THE SECRETARY: One -- one sec --

10 MR. SPATZ: All right.

11 Miguel Ortiz --

12 THE SECRETARY: Allow me one second.

13 MR. SPATZ: -- you have --

14 THE SECRETARY: Mr. Ortiz has joined the
15 meeting at this moment.

16 MR. ORTIZ: Good evening everyone.

17 MR. SPATZ: Correct. So now you have five.
18 So, you're okay.

19 MS. GUTIERREZ: Hello.

20 MR. SPATZ: Correct.

21 Huh?

22 Oh, it's 6:28.

23 THE SECRETARY: Six twenty-eight.

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

1 THE SECRETARY: Go ahead, Mrs. Pereiras.

2 We have five Board members.

3 MR. SPATZ: Right.

4 MR. PANEQUE: For the record, I've been
5 provided by Ms. Pereiras with a certification as
6 to publication and service, indicating that
7 notice of tonight's meeting was published in the
8 local paper, The Jersey Journal.

9 Said publication appeared on November 5th,
10 2016.

11 I've also been provided with the affidavit
12 from The Jersey Journal, indicating that the
13 publication, in fact, appeared on said date.

14 I've also been provided with a list
15 promulgated by the Union City Tax Assessor's
16 Office.

17 Said list is dated November 4, 2016, with
18 respect to the property located at 640 36th
19 Street, indicating all property owners within the
20 200 foot radius, those have been provided with a
21 certified mail receipt for notices that went out
22 to each of those property owners within the 200
23 foot radius.

24 Said certified mail receipts are postmarked
25 November 7, 2016.

1 And I've also been provided with the return
2 receipts that have come back, as well as the
3 envelopes that have come back unclaimed.

4 It appears from the proofs that have been
5 submitted that everything is in order, and
6 therefore, this Board has the jurisdiction to
7 hear this matter.

8 MS. PEREIRAS: Thank you, counsel.

9 Good evening, --

10 VICE CHAIRMAN GRULLON: You may proceed.

11 MS. PEREIRAS: -- Mr. Chairman.

12 Good evening, members of the Board.

13 May it please the Board, Bianca Pereiras,
14 on behalf of Joseph Sosa for his property located
15 at 640 36th Street, also known as Block 260.01,
16 Lot 6.

17 My client recently acquired this property,
18 and he acquired it as a two family. All records
19 that he had received indicated that this was a
20 two family, including the tax records.

21 When he went to obtain a building permit
22 just to renovate the inside of the building,
23 that's when he discovered that it, in fact, is
24 only recognized as a one family by the Building
25 Department.

1 As such, we are before this Board this
2 evening to legalize the second floor apartment.

3 We have one expert to testify before the
4 Board this evening, and that is our architect,
5 Mr. Orestes Valella.

6 MR. DILLON: Please raise your right hand.

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

9 MR. VALELLA: I do.

10 MR. DILLON: Please state your name and
11 spell it for the record.

12 MR. VALELLA: Sure.

13 Good evening.

14 My name is Orestes Valella, V-A-L-E-L-L-A.
15 I'm a registered architect in the States of New
16 York and New Jersey.

17 MS. PEREIRAS: And Mr. Valella has
18 testified before --

19 VICE CHAIRMAN GRULLON: Yes.

20 MS. PEREIRAS: -- this Board before.

21 VICE CHAIRMAN GRULLON: We accept his
22 qualifications.

23 MS. PEREIRAS: Thank you --

24 MR. VALELLA: Thank you, sir.

25 MS. PEREIRAS: -- very much.

1 VICE CHAIRMAN GRULLON: Thank you.

2 MS. PEREIRAS: Mr. Valella, are you
3 familiar with the property at 640 36th Street?

4 MR. VALELLA: Yes.

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

7 MR. VALELLA: Yes.

8 MS. PEREIRAS: And would you kindly walk
9 the Board through the application?

10 MR. VALELLA: Sure.

11 As counsel mentioned, this is an existing
12 structure that is functioning as a two family.
13 It's a two story house. Very good, very nice
14 condition.

15 You can see a photo of it on the -- on my
16 drawings, a view from 36th Street.

17 The second floor is the unit in question.
18 We are, at this point, not proposing any work
19 that needs to be done. Everything is existing
20 and there's really nothing. We're not taking a
21 -- a one family and converting it to a two. This
22 is an existing two family.

23 The property is located, as mentioned, on
24 36th Street, between Hackensack and -- Hackensack-
25 Plank Road and Kennedy Boulevard.

1 It's on a 25 by 77.06 lot. It has a front
2 porch, in -- on the front, there's a porch, two
3 stories. The ground floor has dwelling unit
4 number one, which is 473 square feet. It is a
5 one bedroom apartment; living room, kitchen,
6 bathroom.

7 And on the second floor is the second unit.
8 It's 529 square feet. It is a two bedroom;
9 living room, kitchen, bathroom.

10 There's nothing -- nothing to be done.
11 It's -- it's an existing. It has been for
12 awhile.

13 The property is in good condition, it's
14 well maintained. No complaints.

15 The zone is the R zone, the low density
16 residential. The lot area that would be required
17 was two -- 2500 square feet. This property is
18 undersized. It's 1,926.5 square feet.

19 Twenty-five foot lot width is required; 25
20 feet is provided.

21 A hundred foot depth is required; 77.06 is
22 existing.

23 The properties to either side, and to the
24 rear are developed without any opportunity for
25 expanding the -- the property.

1 The front yard would be ten feet, or the
2 prevailing setback. The existing condition is
3 zero.

4 Side yards would be two feet one. There's
5 .75 feet, or nine inches, and five feet, if
6 provided. And the existing is 5.75.

7 The rear yard requirement would be 25
8 percent of lot depth, which, in our case, would
9 be 31.6 feet.

10 Building coverage is 60 percent. We are at
11 45 percent.

12 Lot coverage is 85 percent. We're at 72
13 percent.

14 Maximum number of stories is three. We
15 have two.

16 Maximum height is 40. We're at 30.

17 Parking required would be three spaces, and
18 we have zero. There is no garage on the
19 property. It's an existing house. There is no
20 opportunity to -- as I mentioned, the porch is at
21 -- at the lot line. So, there is no opportunity
22 to -- to do that.

23 I don't see any need for any work to be
24 done. It's in immaculate condition. It's a nice
25 house.

1 VICE CHAIRMAN GRULLON: That complete your
2 presentation?

3 MR. VALELLA: I believe so.

4 I'd be happy to take any questions or so,
5 but if I can leave you with the impression this
6 is a nice, well maintained home that is a two
7 family. And --

8 VICE CHAIRMAN GRULLON: And did you get an
9 opportunity to visit the site?

10 MR. VALELLA: Yes.

11 VICE CHAIRMAN GRULLON: And according to
12 your opinion, everything was constructed at the
13 same time?

14 MR. VALELLA: Yeah, you can't tell.

15 VICE CHAIRMAN GRULLON: Yeah.

16 MR. VALELLA: You can't tell. It may have
17 started life -- you know, a hundred years ago, as
18 a one family. But you can't date --

19 VICE CHAIRMAN GRULLON: Yeah.

20 MR. VALELLA: -- when this change occur.
21 It's not datable. So, to me, it seems like it's
22 decades ago.

23 VICE CHAIRMAN GRULLON: And I can see that
24 according to the provided Tax Assessor documents,
25 I don't see the dates here on this, but it shows

1 | that it's a two family building.

2 | MS. PEREIRAS: That's correct.

3 | MR. VALELLA: This is not a recent vintage.
4 | This is decades and decades ago.

5 | VICE CHAIRMAN GRULLON: Yes. Ms. Pereira,
6 | --

7 | MR. VALELLA: Could have been in the '50s.

8 | VICE CHAIRMAN GRULLON: -- when did your
9 | client acquire the property?

10 | MS. PEREIRAS: It was very recently. I
11 | would just say a few months.

12 | I did not represent him in the purchase,
13 | but if I remember correctly -- please bear with
14 | me.

15 | It would have been January of 2016.

16 | VICE CHAIRMAN GRULLON: Mr. Valella, as you
17 | mentioned, there is no work to be done there.

18 | MR. VALELLA: No.

19 | VICE CHAIRMAN GRULLON: You're not --

20 | MR. VALELLA: No work to be done.

21 | VICE CHAIRMAN GRULLON: -- looking to --

22 | MR. VALELLA: I caution that. I -- I would
23 | have to -- once -- my normal practice of work is,
24 | if it approve -- gets approved, I go back later,
25 | because we have to submit drawings to the

1 Building Department, for a life safety check.

2 So, I may encounter -- you know, battery operated
3 smoke detectors that I would have to change.

4 But there is no work to the building.

5 There is no work that needs to be done to make it
6 bigger, smaller, wider. Anything of that nature.

7 MR. PANEQUE: If I may?

8 Mr. Valella, this has been brought to my
9 attention by our planner, Mr. Spatz.

10 MR. VALELLA: Um hum.

11 MR. PANEQUE: And that is that under our
12 Ordinance, we have a density requirement, based
13 on the square footage of the unit.

14 Can you address the density for these units
15 under our Ordinance, because I'm looking at the
16 unit on the first -- apartment one, it has 473
17 square foot, and that's a one bedroom.

18 MR. VALELLA: Yes.

19 MR. PANEQUE: Under the Ordinance, minimum
20 would be 550.

21 MR. VALELLA: Right.

22 MR. PANEQUE: And then, the apartment two
23 is listed as 529 square feet. And that's listed
24 as a two bedroom, which, under the Ordinance,
25 would be a 750 minimum density requirement.

1 MR. VALELLA: Right.

2 The -- the apartments --

3 Thank you.

4 -- the apartments, with respect to the size
5 of them and the density, are undersized with
6 regards to the Ordinance.

7 I do not wish, and it's not the nature of
8 the application to -- I think it would be worse,
9 do more harm to make the building bigger.

10 There is -- but it is undersized with
11 respect to the Ordinance. Yes.

12 MR. PANEQUE: Okay.

13 In your professional opinion, is there a
14 way to correct that, to make it in compliance
15 with the Ordinance, or it's something that
16 structurally cannot be?

17 MR. VALELLA: Well, the only thing that I
18 can say is on apartment number two, which is the
19 one before you, it is technically a two bedroom
20 apartment. The second bedroom is tiny, it's
21 seven feet by six feet.

22 We can eliminate that and make it a one
23 bedroom, as is the ground floor. And it then
24 would be at 529, which is very close to
25 compliance as a one bedroom. And I think that

1 would go -- that would be a gesture that would
2 help.

3 VICE CHAIRMAN GRULLON: Yes.

4 MR. PANEQUE: You would still need the
5 density variance though.

6 MR. VALELLA: I would still need it. The
7 -- the apartment would be 529, where 550 is
8 required. But we're a lot closer to compliance
9 than as if it remain.

10 And the second -- the first -- the bedroom
11 itself is seven times six, 42 square, so it's not
12 even a legal size.

13 So, I think it would -- it would be the
14 right thing to do.

15 MR. PANEQUE: Anything to add, Mr. Spatz?

16 MR. SPATZ: No. I -- I think that that
17 would certainly get it closer to conformity. The
18 apartments -- you know, I will say, were
19 constructed prior to the Ordinance having that
20 minimum square footage. So, they were built
21 before that.

22 You know, so it's sort of applying that --
23 that standard after the -- after the fact. But
24 since they are coming before the Board and they
25 are seeking variance and site plan approval, I

1 think it's reasonable for the Board to consider
2 those variances.

3 MR. VALELLA: No. I support, because --
4 you know, looking at it closely, seven by six is
5 42. So, it's substandard even as a bedroom. So,
6 it should not be.

7 VICE CHAIRMAN GRULLON: If there's any
8 matter -- they just -- they just purchase the --
9 the building, probably they -- the units are
10 vacant and they would have the opportunity to do
11 this adjustment.

12 MS. PEREIRAS: We would have no objection
13 to that.

14 VICE CHAIRMAN GRULLON: No objection.
15 Anything?

16 MR. PANEQUE: No. Any other questions?

17 VICE CHAIRMAN GRULLON: Yeah.

18 Any -- any other questions, guys?

19 MS. GUTIERREZ: No.

20 VICE CHAIRMAN GRULLON: At this time, I
21 just want to open this to the public.

22 Any members of the public want to step for
23 or against this application?

24 No one from the public.

25 And not -- I want to make a motion to

1 approve this application, with the condition to
2 -- to do the adjustment on the second floor
3 apartment, to convert it from two bedroom into a
4 one --

5 MR. VALELLA: Yes.

6 VICE CHAIRMAN GRULLON: -- bedroom unit.

7 MS. PEREIRAS: Absolutely.

8 MR. VALELLA: Yes.

9 VICE CHAIRMAN GRULLON: My motion to make
10 --

11 MS. GUTIERREZ: And I'm seconding.

12 VICE CHAIRMAN GRULLON: -- to approve.

13 MS. GUTIERREZ: All the conditions stated.

14 THE SECRETARY: Motion to approve the
15 application by Mr. Grullon.

16 Second by Mrs. Gutierrez.

17 Roll call on the motion.

18 Mr. Grullon?

19 VICE CHAIRMAN GRULLON: Yes.

20 THE SECRETARY: Mrs. Gutierrez?

21 MS. GUTIERREZ: Yes.

22 THE SECRETARY: Mr. Ortiz?

23 MR. ORTIZ: Yes.

24 THE SECRETARY: Mr. Bonacci?

25 MR. BONACCI: Yes.

1 THE SECRETARY: Mr. Medina?

2 MR. MEDINA: Yes.

3 THE SECRETARY: Mr. Marotta is absent.

4 MR. SPATZ: Right.

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

7 MS. PEREIRAS: Thank you all --

8 MR. VALELLA: Thank you.

9 MS. PEREIRAS: -- very much.

10 MS. GUTIERREZ: You're welcome.

11 MR. SPATZ: I'm going to head off.

12 THE SECRETARY: All right.

13 MR. SPATZ: I'll speak to you tomorrow.

14 Let me know how things --

15 THE SECRETARY: No problem.

16 MR. SPATZ: -- turn out.

17

18 (Whereupon, David Spatz left the meeting at
19 6:42 p.m.)

20 * * *

21

22

23

24

25

1 **541 42nd Street, LLC - 539-541 42nd Street:**

2

3 THE SECRETARY: Next application tonight's
4 agenda, 541 42nd Street, LLC, 539-541 42nd Street.

5 Mr. Alonso, please.

6 MR. PANEQUE: He's doing another meeting
7 for another Board. Do you want to hold off or --

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

10 MR. PANEQUE: For the record, I've been
11 provided by Mr. Alonso with an affidavit
12 indicating that notice of tonight's hearing, with
13 respect to the application for 539-541 42nd
14 Street, City of Union City, was properly given as
15 follows:

16 Notice was published in The Jersey Journal.
17 I have an Affidavit of Publication dated November
18 5th. That's the date of the notice, the date of
19 publication.

20 Also, the notices were sent to all owners
21 within the 200 foot radius on -- according to the
22 certified mail receipts which have been provided
23 dated November 5th.

24 I've also been provided with the green
25 cards that have come back to date. And a list

1 from the Union City Tax Assessor, which is dated
2 10/31/2016, indicating all property owners within
3 the 200 foot radius.

4 Based on the documents that have been
5 submitted, this Board has the jurisdiction to
6 proceed and hear this matter.

7 MR. ALONSO: Thank you, Mr. Paneque.

8 Mr. Chairman, members of the Board, I
9 apologize for my voice. I got a cold. If you
10 can't hear me, let me know. I'll try to do my
11 best, but I didn't want -- I didn't want to miss
12 the meeting.

13 VICE CHAIRMAN GRULLON: Thank you.

14 A VOICE: He has a cold.

15 A VOICE: Thank you.

16 MR. ALONSO: That's all right.

17 The Board may recall that this application
18 was started at a prior meeting. I submitted
19 notices, and we started with Mr. Fernandez, who
20 presented his testimony.

21 At that time, Mr. Spatz indicated that he
22 believed that we needed a D-2 variance, which we
23 did not notice for, because we didn't believe we
24 needed it because the building has not been
25 completed at this point.

1 So, what we did, in order to be
2 conservative, we went back, we re-noticed. We
3 re-published for today, with the additional D-2
4 variance relief being requested.

5 MR. PANEQUE: Okay. Mr. Alonso, let me
6 just stop you a second.

7 Are you coming in as a new application?

8 The other one was retracted, if -- if I
9 recall.

10 MR. ALONSO: No. It wasn't retracted.

11 MR. PANEQUE: So, you --

12 MR. ALONSO: It was just -- it was --

13 MR. PANEQUE: Is this a continuation?

14 MR. ALONSO: -- just carried.

15 MR. PANEQUE: So, it was carried and this
16 is a continuation.

17 MR. ALONSO: It's a continuation.

18 MR. PANEQUE: Okay.

19 MR. ALONSO: But the -- basically, the
20 jurisdiction is being taken as of today.

21 MR. PANEQUE: Okay.

22 MR. ALONSO: And I'm asking the Board to
23 consider the testimony as of today.

24 MR. PANEQUE: Okay.

25 The reason I stopped you a minute is

1 | because I don't think all of the members that are
2 | before you now were present when you started this
3 | application.

4 | I just want to verify that with Mr.
5 | Vallejo.

6 | Mr. Medina may have not have been here. So
7 | --

8 | MR. ALONSO: Right. But we're not -- we're
9 | not going to rely on the testimony.

10 | MR. DILLON: October meeting?

11 | MR. PANEQUE: Was it at the October meeting
12 | this happened?

13 | MR. ALONSO: I believe so.

14 | MR. DILLON: Yeah, Medina wasn't here.

15 | MR. PANEQUE: Okay. Medina -- Mr. Medina
16 | was not here.

17 | Therefore, if you're continuing with that
18 | application, and you want the prior testimony to
19 | be considered --

20 | MR. ALONSO: We don't.

21 | MR. PANEQUE: You do not.

22 | MR. ALONSO: We do not.

23 | MR. PANEQUE: Okay.

24 | MR. ALONSO: I'm -- I'm --

25 | MR. PANEQUE: So that's why I'm --

1 THE SECRETARY: It was placed on the
2 previous meeting.

3 MR. PANEQUE: Okay.

4 Yeah, Mr. Medina was not here.

5 THE SECRETARY: Medina --

6 MR. PANEQUE: Well, according to Mr.
7 Alonso, we did hear testimony, but --

8 MR. ALONSO: We -- we did. Mr. Fernandez
9 testified. He was the only witness who
10 testified.

11 MR. PANEQUE: Okay.

12 MR. ALONSO: So, I have Mr. Fernandez back
13 today.

14 MR. PANEQUE: Okay.

15 MR. ALONSO: He's going to re-present
16 entirely his testimony from the last meeting.

17 MR. PANEQUE: Okay.

18 MR. ALONSO: Because now, we have the
19 additional relief, so the Board should take the
20 jurisdiction as of today.

21 MR. PANEQUE: That's fine.

22 MR. ALONSO: Because we didn't have the
23 proper notice, based on Mr. Spatz's
24 interpretation, at the last meeting. So, we're
25 starting today.

1 I have Mr. Fernandez. I also have our
2 planner, who will testify as to the variances.

3 MR. PANEQUE: So, you're doing a full
4 presentation today.

5 MR. ALONSO: That's correct.

6 MR. PANEQUE: And therefore, the members
7 that are here would then be privileged to that
8 full presentation.

9 MR. ALONSO: Correct.

10 MR. PANEQUE: All right.

11 MR. ALONSO: And we will --

12 MR. PANEQUE: Thank you.

13 MR. ALONSO: -- not be relying on the prior
14 testimony, because Mr. Fernandez is going to be
15 presented.

16 MR. PANEQUE: That's fine.

17 VICE CHAIRMAN GRULLON: We could do this as
18 a new application.

19 MR. PANEQUE: We're going to --

20 VICE CHAIRMAN GRULLON: Instead of --

21 MR. PANEQUE: Everything is going to be
22 presented --

23 VICE CHAIRMAN GRULLON: Yes.

24 MR. PANEQUE: Yes.

25 MR. ALONSO: Okay.

1 Now, just a -- as a -- as a brief summary,
2 this is an application for a building that was
3 approved quite some time ago. Maybe about ten
4 years ago.

5 It started construction as a six unit
6 building. As a result of the downturn in the
7 economy, the developer, at that time, wound up
8 losing the building. The building has been
9 sitting there incomplete, and deteriorating, and
10 it's been basically open to the elements.

11 My client has purchased it through a
12 foreclosure process as the current owner. He's
13 -- went back and he's going to -- he's looking
14 for Board approval to amend those prior
15 approvals, that instead of six apartments, it's
16 going to be nine apartments.

17 The bedroom count has changed. So, the
18 bedroom count is actually the same, but the
19 apartment layouts have changed.

20 So, I'm going to have Mr. Fernandez testify
21 as to what was the original approval, that was
22 granted by this Board, and how we're seeking to
23 amend it.

24 So, with that said, I'd have Mr. Fernandez
25 sworn in.

1 MR. DILLON: Please raise your right hand.

2 Do you swear the testimony you're about to
3 give this Board is the whole truth?

4 MR. FERNANDEZ: Yes.

5 MR. DILLON: State -- state your name and
6 spell it for the record.

7 MR. FERNANDEZ: Fernando Fernandez,
8 F-E-R-N-A-N-D-E-Z.

9 MR. DILLON: Thank you.

10 MR. ALONSO: Mr. Chairman, Mr. Fernandez
11 was qualified at the last meeting. He presented
12 his qualifications to the Board.

13 I'm going to ask that he be -- continue to
14 be qualified as an architect.

15 VICE CHAIRMAN GRULLON: Yes.

16 MR. FERNANDEZ: Thank you.

17 VICE CHAIRMAN GRULLON: It's our pleasure.

18 MR. FERNANDEZ: Thank you.

19 MR. ALONSO: Thank you.

20 Mr. Fernandez, basically, what I just told
21 the Board, I'm going to ask you to explain what
22 is the existing condition of the building, what
23 was it originally approved for, and how are we
24 seeking to amend it?

25 MR. FERNANDEZ: The existing condition of

1 the building, basically, I would say that it's
2 about 80 percent completed. All the walls are
3 sheetrocked. The floor -- the floor -- the
4 finished flooring has been installed --
5 installed. The doors have been installed.
6 Windows have been installed. The roofing is
7 installed. The -- the walls and ceilings have
8 been primed. They're ready for paint. And
9 basically, the project was left.

10 Since then, the -- the building has taken a
11 lot of water through the roof. And the new
12 owners have made repairs to the structure to
13 basically make it water tight, and hold it tight.

14 We have met with the Building Department on
15 numerous occasions, including at the site to
16 review what was built, and to see the conditions
17 of what's there now.

18 And the -- basically, the approval -- the
19 -- the building was approved for a six unit
20 building back in 19 -- in 2007. About ten years
21 -- ten years ago.

22 The building was left empty for maybe five
23 years. I'm not sure of that time, but it's about
24 five years. I would say it's after 2008, 2009.

25 What we're proposing to do is turn the six

1 unit into a nine unit apartment building.

2 Before, it was meant to be a condominium
3 building for six units. The units were quite
4 large. They were 1600 square feet and about 1500
5 square feet of three -- of three bedrooms and
6 three of two bedroom units.

7 The -- the first floor was parking, and the
8 utility rooms. There is no basement on the
9 building. And there's three stories above the
10 parking. Two units existing per floor.

11 What we're proposing to do, in our
12 drawings, what -- what we -- what we indicate in
13 our drawings from CS1 to, basically, Sheet A5, is
14 the existing conditions of the building.

15 What we're showing -- what we're proposing
16 to do will be shown from Sheet A6 on. What I --
17 what we did here is basically color the same
18 sheets you have, so -- just to make it more
19 graphic and you could see it better.

20 Sheet A6 basically shows the -- the ground
21 floor, which is used for parking. The approval
22 -- the previous approval was for 11 parking
23 spaces. Eleven parking spaces will be provided
24 and maintained.

25 The utility rooms will be basically facing

1 the street. This is the street side, 42nd Street.
2 It's -- the building is located on the south side
3 of 42nd Street.

4 So, all the utilities and the entrance to
5 the building would be -- the lobby would be
6 through the northwest corner of the building,
7 with a stair and an elevator. And then, they
8 have the utility rooms for the electric, water
9 and gas, the sprinkler rooms.

10 And then, the rest is for parking. And
11 then, there's a second means of egress at the
12 southeast corner of the building, which is the
13 other stairs, which provide two means of egress
14 from the upper floors, and from the first floor,
15 also.

16 Basically, we're going to maintain that.
17 Whatever was built is shown on the sheets.

18 We're going to do some minor modifications,
19 and some minor retrofit, because we met with the
20 Building Department and some of the stuff that
21 was built wasn't in full compliance. So, we're
22 providing that, which is basically the width --
23 the landing of the stairs and the entrance to the
24 lobby from the -- from the parking area.

25 That's basically it that we're doing.

1 We're not proposing to enlarge the
2 building, per se. The volume of the building
3 will stay as is. We're not changing any of the
4 exterior look. The building will not get any
5 bigger.

6 What we're proposing to do, some minor
7 revisions to the exterior, which is at this
8 stairwell, on the upper floors, there's windows
9 facing the east side. That -- the Building
10 Department has requested that we make that
11 basically glass blocks, which we are going to do.

12 And then, on the second floor -- on the
13 second floor, there's an -- there's two existing
14 doors that provide access to the deck.

15 Our original plans only indicated for one
16 door. So, we're going to basically close off --
17 close off a door and provide a window.

18 The -- the -- Sheet A7 indicates the
19 proposed layouts. What we did is we reduced this
20 apartment, which is on the west side of the -- of
21 the structure, and we made it into a thousand
22 square feet unit, and we have a common corridor.

23 Before, there was no common corridor. The
24 elevators have private entrance to each of the
25 two apartments. Now, we're not doing that.

1 We're basically providing one common elevator,
2 and providing access, an ADA access to the entire
3 building, and to three units per floor.

4 So, what we've done is on the west side, we
5 maintain it as a two bedroom unit, with one
6 bathroom.

7 On the east side of the building, we --
8 we're providing, where it used to be three
9 bedrooms, we're providing one unit of two
10 bedrooms and one unit of one bedroom.

11 The 1600 square feet unit was turned into a
12 thousand square foot unit, and a 570 square feet
13 unit.

14 This is typical layout for all the three
15 floors.

16 On the -- on the third floor, we introduce
17 a common laundry room, which is located in this
18 corner.

19

20 (Whereupon, Libero Marotta returned to the
21 meeting at 6:55 p.m.)

22

23 MR. FERNANDEZ: So, the third floor will
24 have a common laundry room, with one washer and
25 dryer for each --

1 THE SECRETARY: Mr. Paneque?

2 MR. FERNANDEZ: -- of the floors.

3 THE SECRETARY: Allow me one second.

4 Mr. Marotta joined the meeting.

5 Go ahead, sir.

6 MR. FERNANDEZ: The units will be -- well,
7 basically, every floor is the same for three
8 floors.

9 And, once again, the only change we're
10 doing to the exterior is this window here, and
11 the door downstairs, which is at the rear of the
12 building.

13 MR. MAROTTA: Which one?

14 MR. FERNANDEZ: You would never see these
15 changes from the street. They're very -- very
16 hard to see them. They're basically in the back
17 of the structure.

18 MR. MAROTTA: That one, 42nd Street?

19 MR. MEDINA: Yeah, 42nd.

20 MR. FERNANDEZ: Sheet A9 indicates,
21 basically, the same layout as -- as the second
22 floor.

23 Where we had the laundry room on the third
24 floor, we're basically giving it back to the
25 unit. So, this unit gets a little bit bigger,

1 about 60 square feet bigger.

2 On the roof, the owner is intending to have
3 solar panels. And the owner, if this project was
4 approved as a nine unit, intends to follow
5 through and the get the building LEED certified.

6 This is, basically, the -- the roof will
7 basically be the same. The parapets around the
8 building are three foot six high above the roof.

9 The -- the panels will basically be
10 shielded from vision by -- from the street, by
11 these high parapets.

12 The condenser units for the air
13 conditioning units for each of the units will be
14 in the -- in this corner of the building. This
15 is the street side.

16 None of these will be visible from the
17 street.

18 This is the existing elevations and
19 pictures of the building. We're -- there's --
20 we're not intending to do any changes to it.
21 Everything will stay as is.

22 All of the previous requirements will be
23 complied with, as far as lighting on the exterior
24 and warning light for pedestrian from -- once the
25 garage door is open.

1 And that's basically it. As I -- I just
2 want to state that the building will stay as is.
3 The structure will not change. We're not adding
4 any square footage, we're not adding any floors,
5 we're not adding anything. All the work is
6 interior.

7 MR. ALONSO: Now, Mr. Fernandez, you
8 indicated that the building was approximately 80
9 percent completed before it was abandoned.

10 MR. FERNANDEZ: Yeah. I -- I would say, in
11 my opinion, it's about 80 percent completed.

12 MR. ALONSO: And as a result of being
13 effected by the elements, what is the condition
14 of the interior of the building?

15 MR. FERNANDEZ: There's some water have
16 penetrated through the roof, and down the walls.
17 The owner had to remove some of the finished
18 flooring that was installed. Some of the
19 Sheetrock has been removed and replaced. And of
20 course, the roof has been made water tight. The
21 bulk of the water was coming in from the roof.

22 MR. ALONSO: Okay.

23 Mr. Chairman, I have no further questions.

24 VICE CHAIRMAN GRULLON: I just want to say
25 something now, for the record.

1 Our procedure always we had to listen to
2 all your professional first. But for now -- for
3 now, we're going to do a little bit of change,
4 and we're going to -- we're going to ask
5 questions from the Board to -- to your
6 professional, to whoever is presenting.

7 And then, after our questions, you bring
8 your next person. And at the end, we open it to
9 the public for questions.

10 MR. ALONSO: That's fine.

11 VICE CHAIRMAN GRULLON: Yeah. I'm going to
12 have a question for you, Mr. Fernandez.

13 The height of the building is going to
14 remain the same?

15 MR. FERNANDEZ: The -- the height will stay
16 as is.

17 VICE CHAIRMAN GRULLON: Yes. And could you
18 explain again how it's going from six units --

19 MR. FERNANDEZ: Six units to nine units.

20 VICE CHAIRMAN GRULLON: -- to nine units?

21 MR. FERNANDEZ: The -- the -- basically,
22 the -- the change will be per floor on the
23 apartment floor. There's three floors.

24 Right now, this -- this wall, basically,
25 will stay where it is.

1 VICE CHAIRMAN GRULLON: Okay.

2 MR. FERNANDEZ: We're maintaining the
3 plumbing, bathrooms, the kitchen areas.

4 So, what we try to do is maintain the
5 plumbing pipes where they are, as much as we
6 could.

7 This unit here was a mirror image of this
8 one, but -- so, in order to provide the common
9 corridor, we had to basically destroy --

10 VICE CHAIRMAN GRULLON: Yes.

11 MR. FERNANDEZ: -- all the plumbing, and
12 all the electrical rooms that were located within
13 the interior of the apartments.

14 So, the -- the biggest change is in this
15 unit, on the west side.

16 VICE CHAIRMAN GRULLON: Okay.

17 MR. FERNANDEZ: This unit used to be a
18 three bedroom unit, with two bath. Now, it's
19 basically a two bedroom unit, and a one bedroom
20 unit with one bath each one.

21 What we did is, basically, the bedrooms are
22 the same. It's -- I believe it's 25 bedrooms
23 that we kept the same.

24 VICE CHAIRMAN GRULLON: Yes. I see.

25 MR. FERNANDEZ: And the bathrooms, each

1 unit will have one bathroom. Before, some of
2 them had two bathrooms.

3 So, the -- the bathrooms -- what we
4 removed, were taken over by three other kitchens.
5 So, it's an even, --

6 VICE CHAIRMAN GRULLON: Yeah.

7 MR. FERNANDEZ: -- basically, even swap.

8 VICE CHAIRMAN GRULLON: But the bedroom
9 count remain the same.

10 MR. FERNANDEZ: The bedroom count stays the
11 same.

12 VICE CHAIRMAN GRULLON: And -- and on Sheet
13 A7, could you explain the deck that you have
14 there? What's the reason for that?

15 MR. FERNANDEZ: The deck, basically, that's
16 what it was. It --

17 VICE CHAIRMAN GRULLON: Is that -- is that
18 --

19 MR. FERNANDEZ: -- this was previously
20 approved as a --

21 VICE CHAIRMAN GRULLON: Is that to be used
22 by the tenants?

23 MR. FERNANDEZ: It's basically -- right
24 now, the proposed -- so, is for only a door for
25 maintenance. So, it's not --

1 VICE CHAIRMAN GRULLON: For maintenance.

2 MR. FERNANDEZ: -- to be used for any
3 tenant.

4 VICE CHAIRMAN GRULLON: It's not a
5 recreation area there.

6 MR. FERNANDEZ: No. It's not meant --

7 VICE CHAIRMAN GRULLON: Oh.

8 MR. FERNANDEZ: It's just a roof deck.

9 VICE CHAIRMAN GRULLON: And the parking
10 area. The sizes of the parking. Could you go
11 over that?

12 MR. FERNANDEZ: The parking basically stays
13 as it was previously approved. It was 11 spaces.
14 Each of these -- we are providing one ADA space,
15 as the original approval was. And so, it's one
16 ADA space, with the striping for the -- for the
17 ADA space. And ten additional spaces, be -- so,
18 for a total of 11 spaces.

19 VICE CHAIRMAN GRULLON: But --

20 MR. FERNANDEZ: The sizes are eight and a
21 half by 16 feet. That's shown on A6. And -- and
22 parking stall number eight, that's the typical
23 size.

24 The ADA space is basically eight by 16,
25 with a five foot striped area.

1 VICE CHAIRMAN GRULLON: Okay.

2 I don't have any more question for the
3 architect.

4 Any member of the Board?

5 MR. MAROTTA: -- question for him.

6 VICE CHAIRMAN GRULLON: No, no question?
7 Could you bring your next --

8 MR. ALONSO: Our planner, Mr. --

9 VICE CHAIRMAN GRULLON: -- professional?

10 MR. ALONSO: -- Karlebach.

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

13 MR. DILLON: Please raise your right hand.

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

16 MR. KARLEBACH: I do.

17 MR. DILLON: State your name and spell it
18 for the record.

19 MR. KARLEBACH: David Karlebach,
20 K-A-R-L-E-B-A-C-H.

21 MR. DILLON: Thank you.

22 MR. ALONSO: Mr. Chairman, Mr. Karlebach
23 has been before this Board --

24 VICE CHAIRMAN GRULLON: Yes, has been in
25 front of this Board on many occasions. We accept

1 his qualification.

2 Thank you.

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

4 Mr. Karlebach, can you please review your
5 planning analysis?

6 MR. KARLEBACH: Certainly.

7 First, I'd like to talk a little bit about
8 the site, and the surrounding area, and the prior
9 approval.

10 MR. MAROTTA: Would you please -- excuse
11 me?

12 Please keep your voice up a little so I can
13 --

14 MR. KARLEBACH: Certainly. I will, sir.

15 MR. MAROTTA: Thank you.

16 MR. KARLEBACH: This site is located on the
17 west side of the town, near the North Bergen
18 border.

19 The surrounding roads consist of JFK, which
20 is a major artery. So you have good
21 accessibility. It's mid-block on 42nd Street.
22 So, it is a local road, a few blocks removed.

23 Excuse me.

24 A few lots removed from JFK Boulevard.

25 In terms of surrounding land uses, there

1 are many three family homes in the area, on 25 by
2 100 foot lots. And that was a representation
3 made by Kathryn Gregory, a professional planner,
4 at the 2007 hearing. And it's also noted in the
5 Board's 2007 approving Resolution.

6 It consists of two tax lots, Lots 49 and 50
7 in Block 123.

8 The geometry is in substantial compliance
9 with the dimensional requirements of the zone.
10 That is the width is greater than 50 feet and the
11 area is 5,000 square feet.

12 It's fully developed with a four story
13 building, with three living levels above parking.

14 And the plan, of course, is to convert this
15 from six dwelling units to nine dwelling units.

16 You heard the architect's testimony. No
17 additional building area. Okay. Fewer
18 bathrooms. No change in the outward appearance
19 of the building from the street, only from the
20 rear of the building. And no change in the
21 bedroom count. It's still going to be five
22 bedrooms per floor.

23 As far as the grounds are concerned,
24 there's no change there. The parking at ground
25 level is the same. Eleven total parking spaces,

1 | ten plus one ADA compliant space.

2 | This property is located in the R
3 | residential district, which is -- primarily at
4 | one, two and three family dwellings. It also
5 | allows churches, parking lots, clubs, schools and
6 | daycare.

7 | So, the applicant is seeking the following
8 | relief from the Ordinance:

9 | Amended site plan approval, a D-1 use
10 | variance because multi-family is not permitted in
11 | the zone. It was, however, approved by way of
12 | use variance in 2007.

13 | A D-5 density variance is required. Six
14 | units were approved in 2007, and now the
15 | conversion is to nine units which, in effect,
16 | increases the density of the site.

17 | And there's an amended Residential Site
18 | Improvement Standard exception from the parking
19 | requirements. The original application, in 2007,
20 | required 12 spaces; 11 were provided. And under
21 | the RSIS standards, now 18 parking spaces are
22 | required.

23 | Now, there are some --

24 | MR. ALONSO: Now, Mr. --

25 | MR. KARLEBACH: Excuse me.

1 MR. ALONSO: -- Karlebach, before you
2 proceed with that --

3 MR. KARLEBACH: Um hum.

4 MR. ALONSO: -- just for the record, the
5 density variance was -- in 2007 was different
6 than it is today.

7 Based on your Zoning Ordinance, as -- as
8 been changed, the density now is -- is
9 interpreted in terms of the size of the units.
10 But in terms of the size of the units, we comply.

11 So, we don't need a density variance as you
12 now interpret it, with respect to the size. But
13 we just increase the number of units that was
14 originally approved under a density variance back
15 then. But it doesn't -- no longer applies, but
16 just to be consistent, we're -- we're indicating
17 it as a D-5, but technically, we don't need the
18 D-5 --

19 MR. KARLEBACH: Umm.

20 MR. ALONSO: -- because the size of the
21 units are larger than what's required.

22 In addition, we need -- we're asking for
23 the D-2 variance. And the D-2 variance is a --
24 is an expansion of a preexisting, nonconforming
25 use.

1 The reason why originally we did not notice
2 it as -- as such is because since the building
3 was never completed, and a CO was never issued,
4 it couldn't have been a preexisting,
5 nonconforming use. However, and again, in order
6 to be conservative, we're going to present
7 testimony that the building, even though not
8 completed, we're expanding that as a preexisting,
9 nonconforming use.

10 So, I'll ask Mr. Karlebach to make sure he
11 addresses that.

12 MR. KARLEBACH: Yes. Absolutely.

13 And when we -- normally, when we talk about
14 expansion cases, we talk about instances where
15 you're increasing the amount of building area, or
16 maybe you're increasing the volume of the
17 building, you're increasing population or
18 employment at the site, additional municipal
19 services may be required, more refuse being
20 generated, the hours of operation changing.

21 Those are all planning considerations that we
22 wrestle with when we talk about expansion cases.

23 But here, we don't have any of that. The
24 building remains exactly the same size. So, in
25 -- I guess in a very technical senses, yes,

1 | there's an expansion. But in a practical sense,
2 | as a practical matter, it's not really an
3 | expansion at all.

4 | And I'm going to say the same thing about
5 | density. The Board has their method of
6 | interpreting density. The State of New Jersey
7 | has a method of interpreting density. They tell
8 | us it's measured in dwelling units per acre.

9 | Now, I'm going to gave (sic) the -- give
10 | the same speech I've given this Board many times
11 | before. Most planners will tell you that's an
12 | inadequate measure of density.

13 | And the reason is this. A studio apartment
14 | is one dwelling unit. A five bedroom house is
15 | one dwelling unit. Do they have the same
16 | impacts? Of course not. They both have very
17 | different requirements.

18 | So, maybe over a large project, where you
19 | have a mixture of various types of housing
20 | styles, in that way, it may be appropriate to
21 | measure density in dwelling units per acre.

22 | But as far as I'm concerned, and many other
23 | of my colleagues, the best way to measure density
24 | is in terms of bedrooms per acre. Bedrooms per
25 | acre.

1 And then, with this application, there's no
2 change in the number of bedrooms. It remains
3 constant.

4 So, there's no increase, there's no
5 projected increase in population, there's no
6 projected increase in intensity of use at the
7 site.

8 In fact, you heard testimony there's going
9 to be three fewer bathrooms. So, that suggests
10 to me there may be even less people living in
11 this building.

12 So, let's just talk again about the
13 justifications for the amended use relief, and
14 we'll run through the Medici test.

15 In terms of site suitability, the first
16 part of the positive criteria is passed because
17 the site continues to be particularly well suited
18 for the use, by virtue of its condition.

19 Right now, you have oversized units, 1600
20 square foot units, very much oversized for Hudson
21 County, in my estimation, easily adaptable to
22 smaller units.

23 By virtue of its context, the building mass
24 already is found to be compatible with the
25 surrounding land uses.

1 The Board has already made that
2 determination. There's been no fundamental
3 change in this neighborhood that should alter
4 that opinion.

5 And by virtue of the need, the proposed
6 unit sizes are more inline with today's demand
7 for rental units, which would be in a 500 to
8 1,000 square foot range.

9 In terms of the special reasons, which
10 would be the second prong of the positive
11 criteria, that's passed because the project does
12 advance several important purposes of the
13 Municipal Land Use Law.

14 Purpose A.

15 The project continues to promote public
16 welfare with new housing stock for a growing
17 population.

18 Purpose M of the Land Use Law.

19 The project promotes the efficient use of
20 land, an adaptive reuse of an existing building,
21 probably represents the most efficient use of
22 land you can imagine.

23 Purpose I.

24 The project promotes a desirable visual
25 environment. And that was another finding of the

1 Board in their prior approving Resolution.

2 The Board found that -- excuse me, while I
3 -- the -- well, excuse me.

4 It says, the Board found that the project
5 will have a desirable visual environment by the
6 construction of a new residential building.

7 So, all those purposes of Land Use Law are
8 advanced.

9 In terms of the public impact, which is the
10 first prong of the negative criteria, that's
11 passed. I don't believe this project will cause
12 any substantial detriment to the public good.

13 The added density does not equate to
14 overcrowding or over-intensity of use.

15 And I can't emphasize this enough.

16 Same number of bedrooms.

17 The alterations of the smaller units is
18 more conducive to non-families, meaning you're
19 not going to have a lot of school aged children
20 generated by this new proposal, and it will
21 comply with all Codes.

22 In terms of impact on the zone plan, the
23 second prong of the negative criteria is passed,
24 and that the relief will not substantially impair
25 the intent and purpose of the zone plan.

1 The prevailing theme in the City's Master
2 Plan, dating back to 1975, and continuing to
3 2009, has always been a trend towards multi-
4 family development, and providing new housing
5 opportunities.

6 I'm just going to read a section from the
7 2009 Master Plan.

8 It says, as indicated in the land use study
9 and plan of 1975, this trend towards multi-family
10 development is, in part, due to the lack of
11 vacant land, increasing value of underdeveloped
12 lots -- or excuse me -- undeveloped lots, the
13 need for rental units, and increasing cost of
14 living. This trend continues today.

15 And they go on to say, this mix of
16 residential uses in varying densities, provides
17 the City with great potential to enhance its
18 active and culturally rich diverse neighborhoods.

19 That's the 2009 Plan.

20 In terms of the justification for the
21 amended density relief. I believe that this
22 application does pass the standard of the Grubbs
23 test, which means the applicant does not have to
24 meet the enhanced quality of proof required by
25 applicants that need a use variance, or a D-1

1 variance.

2 In essence, the test is whether or not the
3 site can accommodate the problems associated with
4 the increase in density.

5 And here, there are no problems because the
6 building area remains the same, the bedrooms
7 remain the same. There's no change to any aspect
8 of this project, other than re-dividing or
9 subdividing the units.

10 In terms of the positive criteria, all of
11 those elements of the Land Use Law that I
12 mentioned earlier, the purposes of zoning, those
13 all carry forth.

14 The added density enhances the viability of
15 a beneficial housing project.

16 The added density produces units that are
17 more appropriately suited for today's market
18 demand.

19 And, I think, most importantly, the most
20 important aspect of this application, Board
21 members, it allows the building to be utilized
22 for its intended purpose. Okay.

23 Good planning is rooted in fairness and
24 equity. And I think what's being proposed here
25 is a fair and equitable solution to a problem

1 | that exists at this site.

2 | MR. ALONSO: Mr. Chairman, I have no -- no
3 | further questions.

4 | VICE CHAIRMAN GRULLON: I have one
5 | question.

6 | Could you compare -- could you compare what
7 | you just say about the school -- school aged
8 | childrens, between the previous application and
9 | this application, six bedroom -- I mean, six
10 | units and nine units?

11 | MR. KARLEBACH: Well, there -- there are
12 | more units, but they're going to be smaller
13 | units. And chances are you're not going to have
14 | somebody raising a family in a 500 square foot
15 | unit.

16 | So, in the prior application, you had 1200
17 | square foot units; 1600 square foot units, very
18 | much conducive to family life.

19 | By downsizing them, you're not guaranteeing
20 | -- you know, that you're not going to have school
21 | children, but you're certainly reducing the
22 | likelihood of it.

23 | VICE CHAIRMAN GRULLON: In your opinion,
24 | would have less impact to the schools?

25 | MR. KARLEBACH: Absolutely. Less impact to

1 the school. And I -- and I should have
2 mentioned, the parking. I failed -- I don't know
3 how I failed to mention the parking, but I did.

4 Let's talk about the parking relief because
5 I see that I didn't mention that.

6 I believe there is a -- a hardship here.
7 And that relief relates to practical difficulty
8 created by the land and lawfully existing
9 structures.

10 The parking lot is already there, and
11 there's no additional adjacent land available to
12 increase that parking area.

13 So, in that way, the Nash standard, which
14 is what we used, has been satisfied.

15 What I'm saying is the hardship here
16 actually satisfies the positive criteria, as it
17 relates to a C variance. No opportunity to
18 create additional parking at this site.

19 But the benefit is the efficient use of
20 space. The additional parking, I feel, is
21 unnecessary and wasteful. You have a lot of
22 alternatives, a lot of mass transit opportunities
23 in this area.

24 Certainly, you have bus service along the
25 main arteries, along JFK. You have the light

1 rail station at the corner of 49th and Bergenline.
2 There's many surface parking lots in this
3 neighborhood.

4 And I'll note, a short distance from the
5 site, to the southeast, there's a municipal lot.
6 It has a three hour time limitation. It's
7 metered parking. But to me, that's perfect for
8 visitors of this particular building. Very short
9 distance from the site.

10 So, again, I think the parking supply does
11 meet the actual demand in this particular
12 instance, because there is no bedroom increase.
13 And the Board has already considered the
14 deficient parking when it granted that RSIS
15 exception back in 2007.

16 So, I think that's it. I think that covers
17 everything including the parking.

18 VICE CHAIRMAN GRULLON: I don't have any
19 more -- any -- any questions.

20 Do you have any questions, any Board
21 member?

22 MR. MAROTTA: Yeah, I have a question.
23 Yeah, I have a question.

24 You say that the Medici requirement of an
25 enhanced quality of proof is not required.

1 MR. KARLEBACH: Yes.

2 MR. MAROTTA: Why?

3 MR. KARLEBACH: Well, it's not required
4 because -- I think I was talking specifically,
5 now, as it relates to the D-5 variance, the
6 density variance.

7 MR. MAROTTA: No. I'm talking about -- I'm
8 talking about the variance that you're seeking.

9 MR. KARLEBACH: Right.

10 MR. MAROTTA: Not the D-5. The use
11 variance.

12 MR. KARLEBACH: The use variance.

13 MR. MAROTTA: Do you require an enhanced
14 quality of proof for the use variance?

15 MR. KARLEBACH: Yes. And I believe I -- I
16 provided that. I talked about the special
17 reasons, and the negative criteria, and the
18 particular suitability.

19 So, I -- I did meet all -- I did meet all
20 of the four steps of Medici.

21 MR. MAROTTA: Excuse me.

22 When I ask a question, when you answer it,
23 you stop. Okay?

24 MR. KARLEBACH: Okay.

25 MR. MAROTTA: Because I have other

1 questions.

2 Please, all right?

3 Now, you testified that you require 18
4 parking spaces, and you only provide 11.

5 MR. KARLEBACH: Yes.

6 MR. MAROTTA: Correct?

7 MR. KARLEBACH: Correct.

8 MR. MAROTTA: Now, what about the visitors?
9 You got -- you got nine units now. Isn't there a
10 formula that there's one parking space for every
11 three units?

12 MR. KARLEBACH: One parking space for every
13 three units?

14 MR. MAROTTA: Yeah. Yeah. This building's
15 going -- there's nine units here. Right? You're
16 seeking to go from six to nine.

17 MR. KARLEBACH: Right.

18 MR. MAROTTA: Right?

19 Now, these occupants of these units,
20 they'll all have visitors.

21 Right?

22 MR. KARLEBACH: Yes.

23 MR. MAROTTA: Where will they park?

24 MR. KARLEBACH: Well, that's -- first of
25 all, I think the visitors are built into the

1 parking calculation. When I said 18 parking
2 spaces are required, that assumes visitor
3 parking, as well.

4 MR. MAROTTA: No, it does not. The 18
5 parking spaces is for the existing nine units,
6 not -- that does not include visitors. Visitors
7 -- there's additional units -- additional spaces
8 required.

9 MR. KARLEBACH: May -- maybe by the City's
10 Ordinance, possibly, but we know that the
11 Residential Site Improvement Standards,
12 promulgated by the State, supercedes local
13 authority, when it comes to parking for multi-
14 family units.

15 MR. MAROTTA: Are -- are you saying that
16 the 18 -- 18 parking spaces that are required
17 includes the visitors who come?

18 Is that your testimony?

19 MR. KARLEBACH: My testimony is -- and may
20 I say --

21 MR. MAROTTA: Yes or no? Is that your
22 testimony?

23 MR. KARLEBACH: That is my testimony.

24 MR. MAROTTA: Okay.

25 MR. KARLEBACH: I can tell you, I helped

1 develop those standards.

2 MR. MAROTTA: Let me ask you this.

3 Eighteen, you provide 11. To me, my
4 mathematics tells me that's 39 percent.

5 MR. KARLEBACH: Right. And --

6 Correct.

7 MR. MAROTTA: Would you say 39 percent is
8 substantial?

9 MR. KARLEBACH: Well, under different
10 circumstances, I would say it's substantial.

11 But, the -- the Residential Site
12 Improvement Standards also have very specific
13 provision that talks about local conditions. And
14 local conditions can mean the availability of
15 mass transit in the area, and other parking
16 opportunities, especially in city environments.

17 So, they're really leaving it up to the
18 locality. They're -- they're saying -- you know,
19 these are not hard and fast rules. We're going
20 to -- we're going to empower planning boards and
21 boards of adjustment to adjust our standards,
22 based on the availability of mass transit.

23 And I did mention bus service along JFK. I
24 did mention the light rail station at 49th and
25 Bergenline. And I did mention the availability

1 of surface parking for visitors, a short distance
2 from the site.

3 I think all of those factors, in concert,
4 reduce the parking demand at this site.

5 MR. MAROTTA: You know, it's unfortunate we
6 don't have a judge here, because in a courtroom,
7 a judge would have stopped you and told you to
8 answer the question only.

9 MR. ALONSO: Mr. Chairman --

10 MR. MAROTTA: Let me ask you this question.

11 MR. ALONSO: Mr. Chairman, Mr. -- Mr.
12 Karlebach --

13 MR. MAROTTA: Where --

14 MR. ALONSO: -- is answering the question.

15 MR. MAROTTA: Where are these -- you got --
16 you got -- you require 11 (sic), you have 18
17 (sic).

18 Where are these seven cars going to park?

19 MR. KARLEBACH: Well, the -- the hope and
20 the expectation is that not every unit owner is
21 going to have a car, that they're going to rely
22 on mass transit.

23 MR. MAROTTA: Excuse me. I'm going to
24 interrupt you now. Okay?

25 You require 18, you're only providing 11.

1 That leaves seven.

2 Now, in some -- in some homes, there's a
3 husband and wife, they both own a car. Okay.
4 So, let's stick with what -- the facts we have
5 here.

6 I want to know from you where these seven
7 cars are going to park?

8 MR. ALONSO: Well, Mr. Marotta, if you
9 listen to the testimony, the facts are that there
10 are not going to be an additional seven cars.

11 MR. MAROTTA: I'm asking your -- your
12 expert, where are these cars going to park?

13 MR. KARLEBACH: I --

14 MR. MAROTTA: I'll -- I'll put it in a
15 different way.

16 In what -- in what crosswalk are they going
17 to park, or in what bus stop are they going to
18 park, because that's all we have in Union City
19 today.

20 MR. ALONSO: Mr. Chairman, again, the
21 testimony is clear that there's a -- there's a
22 justification for the granting of the variance,
23 because we don't expect that the demand is going
24 to be to the full 18; that there's a
25 justification because, based on the use and --

1 and the availability of additional parking, and
2 this type of development in the area, that 11 is
3 going to be more than sufficient to meet the
4 demand.

5 So, there is no additional seven parking
6 spaces, so that's an answer -- a question that
7 cannot be answered.

8 MR. MAROTTA: Are you under oath?

9 MR. ALONSO: No. I --

10 MR. MAROTTA: Did you take the oath?

11 MR. ALONSO: No. I'm advocating a
12 position.

13 MR. MAROTTA: Yeah. I know you're --

14 MR. ALONSO: I'm an attorney.

15 MR. MAROTTA: -- advocating.

16 MR. ALONSO: I'm an attorney here.

17 MR. KARLEBACH: Can I --

18 MR. MAROTTA: But let me finish my
19 examination.

20 VICE CHAIRMAN GRULLON: Mr. --

21 MR. KARLEBACH: Well --

22 VICE CHAIRMAN GRULLON: Mr. Marotta?

23 MR. MAROTTA: Okay.

24 VICE CHAIRMAN GRULLON: He -- he provide
25 testimony that they have 11 parking spaces. And

1 | they are requiring for a variance, because seven
2 | parking spaces that they don't have.

3 | You know, I think we're accepting that
4 | testimony for now. And we -- we will have a
5 | chance to go open the application.

6 | MR. MAROTTA: I didn't finish. Can I
7 | finish?

8 | VICE CHAIRMAN GRULLON: Yeah. Continue.

9 | MR. MAROTTA: Thank you very much.

10 | I still want to know, where will these
11 | seven cars park?

12 | MR. KARLEBACH: Okay. My testimony was
13 | there's not going to be an additional seven cars.
14 | And let -- allow me just to elaborate on my
15 | answer.

16 | I want to remind the Board of its findings
17 | in 2007. And this is set forth in Paragraph 21
18 | of the Resolution.

19 | The Board is of the opinion that the waiver
20 | for on-site parking is justified from the
21 | Residential Site Improvement Standards. The
22 | applicant is providing at least one on-site
23 | parking space per unit.

24 | The Board is familiar with the
25 | neighborhood, and notes that mass transportation

1 is available in the area.

2 So, the Board itself -- I'm not going to
3 say made a determination, but talked about one
4 on-site parking space per unit.

5 MR. MAROTTA: Excuse me?

6 MR. KARLEBACH: Okay?

7 MR. MAROTTA: Are you reading from the
8 memorialization Resolution?

9 MR. KARLEBACH: Yes.

10 MR. MAROTTA: That was prepared by the
11 attorney for the applicant.

12 Wasn't it?

13 MR. ALONSO: No, it was not. It was -- it
14 was prepared by the -- the Board attorney. And
15 even if it was prepared by the --

16 MR. MAROTTA: You still didn't answer my
17 question, where these seven cars are going to
18 park.

19 MR. ALONSO: It was memorialized by the
20 Board.

21 MR. KARLEBACH: I -- I don't know what to
22 say, other than I'm going to let my testimony
23 stand.

24 MR. MAROTTA: All right.

25 Let me --

1 MR. KARLEBACH: I've answered your
2 question.

3 MR. MAROTTA: Let me go back to this.

4 The 39 percent; to me, that's substantial.
5 And to me, that's a substantial impairment of the
6 -- of the Code.

7 Do you agree?

8 MR. KARLEBACH: No.

9 MR. MAROTTA: Okay.

10 Do you agree that 39 percent is
11 substantial?

12 MR. KARLEBACH: Not in this neighborhood.

13 MR. MAROTTA: Not in the -- why not?

14 MR. KARLEBACH: No.

15 As I said, because of the availability of
16 mass transit options; because of the expectation
17 that people will not -- not every unit owner will
18 have a car; and because of the availability of
19 surface parking lots in the area. Those are all
20 contributing factors.

21 Now, I would agree, in a suburban
22 environment, that's not -- that doesn't have mass
23 transit opportunities, that yes, 39 percent would
24 be substantial in that instance.

25 MR. MAROTTA: The mass transit you're

1 | talking about is where?

2 | MR. KARLEBACH: Well, the bus service,
3 | which is -- you know, on basically every avenue.

4 | MR. MAROTTA: On Bergenline Avenue there's
5 | bus service.

6 | MR. KARLEBACH: There's bus service --

7 | MR. MAROTTA: And on Kennedy Boulevard.

8 | MR. KARLEBACH: Yes. And --

9 | MR. MAROTTA: And what else?

10 | MR. KARLEBACH: And the light rail station
11 | at 49th and Bergenline.

12 | MR. MAROTTA: You got to walk from 41st
13 | Street to 49th Street.

14 | MR. KARLEBACH: Yeah.

15 | MR. MAROTTA: That's easy. Right?

16 | Especially when it's raining out or when it's
17 | snowing out.

18 | That's easy for the people of Union City to
19 | do that.

20 | Right?

21 | Is that what you're saying?

22 | MR. KARLEBACH: I'm just going to let my
23 | testimony stand.

24 | VICE CHAIRMAN GRULLON: Mr. --

25 | MR. KARLEBACH: I think I've said

1 everything --

2 VICE CHAIRMAN GRULLON: Mr. Marotta, he --

3 MR. KARLEBACH: -- I want to say about the
4 parking.

5 VICE CHAIRMAN GRULLON: Mr. Marotta, he
6 answered that question. Please move on to a next
7 question. And he already answer the parking
8 require -- the parking variance requirement.

9 MR. MAROTTA: And let me ask you this one
10 more question.

11 VICE CHAIRMAN GRULLON: Please, not about
12 the parking.

13 MR. MAROTTA: Because I'm concerned about
14 the enhanced quality of proof.

15 MR. KARLEBACH: Um hum.

16 MR. MAROTTA: Do you know of any case law
17 that says the enhanced quality of proof is not
18 required here?

19 MR. KARLEBACH: No, it's required for a use
20 variance, for a D-1 variance.

21 MR. MAROTTA: I have no more questions.

22 MR. BONACCI: Can I chime in for a second?

23 VICE CHAIRMAN GRULLON: Sure.

24 MR. BONACCI: I think, a little bit of the
25 issue that we're having here is that possibly,

1 | like the market for the units would be, let's
2 | say, Gothamites, people who work in New York
3 | City, but they're going to live here and they're
4 | going to commute back and forth, through mass
5 | transit, like you're saying, and the parking
6 | won't be an issue.

7 | That's a possibility.

8 | But I think that Mr. Marotta is thinking,
9 | well, what if every unit actually does have a
10 | car? And what if every unit has not only one
11 | car, but multiple cars?

12 | So, I understand that you guys are going to
13 | stick with your original testimony, and we're
14 | going to have to -- you know, make a prediction
15 | here that it's quite possible, whoever the market
16 | is, doesn't -- you know, all need a car or a
17 | space, or something like that.

18 | But I understand Mr. Marotta's position,
19 | because he's thinking in terms of what we already
20 | have here is an overabundance of cars, and not
21 | enough spaces.

22 | But I guess we're just going to have to --
23 | you know, suspend the doubts and go with the fact
24 | that, okay, who's going to be living there? And
25 | is it possible that everybody is going to have a

1 | car that takes up these units?

2 | It's possible, but in reality -- you know,
3 | most likely, I'm thinking more on the side of
4 | it's not going to take up as many spots as we're
5 | thinking.

6 | But that's just my position here.

7 | MR. ALONSO: What's it --

8 | MR. BONACCI: The way I'm looking at it.

9 | MR. ALONSO: Two issues there.

10 | Number one is, the bedroom count hasn't
11 | changed, so the same number of people are going
12 | to be living in it, whether it's six units or
13 | nine units.

14 | So, I believe that if the Board found, in
15 | the past, that 11 parking spaces was sufficient
16 | for the bedroom count, that should carry over
17 | again.

18 | The other thing is that, myself, as well as
19 | a number of professionals that are in this room,
20 | have been doing this for a long time in this
21 | area, and one of the benefits to that is we see a
22 | lot of these projects actually get built and --
23 | and be operated.

24 | And if you drive through all of North
25 | Hudson, you'll find that a lot of these parking

1 | lots are not 100 percent occupied by cars. If
2 | you drive at night, when the lights are on in the
3 | garage and you could actually see in there,
4 | you'll see a lot of vacant parking spaces. And a
5 | lot of my clients who have built, maintained, and
6 | owned, and operate these buildings will tell you,
7 | we don't have a hundred percent occupancy in the
8 | parking garages, because not everybody has a car.

9 | So, I feel comfortable coming to this Board
10 | and making that representation that we don't
11 | believe -- that we honestly believe, it's not
12 | speculation that you see in a lot of these
13 | applications as to what the impact is going to
14 | be, but based on track record of things that have
15 | been approved by these Boards, all throughout
16 | North Hudson, and constructed, that we honestly
17 | believe that the parking demand is not as great
18 | as the RSIS requirements are, as indicated by Mr.
19 | Karlebach.

20 | MR. BONACCI: Okay. That's fair enough for
21 | me.

22 | VICE CHAIRMAN GRULLON: One more thing, Mr.
23 | Karlebach.

24 | On the -- on the area, did you get the
25 | opportunity to look for probably parking in the

1 area? Did you see any --

2 MR. KARLEBACH: Well, I -- as I -- I
3 mentioned, there is one a short distance from the
4 site, which is between 41st Street and 42nd
5 Street, as you're traveling southeast away from
6 the site. And there is parking available in that
7 lot. I've seen it on several occasions. That
8 lot is not filled.

9 It's only parking for three hours. But as
10 I said, that's probably good for visitors.

11 But I am aware, just from the neighborhood,
12 there are other surface parking lots in this
13 neighborhood. I didn't make an inventory of
14 them.

15 MR. ALONSO: And --

16 MR. MAROTTA: Excuse me?

17 MR. ALONSO: And that's metered parking,
18 which I believe is suspended after six o'clock at
19 night.

20 MR. MAROTTA: Excuse me?

21 I was born in Union City, and continue to
22 live all my life in Union City, so I'm quite
23 familiar with the Union City situation.

24 Our situation is that we have a parking
25 problem here. Okay?

1 The Board of Commissioners had to adopt an
2 Ordinance to permit parking in bus stops. They
3 park in -- on sidewalks, and they park in
4 crosswalks, and the police do not summons them
5 because there's no parking in the City.

6 Now, in my opinion, I don't know if you
7 agree with me, parking, to me, is a part of the
8 quality of life. And if I, as a resident of the
9 City have to drive 15 or 20 minutes to look for a
10 parking space, and then park six minutes -- six
11 blocks from where I live, that's affecting my
12 quality of life.

13 Would you agree?

14 MR. KARLEBACH: I -- I would agree with
15 that. And I would remind the Board that this
16 neighborhood has many three family homes with no
17 parking. No garage parking, no driveway.

18 MR. MAROTTA: You're talk --

19 MR. KARLEBACH: That's the biggest --

20 MR. MAROTTA: You're talk -- excuse me.
21 You're talking about preexisting, nonconforming
22 uses.

23 MR. KARLEBACH: Correct.

24 MR. MAROTTA: Okay. That's before we had a
25 --

1 MR. KARLEBACH: I understand.

2 MR. MAROTTA: Before we had a Zoning
3 Ordinance. Okay? So don't --

4 MR. KARLEBACH: I understand.

5 MR. MAROTTA: -- give us that argument. It
6 doesn't carry any water.

7 MR. ALONSO: Excuse me?

8 Mr. Marotta, he will testify as he sees
9 fit. Please don't try to instruct him how he's
10 going to testify. And please, don't be so
11 argumentative.

12 MR. MAROTTA: I could testify if I --

13 MR. ALONSO: Please show -- please show the
14 witness --

15 MR. MAROTTA: I could testify. I'm a
16 member of this Board. I --

17 MR. ALONSO: But I -- I would --

18 MR. MAROTTA: It's my experience in the
19 City.

20 MR. ALONSO: -- just ask that you show the
21 same decorum --

22 MR. MAROTTA: Don't tell me I can't
23 testify.

24 MR. ALONSO: I'm just going to ask you to
25 please show the same decorum that we're expected

1 to show the Board.

2 MR. MAROTTA: Mr. Chairman --

3 VICE CHAIRMAN GRULLON: Mr. --

4 MR. MAROTTA: -- I think --

5 VICE CHAIRMAN GRULLON: Mr. Alonso, do you
6 have any other witness?

7 MR. ALONSO: I do not. The only -- I have
8 Mr. Fahmie, who is the owner of the property. It
9 was not my intention to call him --

10 VICE CHAIRMAN GRULLON: Actually --

11 MR. ALONSO: -- as a witness, but if you'd
12 like, I could call him.

13 VICE CHAIRMAN GRULLON: No. I have a
14 question for you.

15 You -- you mentioned that you have an
16 application for -- for the six -- for the six
17 unit.

18 MR. ALONSO: That was approved.

19 VICE CHAIRMAN GRULLON: That is approved.

20 MR. ALONSO: Correct.

21 VICE CHAIRMAN GRULLON: And it still
22 approved. No, it's still --

23 MR. ALONSO: That's still valid.

24 VICE CHAIRMAN GRULLON: Still valid.

25 Okay. You have a valid application for the

1 same lot, with the same amount of cars. And you
2 could move on with the same application.

3 MR. ALONSO: That's correct.

4 VICE CHAIRMAN GRULLON: But the reason why
5 you increasing the amount of -- of units is
6 because of making it more affordable to the -- to
7 the public.

8 MR. ALONSO: Correct. It just doesn't make
9 sense to have 1600 square foot rental units.

10 VICE CHAIRMAN GRULLON: But you -- the
11 existing -- the approval that you have is -- is
12 active.

13 MR. ALONSO: Absolutely.

14 VICE CHAIRMAN GRULLON: Yes.

15 MR. ALONSO: It's currently valid.

16 VICE CHAIRMAN GRULLON: Yeah. Okay.
17 Valid.

18 MR. MAROTTA: But Mr. Chairman, I want to
19 point out that the applicant testified that he
20 did a feasibility study --

21 MR. ALONSO: I'm going to --

22 MR. MAROTTA: -- at the last meeting.

23 MR. ALONSO: And I'm just going to object
24 to that because we're not relying on any --

25 MR. MAROTTA: And that he would get --

1 MR. ALONSO: -- any other testimony --

2 MR. MAROTTA: -- more income from nine
3 units than he would from six units.

4 MR. ALONSO: And again, that was --

5 MR. MAROTTA: And I --

6 MR. ALONSO: -- testimony from the past --
7 from the last meeting, which I indicated we were
8 not relying on any of that testimony, because the
9 notices were submitted as of today, and that's
10 why I had the witnesses testify anew, as of
11 today.

12 MS. GUTIERREZ: Um hum.

13 MR. PANEQUE: Mr. Alonso?

14 Mr. Spatz is no longer with us this
15 evening. He had to leave but --

16 MR. ALONSO: Correct.

17 MR. PANEQUE: -- he does have a memo here,
18 and there's some points that he asked that we
19 address.

20 MR. ALONSO: Sure.

21 MR. PANEQUE: In his memo, he wanted
22 testimony regarding the access to the ground
23 floor parking, is from a curb cut on 42nd Street.
24 He's suggesting that the applicant provide
25 testimony on whether there is going to be any

1 changes to that curb cut and existing conditions.

2 MR. ALONSO: I'll have Mr. Fernandez come
3 back up.

4 MR. PANEQUE: Yes.

5 There's two other questions that we have to
6 --

7 MR. ALONSO: Sure.

8 MR. PANEQUE: -- address just for the
9 record.

10 MR. ALONSO: Sure.

11 MR. PANEQUE: Just so that we have it on
12 the record.

13 If you could ask your architect that
14 question?

15 MR. FERNANDEZ: No. There won't be any
16 change from what was previously approved.

17 MR. PANEQUE: All right.

18 So, the curb cut is remaining the same as
19 it is --

20 MR. FERNANDEZ: Yes.

21 MR. PANEQUE: -- now.

22 All right.

23 The second issue that Mr. Spatz notes here,
24 and that's probably for Mr. Fernandez, also,
25 street trees are shown along 42nd Street.

1 MR. FERNANDEZ: Yes.

2 MR. PANEQUE: Those are still going to be
3 there?

4 MR. FERNANDEZ: Yes.

5 MR. PANEQUE: Okay.

6 And then, the last issue Mr. Spatz notes
7 here is, the applicant should clarify the size of
8 the units on the third floor. The sizes shown on
9 the table differ from what is shown on the floor
10 plan.

11 And I'll call your attention to the -- page
12 A7. And I did note that Mr. Spatz is correct,
13 and Mr. Fernandez, if you could just clarify it?
14 I believe that might be a typo, but we just need
15 clarification as per Mr. Spatz.

16 MR. DILLON: Excuse me? If you're going to
17 testify from there, you do have to put the mic
18 on. I thought you were just --

19 Sorry.

20 MR. FERNANDEZ: That's okay.

21 MR. PANEQUE: Third floor plan is --

22 MR. FERNANDEZ: Okay. It's Sheet A7.

23 MR. PANEQUE: A8.

24 MR. FERNANDEZ: Oh, A8?

25 MR. PANEQUE: Yes.

1 And actually, if I may, Mr. Fernandez, your
2 A8 is not the same that we have here, because
3 that's in color.

4 The one we have here, just for the record,
5 shows apartment one on the -- on the table, says
6 750 square feet, which is not --

7 MR. FERNANDEZ: That's a typo.

8 MR. PANEQUE: That's a typo.

9 MR. FERNANDEZ: The correct --

10 MR. PANEQUE: And then apartment two --

11 MR. FERNANDEZ: -- size is 1,080 square
12 feet.

13 MR. PANEQUE: Okay.

14 Then, apartment two on the table says 880
15 square feet.

16 MR. FERNANDEZ: That's a typo. It's 570.

17 MR. PANEQUE: Okay.

18 And then apartment three says a thousand
19 square feet.

20 MR. FERNANDEZ: Yeah. That is correct.

21 MR. PANEQUE: All right.

22 So, the first two apartments on the table,
23 on A8, is a typo.

24 MR. FERNANDEZ: Yeah. These two --

25 MR. PANEQUE: On your --

1 MR. FERNANDEZ: And these two are constant,
2 in the three floors.

3 MR. PANEQUE: Okay.

4 MR. FERNANDEZ: This --

5 MR. PANEQUE: So your --

6 MR. FERNANDEZ: -- one is changes.

7 MR. PANEQUE: All right.

8 MR. FERNANDEZ: Slightly.

9 MR. PANEQUE: So, just so that the record
10 is clear, you're correcting Sheet A8 to reflect
11 the same size as the other sheets for the --

12 MR. FERNANDEZ: Yes.

13 MR. PANEQUE: -- apartments.

14 All right. That takes care of the issues
15 that Mr. Spatz raised.

16 VICE CHAIRMAN GRULLON: Mr. -- Mr.
17 Fernandez, now that you're there, I just have one
18 more thing about the parking.

19 You're going to -- are you proposing to
20 provide mirror and lighting for the pedestrian --
21 for the cars, when they get out?

22 MR. FERNANDEZ: Yes.

23 VICE CHAIRMAN GRULLON: For the parking?

24 MR. FERNANDEZ: We -- we show, in the --
25 basically, we kept the same -- the same type of

1 fixtures that were mandated by the previous
2 approval, which is a pedestrian alert sign for
3 the garage --

4 VICE CHAIRMAN GRULLON: Yes.

5 MR. FERNANDEZ: -- so that when this door
6 opens, this light will flash and --

7 VICE CHAIRMAN GRULLON: With the strobe
8 light.

9 MR. FERNANDEZ: -- warn the --

10 VICE CHAIRMAN GRULLON: Okay.

11 MS. GUTIERREZ: Um hum.

12 MR. FERNANDEZ: -- people that -- that
13 there -- that someone's coming out through the --
14 through the garage.

15 VICE CHAIRMAN GRULLON: Thank you, Mr.
16 Fernandez.

17 You said, do you have any more witness?

18 MR. ALONSO: I do not, but my client is
19 here. If the Board has any questions, I'll --
20 I'll be happy to bring him up, but it was not my
21 intention to have him testify.

22 MR. BONACCI: I just want to make sure that
23 I have something just cleared up here.

24 So, you guys already have approval for the
25 six unit original one.

1 MR. ALONSO: Correct.

2 MR. BONACCI: However, now, you got a --
3 you know, a better property, with respect to the
4 enhancements, with the roof that was leaking
5 before, the fact that it's been sitting there.
6 And as you said earlier -- you know, open to the
7 elements and what not. The pedestrian signs.

8 But you know, most importantly, now we've
9 got a space with more affordable housing than we
10 did before. I don't think that that's something
11 that we should -- you know, overlook.

12 At the end of the day, that's -- that's a
13 big deal.

14 VICE CHAIRMAN GRULLON: Yeah.

15 At this time, I just want to open the
16 application to the public.

17 Any member of the public?

18 Mr. -- Mr. Price, please come forward.

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

21 MR. DILLON: Please raise your right hand.

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

24 MR. PRICE: I do.

25 MR. DILLON: State your name for the

1 record.

2 MR. PRICE: Larry Price, 1006 Palisade
3 Avenue.

4 MR. DILLON: Thank you.

5 MR. PRICE: Could I beat up Mr. Fernandez
6 for a second?

7 MR. ALONSO: No, you can't beat him up but
8 you could ask him a question.

9 MR. PRICE: Sure I can. He's a -- he's
10 little. And he's old, like me.

11 MR. ALONSO: Tough guy.

12 MR. PRICE: Can I stand next to him?

13 MS. GUTIERREZ: That's not nice.

14 MR. PRICE: You can still --

15 MR. DILLON: I'd feel better if you stood
16 --

17 MR. PRICE: Yeah.

18 MR. DILLON: -- by that mic.

19 MR. PRICE: Okay.

20 VICE CHAIRMAN GRULLON: You can bring that
21 closer here.

22 MS. GUTIERREZ: You don't want to be close
23 to him.

24 MR. PRICE: Okay. The -- the -- well, the
25 first -- leave that.

1 The first question I have, originally, you
2 had two apartments per floor. One was 1600
3 square feet, one was 1400 square feet.

4 MR. FERNANDEZ: Correct.

5 MR. PRICE: Total of --

6 MR. FERNANDEZ: About 3,000 square feet.

7 MR. PRICE: Three thousand square feet.

8 Now, you're going to have three apartments
9 per floor. One will be a thousand, second one
10 will be a thousand, and the third will be 570.
11 So, that's twenty-five hundred and -- say 2600
12 square feet. So, you lose 400 square feet. I
13 guess it's because of the corridor?

14 MR. FERNANDEZ: Exactly. Yes. This.

15 MR. PRICE: Okay.

16 So, you're actually -- you have more
17 apartments, but less living space.

18 MR. FERNANDEZ: Yes.

19 MR. PRICE: Okay.

20 Okay. Let me ask about the parking spaces.

21 You said the parking spaces are eight and a
22 half by 16.

23 MR. FERNANDEZ: Eight and a half by 16.

24 The --

25 MR. PRICE: That's all of them?

1 MR. FERNANDEZ: Yeah. This one will be the
2 same size, but it will have a five foot striping
3 area for the ADA.

4 MR. PRICE: Okay.

5 MR. FERNANDEZ: This is the ADA space.

6 It's the same size that was previously
7 approved. We didn't change anything.

8 MR. PRICE: Okay.

9 Okay. I have two questions about -- first
10 -- first question is, what is the RSIS
11 requirement for parking --

12 MR. FERNANDEZ: Parking --

13 MR. PRICE: -- space?

14 MR. FERNANDEZ: -- spaces?

15 It depends on the municipality. Some
16 municipalities allowed eight by 18. Some, we see
17 eight by 17. Some are nine by 20.

18 There's -- there's all different kinds of
19 variations that we see through municipalities.

20 MR. PRICE: Well --

21 MR. FERNANDEZ: From our experience.

22 MR. PRICE: Okay.

23 But -- but the RSIS requirement is what?

24 MR. FERNANDEZ: I can --

25 MR. PRICE: That's the State requirement.

1 MR. FERNANDEZ: I cannot say that because
2 typically, when we design for parking stalls,
3 it's a residential -- it's a municipal
4 requirement, not a State requirement.

5 MR. PRICE: Because --

6 MR. FERNANDEZ: So, the municipalities --

7 MR. PRICE: -- they give you a waiver.

8 MR. FERNANDEZ: -- have their own sizes.

9 MR. PRICE: Municipalities do that when
10 they give you a waiver from the RS --

11 MR. FERNANDEZ: No, no, no. Municipalities
12 have a parking size, no matter what. This is
13 their standards. And they're not all the same in
14 every town.

15 MR. PRICE: Oh, I --

16 MR. FERNANDEZ: I would tell you that we --

17 MR. PRICE: I can --

18 MR. FERNANDEZ: -- we receive approvals for
19 a project in Englewood for parking spaces that
20 were seven feet wide by 16 feet long, because
21 they realize that a lot of people are buying
22 smaller cars. And some towns don't -- don't
23 recognize that. They still believe that the cars
24 are as big as they were 20 years ago.

25 MR. PRICE: Okay. Well, I'll just --

1 MR. FERNANDEZ: And -- and I would say, in
2 this -- in this -- these -- these parking spaces
3 are probably very big. That you might -- you --
4 you probably won't need them that big. But
5 that's what was previously approved.

6 MR. PRICE: I'll just quote Mr. Karlebach,
7 who says the RSIS, being a State statute, or
8 State Administrative Law, outweighs municipal
9 requirements.

10 MR. FERNANDEZ: Well --

11 MR. PRICE: And the -- the requirement --

12 MR. FERNANDEZ: We haven't seen that --

13 MR. PRICE: -- is nine by 18.

14 MR. FERNANDEZ: -- in all the projects that
15 we've done in 30 years, every town has their own
16 standards for sizes of parking.

17 MR. PRICE: The only question was, what's
18 the RSIS?

19 MR. FERNANDEZ: I don't know, because we
20 don't follow it.

21 MR. PRICE: Okay.

22 MR. FERNANDEZ: We follow whatever --

23 MR. PRICE: You don't know.

24 MR. FERNANDEZ: -- is the municipal size.

25 MR. PRICE: That's -- that's fine.

1 Okay.

2 The RSIS require -- by the way, you have
3 three spaces there against the eastern wall.

4 MR. FERNANDEZ: Yes. And as -- as per the
5 last approval.

6 MR. PRICE: Okay.

7 MR. FERNANDEZ: We haven't changed
8 anything.

9 MR. PRICE: Okay.

10 But there -- those spaces are also only 16
11 feet wide.

12 MR. FERNANDEZ: They're -- they're 20 feet
13 wide. Those are longer.

14 MR. PRICE: Oh, those --

15 MR. FERNANDEZ: Those are longer.

16 MR. PRICE: Okay. That was the ques --

17 The -- the requirement on the street for
18 parallel parking is 23 feet.

19 MR. FERNANDEZ: Well, these are 20. That's
20 what --

21 MR. PRICE: So these are 20. Okay.

22 So, fine.

23 Thank you very much, sir.

24 MR. FERNANDEZ: You're welcome.

25 And I didn't get beat up.

1 Thank you.

2 MR. PRICE: Okay. Now I have a few
3 questions for the planner.

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

6 MR. PRICE: Okay. Question?

7 The previous approval and Resolution, I
8 guess hearing, were in 2007.

9 Correct?

10 MR. KARLEBACH: Yes.

11 MR. PRICE: Okay. You were quoting from
12 the Resolution that was adopted. Is that
13 Resolution going to become part of the record for
14 tonight?

15 MR. KARLEBACH: You'll have to ask Mr.
16 Alonso that question.

17 MR. ALONSO: We'll submit a copy of it. We
18 can submit a copy of it.

19 MR. PRICE: All right. Part of the record.
20 Okay.

21 Now, you had me a little confused. Is this
22 a new application, or an amended application?

23 MR. KARLEBACH: My understanding is it's an
24 amended application.

25 MR. PRICE: An amendment to the 2007

1 application.

2 MR. KARLEBACH: Yes.

3 MR. ALONSO: Correct. We're seeking to
4 amend the site plan approval and variances.

5 MR. PRICE: Well, no. That's -- that's a
6 little bit -- the first question is, is this a
7 new application, or is this an amendment to the
8 2007 application?

9 MR. ALONSO: It's an amendment to what was
10 previously approved.

11 MR. PRICE: You're seeking an amendment to
12 that Resolution, but the question still is, what
13 kind of application do we have here tonight?

14 MR. ALONSO: It's -- essentially, it's a
15 new application, but we're seeking to amend the
16 prior approvals. It's a new application.

17 MR. PRICE: Okay. Well, okay. Okay.

18 So, it's a -- it's a new application.
19 Basically, you have an existing structure, but
20 you're saying, I put in a new application. I
21 need a D-1 use variance in order to create this.

22 MR. ALONSO: Correct.

23 MR. PRICE: And you also need a D-2
24 variance --

25 MR. ALONSO: Based on Mr. Spatz's

1 interpretation, I don't believe so. But to the
2 extent that he indicated so, we provided the
3 testimony, just to be --

4 MR. PRICE: For a --

5 MR. ALONSO: -- safe.

6 MR. PRICE: -- D-2.

7 MR. ALONSO: Correct.

8 So, to the extent that we need it, we're
9 requesting it.

10 MR. PRICE: Okay.

11 Okay. I didn't quite understand why the
12 density variance is required today, in 2016. It
13 was required in 2007.

14 MR. ALONSO: Right. Again, I -- I
15 clarified that to the Board, that we are seeking
16 it simply to be conservative, to cover the base,
17 just in case an argument was made that we needed
18 it.

19 In 2007, based on that Ordinance, it -- a
20 D-5 density variance was required and granted.

21 There's a new Ordinance in place. Based on
22 the interpretation of that Ordinance, it's no
23 longer units per acre, but the size of the units.

24 MR. PRICE: Correct.

25 MR. ALONSO: So the -- the standard for the

1 density calculation has changed. We don't need
2 the D-5 density variance as it pertains to the
3 size of the units, which would be the standard
4 today.

5 MR. PRICE: Correct.

6 MR. ALONSO: But we increased the density
7 that was approved in 2007. So, to the extent
8 that someone says, you know what, you -- you
9 should require it, we asked for it.

10 MR. PRICE: Okay.

11 MR. ALONSO: And provided the testimony.

12 MR. PRICE: Okay.

13 Okay. I make a comment to the Board.

14 I'm looking at the notice and this -- this
15 whole thing is a little bit confusing, but I
16 would point out that in the notice that was given
17 on November 5th, that it says, the applicant --
18 consider the application of my client, who
19 proposes to construct a new nine family house,
20 with 11 off-street parking spaces in the R zone.

21 Okay. Now, the requirement of a notice is
22 that a person of normal -- whatever -- is
23 apprised of --

24 This is not going to be a new building.
25 It's -- it's an existing building. We've had

1 testimony --

2 MR. ALONSO: There's no -- there's no CO.

3 It's not -- it's not --

4 MR. BONACCI: It's never been used.

5 MR. ALONSO: It hasn't been completed yet.

6 MR. PRICE: But your --

7 MR. ALONSO: It still -- once it's -- when
8 it's completed, it will be a new building.

9 MR. BONACCI: Has it ever been occupied?

10 MR. ALONSO: Never.

11 MR. BONACCI: No?

12 Okay.

13 MR. MEDINA: It's empty.

14 Right?

15 MR. ALONSO: Empty. Never been completed.

16 Once it's completed, whether it's as a six unit
17 or a nine unit, it will be a new building.

18 MR. PRICE: But you're giving a technical
19 response.

20 The legal requirement for notice is that an
21 ordinary citizen, of ordinary experience can look
22 at this notice and be apprised of whether he
23 should have an interest in it or not.

24 MR. ALONSO: Correct.

25 MR. PRICE: And he is reading new building

1 on --

2 MR. ALONSO: But -- but I think in order to
3 make that argument, you should read the full
4 notice, and put that, what you just stated, in a
5 proper context, because then it goes on to say,
6 by seeking to amend the previously approved six
7 unit to a nine unit.

8 So, when you say I'm building a new
9 building that's nine units, and we previously had
10 six units approved, and now we're going to go
11 from a six to a nine. Anybody who's reading that
12 is going to say, okay, that building still has
13 not been completed. And they'll say, they're
14 going to make that from a six unit that was
15 previously approved, into a nine unit.

16 I don't have to spell out, as if -- as if I
17 was testifying, what the -- what the requirements
18 are for what we're seeking. It's just notice.

19 MR. BONACCI: It's a notice.

20 MR. PRICE: Well, it -- the whole thing is
21 confusing. I don't know how you could make it
22 clear, but I think a member of the general
23 public, reading this notice, might not understand
24 exactly what is going --

25 MR. ALONSO: Mr. Price, did you understand

1 it?

2 MR. PRICE: What?

3 MR. ALONSO: Did you understand it?

4 MR. PRICE: I'm probably not a member of
5 the general public.

6 MR. ALONSO: You are.

7 Did you understand it?

8 Did you under --

9 MR. PRICE: I have a little more experience
10 in --

11 MR. ALONSO: Did you under -- did you
12 understand it?

13 MR. PRICE: No. As a matter of fact, I did
14 not.

15 MR. ALONSO: Okay.

16 MR. PRICE: Which is why I -- I asked the
17 question, is this a new application? It's a new
18 application to amend an old approval.

19 That's confusing.

20 No. I didn't understand it.

21 Okay.

22 Thank you.

23 You will -- you will submit a copy for the
24 record?

25 MR. KARLEBACH: It's up to Mr. Alonso.

1 MR. ALONSO: Let me see something.

2 VICE CHAIRMAN GRULLON: Any other member of
3 the public want to step forward?

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

6 MR. ALONSO: This is all marked up, but --
7 just for the record, I'll just provide a copy of
8 the -- the Resolution.

9 MR. PANEQUE: Can we have that marked, Mr.
10 Alonso?

11 We'll have this as A-1.

12

13 (Whereupon, Resolution Granting Variances
14 and Site Plan Approval was received and marked as
15 Exhibit A-1.)

16

17 VICE CHAIRMAN GRULLON: No other member of
18 the public?

19 At this time, close it -- closing to the
20 public.

21 Mr. Alonso, considering that this
22 application, you have an approval for the six
23 units, and it's still valid to -- under the
24 construction for the six unit, what you're
25 seeking is to -- just to increase the amount of

1 -- of units, without increasing the bedroom
2 counts, and it's no changes being made to the
3 exterior of the building, and it's --

4 Again, I want to mention that this is a
5 place that has been -- it's been -- you know,
6 unoccupied for a few years. And now it's going
7 to have the opportunity to -- to bring new
8 residents to the area.

9 I make a motion to grant this -- this
10 application.

11 THE SECRETARY: Motion to grant the
12 application by Mr. Grullon.

13 MS. GUTIERREZ: And I'm seconding.

14 THE SECRETARY: Second by Mrs. Gutierrez.

15 Roll call on the motion.

16 Mr. Grullon?

17 VICE CHAIRMAN GRULLON: Yes.

18 THE SECRETARY: Mrs. Gutierrez?

19 MS. GUTIERREZ: Yes.

20 THE SECRETARY: Mr. Ortiz?

21 MR. ORTIZ: Yes. Yes.

22 THE SECRETARY: Mr. Medina?

23 MR. MEDINA: Yes.

24 THE SECRETARY: Mr. Bonacci?

25 MR. BONACCI: Yes.

1 THE SECRETARY: Mr. Marotta?

2 MR. MAROTTA: The applicant, in my opinion,
3 has failed to satisfy the negative criteria.

4 Thirty-nine percent is a substantial
5 impairment of our Code, number one.

6 Number two, putting an additional seven
7 vehicles on the streets of Union City, with the
8 problems that we have in our City today, is
9 detrimental to the public good.

10 And in addition to that, we've had
11 testimony from the applicant himself that he did
12 a feasibility study, and that there will be more
13 income with nine units than six units.

14 And I -- I submit that I'm of the opinion
15 that if not the main reason, but probably the
16 main reason to go from six units to nine units is
17 for the increased income. And under the law, we
18 cannot grant ordinances (sic) for increased
19 income applications.

20 Therefore, I think the Board is incorrect
21 in -- in approving this. I vote no.

22 THE SECRETARY: No by Mr. Marotta.

23 Five in favor, one against, motion carries.
24 The application has been approved.

25 Thank you, Mr. Alonso.

1 MR. FERNANDEZ: Thank you, Board.

2 Thank you --

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

5 * * *

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 **BHD Investments - 509-511 44th Street:**

2

3 THE SECRETARY: All right.

4 Next application, tonight's agenda, BHD
5 Investment, 509-511 44th Street.

6 Mr. Alonso, please?

7 MR. ALONSO: Mr. Chairman, members of the
8 Board, for the record, Alvaro Alonso, Alonso
9 Navarette.

10 MR. ARENCIBIA: Excuse me?

11 I can't hear you.

12 VICE CHAIRMAN GRULLON: Could you raise
13 your voice?

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

16 MR. ALONSO: Notices were presented at the
17 prior meeting, and the case was adjourned to this
18 evening.

19 No testimony was presented at that case --
20 at that time.

21 VICE CHAIRMAN GRULLON: You all remember
22 doing the application that was prior -- at
23 previous meeting.

24 MR. PANEQUE: All he did was presented the
25 notices.

1 VICE CHAIRMAN GRULLON: Oh, did the
2 notices.

3 MR. PANEQUE: Yeah. No --

4 VICE CHAIRMAN GRULLON: Okay.

5 MR. PANEQUE: No testimony was given.

6 MR. ALONSO: No, no testimony.

7 MR. PANEQUE: Right, Mr. Alonso?

8 VICE CHAIRMAN GRULLON: Okay.

9 MR. ARENCIBIA: I got dressed up, but
10 nothing happened.

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

13 MR. ALONSO: Okay.

14 Did you swear him in yet?

15 MR. DILLON: Please raise your right hand.

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

18 MR. ARENCIBIA: Albert Arencibia.

19 MR. DILLON: State your name for the
20 record.

21 MR. ARENCIBIA: Yes.

22 MR. DILLON: You got it.

23 MR. ALONSO: Thank you.

24 Mr. Chairman --

25 MR. ARENCIBIA: A little dyslexic. Sorry.

1 Yes, I do certify whole -- whole truth.

2 My name is Albert Arencibia,

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

4 MR. DILLON: Thank you.

5 MR. ALONSO: Mr. Chairman, Mr. Arencibia
6 has been --

7 VICE CHAIRMAN GRULLON: Yes. Mr. Arencibia
8 --

9 MR. ALONSO: -- before the Board.

10 VICE CHAIRMAN GRULLON: -- has been in
11 front of our Board, many occasions.

12 MR. ARENCIBIA: Thank you very much.

13 VICE CHAIRMAN GRULLON: Welcome back.

14 MR. ARENCIBIA: Just to help Mr. Alonso
15 along here, basically, this is an application for
16 a six family home. The property is on 44th
17 Street, right off of Bergenline Boulevard. So,
18 it's adjacent to the rear and there's some
19 commercial establishments on -- on Bergenline
20 Boulevard.

21 MR. ALONSO: Bergenline Boulevard?

22 MR. ARENCIBIA: Bergenline Avenue. Excuse
23 me.

24 Thank you, Mr. Alonso.

25 In any case, so what we have is an

1 application for six -- six family. Basically,
2 the configuration is sort of like a three family,
3 three family attached in the middle.

4 So, what happens is, we have the typical
5 front loaded parking from the front, where we
6 have the setback 18 feet for parking on the drive
7 aisle and also a two car garage on each one of
8 the units.

9 So, basically, there's going to be parking
10 for -- there will be eight parking spaces. Two
11 inside the garage, and two on the apron on each
12 side of the units themselves.

13 The entrance stairs to the building is in
14 the middle, between the two parking spaces. And
15 there's also, the ground floor units are accessed
16 on either side of the units themselves, by a
17 three foot eight wide walkway.

18 And on the ground floor behind the garage,
19 you rough -- you have a two bedroom unit.

20 On the first floor above, you have three
21 bedroom unit. And on the third floor, it's
22 actually a duplex configuration. We have a three
23 -- two bedrooms on the third floor unit, and a
24 master bedroom above that, accessed by a
25 stairway.

1 And there's also an outdoor terrace facing
2 the front of the building, from the master --
3 from the master bedroom.

4 If we go to Sheet T103, this basically
5 shows you some of the pictures of the actual
6 neighborhood.

7 T -- T103. Sorry. Before that.

8 Just so the Board gets an idea of --

9 MR. PANEQUE: We don't have a 103.

10 VICE CHAIRMAN GRULLON: We don't have 103.

11 MR. ARENCIBIA: Oh, okay. Then, let me
12 show it to the Board.

13 It just basically are some pictures of the
14 surrounding neighborhood.

15 What we have directly across the street is
16 a TD Bank. There's also a drive -- drive aisle,
17 drive through for the --

18 VICE CHAIRMAN GRULLON: Yes.

19 MR. ARENCIBIA: -- cars.

20 MS. GUTIERREZ: Um hum.

21 MR. PANEQUE: Mr. Arencibia, just a second.

22 Just for the record, the Board may have a
23 small version of it.

24 MR. ARENCIBIA: Yes. That's it.

25 MR. PANEQUE: Of T103.

1 MR. ARENCIBIA: In any case, this is sort
2 of the surrounding area.

3 The side -- this first picture that's
4 labeled A, if you still have that plan, is
5 basically the current lot as it is. Basically,
6 it's a vacant lot, existing as it is right now.

7 You can see on this picture the adjacent
8 structure. It looks like a one to two family
9 adjacent.

10 You see also the rear of the building that
11 faces Bergenline Avenue. So, you see the
12 conditions of the -- of the properties in the
13 rear, which is not really very -- very well.

14 But you also, if you look in the back, the
15 property, you see what looks to be a couple of
16 two family homes along the rear of the property,
17 facing the other street in the back.

18 Of course, you have Bergenline, so you have
19 commercial establishments, you have business
20 right across the street, you have residential,
21 single families, and you also have multi-families
22 around.

23 So, the entire neighborhood is quite mixed.
24 So, we just wanted to kind of point that out so
25 that the Board got a feel for what we're doing

1 here.

2 The -- the six family that will be
3 configured, we believe it fits really well in the
4 neighborhood, because you have so many different
5 varying uses.

6 It also helps to -- feeds, by virtue of
7 having the number of units that we have, to feed
8 -- be able to have somebody to be able to access
9 Bergenline, and also to provide some people to be
10 able to visit the -- you know, restaurants and
11 the shops along Bergenline Avenue.

12 So, it's a -- it's a quite good size
13 building. Number of apartments that we have, and
14 the configuration is very standard to what we see
15 throughout Union City in many places. The -- the
16 difference being the fact that the buildings are
17 attached instead of being detached.

18 One of the things that happens in the
19 application is because we have a wide lot, but
20 it's a little bit shorter, the building is
21 actually a little wider than -- than normal, but
22 it's actually a little shorter as well, too.

23 So -- so, the Board gets an idea of the
24 square footages, the actual units on the ground
25 floor, roughly, 900 square feet for the two

1 bedroom units on the ground floor.

2 The units on the second floor is roughly
3 about 1400 square feet.

4 And the unit on the upper floor, which is
5 the third floor along with the loft area, which
6 is where the master bedroom is, that's roughly
7 about 1800 square feet.

8 The Sheet A200, we show sort of the
9 elevation. The design that we have here is
10 looking sort of like a modern look to the
11 building itself. A lot of the buildings along
12 Bergenline are -- are flat roof. We're proposing
13 on doing something similar to that, to make the
14 transition, a smooth transition between that and
15 the rest of the residential neighborhood.

16 Proposing on having brick façade along the
17 front, some -- also some ribbed metal panels,
18 create more of a modern look, and a nice aluminum
19 clad parapet along the very top of the building
20 in the middle, and also to frame the entrance in
21 the building middle, as well.

22 If you notice on the elevation, it's very
23 symmetrical on both sides. So, basically, the
24 building, it's like a mirror image on each other,
25 side by side.

1 You have nice large windows facing the
2 front, and you can also see, in the front
3 elevation there, the section that you see there
4 above, on the upper floor, is set back quite a
5 bit away from the front of the building, and
6 that would be the master bedroom suite, and
7 access to the outdoor terrace in the rear.

8 You could see in the side elevation there,
9 that -- I think you can get a better idea of how
10 far the master bedroom, the upper floor goes.
11 It's really -- it doesn't go anywhere near the
12 front of the building, so from the front of the
13 building, it's almost like a three story
14 building, instead of that additional floor they
15 have at the very rear.

16 Along the sides of the building, we're
17 going to have cement board siding on the sides,
18 and on the rear. And we'll have the stucco
19 finish along the sides of the building itself.

20 With respect to the trash, the trash is
21 going to be under the stairs. We're also going
22 to have areas along the front and on the sides of
23 the building for the meters, mechanical systems
24 of the building itself.

25 Along the -- below the stairs, we'll have a

1 | refuge area for the trash. Off of the open
2 | driveway in the front, we're going to have the
3 | water sprinkler room in a room, and we're also
4 | going to have your hot water heaters and your
5 | HVAC units tucked into a room itself.

6 | The gas and electric meters will be on an
7 | outside wall, along each side of the building, so
8 | the buildings will be, basically, separated from
9 | each side. So, three on -- on one side and three
10 | on the other side.

11 | Each of the units will have a laundry room,
12 | two bathrooms for each of the units, a nice
13 | living room/dining area, with a seating area for
14 | -- off of the kitchen area.

15 | I think that's it.

16 | VICE CHAIRMAN GRULLON: Mr. Arencibia,
17 | could you go over the size of the units?

18 | MR. ARENCIBIA: Sure.

19 | Okay, the ground floor -- on A100, you
20 | could see the ground floor unit there. They're
21 | both the same, so I'll just -- I'll just walk
22 | through one side.

23 | You walk along the side of the building,
24 | and there's a door that access the living room
25 | area. It says -- you walk in, you roughly have

1 the kitchen right adjacent to the entrance there.
2 So, you'll have space there for a little table
3 along -- next to the kitchen itself. And you
4 have space --

5 VICE CHAIRMAN GRULLON: I mean, the square
6 footage of the units.

7 MR. ARENCIBIA: Okay.

8 VICE CHAIRMAN GRULLON: That's what I would
9 like.

10 MR. ARENCIBIA: Okay. Yeah.

11 Okay, then, roughly the -- if you look at
12 the -- the square -- the dimensions. We have
13 basically 24 feet outside to outside, and then,
14 we have the front, which is 63 minus another 20,
15 so it's basically 40 by 20. So, if I --

16 MR. ALONSO: Square footage.

17 MR. ARENCIBIA: Square foot.

18 So, it's 800 -- it's a little bit more
19 because I'm -- you know, some of the walls are a
20 little bit further out, so it's about roughly 900
21 square feet, I believe that's going to be.

22 The bedrooms are pretty good size. Twelve
23 foot by 17 foot for the master bedroom. Second
24 bedroom is ten foot one by 11 foot five. So,
25 they're standard size bedrooms, as far as that's

1 concerned.

2 VICE CHAIRMAN GRULLON: What's the total
3 bed -- bedroom count that you have? The
4 bedrooms?

5 MR. ARENCIBIA: It's six and two, so eight
6 -- eight per side.

7 Two bedroom on the ground floor, three
8 bedroom on the second floor, and a three bedroom
9 on the third and fourth.

10 VICE CHAIRMAN GRULLON: So, you got two
11 units on the second floor. No?

12 MR. ARENCIBIA: You got one unit on the
13 second floor.

14 MR. ALONSO: No, no. This.

15 MR. ARENCIBIA: Well, yes. Yes, there's
16 two units.

17 VICE CHAIRMAN GRULLON: Two units.

18 MR. ARENCIBIA: I'm sorry. I was taking it
19 by side. Yes, two units on the second floor.
20 Correct.

21 VICE CHAIRMAN GRULLON: That's six, and
22 then ten. It's a total of 14 bedrooms?

23 MR. ARENCIBIA: Yes.

24 MR. ALONSO: Sixteen.

25 MR. ARENCIBIA: No. Eight. Sixteen.

1 VICE CHAIRMAN GRULLON: Sixteen.

2 MR. ARENCIBIA: Sixteen. Eight -- it's
3 eight per side.

4 VICE CHAIRMAN GRULLON: And how many
5 parking spaces you provided for the site?

6 MR. ARENCIBIA: We have two on the apron
7 and two inside.

8 VICE CHAIRMAN GRULLON: So, four -- four
9 parking?

10 MR. ALONSO: Eight.

11 MR. ARENCIBIA: Eight parking spaces in
12 total.

13 VICE CHAIRMAN GRULLON: Okay. Because I
14 only see four here on the --

15 MR. ARENCIBIA: Well, but the other ones
16 are outside, on the apron, because this is
17 basically inside -- there's -- because, the
18 stairs go out.

19 VICE CHAIRMAN GRULLON: Okay.

20 MR. ARENCIBIA: If you look at the floor
21 plan.

22 I'm sorry.

23 Probably be easier if you look at --

24 VICE CHAIRMAN GRULLON: Okay.

25 MR. PANEQUE: It's tandem.

1 VICE CHAIRMAN GRULLON: Yes, I see.

2 And the elevation of the building, do you
3 have something that you could show the elevation
4 of the building?

5 MR. ARENCIBIA: Yes. On A200.

6 VICE CHAIRMAN GRULLON: Oh, okay. I see it
7 here.

8 MR. ARENCIBIA: It's there in the back.
9 That's what I was walking through.

10 But to answer your question, as far as the
11 parking, if you look at T100, you could see there
12 --

13 VICE CHAIRMAN GRULLON: Yes.

14 MR. ARENCIBIA: Okay.

15 VICE CHAIRMAN GRULLON: Yes.

16 MR. ARENCIBIA: Okay.

17 VICE CHAIRMAN GRULLON: I saw that. Yes.

18 MR. ARENCIBIA: And --

19 VICE CHAIRMAN GRULLON: You have -- you
20 have a total of 18 bedrooms, you said?

21 MR. ALONSO: Sixteen.

22 VICE CHAIRMAN GRULLON: Sixteen. Sixteen
23 --

24 MR. ARENCIBIA: Sixteen.

25 VICE CHAIRMAN GRULLON: -- bedrooms.

1 And the height -- the height of the
2 building, the height -- the height, according to
3 the -- to the sheets here is 42.

4 MR. ARENCIBIA: That is correct.

5 VICE CHAIRMAN GRULLON: Forty-two feet.

6 And that's mentioned in the -- to the top
7 of the parapet or --

8 MR. ARENCIBIA: From the ground floor to
9 the top of the parapet. Correct. To the top of
10 the upper -- it's -- it's -- in Union City, you
11 measure to the top of --

12 VICE CHAIRMAN GRULLON: Okay, I see.

13 MR. ARENCIBIA: -- the roof structure. So
14 that's what you measure it to.

15 And -- and I would like just to make -- you
16 know, make clear that if you look at the site
17 elevation on A200, you -- you could see that that
18 42 is really way far back. Like you would never
19 see it from the actual front of the street,
20 because it's set back quite a distance.

21 So, from the front -- from the front of the
22 building, you're probably -- it's going to
23 probably going to look almost like about 36 or
24 so.

25 VICE CHAIRMAN GRULLON: And can you

1 describe the -- the elevation? Like the -- the
2 materials to be used on the elevation.

3 MR. ARENCIBIA: Yes. Yeah. I'll go
4 through it again.

5 Yes. What we're going to have on the
6 ground floor along the base and in front of the
7 building, and adjacent, on the sides of the
8 building, we're going to have brick veneer, so we
9 have a nice strong masonry material for the out
10 -- actual base of the building. And also along
11 the center of the building itself, we're going to
12 have a brick veneer along there.

13 And then, in order to kind of modernize it
14 a little bit, we're proposing having nice clean
15 slick -- ribbed metal panel to kind of like make
16 it more of a contemporary look.

17 So, we'll have a combination of metal
18 panels and brick coursing throughout the front of
19 the building itself. That's going to be the
20 predominant two materials in the -- on the -- on
21 the front of the building.

22 If you look at the side elevation, on A200,
23 the brick returns a distance coming back. And
24 what we do is on the rest of the three sides of
25 the building, along the sides and on the rear,

1 proposing on having cement board siding above on
2 both sides, and we'll have the stucco finish
3 material along the base, where we'll have --
4 typically you have the concrete block there,
5 we'll just finish it and skim -- skim it with
6 concrete stucco.

7 VICE CHAIRMAN GRULLON: Okay.

8 I don't have any more questions for the
9 architect.

10 MR. MEDINA: Main --

11 VICE CHAIRMAN GRULLON: Do you have --

12 MR. ARENCIBIA: Sure.

13 MR. MEDINA: Main -- the main entrance of
14 the building is 44th Street.

15 Right?

16 MR. ARENCIBIA: Yes.

17 MR. MEDINA: Okay.

18 Now, for the -- the parking is going to be
19 -- you say you have nine parking space.

20 Eight. Eight.

21 MR. ARENCIBIA: Eight parking spaces. Yes.

22 MR. MEDINA: Okay.

23 How far is from to the parking to the
24 sidewalk?

25 MR. ARENCIBIA: The -- the setback in the

1 front, we -- we have 18 foot setback on the
2 ground floor --

3 MR. MEDINA: Um hum.

4 MR. ARENCIBIA: -- from the property line.
5 Beyond there, there's a sidewalk. The sidewalk
6 is I believe approximately eight feet.

7 MR. MEDINA: Eight feet.

8 MR. ARENCIBIA: So, from the actual curb
9 cut, you're going to be 26 feet or so from the
10 curb cut. Actual street curb.

11 MR. MEDINA: Okay.

12 MR. ARENCIBIA: Okay.

13 VICE CHAIRMAN GRULLON: Any more question
14 from the Board?

15 You have -- you have another expert?

16 MR. MEDINA: One more question.

17 MR. ARENCIBIA: Sure.

18 MR. MEDINA: You say that on the third
19 floor, is a duplex.

20 Right?

21 MR. ARENCIBIA: The third floor is a
22 duplex. Yes.

23 MR. MEDINA: How is it duplex? Third floor
24 and just --

25 MR. ARENCIBIA: Yes. There's a stairs that

1 goes up.

2 MR. MEDINA: Could you explain that a
3 little bit?

4 MR. ARENCIBIA: Part -- part of the -- it's
5 a third floor, where you have the two bedrooms,
6 and then in the rear of the building, it was
7 actually built up, so we're going to have the
8 master bedroom and a bath -- and a bathroom up
9 there, with, of course, a closet and a small
10 little terrace off of that.

11 Again, it's -- it's quite small. It's much
12 smaller on the very top, and it's set back quite
13 a bit of distance from the -- from the front of
14 the building, so you'll never see it from the --
15 from the front, if you look -- standing in front
16 of the building, you won't see it.

17 And you could see -- you could see that on
18 A200. That's pretty clear, as far as --

19 VICE CHAIRMAN GRULLON: Yes, and on the
20 rear, it shows like a full floor.

21 MR. ARENCIBIA: Correct.

22 VICE CHAIRMAN GRULLON: Yeah.

23 MR. ARENCIBIA: Correct.

24 MR. ALONSO: I call Mr. Karlebach.

25 (Whereupon, there was a pause in the

1 proceedings.)

2 MR. KARLEBACH: Do I have to be sworn in
3 again or --

4 MR. DILLON: He's still good. Right? You
5 want to swear him in?

6 MR. KARLEBACH: New application?

7 VICE CHAIRMAN GRULLON: He's -- he's still
8 under --

9 MR. DILLON: Yeah.

10 MR. ALONSO: And Mr. Chairman, for the
11 record, Mr. Karlebach was qualified earlier this
12 evening --

13 VICE CHAIRMAN GRULLON: Yes.

14 MR. ALONSO: -- as a planner.

15 VICE CHAIRMAN GRULLON: Yes. We accept his
16 qualification already.

17 MR. KARLEBACH: Thank you.

18 VICE CHAIRMAN GRULLON: Thank you.

19 MR. ALONSO: All right.

20 Mr. Karlebach, if you could please provide
21 your planning analysis?

22 MR. KARLEBACH: Certainly. I'll talk a
23 little bit about the site and the surrounding
24 areas.

25 This is a vacant lot. It's one of the few

1 vacant residential lots in the City left
2 undeveloped.

3 It's slightly undersized relative to the
4 requirements you would have, if you wanted to go
5 two three family homes.

6 So, this lot is actually 56 feet wide and
7 86 feet deep. Now, had it been a hundred feet
8 deep, you could -- it could easily accommodate
9 two three family homes, which would bring you up
10 to six residential dwelling units, which is
11 exactly what's being proposed here.

12 It sounds as if the variances are
13 excessive, but actually, they're very minor in
14 nature, very close to complying with the
15 Ordinance requirements. And I'll review them
16 with the Board.

17 This is a residential zone, but it does not
18 allow multi-family housing. Because this is a
19 multi-family building, and not two three family
20 homes, it requires a use variance.

21 It requires a density variance because
22 52.27 dwelling units per acre are permitted.
23 This is 54.1 dwelling units per acre. So, a
24 slight -- just slightly exceeding the -- the
25 requirement.

1 A C variance is required for height. The
2 building exceeds the height requirement by only
3 two feet. So, it's not a D-6 variance. It
4 doesn't require a super-majority. And the
5 reason, of course, for the height variance is to
6 effectuate the parking use under the building,
7 which has a supreme planning benefit.

8 There are C variances for building
9 coverage; 63.5 percent versus 60 percent
10 permitted.

11 Lot coverage.

12 Eighty-six point eight percent provided
13 versus 85 percent permitted.

14 And rear yard setback.

15 Five point two-five feet is proposed and
16 21.5 feet is required.

17 And the final variance relates to parking
18 supply.

19 Eleven parking spaces are required and
20 eight are proposed.

21 So, that summarizes the variances.

22 The site is going to be improved, hopefully
23 if approved, with a new attractive four story
24 building, including parking at the ground level,
25 new sidewalk, curbing, shrubbery along the front

1 of the building, and a usable open space in the
2 rear yard. And as I said, eight parking spaces,
3 which although it doesn't meet the requirement,
4 still is more than one parking space per unit.

5 In terms of the justification for the D-1
6 use variance relief, I run the application
7 through the four parts of the Medici test, and I
8 find it passes all four parts.

9 Regarding suitability, the first part of
10 the positive criteria is passed because the site
11 is particularly well suited for the use.

12 I say that because of the context of the
13 surroundings. It consists of several, what I'm
14 going to call a co-mingling of varied land uses.
15 It abuts a restaurant on one side, it abuts a
16 three family home on the other side. There's
17 actually commercial uses across the street,
18 including a bank and a drive-through. It's only
19 further down the block where you get more of a
20 residential feel.

21 So, this is definitely very much a mixed
22 use neighborhood.

23 And by virtue of the site's condition. The
24 site is clear, it's flat, it has no encumbrances.
25 It's suited for re -- for development. No major

1 earth work is required, or tree clearing. It's
2 really ready fit for development.

3 In terms of the special reasons, I believe
4 the second part of the positive criteria is
5 satisfied because this application advances
6 several important purposes of the Municipal Land
7 Use Law.

8 Purpose A relates to promoting the public
9 welfare with new housing stock for a growing
10 population. And providing new housing stock is
11 the goal of virtually every urban community.

12 If you look at the Master Plan of just
13 about every urban community in New Jersey, it
14 will have that language: to provide new housing
15 stock.

16 Purpose G.

17 The use provides for a variety of uses in
18 appropriate locations. And this type of multi-
19 family housing happens to be the strongest type
20 of housing today. The strongest need for housing
21 today.

22 Purpose I.

23 Promotes the -- a desirable visual
24 environment. It fills a void in the streetscape
25 with an attractive new development.

1 In terms of public impacts, the first part
2 of the negative -- negative criteria is passed
3 and that relief will not cause a substantial
4 detriment to the public good.

5 The use is certainly not out of character
6 with the area. It will blend in with the mixed
7 use nature of this neighborhood.

8 The nature of this land use category is not
9 associated with detrimental public health, or
10 safety impacts. And as I said, it does abut
11 commercial uses, and commercial uses are across
12 the street. It's not likely when you have a low
13 density residential use that impacts commercial
14 uses.

15 In terms of the zone plan impact, the
16 second part of the negative criteria is passed,
17 and that relief will not substantially impair the
18 intent and purpose of the zone plan and Zoning
19 Ordinance.

20 The zone plan contemplates residential uses
21 at this location, just not this particular type
22 of housing style.

23 And the 1994 Master Plan, the 2000 re-exam,
24 and the new Master Plan all suggest there should
25 be a coordination between public and private

1 entities, particularly when it comes to providing
2 new housing developments.

3 In terms of the justification for the
4 density relief, the D-5 relief, the legal basis
5 for this is the Grubbs test. And as I said
6 earlier, the enhanced quality of proof required
7 by Medici does not apply to density variance
8 cases.

9 The test is, in essence, that whether or
10 not the site can accommodate the problems with
11 the additional density.

12 And here, this is a situation where if the
13 density varies greatly from the Ordinance, you
14 can expect greater problems. Here, it's so close
15 to complying with the density requirements, we
16 don't anticipate those problems. There's a very
17 minor departure.

18 In terms of the positive criteria, the use
19 benefits and the -- benefits the project, I've
20 already mentioned, by -- when I spoke of the
21 special reasons that is the purposes of zoning,
22 and how those are advanced.

23 The added density enhances the viability of
24 a beneficial housing project. And the density is
25 on scale with the contemplated density for this

1 area, only marginally higher.

2 In terms of the negative criteria, the site
3 easily accommodates that additional density. As
4 I said, if the lot were just a little bit deeper,
5 you would have two three family homes on this --
6 on this lot instead of one six unit apartment
7 building.

8 And the density and scale of the
9 development does not exceed the carrying capacity
10 for water supply, sewer service, parking demand,
11 or any other municipal services.

12 In terms of the justification for the
13 height relief, I mentioned, this is not a D-6
14 variance, and the added height is necessary to
15 facilitate this beneficial in-fill development.
16 It provides ground level parking, good quality
17 living units. And the two foot increase in
18 height is virtually imperceptible to the general
19 public.

20 It is on scale with the neighborhood. I
21 know there -- I did note there was a four story
22 building in the immediate neighborhood. There
23 are several three story buildings to the rear of
24 this property. So, I find it is in scale with
25 the neighborhood.

1 In terms of the bulk relief, I believe
2 these can be construed as C-2 variances, and that
3 the public benefits outweigh the detriments.

4 All the bulk relief is necessary, again, to
5 effectuate this very important beneficial housing
6 project.

7 The primary reason for the coverage and
8 rear yard setback relief is to facilitate the
9 parking, and produce these quality housing units.

10 In terms of detriments, I don't find there
11 are any substantial detriments resulting from the
12 bulk variance relief.

13 The building and lot coverage is only
14 percentage points above the Ordinance threshold.
15 And the rear yard provides adequate light and air
16 within this context. It's similar to rear yards
17 in this neighborhood.

18 And in terms of the parking relief, again,
19 I think the benefits outweigh the detriments.
20 The benefit is the efficient use of space,
21 additional parking is unnecessary and wasteful.

22 The detriments are not substantial. The
23 supply meets the actual demand, because of the
24 availability of mass transit.

25 We spoke earlier about the light rail

1 station, bus transit that's available on all the
2 major avenues within the City. And parking lots
3 that are available.

4 People actually do still ride bicycles, if
5 they work locally. Some people walk to work.
6 And let's face it, if you require two cars, maybe
7 Union City is not the place for you. Maybe you
8 should look elsewhere.

9 So, when people come in here, it's with the
10 knowledge and the understanding that there is
11 limited parking available.

12 So, I think this application is consistent
13 with good planning principles for orderly
14 development.

15 The application satisfies all of the
16 statute -- statutory criteria for all the relief
17 requested.

18 And from a planning perspective, I think
19 approval is warranted.

20 MR. ALONSO: Now, Mr. Chairman, just to
21 follow up what Mr. Karlebach just indicated with
22 respect to the D-5 variance, as I stated earlier,
23 this Board has interpreted their Ordinance to
24 mean that a density variance is based on the size
25 of the units, the square footage, not the number

1 of units per acre.

2 However, we are presenting it as a
3 traditional density variance, number of units per
4 acre.

5 Although I believe he's presented the
6 justifications for that standard, it's really not
7 required. So, I think the Board just needs to
8 make a ruling, in this case, that even though
9 we're requesting a D-5 variance, it really is not
10 required, just to make sure that the record is
11 clear.

12 But to the extent that it is --

13 MR. KARLEBACH: Um hum.

14 MR. ALONSO: -- we -- we've presented the
15 proofs.

16 MR. PANEQUE: Noted.

17 MR. ALONSO: Thank you.

18 VICE CHAIRMAN GRULLON: Mr. Karlebach,
19 going back to the parking requirement, could you
20 explain your calculation, according to the RSIS?

21 MR. KARLEBACH: The RSIS requires -- I'm
22 trying to remember what the requirement is
23 exactly, how we yielded that.

24 It's so many parking spaces for a one
25 bedroom. I believe it's 1.8 for a one bedroom,

1 2.0 for a two bedroom, and 2.1 --

2 VICE CHAIRMAN GRULLON: For the --

3 MR. KARLEBACH: -- for a --

4 VICE CHAIRMAN GRULLON: For this --

5 MR. KARLEBACH: -- three bedroom.

6 VICE CHAIRMAN GRULLON: For this particular
7 application, you have -- is it two two bedrooms?
8 How many?

9 MR. KARLEBACH: It is --

10 VICE CHAIRMAN GRULLON: Yeah. Two -- two
11 two bedrooms and --

12 MR. ALONSO: Four.

13 VICE CHAIRMAN GRULLON: -- four three
14 bedrooms.

15 MR. ALONSO: Yes.

16 MR. KARLEBACH: Two two bedrooms and four
17 three bedrooms.

18 I have -- I didn't perform the calculation
19 myself. And the numbers I gave you -- the 1.8,
20 2.0 and 2.1 are for garden apartments.

21 I don't remember if RSIS directs you to use
22 garden apartments, if you have a low rise
23 building.

24 But Mr. McDonough made that calculation.
25 He came up with 11.

1 VICE CHAIRMAN GRULLON: According to our
2 calculations here, we come up to 14.

3 MR. PANEQUE: Right.

4 MR. KARLEBACH: Fourteen?

5 VICE CHAIRMAN GRULLON: Two point one --

6 MR. KARLEBACH: Accord --

7 VICE CHAIRMAN GRULLON: Two point one --
8 actually, 15 parking spaces. Two point one for
9 three bedrooms and two -- two for two bedrooms.

10 MR. KARLEBACH: I think they allow you to
11 round down. Okay.

12 MR. ALONSO: It's actually 12 --

13 MR. KARLEBACH: Twel --

14 MR. ALONSO: -- point four. Could be --
15 because it's less than .5 --

16 MR. KARLEBACH: Um hum.

17 MR. ALONSO: -- you round down --

18 VICE CHAIRMAN GRULLON: Yeah.

19 MR. ALONSO: -- so it's a --

20 MR. KARLEBACH: Twelve.

21 MR. ALONSO: -- total of 12.

22 VICE CHAIRMAN GRULLON: Still would be how
23 many?

24 MR. ALONSO: Twelve.

25 VICE CHAIRMAN GRULLON: Twelve? Okay.

1 Okay. And what I see here on the parking,
2 you have four parking inside the building, and
3 the other four parking will be tandem parking.

4 MR. KARLEBACH: Yes.

5 VICE CHAIRMAN GRULLON: Mr. Spatz is not
6 here, but I'd like to know what's considered --
7 if the tandem parking are considered on the
8 parking count, it's a parking.

9 MR. ALONSO: Mr. Chairman, if you look at
10 it, I think what the architect indicated was --

11 VICE CHAIRMAN GRULLON: Because one thing
12 that we have here, at the Board, is if it's
13 tandem parking, if it's assigned to the -- to the
14 same unit, it's a -- sometimes we allow it.

15 MR. ALONSO: Correct.

16 VICE CHAIRMAN GRULLON: But right now, you
17 only have -- practically, you only have four
18 parking spaces for six units.

19 I mean, we're looking for like having at
20 least -- I mean, no -- it's got to be a way to
21 find more parking spaces for this -- for this
22 project, because with four -- with four cars,
23 assigning to -- to each unit, you're going to
24 have two units with no parking spaces.

25 Do you understand what I --

1 MR. ALONSO: Correct.

2 VICE CHAIRMAN GRULLON: -- where I'm trying
3 to go?

4 MR. ALONSO: Correct. It will be like your
5 typical --

6 VICE CHAIRMAN GRULLON: Yes.

7 MR. ALONSO: -- three family house.

8 VICE CHAIRMAN GRULLON: Yes. And --

9 MR. ALONSO: Where normally you would have
10 parking --

11 VICE CHAIRMAN GRULLON: And another concern
12 that I have is the -- the bedroom counts.

13 In this area, this is a very dense area,
14 and three bedrooms will actually bring like large
15 families to the three bedroom units, to those --
16 you know, to those units.

17 And with three bedroom units, you will have
18 no less than two cars per family. There's no way
19 that we can say that you're moving into a
20 building and -- and people would have only one
21 car.

22 These -- these type of units are, even with
23 the duplex configuration that you have, is going
24 to bring more -- more than one car.

25 MR. ALONSO: Right.

1 And -- and I think what -- the way that we
2 tried to mitigate that is as our architect
3 testified, if you look at the -- the way that
4 it's designed, it's essentially designed as two
5 three family houses. It's not really one six
6 family building. Although it is one six family
7 building, it's designed as two threes. And
8 typically, a three family building is going to
9 have parking for two of the units. And usually,
10 the -- the ground floor unit doesn't have
11 parking, because you have two and two.

12 VICE CHAIRMAN GRULLON: Yeah. But what --
13 what is allowed for the -- for that lot is like
14 two three family units.

15 MR. ALONSO: Correct.

16 And essentially, that's what we have, two
17 three family units. And the way that it's
18 designed it's three and three. It's not really
19 designed as a six family building.

20 VICE CHAIRMAN GRULLON: But the amount --
21 the amount of bedrooms for the two three family
22 units, how many bedroom --

23 MS. GUTIERREZ: Two family.

24 VICE CHAIRMAN GRULLON: -- do you have?

25 MS. GUTIERREZ: Um hum.

1 MR. ALONSO: Well, that's pretty much what
2 you would have on a -- on a three family
3 building. We have three bedrooms, three
4 bedrooms. And downstairs, either one or two. In
5 -- in this case, we have two.

6 So, basically, if we put a dividing wall
7 down the middle, because this is designed as
8 basically two three families, then that would be
9 a permitted use.

10 But since we are not subdividing the lot
11 and maintaining it as one lot, it's a six family
12 building, even though its design, it looks, it
13 functions as two threes.

14 VICE CHAIRMAN GRULLON: Is any -- any
15 possible way to provide more parking in that --
16 in the ground floor?

17 I would say by reducing the size of the --
18 of the units on the -- on the ground floor?
19 Maybe you can get four car inside and two
20 outside? I mean, and four outside. Get two
21 parking.

22 MR. ARENCIBIA: I mean --

23 VICE CHAIRMAN GRULLON: Two -- two other
24 spaces.

25 MR. ARENCIBIA: I mean, we -- we --

1 typically, we kind of shy away from that because
2 basically, now, you've become a juggling thing,
3 having to move cars, because now -- what in
4 essence you're going to have is you're going to
5 have two -- two parking spaces for each of the
6 two units above, and the units on the ground
7 floor are not going to have parking spaces,
8 because that's typically what happens in a three
9 family home.

10 The apartments upstairs take up the two --
11 two cars for each one, and the downstairs do not
12 have it.

13 We could add -- say, takeout -- you know,
14 have a third row, and it'd have to be a tandem
15 combination. It couldn't be anything more than
16 that. But then that becomes almost like a -- an
17 issue as far as who parks behind whom, and
18 someone's going to have to move their car and so
19 forth.

20 In our experience, it seems better to have,
21 basically, if someone's going to rent the unit
22 down below, they know they have no parking
23 spaces. They'll have to make arrangements either
24 to park in the parking structure, or not to have
25 a car.

1 I mean, that typically works better because
2 otherwise, it creates a more dangerous situation,
3 I'm going to juggle cars back and forth onto the
4 street.

5 But yes, we could make -- take -- take some
6 square footage out of the downstairs apartment,
7 and put three cars, double loaded in the front.
8 But I -- I don't think that's a better solution,
9 is my -- my opinion.

10 VICE CHAIRMAN GRULLON: Yeah.

11 MR. PANEQUE: That would be three in
12 tandem.

13 VICE CHAIRMAN GRULLON: Yeah. That will be
14 three in tandem.

15 MR. PANEQUE: That's very complicated.

16 VICE CHAIRMAN GRULLON: Not even changing
17 the configuration of the parking, like try to
18 park sidewalks like that? Getting into the car
19 -- getting into the garage?

20 MR. ARENCIBIA: You really wouldn't be able
21 to work it out like that.

22 Again, the thing is, this is, in essence,
23 two three families together. And just no
24 different than an application for that, what we
25 basically have here. It's the same situation as

1 always. One apartment gets without a parking
2 spot and that's -- that's what we have here.

3 VICE CHAIRMAN GRULLON: Okay.

4 And my other concern is just the bed -- the
5 bedroom counts. Would you consider to reduce the
6 bedroom count? Let's say, to bring those three
7 -- the three bedrooms to two bedroom units?

8 MR. ARENCIBIA: We could make the
9 downstairs two bedroom to a one bedroom unit.
10 That might be a better solution.

11 VICE CHAIRMAN GRULLON: Yeah. I --

12 MR. ARENCIBIA: Because that makes more
13 sense.

14 VICE CHAIRMAN GRULLON: I would love to see
15 that, but like what I was saying is that those
16 three bedroom units will get more -- more
17 children, school age, into the -- into the
18 neighborhood. And -- and also, the -- the
19 chances of them bringing more than one car would
20 increase, because in a two bedroom unit you have
21 a couple with -- a family, with children.

22 MR. ARENCIBIA: Correct.

23 VICE CHAIRMAN GRULLON: With a child.

24 MR. ARENCIBIA: Um hum.

25 VICE CHAIRMAN GRULLON: But if you have a

1 two -- three bedroom unit, you will have probably
2 two couples there.

3 MS. GUTIERREZ: Um hum.

4 VICE CHAIRMAN GRULLON: And the chances of
5 getting more cars into the neighborhood is -- is
6 going to be -- is going to increase those
7 chances.

8 And right now, that area is very -- it's --
9 it's very difficult to get parking around --

10 MR. ARENCIBIA: Right.

11 VICE CHAIRMAN GRULLON: -- the area.

12 I don't want to refer to the previous
13 application, but there was a lot of public lot on
14 the other application. But on this application,
15 you don't have much options on that surrounding
16 area there for parking.

17 MR. ARENCIBIA: What you're stating is --
18 yes. A three fam -- a three bedroom unit would
19 definitely probably be more geared toward a
20 family, or something to that effect. That's
21 without a doubt.

22 VICE CHAIRMAN GRULLON: Yes.

23 MR. ARENCIBIA: But I mean --

24 VICE CHAIRMAN GRULLON: Yes. Right now, I
25 don't have any -- any more questions.

1 Do you have any questions?

2 MR. BONACCI: Just, yeah. With the parking
3 concerns, especially in that part of town, I see
4 where you're going with this.

5 And especially with the three bedrooms --
6 you know, you're going to have -- you know, it's
7 going to be pretty loaded in there. It kind of
8 sounds like we're trying to fit -- you know, ten
9 pounds in a five pound bag or something.

10 But I got the same concerns as Chairman
11 does on this.

12 That's all I got.

13 VICE CHAIRMAN GRULLON: Any other member of
14 the Board?

15 MR. PANEQUE: Mr. Alonso?

16 As you know, Mr. Spatz is not here, so he
17 did submit a memo which we have to address.

18 MR. ALONSO: Sure.

19 MR. PANEQUE: The first issue on that memo
20 that he wants some testimony on, and I don't
21 think I've heard any, is with respect to the curb
22 cut that's going to be necessary for these
23 parking driveways.

24 Now, he's requesting that testimony be
25 provided as to how many parking spaces are being

1 | actually taken away from the street now, or
2 | whether there's an existing curb cut there.

3 | MR. ARENCIBIA: You're probably going to
4 | lose two parking spaces on the front of -- front
5 | of the -- the street there.

6 | MR. PANEQUE: Okay. So, currently, there's
7 | no curb cut there.

8 | MR. ARENCIBIA: That's correct.

9 | MR. PANEQUE: All right.

10 | MR. ARENCIBIA: At the present time, I
11 | don't see a curb cut at all. Yes.

12 | MR. PANEQUE: Now, he's also asking
13 | testimony with respect to the sizes of the
14 | parking spaces that you're providing.

15 | MR. ARENCIBIA: Well, we're going to have
16 | roughly 18 foot deep by about nine foot wide.
17 | So, you have -- you know, ample size spaces for
18 | that.

19 | MR. PANEQUE: And that's for each of the
20 | tandem spots.

21 | MR. ARENCIBIA: Yeah. Actually, in the
22 | inside -- the ones inside are actually 19 foot
23 | deep. So, it's a little bit more.

24 | MR. PANEQUE: Okay.

25 | The second question that he's asking is

1 | whether there will be a small planting strip in
2 | front of the building. And the one on the
3 | street, a tree will be -- whether one will be
4 | planted.

5 | MR. ARENCIBIA: We are proposing on having
6 | a tree in front of the building. If you look at
7 | the site plan, we do show a tree right in the
8 | middle of the building.

9 | Of course, we do need, on each side of the
10 | house, we can't put plantings there, because
11 | that's your drive aisle into the -- into the
12 | premises.

13 | MR. PANEQUE: So, no planting strip.

14 | MR. ARENCIBIA: No planting strip, but we
15 | will have a tree, as well. Yes.

16 | MR. PANEQUE: All right.

17 | And the third question dealt with the
18 | materials for the building. I believe you
19 | testified as to that.

20 | MR. ARENCIBIA: Yes.

21 | MR. PANEQUE: And part of that question
22 | deals with lighting at the site.

23 | Did you testify as to any lighting?

24 | MR. ARENCIBIA: Yes. We have some lighting
25 | in the front of the building. Again, you could

1 | see sort of the -- the lighting profiles on the
2 | actual site plan that we have.

3 | So, we'll have two lights on each side of
4 | the building, so we'll have four lights. So,
5 | nice clear visibility on the outside.

6 | And we're also going to have a light above
7 | the entrance on the -- on the entrance for the
8 | ground floor units, as well, too.

9 | MR. PANEQUE: Now, any strobe lighting
10 | being provided since these tandem parking spots
11 | are going to be exiting backwards onto 44th
12 | Street?

13 | MR. ARENCIBIA: We do not have any strobe
14 | lights proposed. We could certainly put them in,
15 | but it's no different than any backing into a --
16 | a driveway from any street in the area.

17 | But if the Board would like us to do that,
18 | we could definitely make some consideration for
19 | that.

20 | MR. PANEQUE: That would be up to the
21 | Board.

22 | All right. Those are the issues that Mr.
23 | Spatz wanted to address, so I don't have any
24 | further questions at this time.

25 | VICE CHAIRMAN GRULLON: Do you have any

1 other witness?

2 MR. ALONSO: I have no -- no further
3 witnesses.

4 VICE CHAIRMAN GRULLON: At this time, we're
5 going to open it to the public.

6 Mr. Price?

7 MR. PRICE: Larry Price, 1006. Sill under
8 oath.

9 There was a question about parking
10 requirements before, and I just read from the
11 Land Development Ordinance.

12 The first -- footnote D says, three family
13 dwellings shall be subject to the parking
14 requirements for townhouse development.

15 And townhouse requirements are 2.3 parking
16 spaces for a two bedroom, and 2.4 parking spaces
17 for a three bedroom.

18 So, you have four three bedrooms here, and
19 that's four times is 9.6 parking spaces. You
20 have two two bedrooms, at two times 2.3 is 4.6.
21 Total is 14.2.

22 That's the parking requirement per the Land
23 Development Ordinance.

24 MR. ALONSO: If it was two three family
25 houses, but it's a six family. So that's 12.

1 MR. PRICE: Say again, please.

2 MR. ALONSO: That -- you would be correct
3 if we were proposing two three family houses.
4 It's a six family building. So, this is 12.

5 MR. PANEQUE: And I believe, Mr. Price,
6 just so that we're clear, Mr. Spatz did the
7 calculations in his memo, and he comes up with
8 the number 12 as the required spaces.

9 MR. PRICE: Okay. He's treating it as a
10 mid-rise building then.

11 Correct?

12 MR. ALONSO: Yes.

13 MR. PANEQUE: That's how he's treating it.
14 Let's see if his -- I can quote you from his
15 memo.

16 The -- the Residential Site Improvement
17 Standard requires the provisions of two spaces
18 for each two bedroom unit, and 2.1 spaces for
19 each three bedroom unit. A total of 12 parking
20 spaces are required for the building.

21 The site plan indicates that eight parking
22 spaces will be provided. A de minimis exception
23 from the RSIS standard is required.

24 MR. PRICE: Okay.

25 So, he's treating it as a mid-rise

1 building.

2 MR. PANEQUE: Correct.

3 MR. PRICE: Okay. You're not going to
4 subdivide the property.

5 MR. ALONSO: No.

6 MR. PRICE: It's going to be -- it's --
7 okay. I guess, I -- I guess I put the question
8 --

9 MR. DILLON: Use the mic.

10 MR. PRICE: -- to Mr. Karlebach.

11 MR. KARLEBACH: Yes.

12 MR. PRICE: This is being constructed as
13 two three family houses. But legally, it's just
14 one property with six apartments.

15 Correct?

16 MR. ALONSO: It's not being constructed as
17 two three families. Because that's -- that's a
18 legal determination, based on construction code.
19 It's constructed to look like two three families,
20 which would be more consistent with the
21 neighborhood, and what's permitted in the zone.
22 But it's a six family.

23 MR. PRICE: But it's a six family. Okay.

24 MR. KARLEBACH: The plans called it out as
25 a six family dwelling. I was just looking at the

1 plan.

2 MR. ARENCIBIA: And --

3 MR. PRICE: Okay.

4 MR. ARENCIBIA: And just let me add.

5 The code -- the codes are different with
6 respect to a three family versus a four, five,
7 six family.

8 MR. ALONSO: That's what I said.

9 MR. ARENCIBIA: So, the Building Codes --
10 the -- the design of the building is not being
11 designed as two three families. Just so it's
12 clear.

13 MR. PRICE: Okay.

14 Okay. What's the size of the lot here?

15 MR. ARENCIBIA: I think it's 56 by 88.

16 Something to that effect.

17 Fifty-six by 88.3.

18 MR. PRICE: And the total square footage
19 is?

20 MR. ARENCIBIA: Four thousand eight hundred
21 and thirty.

22 MR. PRICE: Right. Okay.

23 And how high is this building, to the peak?

24 MR. ARENCIBIA: To the -- the highest roof
25 structure is 42.

1 MR. PRICE: Forty-two. Okay. The fourth
2 floor is not a complete floor.

3 MR. ARENCIBIA: That's correct.

4 MR. PRICE: It only consists of a master
5 bedroom, a closet, I guess a bathroom.

6 MR. ARENCIBIA: That's correct.

7 MR. PRICE: And then, a terr -- well, we
8 won't count the terrace.

9 How much -- how much floor space is
10 occupied by the rooms on the fourth floor?

11 MR. ARENCIBIA: Twenty-three, 24 -- roughly
12 about 500 square feet. Five hundred eleven --
13 500 square feet.

14 MR. PRICE: Five hundred square feet.

15 MR. ARENCIBIA: Per side, so a thousand
16 total.

17 MR. PRICE: Oh, oh. Per side so --

18 MR. ARENCIBIA: Correct.

19 MR. PRICE: Okay. Very good.

20 Thank you.

21 MR. PANEQUE: Any other member?

22 VICE CHAIRMAN GRULLON: Any other member of
23 the public want to step forward?

24 Closed to the public.

25 Mr. Alonso, before I make my motion, did

1 | you get an opportunity to speak to your -- to the
2 | owner.

3 | Is the owner here?

4 | MR. ALONSO: I -- I started to speak to
5 | him, but then --

6 | VICE CHAIRMAN GRULLON: Regarding to the
7 | bedroom counts.

8 | MR. ALONSO: Let me just speak to him.

9 | VICE CHAIRMAN GRULLON: Please.

10 | MR. ALONSO: Yeah. Introduce the idea.

11 | VICE CHAIRMAN GRULLON: We're going to take
12 | a two minute break.

13 | MS. GUTIERREZ: We're going to take a
14 | break.

15 | VICE CHAIRMAN GRULLON: Two minute break.

16 | MR. ALONSO: Okay.

17 | MR. ARENCIBIA: Thank you.

18 |

19 | (Whereupon, the Board recessed from 8:41
20 | p.m. to 8:50 p.m.)

21 |

22 | THE SECRETARY: Attention, please.

23 | MS. GUTIERREZ: I'm here.

24 | THE SECRETARY: Let's get back in business.

25 | Mr. Alonso, please.

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

3 MR. ALONSO: Mr. Chairman?

4 VICE CHAIRMAN GRULLON: Mr. Alonso?

5 MR. ALONSO: Right.

6 I had an opportunity --

7 VICE CHAIRMAN GRULLON: Are we back on the
8 record?

9 MR. DILLON: Yes.

10 VICE CHAIRMAN GRULLON: You may proceed.

11 MR. ALONSO: I had an opportunity to speak
12 with my client and the architect.

13 What we're willing to do is to convert the
14 -- all the three bedrooms to two bedrooms. So,
15 it will be two, two, two, two, two, two.

16 And then, we'll eliminate the bedroom on
17 the fourth floor, that partial floor.

18 VICE CHAIRMAN GRULLON: Yes.

19 MR. ALONSO: Which then will also eliminate
20 the height variance.

21 VICE CHAIRMAN GRULLON: Okay.

22 MR. ALONSO: So, we'll eliminate that,
23 reapportion, which eliminates a variance, and
24 we'll convert all the three bedrooms to two
25 bedrooms, which is simply what the Board

1 requested.

2 MR. ARENCIBIA: Unless it's okay to leave
3 -- just take the one bedroom out of the ground
4 floor and keep what we have.

5 But that's another option. Just a thought,
6 I'd say.

7 VICE CHAIRMAN GRULLON: Yeah.

8 MS. GUTIERREZ: Then how many parking
9 spaces?

10 VICE CHAIRMAN GRULLON: The parking -- the
11 parking count will remain the same, according to
12 the RSIS.

13 MR. ALONSO: Correct.

14 VICE CHAIRMAN GRULLON: Because that --
15 that's --

16 MR. ALONSO: Correct. The parking --

17 VICE CHAIRMAN GRULLON: That's for the --
18 now, there are going to be two bedrooms, you're
19 asking for six two bedroom.

20 MR. ALONSO: Correct.

21 VICE CHAIRMAN GRULLON: Yeah.

22 MR. ALONSO: And --

23 MS. GUTIERREZ: Six two bedroom.

24 MR. ALONSO: And the parking demand --
25 parking is still 12. And we're --

1 VICE CHAIRMAN GRULLON: Still 12.

2 MR. ALONSO: -- providing eight.

3 MS. GUTIERREZ: Still 12.

4 VICE CHAIRMAN GRULLON: Okay.

5 And again, just to -- to revise the -- the
6 memo from Mr. Spatz, the lighting provided --
7 provided on the surrounding of the building.

8 MR. ALONSO: Yes.

9 VICE CHAIRMAN GRULLON: And trees?

10 MR. ALONSO: Yes. That's already been
11 testified to.

12 VICE CHAIRMAN GRULLON: It's already --
13 it's already there.

14 MS. GUTIERREZ: Um hum.

15 VICE CHAIRMAN GRULLON: I want to thank the
16 -- the owner of the building for considering --
17 you know, revisiting the -- the bedroom count,
18 because that was a concern that we -- that the
19 Board had, along with the parking situation.

20 But you -- you're actually providing eight
21 parking spaces, and -- and what you are allowed
22 to build in that -- in that lot is a two three
23 bedroom units, which will bring the parking count
24 to -- even to a higher count than what you -- for
25 the -- for the building that you're proposing.

1 With that said, I make a motion to grant
2 the application.

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

5 MS. GUTIERREZ: Second it.

6 VICE CHAIRMAN GRULLON: You'll submit
7 revised plans?

8 MR. ALONSO: Yes. What I would request is
9 that we will submit plans to the Board before the
10 Resolution is memorialized. And then, it will
11 incorporate what I just referenced, which is
12 reducing all the three bedrooms to two bedrooms,
13 and eliminating the --

14 VICE CHAIRMAN GRULLON: The height
15 variance.

16 MR. ALONSO: -- partial fourth floor.

17 VICE CHAIRMAN GRULLON: Yes.

18 MR. ARENCIBIA: So, I'm -- I'm -- should
19 the Board vote for this before I speak?

20 MR. ALONSO: I don't know what you're going
21 to say?

22 MR. ARENCIBIA: I just want to make sure,
23 because I know that from here it goes to the
24 Resolution approval. The Building Department is
25 very specific as far as what we present to them,

1 has to be what was approved here.

2 So, we'll present -- we'll make the changes
3 on the drawings, submit them to you. Whatever
4 that's going to be signed, so those will be the
5 ones that will be --

6 MR. ALONSO: Correct.

7 VICE CHAIRMAN GRULLON: Yes. Correct.

8 MR. ARENCIBIA: -- sent to the Building
9 Department.

10 Okay. Perfect.

11 MR. MAROTTA: Mr. Chairman?

12 The changes -- still going to remain a six
13 family unit?

14 VICE CHAIRMAN GRULLON: Yes. Six family
15 unit.

16 MR. MAROTTA: The same height.

17 VICE CHAIRMAN GRULLON: No. Height is
18 going to be lower now.

19 MR. ALONSO: Right.

20 VICE CHAIRMAN GRULLON: They're going to
21 submit new plans.

22 MR. MAROTTA: The same parking.

23 VICE CHAIRMAN GRULLON: Same parking.

24 MR. MAROTTA: All right.

25 VICE CHAIRMAN GRULLON: Yes.

1 MR. BONACCI: Yeah.

2 THE SECRETARY: Mr. Chairman?

3 VICE CHAIRMAN GRULLON: I made a motion to
4 grant the application.

5 THE SECRETARY: Motion to grant the
6 application by Mr. Chairman Grullon.

7 MS. GUTIERREZ: Second it.

8 THE SECRETARY: Second by Margarita
9 Gutierrez.

10 Roll call on the motion.

11 Mr. Grullon?

12 VICE CHAIRMAN GRULLON: Yes.

13 THE SECRETARY: Mrs. Gutierrez?

14 MS. GUTIERREZ: Yes.

15 THE SECRETARY: Mr. Ortiz?

16 MR. ORTIZ: Yes.

17 THE SECRETARY: Mr. Medina?

18 MR. MEDINA: Yes.

19 THE SECRETARY: Mr. Bonacci?

20 MR. BONACCI: I vote yes with the
21 conditions that were previously addressed.

22 THE SECRETARY: Mr. Marotta?

23 MR. MAROTTA: This is in the R zone, and
24 I'm not satisfied that the positive criteria was
25 met.

1 And I'll tell you why I say that.

2 Generally, the special reasons, or the
3 positive criteria is met if the refusal to grant
4 a variance would impose a hardship, an undue
5 hardship.

6 We don't have that here.

7 And the other one is, when the proposed
8 project carries out the purposes of zoning, as
9 defined in the statute 40:55D-2.

10 I have that statute here, and I went
11 through it, and I didn't hear any testimony that
12 satisfies me that that has been met.

13 That's number one.

14 Number two.

15 Because this is a use variance, it requires
16 an enhanced quality of proof that the variance is
17 consistent with the intent and purpose of our
18 plan, of our Ordinance.

19 And I say that hasn't been met, because I
20 have our Ordinance here, and on Purposes A, to
21 regulate the use of land within zoning districts,
22 and to limit -- and B, limit and restrict
23 buildings and structures to specified zones.

24 Now, I've heard arguments from planners,
25 not only tonight, but through the years, but

1 | tonight, what I heard was that in this
2 | neighborhood, there's a co-mingling of uses.
3 | There's no question about that.

4 | But it's similar to other -- other planners
5 | say well, you have a four family -- a four story
6 | building down there, on the corner, why not put a
7 | four story building here?

8 | We're talking about preexisting
9 | nonconforming uses. That argument is not
10 | applicable. We cannot use that argument.

11 | We have a zone plan here. We have to
12 | follow our zone plan. They must prove -- they
13 | must give adequate proof that they're entitled to
14 | the variance.

15 | If I get that proof, I'll approve it, but I
16 | don't see that proof here, so I have to vote no.

17 | THE SECRETARY: No by Mr. Marotta.

18 | MR. MAROTTA: And in addition, also, I want
19 | to add to that -- add to that, again, we have a
20 | parking problem here. Okay.

21 | In this situation, we're talking about a 66
22 | percent -- they're providing only 66 percent of
23 | what we require. Forget that it's eight or four.
24 | It's 66 percent. That means they're 34 percent
25 | off.

1 I say 34 percent is substantial. And I --
2 I challenge anybody to tell me that it's not
3 substantial, because if our income is reduced 34
4 percent, that's a substantial reduction in our
5 income.

6 THE SECRETARY: Mr. Marotta, allow me for a
7 second, please.

8 And you vote no, right?

9 MR. MAROTTA: No.

10 THE SECRETARY: Okay.

11 Five in favor, one against. Motion
12 carries.

13 Thank you.

14 MR. ALONSO: Thank you very much.

15 Have a good evening.

16 MS. GUTIERREZ: Have a good evening.

17 MR. ALONSO: And happy Thanksgiving.

18 MR. ARENCIBIA: Thank you, everybody.

19 MS. GUTIERREZ: And happy Thanksgiving.

20 MR. ARENCIBIA: Happy Thanksgiving,
21 everybody.

22 MS. GUTIERREZ: Happy Thanksgiving.

23 MR. ARENCIBIA: Enjoy.

24 Thank you so much.

25 MS. GUTIERREZ: You're welcome.

1 MR. ARENCIBIA: Bye-bye.

2 MR. DILLON: Take it easy.

3

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

6

* * *

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 1811 Bergenline Avenue, LLC - 1811 Bergenline
2 Avenue:

3

4 THE SECRETARY: Okay.

5 Are we on the record?

6 MR. DILLON: Yes.

7 THE SECRETARY: Next -- next application on
8 tonight's agenda, 1811 Bergenline Avenue, LLC,
9 1811 Bergenline Avenue.

10 Request adjournment from the previous
11 meeting.

12 Mrs. Pereiras, please?

13 MS. PEREIRAS: Thank you very much.

14 Again, good evening.

15 Bianca Pereiras, on behalf of the
16 applicant, 1811 Bergenline Avenue, LLC.

17 As mentioned by the Board Secretary, we did
18 provide jurisdictional proofs at the last meeting
19 and same was acquired.

20 We are here today to construct a mixed use
21 building, at 1811 Bergenline.

22 We had a similar application before this
23 Board a few months ago, about three blocks north.

24 We are proposing a mixed use, which is
25 normally and typically a permitted use on the CN

1 neighborhood district, which is on Bergenline
2 Avenue.

3 The reason we're before this Board is
4 because we are proposing to not just have
5 commercial on the ground floor, but to split that
6 ground floor into commercial and residential.

7 We have one expert to testify before the
8 Board this evening, and that is our architect,
9 Mr. Manuel Pereiras.

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

12 MR. DILLON: Please raise your right hand.

13 Do you swear the testimony you're about to
14 give this Board is the whole truth?

15 MR. PEREIRAS: I do.

16 MR. DILLON: State your name for the
17 record.

18 MR. PEREIRAS: Manny Pereiras,
19 P-E-R-E-I-R-A-S, with Pereiras Architects
20 Ubiquitous, 1116 Summit Avenue, Union City.

21 MR. DILLON: Thank you.

22 VICE CHAIRMAN GRULLON: Always here. You
23 may proceed, Mr. Pereiras.

24 MR. PEREIRAS: Thank you.

25 MS. PEREIRAS: Mr. Pereiras, are you

1 familiar with 1811 Bergenline Avenue?

2 MR. PEREIRAS: I am.

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

5 MR. PEREIRAS: I have.

6 MS. PEREIRAS: And would you kindly
7 describe the proposed application to the Board?

8 MR. PEREIRAS: It's good to be here.

9 We have what I think is a great project
10 today.

11 We're on 1811 Bergenline Avenue. This is
12 the west side of Bergenline Avenue. You might
13 actually know this site, because it had, for many
14 years, a hideous building that was in -- falling
15 apart, it was dangerous, it had multiple
16 violations on it. It was a hazard. The City was
17 actually scared that the building was going to
18 collapse.

19 Our client purchased the property and
20 immediately prepared the application before this
21 Board, and immediately went to demolish this
22 building, finally, to take care of this -- this
23 hazard.

24 And we're proposing to replace it with this
25 beautiful structure that we're going to present

1 to you.

2 We are in the CN district, and we're
3 complying with the majority of the -- of the
4 regulations on the district, and I'll walk you
5 through everything.

6 We have a typical 25 by 100 lot. What's
7 interesting on Bergenline Avenue, as you know,
8 the front yard -- there's actually a front yard
9 setback of two feet.

10 The property line overhangs what's
11 typically a sidewalk two feet. We're proposing
12 to maintain that, and keep our building inline
13 with the rest of the buildings on Bergenline
14 Avenue, and propose a two foot front yard
15 setback.

16 So, it matches both the buildings -- the
17 building immediately to the south of it.
18 Currently, it's an empty lot to the north. But
19 the building further to the north matches that
20 front yard setback as well.

21 Our building as -- conforms to this lot.
22 It has no side yard setbacks. We're actually
23 only setting back two inches for construction
24 purposes.

25 So, we're meeting side yard setbacks at

1 zero and zero on both sides.

2 Our rear yard, for the structure -- the
3 main structure, we're in compliance with the
4 Ordinance at 20 feet for the structure itself,
5 but we do need to provide a fire stair. And that
6 fire stair, I want to be clear, on the Ordinance
7 -- on the record, that it's going to be a seven
8 foot six fire stair. And the setback to the fire
9 stair is 12 foot six.

10 So, on a conservative matter, we could say
11 that our rear yard setback is 12 foot six and we
12 would require a variance for that. But the
13 building itself is at 20 feet from the rear
14 property line.

15 Talking about coverage. We're in
16 compliance with building coverage. We're at 80
17 percent of the lot, and no variance is required.
18 And even with a maximum lot coverage, we're only
19 at 82 percent, because we're proposing open yard
20 in the rear, whereas a hundred percent is
21 permitted. So, we're well within the ranges
22 there.

23 I'm going to walk -- we do have a variance
24 for parking. And I'll explain that further. And
25 we do -- we are before the Zoning Board for a use

1 variance. And I'll explain that further, also.

2 We are proposing a mixed use building, with
3 commercial and residential. That's what the
4 Ordinance requests of us. It's what's encouraged
5 by our Master Plan.

6 Very typically, along Bergenline Avenue,
7 you have your store on your ground level, and you
8 have your apartments above.

9 We are coming to a very special reason, and
10 a -- and a hardship because when we provide
11 residential apartments above, if we provide our
12 four units, Code restricts us into having
13 handicapped accessibility required.

14 This is a federal law. ADA guidelines
15 stand. In order to have four units or more, you
16 have to comply with ADA standards.

17 And we cannot do that on a second floor or
18 a third floor, unless we put an elevator. If we
19 put an elevator into this structure, it would eat
20 up the ground floor commercial space, and we
21 would not -- it would not be a feasible building.

22 Imagine the small lots on -- on Bergenline
23 Avenue, with a large elevator, and a lobby, and a
24 stairwell in order to get upstairs.

25 So, what we're proposing to do is to

1 provide a residential unit on the ground level,
2 as well. And because of that, we are brought
3 here before this Board.

4 But that residential unit on the ground
5 floor does a couple of things. First, from a
6 renting standpoint, and from a business
7 standpoint, it makes the commercial space
8 accessible.

9 One of the problems we have on Bergenline
10 Avenue, and as you know, we have a lot of
11 vacancies. It's a lot of square footage. It's
12 expensive to rent. And there's, unfortunately, a
13 lot of vacancies.

14 If we cut that square footage down smaller,
15 to an attainable, rentable area, now we could
16 have a small mom and pop shop, that could
17 purchase and could -- and could rent there. Not
18 purchase it. They have the affordability of
19 renting there.

20 And then, we take the back portion of that
21 ground floor, and provide a completely
22 handicapped accessible unit on the ground level.
23 And that's what we're proposing to do, and that's
24 what I want to walk you through right now.

25 By the way, for purposes of record, I'm

1 using the drawings up on this easel. They're the
2 same drawings that were submitted on the Board,
3 simply -- simply here for presentation.

4 What I'm pointing to now is a ground floor
5 plan. As you could see, there's two doors along
6 the front. One is an entrance to the residential
7 portion. It also creates a hallway that leads
8 from the rear of the property all the way to the
9 front of the property.

10 That hallway is really critical, and I'll
11 explain it a little bit later.

12 For now, let's talk about the commercial
13 space.

14 This commercial space is 600 square feet,
15 completely accessible also, with its own handicap
16 bathroom and open from the front.

17 Storefront along the front of the property,
18 and it's a good, small commercial space that can
19 be rented, and we hope it could be rented.

20 The rear of this, we create a one bedroom
21 unit. And we make that one bedroom 550 square
22 feet, also in compliance with our Ordinance and
23 our density standards.

24 And that unit is open to a good size
25 bedroom. It's ten feet by 11 foot bedroom, has a

1 kitchen area, and an open living/dining room
2 area, with windows to the rear yard.

3 Let's go upstairs.

4 You take the stairs up to the second floor,
5 and you're entered into a small lobby. And that
6 lobby leads you to two apartments.

7 We have a two bedroom along the rear, and a
8 two bedroom along the front. The two bedroom
9 along the rear is 763 square feet. The two
10 bedroom along the front is 750 square feet, and
11 it gives nice ample rooms.

12 The room to -- the two rooms -- I'll give
13 you the dimensions. It's 11 foot two by 12 foot
14 11. Really nice rooms. Basically, 13 by 11.

15 And the other room is actually longer,
16 because we have the space here. It's 15.5 by
17 11.2. So, we have nice sizable rooms in this 763
18 square foot apartment.

19 We're doing the same thing, front and back.
20 And then, another floor of the same thing, top
21 and bottom.

22 We do also provide a basement in this
23 property. Fortunately, the -- the -- all the
24 properties along the area have basements. The
25 property that was there. So, we're removing that

1 fill and we're using that basement for storage
2 and -- and the apartment use.

3 What else?

4 So, we took a great deal of care into the
5 aesthetics of this building. We want it to look
6 beautiful. We want it to fit into Union City.
7 We wanted to -- to provide brick, and we want to
8 provide a lot of continuity along the avenue.

9 So, what we're proposing is a very similar
10 to what we approved earlier, a few months ago,
11 and it's a brick façade. Very simple brick
12 façade, a nice ribbon of windows that are
13 outlined with brick. Creates a very nice kind of
14 scale to the project.

15 We're proposing a short building. It's
16 only three stories. The actual height of it is
17 thirty -- 35 feet to the top of the cornice. It
18 fits into the character of the neighborhood, it
19 fits into the scale of the neighborhood. It
20 works very well.

21 So, ultimately, we have a commercial space,
22 600 square feet. And then, one bedroom unit in
23 the rear of it, and four two bedroom units above
24 that work very well together.

25 We have a parking variance, of course. I

1 think we need a total of 13 parking spaces
2 between the commercial and the residential. And
3 of course, we all know the hardship for that.

4 And first and foremost, we're on Bergenline
5 Avenue. We don't want to create a driveway on
6 Bergenline Avenue. That would go against
7 everything what Bergenline Avenue almost stands
8 for.

9 If we did a driveway curb cut into
10 Bergenline Avenue on the sidewalk, it would
11 really impede pedestrian traffic going up and
12 down. It would just be dangerous. We all know
13 that.

14 We want to keep that for storefront, keep
15 the continuity of our commercial avenue, and
16 create the -- the residential housing stock that
17 we need.

18 So, for the most part, this is within the
19 parameters of our Ordinance, within the
20 parameters of our Master Plan, and we're simply
21 trying to comply with ADA standards, federal
22 laws, and that's the special circumstances why we
23 need this apartment on the ground floor.

24 Let me put it back here.

25 That concludes my testimony. I'm open for

1 all your questions.

2 VICE CHAIRMAN GRULLON: Yes. Mr. Pereiras,
3 could you explain what you have on the adjacent
4 properties?

5 MR. PEREIRAS: Yes. Okay.

6 So, to the immediate south of it, it's a
7 mixed use building, same as this. I don't know
8 how many units are in there, but it's a multi-
9 family above it.

10 And to the immediate north, there's an
11 empty lot. Hopefully, they'll do something like
12 this. It needs development there.

13 But the entire block is of the same
14 character. We have mixed use structures for the
15 most part. There are some solely residential
16 structures in that area, but this is the CN
17 district. So, that's what's encouraged and done.

18 And actually, I forgot to say something
19 important in my testimony. Just to talk about
20 the safety and fire egress standards.

21 We created a fire stair along the back, so
22 all the apartments along the back of the property
23 are able to come down, and within Code and
24 regulations, we created a two hour hallway that
25 -- when I say two hour, I talk about two hour as

1 in fire resistance.

2 So, it's a specially fire resistant
3 hallway, with sprinkler heads and a full fire
4 suppression system in it, so that for fire
5 safety, if there was any -- any emergency, people
6 would be able to get out and get to the front,
7 which is something our Ordinance doesn't talk
8 about on Bergenline Avenue. It's like a huge
9 concern for me, rehabbing and fixing new
10 buildings, because we have all these buildings,
11 with lot line to lot line, and no way of escaping
12 in case there's a fire along the rear.

13 So, we've created this design and we've
14 worked hard with the Building Department in order
15 to do this, actually. We've been doing this on
16 multiple properties along Bergenline Avenue. And
17 now, we -- we have, since we've come across this
18 a lot, we have the foresight to do this right now
19 even in planning.

20 So, that's an important aspect of this
21 application that I think you should all take into
22 consideration, also.

23 VICE CHAIRMAN GRULLON: Another question,
24 Mr. Pereiras, in that section of Bergenline
25 Avenue, it's permitted to have curb cuts? Any

1 | curb cuts on the street?

2 | MR. PEREIRAS: Correct. It wouldn't even
3 | be permitted. We would be before this Board to
4 | create a curb cut, which is just -- like an irony
5 | there.

6 | So, we're asking for a variance, and we
7 | wouldn't even be able to comply in -- in any way.

8 | MR. PANEQUE: Mr. Pereiras?

9 | I have a question that is brought up by Mr.
10 | Spatz in his memo.

11 | That is with respect to the unit in the
12 | rear, on the ground floor. The square footage on
13 | that unit is 500 square feet.

14 | MR. PEREIRAS: No. I think it's --

15 | VICE CHAIRMAN GRULLON: No, no.

16 | MR. PEREIRAS: -- 550 square feet.

17 | MR. PANEQUE: Is it 550?

18 | MR. PEREIRAS: And I do that very
19 | purposefully in order to comply with our
20 | Ordinance.

21 | The minimum square footage of a one bedroom
22 | unit in Union City is 550, and that's why we do
23 | it at 550 square feet.

24 | MR. PANEQUE: Thank you for that
25 | clarification.

1 Therefore, there is no need for a density
2 variance.

3 MR. PEREIRAS: There is no density variance
4 on this project.

5 MR. PANEQUE: Thank you.

6 VICE CHAIRMAN GRULLON: And you're asking
7 for a variance because you have that unit on the
8 ground floor.

9 MR. PEREIRAS: Yeah. The -- the Ordinance
10 specifically says that there -- residential units
11 are approved above the ground -- first ground
12 level.

13 Therefore, by default, they're not approved
14 on the ground level, and that's why we're coming
15 before this Board. It's something that should be
16 considered, simply because we need to comply with
17 -- with ADA guidelines.

18 VICE CHAIRMAN GRULLON: I don't have any
19 more questions.

20 Do you guys have any question regarding to
21 this application?

22 Do you have any other witness?

23 MS. PEREIRAS: No. That would conclude our
24 presentation.

25 VICE CHAIRMAN GRULLON: Conclude your

1 presentation.

2 At this time, I want to open this to the
3 public.

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

5 Is a D-1 use variance required here? Is
6 the planner --

7 VICE CHAIRMAN GRULLON: Planner is --

8 MR. MAROTTA: -- Mr. Spatz?

9 VICE CHAIRMAN GRULLON: -- not here. It's
10 a D-1?

11 MR. MAROTTA: Is Mr. Spatz here?

12 VICE CHAIRMAN GRULLON: They're not asking
13 for that.

14 MS. GUTIERREZ: No. He's not here.

15 MR. BONACCI: He's not.

16 VICE CHAIRMAN GRULLON: They're not asking
17 for that.

18 MR. PANEQUE: Mr. Spatz is not here, but a
19 D-1 variance is required, according to Mr.
20 Spatz's memo, because as Mr. Pereiras testified,
21 residential units are not permitted on the ground
22 floor.

23 MR. MAROTTA: Right.

24 MR. PANEQUE: Due to the fact that we're on
25 Bergenline Avenue, the Ordinance provides that

1 everything on the ground floor must be
2 commercial.

3 They're coming in with the application that
4 they're dividing the ground floor because, one,
5 the -- the commercial space will be more
6 marketable if it's smaller than a full 25 by
7 whatever --

8 VICE CHAIRMAN GRULLON: One hundred.

9 MR. PANEQUE: -- feet back.

10 And they're providing the rear unit and
11 making it ADA accessible. Therefore, also a
12 benefit to having a rear unit on the ground
13 floor.

14 MR. MAROTTA: So, we don't need a D-1 use
15 variance?

16 MR. PANEQUE: We do need a D-1.

17 MR. MAROTTA: Because --

18 MR. BONACCI: Because of the apartment.

19 MR. MAROTTA: Okay.

20 MR. PANEQUE: We need it because
21 residential units are not permitted on --

22 MR. BONACCI: Ground floor.

23 MR. PANEQUE: -- the ground floor of
24 Bergenline Avenue.

25 MR. MAROTTA: Is there a planner, then,

1 who's going to testify on it?

2 MR. PANEQUE: There is no planner.

3 MS. PEREIRAS: We don't have a planner.

4 MR. PANEQUE: No.

5 MR. PRICE: By the way, I make -- I make
6 one comment, if I may?

7 MR. PANEQUE: Yes, Mr. Price?

8 MR. PRICE: Which is -- you know --

9 MR. PANEQUE: You're still under oath, by
10 the way.

11 MR. PRICE: I'm still -- still under -- I'm
12 still Larry Price, too.

13 There -- as Mr. Marotta said earlier this
14 evening, there are three reasons why you can
15 grant a D-1 variance.

16 One is it's an inherently beneficial use.
17 Two is that it's particularly suitable. And
18 there's a third one, which is undue hardship,
19 which means, basically, that you couldn't build a
20 conforming use.

21 And, basically, I've never seen -- you
22 know, it exists, but I've never seen an undue
23 hardship justification until tonight, here,
24 because --

25 MS. GUTIERREZ: Okay.

1 MR. PRICE: -- they can't -- they can't
2 build this thing -- you know --

3 MR. PANEQUE: With an elevator.

4 MR. PRICE: -- with an elevator. So, they
5 can't build a conforming use on a 25 by a hundred
6 lot.

7 So, it's an undue hardship, whatever, for a
8 first. Tonight.

9 MS. GUTIERREZ: There's always the first
10 time.

11 VICE CHAIRMAN GRULLON: Any other member of
12 the public?

13 Close --

14 MR. BONACCI: Chairman?

15 I just -- I just wanted to add that -- you
16 know, any time we get an application that has
17 some commercial space in it, I think is great,
18 because -- you know, we do so much -- you know,
19 housing, housing, housing.

20 MS. GUTIERREZ: We was talking about that,
21 yes.

22 MR. BONACCI: And there's just never
23 anything to bring any kind of businesses in, --

24 VICE CHAIRMAN GRULLON: Yes.

25 MR. BONACCI: -- that we don't hear enough

1 of.

2 So, just -- you know, strictly on that
3 premise --

4 VICE CHAIRMAN GRULLON: And that's inline
5 with the Master Plan --

6 MR. BONACCI: Yeah.

7 VICE CHAIRMAN GRULLON: -- for Bergenline,
8 that's --

9 MR. BONACCI: And plus, I've seen what's --
10 what's there, the space.

11 MS. GUTIERREZ: Um hum. The space.

12 MR. BONACCI: So this -- you know, would be
13 awesome, considering what's there now.

14 MS. GUTIERREZ: Um hum.

15 MR. BONACCI: But that's -- you know,
16 that's just me.

17 VICE CHAIRMAN GRULLON: The building will
18 be fully sprinkler.

19 MR. PEREIRAS: Yes, it will be.

20 MR. MEDINA: It's better, the building.
21 No?

22 VICE CHAIRMAN GRULLON: Okay. Closed to
23 the public.

24 I want to make a motion to grant the
25 application.

1 Also to -- you know, commend you on the
2 beautiful building. It's a nice building.

3 MS. GUTIERREZ: Beautiful building.

4 VICE CHAIRMAN GRULLON: I think it's going
5 to enhance the area. Basically, because of that
6 -- of that was existing there, it's been like
7 that for many years.

8 MS. GUTIERREZ: Um hum.

9 VICE CHAIRMAN GRULLON: I make a motion to
10 grant --

11 THE SECRETARY: Motion to --

12 VICE CHAIRMAN GRULLON: -- the application.

13 THE SECRETARY: -- approve the application
14 by Mr. Grullon.

15 Second by?

16 Mrs. Gutierrez.

17 Roll call on the motion.

18 Mr. Grullon?

19 VICE CHAIRMAN GRULLON: Yes.

20 THE SECRETARY: Mrs. Gutierrez?

21 MS. GUTIERREZ: Yes.

22 THE SECRETARY: Mr. Ortiz?

23 MR. ORTIZ: Yes.

24 THE SECRETARY: Mr. Medina?

25 MR. MEDINA: Yes.

1 THE SECRETARY: Mr. Bonacci?

2 MR. BONACCI: Yes.

3 THE SECRETARY: Mr. Marotta?

4 MR. MAROTTA: Yes.

5 THE SECRETARY: Six in favor, motion
6 carries.

7 MS. PEREIRAS: Thank you all very much.

8 THE SECRETARY: Congratulations.

9 MS. PEREIRAS: Thank you.

10

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

13 * * *

14

15

16

17

18

19

20

21

22

23

24

25

1 **Gerardo Tan - 203 New York Avenue:**

2

3 MR. PANEQUE: For the record, I've been
4 provided by Ms. Pereiras --

5 What is it?

6 MS. GUTIERREZ: Wait.

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

9 THE SECRETARY: The next application on
10 tonight's agenda --

11 I'm sorry, Mr. Paneque.

12 Gerardo Tan, 203 New York Avenue.

13 Mrs. Pereiras, please?

14 MR. PANEQUE: For the record, I've been
15 provided by Ms. Pereiras with the certification
16 as to publication, indicating that notice of
17 tonight's hearing, with respect to the property
18 located at 203 New York Avenue was given to all
19 property owners within the 200 foot radius.

20 The documents that Ms. Pereiras has
21 provided to me include the following:

22 An Affidavit of Publication from The Jersey
23 Journal, indicating that notice of tonight's
24 hearing was given for 203 New York Avenue. Said
25 notice was published on November 5th, 2016.

1 I've also been provided with a list from
2 the Union City Tax Assessor, dated November 4th,
3 2016, for the property in question, 203 New York
4 Avenue, consisting of three pages of those
5 property owners.

6 Also, I've been provided with a certified
7 mail receipt -- showing all the notices that went
8 out, dated November 7th, 2016.

9 And I've also been provided with the green
10 cards and envelopes that have come back to date.

11 Based on what I have been provided with by
12 Ms. Pereiras, this Board has jurisdiction to hear
13 this matter.

14 MS. PEREIRAS: Thank you very much,
15 counsel.

16 Again, Bianca Pereiras, on behalf of the
17 applicant, Gerardo Tan, for property located at
18 203 New York Avenue, also known as Block 8, Lot
19 2.

20 There is some history to this project, so
21 let's do a brief little synopsis.

22 This property originally had a two family
23 home on it, which was destroyed by fire a few
24 years ago.

25 We had originally done an application

1 before the Planning Board to reconstruct a two
2 family. Although that matter -- that application
3 was approved, we were appealed. We were
4 successful at the Superior Court level, however,
5 we were appealed again.

6 While we were waiting for this Appellate
7 date, to go before the Appellate Board, my client
8 was no longer able to afford this property, and
9 sold it to Mr. Gerardo Tan, my new client.

10 The client is here before the Board today
11 to construct a very modest one family home,
12 because we do have an undersized lot that we're
13 dealing with.

14 We have one expert to testify before the
15 Board this evening, and that is our architect,
16 Mr. Manuel Pereiras.

17 MR. PEREIRAS: Manny Pereiras, still under
18 oath.

19 MS. PEREIRAS: Mr. Pereiras, are you
20 familiar with 203 New York Avenue?

21 MR. PEREIRAS: I am.

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

24 MR. PEREIRAS: I have.

25 MS. PEREIRAS: And would you kindly

1 describe the application to the Board?

2 MR. PEREIRAS: All right. Let's orient
3 ourselves on this.

4 We have -- I'm -- I'm referring now to
5 Sheet Z01. It's the same documents that were
6 presented before the Board, simply on the easel
7 for ease of presentation.

8 Looking at the satellite image, we have
9 Washington Park, 2nd Avenue is the edge of
10 Washington Park. And then, on New York Avenue,
11 between Washington and 3rd, we're talking about
12 the property immediately to the west that had
13 that devastating fire, took out everything that
14 was there.

15 I'm pointing to, in a picture that shows
16 the original buildings. Right on the corner,
17 there was a mixed use structure, grocery store on
18 the ground level and residential apartments
19 above. And then, the properties next to it, the
20 immediate property next to it, that's the two
21 family that we're talking about.

22 So, that was a structure that was -- that
23 -- the subject of this property.

24 If you look at the site today, it's razed.
25 It's a -- it's a completely flat land, all the

1 way to the structure that you see there.

2 And then, if you look at across the street,
3 you have very similar structures that are these
4 townhouse homes, almost like brownstones, made
5 out of brick, across the site, which is small
6 lots. Just like the south -- like the lot that
7 we have today.

8 We have a lot that is undersized. We are
9 16 feet wide, and we are slightly shy of 80 feet
10 deep. It's actually 79.83 feet in depth.

11 And that -- and that width triggers that --
12 that existing nonconformance that we have, that
13 we can't modify in any way, that triggers all the
14 variances that are before this Board today.

15 We do, however, try to respect all the
16 variances as much as possible. We start by
17 creating a front yard setback of 17 feet.

18 We come up to 17 feet for very specific
19 reasons, for -- to create a good apron in the
20 front, where we can park a car in the driveway.

21 And also, we're creating the ability to
22 provide a front stair along the building. And
23 the 17 feet allows us to do that comfortably. We
24 get to the top, with a nice landing in front of
25 the door.

1 That 17 foot front yard setback then leads
2 us to the depth of our building. We're providing
3 -- proposing a building slightly shy of 52 feet
4 in depth, a very modest one family house. It's
5 51 feet ten inches, actually.

6 And that allows us the -- the rear yard of
7 11 feet in total, which is another variance
8 because it doesn't comply with the 25 percent of
9 the rear yard setback that we are required.

10 Also, keep in mind that the depth of the
11 lot is also an existing nonconformance, and that
12 triggers, of course, that variance, as well.

13 But when we -- where we do comply, and I'm
14 very proud to say, is some very key important
15 factors.

16 We have an undersized lot, so we maintain
17 the height of our building small. We -- we kept
18 it at three stories. We kept the maximum height
19 of our building at thirty -- 38 and a half feet,
20 all within the Ordinance.

21 And then, what's really extraordinary here,
22 is even though we have a variance for building
23 coverage, the Ordinance allows 60 percent, we
24 were able to maintain our building coverage at 65
25 percent, which I think is significantly important

1 in this project.

2 We look at a lot of projects, and we look
3 at the variances that have been granted before in
4 Union City, they tend to go over that quite
5 often.

6 We have an undersized lot, and we were able
7 to keep this as a humble home, at 65 percent.
8 And I think that's an important thing to -- to
9 recognize, as well as our maximum lot coverage.

10 Wherever possible, we created green space
11 and pervious coverage. So, we created small
12 landscaping areas along the front yard on both
13 sides of the driveway. And we created the
14 grassed area in the back, so that our -- our
15 maximum lot coverage is at 84 percent, which is
16 1,068 square feet.

17 Let's talk a little bit about parking,
18 which leads us to our first floor.

19 We have a three bedroom house that we're
20 proposing. So, our requirement before the Code
21 -- the -- the Board is two parking spaces. And
22 for once, I could say, we don't need a parking
23 variance.

24 So, we're providing parking for two cars
25 here. We do need a waiver, however, because

1 | those cars are in tandem.

2 | So, I'm turning now to Sheet Z02, and if
3 | you could see the ground floor, we have a car
4 | parked within, fully garaged. You walk through
5 | the door -- the garage door, and you have your
6 | car parked there, and then, a car on the apron.
7 | So, we do need a waiver for that tandem parking
8 | along the front.

9 | As you enter this building -- you actually
10 | have two ways of coming into this building. If
11 | you park your car, you have a stair that leads
12 | you up to the -- to the second floor. Or if you
13 | have guests coming from the outside, they can
14 | lead -- come up through that exterior stair, and
15 | it leads you to your ground floor.

16 | And what we did within this building, even
17 | though we're following kind of like a brownstone
18 | traditional brick façade, the interior is very
19 | contemporary.

20 | And what we're doing is providing a big,
21 | open beautiful space.

22 | So, you walk into the apartment. You have
23 | your coat closet and then the rest of it is open
24 | from front to back.

25 | Remember, we're talking about a shallow

1 lot. So, this is 16 feet wide. But the full 52
2 feet of length of our building, we're taking
3 advantage of every single square inch, and we
4 create a big, open space that's living, dining
5 room and kitchen.

6 So, we had to be very creative in how we
7 distribute the space, since it's so tight. So,
8 what we did is we created residential bedrooms,
9 basically, below and above this. So, we keep
10 everything within the three story footprint.

11 So, from the -- the living room/dining room
12 area, you could take the steps down to a master
13 bedroom. And now, we created a really beautiful
14 master bedroom that takes advantage of the full
15 width. We have the stairs, and then the hall --
16 the hall -- the master bedroom, with a 16 foot
17 depth, and then a master closet, and master
18 bathroom, as well.

19 And that bedroom opens up to the rear yard,
20 so they have a nice beautiful bedroom, master
21 bedroom, open to windows to the rear yard, and a
22 nice level of privacy coming from the -- the
23 family space above.

24 If you go back to that living space area,
25 and you take the stairs to the floor above, you

1 -- we have two bedrooms. One along the rear, and
2 one along the front. And those are nice, ample
3 size bedrooms. They're 12 foot four by 14 foot
4 eight. Both of them, front and back. And each
5 of the bedrooms has a bathroom, as well, and a
6 walk-in closet for each of them. Well, this
7 one's not a walk-in. That's a pull-in closet.
8 And then, a small laundry area.

9 So, what we have proposed is a very modest
10 kind of simple house, one family house, that fits
11 really well and, hopefully, our -- the
12 neighboring structures can do the same thing, and
13 they'll fit into the neighborhood.

14 To talk about the façade. We went with
15 none other than brick. We wanted to do a simple
16 brick, beautiful façade. Stone headers along the
17 top. Stone fill. And -- and a simple cornice
18 along the top of it.

19 It matches in -- in conceptual design to
20 the structures across the street. I don't know
21 what's going to happen next to it, but I hope
22 it's -- it will fit in line. If we could do
23 buildings that are very similar, it will create a
24 nice ribbon to the neighborhood.

25 But that's what we're proposing here today.

1 And I'm open for your questions.

2 VICE CHAIRMAN GRULLON: Mr. Pereiras,
3 you're making magic on such a small lot. I'm
4 surprised that you have -- you know, such ample
5 rooms inside, and everything is -- you know,
6 according to -- to what's required for living
7 space.

8 MS. GUTIERREZ: Um hum.

9 VICE CHAIRMAN GRULLON: My question, the
10 lot -- the other lots, 1 and 3 -- let's see --
11 are they vacant? Lot 1 and 3?

12 MR. PEREIRAS: Both lots to the south and
13 the north are currently vacant.

14 MR. BONACCI: The whole block's wiped out.

15 VICE CHAIRMAN GRULLON: Has your client
16 considered, like buying those property and try to
17 come --

18 MR. PEREIRAS: He --

19 VICE CHAIRMAN GRULLON: -- up with a --

20 MR. PEREIRAS: Yeah. He's made lots of
21 attempts to buy it. I -- I know offers have been
22 made back and forth. I don't know the
23 particulars of the offers. I don't know the
24 prices, but I know that we're here today because
25 that was unsuccessful and they have to go with --

1 | they have to go with the lot that they have.

2 | VICE CHAIRMAN GRULLON: And could you
3 | explain again the -- the ground floor? How would
4 | -- is there an entrance for the ground floor to
5 | the master bedroom?

6 | MR. PEREIRAS: No. We did that for lots of
7 | reasons.

8 | First and foremost, we don't want an
9 | illegal apartment. So, there's no way of getting
10 | there. Okay?

11 | We designed it in a way so that there's no
12 | way of getting there, and renting that out as any
13 | legal way.

14 | VICE CHAIRMAN GRULLON: Yeah.

15 | MR. PEREIRAS: And we also want, for safety
16 | reasons, kind of really split -- that's going to
17 | be a two hour fire wall, between the garage and
18 | the residential portion in the back. So, that's
19 | completely split up.

20 | The only way of getting to that back
21 | bedroom is going from the upstairs, and taking
22 | the stairs down to get into that bed.

23 | I do that very carefully, just because I
24 | know Union City, this is my -- you know, this is
25 | where I grew up, and I know what to kind of

1 protect in the buildings, as we design it.

2 VICE CHAIRMAN GRULLON: And the height of
3 this proposed unit now? Is it in line with the
4 previous unit that was there, --

5 MS. GUTIERREZ: Before.

6 VICE CHAIRMAN GRULLON: -- before the fire?

7 MR. PEREIRAS: So, we're at 38 feet five
8 inches, which is in compliance with our
9 ordinance. It's under 40 feet.

10 Let's -- to talk about the height that was
11 there, since it was in the fire. I don't know.

12 VICE CHAIRMAN GRULLON: Yeah.

13 MR. PEREIRAS: I couldn't measure it. So,
14 all I could go for was from memory, and from
15 photographs that we have.

16 And from this photograph, we have this
17 ground floor, which would be -- it looks more
18 than six feet from the grade. So, from a
19 Building Department standpoint, that would be
20 considered a story.

21 Then, you have that second floor, third
22 floor. And then, I see what looks to be like an
23 attic window. I don't know how far the depth of
24 that attic is. I don't know how big that room
25 was, but it looks like four stories to me.

1 But if I do that in comparison to the
2 structure immediately to the south, the structure
3 immediately to the south is a three story
4 building. It has a taller ground floor level.
5 And -- and it does -- and the attic of the -- our
6 property seems like it's a good four feet taller
7 than that.

8 So, I would say that in height, as a
9 nominal height, we're probably very close to the
10 same height.

11 But in number of stories, we're definitely
12 less. That would be what looks like a three
13 story plus attic. We don't have that plus attic.
14 We have a three story building.

15 So, we're actually reducing the height, as
16 far as number of stories. And reducing the
17 impact for multiple reasons. Not only in the
18 size, but also reducing the impact in density.
19 We have one unit as opposed to two units. A lot
20 less cars, a lot less in every aspect.

21 VICE CHAIRMAN GRULLON: And you're
22 providing two -- two parking spaces.

23 MR. PEREIRAS: Two parking spaces, tandem.

24 VICE CHAIRMAN GRULLON: Which one is --

25 MR. PEREIRAS: One on the apron.

1 VICE CHAIRMAN GRULLON: Which one is
2 tandem?

3 MR. PEREIRAS: And one inside.

4 VICE CHAIRMAN GRULLON: What is the
5 requirement for a three bedroom unit, 2.1?

6 MR. PEREIRAS: Two parking spaces.

7 VICE CHAIRMAN GRULLON: I don't have any
8 more questions.

9 Do you have any questions?

10 MR. MAROTTA: Well, is the own -- is the
11 applicant here? I have a question for the
12 applicant.

13 VICE CHAIRMAN GRULLON: The applicant. Do
14 you have the applicant here?

15 MS. PEREIRAS: The applicant is not here,
16 Mr. Marotta.

17 MR. MAROTTA: The applicant is not here?

18 MS. PEREIRAS: No.

19 MR. MAROTTA: Well, I -- I see from the
20 application that the applicant lives in Secaucus.
21 And that he evidently purchased this property
22 this year, in May.

23 MS. PEREIRAS: That's correct.

24 MR. MAROTTA: I just wanted to know if he's
25 going to live in the property, or if he's doing

1 | it for speculation? Because to me, that's a big
2 | issue.

3 | If he's doing it for speculation, I'm
4 | against the project.

5 | I think the three -- there's -- there's so
6 | -- there's so many deviations from -- from our
7 | Code.

8 | You're talking lot area, lot width, lot
9 | depth, lot coverage, side yard, rear yard.

10 | Yeah, I would be against this. I --
11 | especially if it's -- if it's a commercial thing
12 | here.

13 | MS. PEREIRAS: I don't know what the
14 | intention will be.

15 | MR. MAROTTA: I'd like to know --

16 | MS. PEREIRAS: Owner --

17 | MR. MAROTTA: I'd like to see the applicant
18 | and talk to the applicant.

19 | MS. PEREIRAS: I don't know what his
20 | intention is. He may want --

21 | MR. MAROTTA: Well --

22 | MS. PEREIRAS: -- to live in the premises,
23 | he may not. I'm not sure.

24 | MR. PEREIRAS: Mr. Marotta's concerns are
25 | the deviations from our Ordinance.

1 Well, we have an undersized lot. That's
2 not something that could change. We can't create
3 more land if the purchase attempts have been
4 made. There's no way of creating more land.

5 So, this is, in theory, completely
6 unbuildable if our Ordinance permits one, two and
7 three family residences.

8 We're going to the least intrusive of all
9 of these. We're asking for a single family home.
10 What less could we do, unless we want to build a
11 doghouse, which I'm not even sure if our
12 Ordinance will permit it.

13 MR. MAROTTA: Well, I'll tell you what, Mr.
14 Pereiras --

15 MR. PEREIRAS: I'm sorry. Mr. Marotta, I
16 did not interrupt you.

17 MR. MAROTTA: Okay.

18 MR. PEREIRAS: We're providing a one family
19 house. We're proposing a one family house here.
20 And our variances that we're seeking before this
21 Board, C variances keep in mind, this Board is
22 used to dealing with D, very heavy, big
23 variances.

24 That's not the case here. We're not before
25 this Board before we're asking for a use

1 variance. That's not why we're before this
2 Board.

3 We're before this Board because we don't
4 need a site plan application. We don't need site
5 plan approvals. We don't need to go before the
6 Planning Board for site plan approval. We're
7 before this Board because we have C variances
8 that don't need a site plan approval.

9 So, we're not dealing with what you're used
10 to, which is a D variance, which you should be
11 inclined to deny.

12 No. We're dealing with C variances. These
13 are minor in comparison to a D variance.

14 And these are all variances that are
15 triggered by our small nonconforming lot, that we
16 can't do anything about.

17 So, Mr. Price said that he saw his -- the
18 first hardship-bearing case, earlier, I would
19 argue strongly, and I don't know if Mr. Price
20 would agree with me, that this is equally a
21 hardship because there's nothing else we can do
22 on this property, other than a one family house.

23 VICE CHAIRMAN GRULLON: And the reason what
24 I asked about --

25 MR. MAROTTA: Excuse me?

1 Now, I'd like to respond to that.

2 If this is a hardship, he created the
3 hardship. Okay? Because if he bought this
4 property in May of this year, for the purpose of
5 building a one family house, which is, to me,
6 atrocious anyway, and -- for -- for the profit
7 that can make on it, and then come in here and
8 say, oh, it's a hardship. No.

9 If this was the original owner of this --
10 look, I live in this area. Okay? I think there
11 might have been a fire or something that
12 destroyed something there.

13 MR. BONACCI: There was.

14 MR. MAROTTA: But this was the original
15 owner who come in and said, that's a hardship.

16 But not for this guy. There's no hardship
17 here.

18 When you create a hardship, it is no
19 hardship. And he created his own hardship.

20 MR. PEREIRAS: Let me be clear. We're here
21 for --

22 MR. MAROTTA: Okay.

23 MR. PEREIRAS: -- the property asking for a
24 variance.

25 MR. MAROTTA: There are substantial --

1 MR. PEREIRAS: The property --

2 Mr. Marotta, please allow me to speak.

3 MR. MAROTTA: I didn't finish.

4 MR. PEREIRAS: I let you speak.

5 You did finish.

6 MR. MAROTTA: There are substantial
7 variations from our Ordinance. Substantial.
8 I've never seen an application with so many
9 requests for so -- such -- such -- what can I
10 say?

11 This has got to be rejected.

12 MR. PANEQUE: Mr. Pereiras, the existing
13 use that was there before was a two family?

14 MR. PEREIRAS: Correct, sir.

15 MS. PEREIRAS: That's correct.

16 VICE CHAIRMAN GRULLON: Yeah. That's where
17 I was going to go.

18 Because I asked for the height, because I
19 can see like three or four floors of the -- that
20 was there --

21 MS. GUTIERREZ: Were there previous.

22 VICE CHAIRMAN GRULLON: -- before the fire.

23 MS. GUTIERREZ: Um hum.

24 MR. PEREIRAS: I think it's somewhat to the
25 level of discriminating -- discriminatory to

1 request to know who the applicant is.

2 Why does the person who's going to live or
3 sell or do whatever, have any pertinence to this
4 case?

5 We're -- we're presenting a project on a
6 piece of property that has a hardship because of
7 the size of the property.

8 It wasn't created because someone purchased
9 it. That hardship was there. It's an existing
10 two family house.

11 The land size was there. It wasn't
12 subdivided. We're not creating a hardship.
13 Don't get that wrong. We're not subdividing this
14 lot. We're not creating the hardship here.

15 We have an existing lot. And just keep in
16 mind that the person who owned this lot -- okay
17 -- had a two family house there, that got struck
18 by a fire.

19 And I feel sorry for this guy, because he
20 wanted to rebuild his house, and he couldn't
21 rebuild his house because he went before -- he
22 had to go before this Board. He had to get
23 appealed.

24 He ran out of money. This is his last
25 resort. His last resort is to let me at least

1 | sell the property. And luckily, he found
2 | somebody that's willing to buy this, even though
3 | he -- they knew the history that this thing got
4 | appealed, that this thing is unbuildable.

5 | And someone was lucky enough so that this
6 | guy could finally get --

7 | If we're going to talk about personal
8 | situations, and personal people, let's talk about
9 | the gentleman who owned this house, because Mr.
10 | Marotta opened the door on that, and it really --
11 | it hurts me to know that this guy got hurt over
12 | and over again.

13 | His last resort is to sell this. And now,
14 | there's opposition on the Board saying that, no,
15 | you can't even build a one family house.

16 | That's outrageous. It like bothers me to
17 | the core. It hurts me that Mr. Marotta would say
18 | something like that.

19 | VICE CHAIRMAN GRULLON: Yes.

20 | MR. MAROTTA: It could hurt you all you
21 | want.

22 | VICE CHAIRMAN GRULLON: Mr. --

23 | MR. PEREIRAS: It's discriminatory.

24 | MR. MAROTTA: This guy has no hardship.

25 | MR. BONACCI: Hold on.

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

2 MR. MAROTTA: There is no hardship here.

3 MR. BONACCI: Mr. Chairman, go ahead.

4 VICE CHAIRMAN GRULLON: I think that he has
5 the right to have a -- his opinion.

6 MR. PEREIRAS: He does. Absolutely.

7 VICE CHAIRMAN GRULLON: But we -- we are --
8 here --

9 MR. PEREIRAS: And I do, too.

10 VICE CHAIRMAN GRULLON: And you already
11 present your case here. And --

12 MR. PEREIRAS: And I'm sorry. Sometimes I
13 care too much.

14 VICE CHAIRMAN GRULLON: Now --

15 No, no.

16 Now we're just going over for question.

17 One of the question that I have was about
18 the height, because I can see that you have a
19 multi-family building built on that lot, and
20 you're coming back with a one family unit.

21 It's an undersized lot. I don't know how
22 you made it to make space, living space like
23 that. But I can see that it was a worse
24 condition before.

25 MR. PEREIRAS: Absolutely.

1 VICE CHAIRMAN GRULLON: Much worse.

2 And I -- I -- actually, the only -- the
3 only thing that I see there is existing --
4 existing lot. You're accommodating parking. You
5 are providing living space.

6 And they have a -- I'm pretty sure they
7 have a -- a CO for the -- for the lot. They have
8 -- the lot is legal.

9 MR. PEREIRAS: It was. The structure that
10 was there was a legal --

11 VICE CHAIRMAN GRULLON: Yes.

12 MR. PEREIRAS: -- two family house.

13 VICE CHAIRMAN GRULLON: I mean, like they
14 -- they own the -- the lot.

15 MR. PEREIRAS: Yes.

16 VICE CHAIRMAN GRULLON: It's not they're
17 subdividing the lot or they -- you already say
18 that they made --

19 MR. PEREIRAS: Correct.

20 VICE CHAIRMAN GRULLON: -- the -- the
21 attempt to buy the adjacent lot, which will be
22 more -- if they will be -- try to make business
23 here, they will try to buy the other lot --

24 MS. GUTIERREZ: The other lot.

25 VICE CHAIRMAN GRULLON: -- and put a

1 building there.

2 MS. GUTIERREZ: That's right.

3 VICE CHAIRMAN GRULLON: Which will not be
4 conforming. They would be looking for other type
5 of variance, like height variance, and all that.

6 In that neighborhood, every -- everybody is
7 like under 40 feet high.

8 I mean, I don't -- I don't have anything
9 else to say.

10 Do you have any --

11 MR. BONACCI: I -- I remember the original
12 --

13 MS. GUTIERREZ: The store.

14 MR. BONACCI: -- owner.

15 MS. GUTIERREZ: Um hum.

16 MR. BONACCI: That he came to us. And all
17 he wanted to do was build what he originally had
18 on that lot.

19 And we told him no. I didn't vote no for
20 him. I wanted him to be able to build up what he
21 already had.

22 He didn't ask for a fire. That was the
23 hardship.

24 So, we created this issue, because now
25 we've got a lot there, and we got to do something

1 with it, and what else can we do?

2 I don't know if you were here for the
3 history of that, but that's what originally had
4 happened.

5 MR. MAROTTA: I wasn't here, but I
6 understand.

7 MR. PANEQUE: Yeah, but --

8 MR. MAROTTA: I know what the history was.

9 MR. BONACCI: Right.

10 MR. MAROTTA: If -- if the original owner
11 was denied, how could we let a speculator --
12 grant this type of a variance to a speculator?

13 I could appreciate the architect's -- it's
14 his client. So, he's going to say anything he
15 wants. I appreciate that and --

16 VICE CHAIRMAN GRULLON: We --

17 MR. MAROTTA: -- I respect that.

18 VICE CHAIRMAN GRULLON: But we -- we're not
19 -- we're not here --

20 MR. MAROTTA: But the fact -- the fact is
21 that we -- we have a small lot here. You're
22 going to put three stories.

23 You know, we got one sore thumb in the City
24 on 42nd Street. We don't need a sore thumb down
25 here on New York Avenue.

1 MR. PEREIRAS: How could you compare a
2 multi-story high rise to a single family house?

3 MR. MAROTTA: On 16 feet, on 16 foot --

4 MR. PEREIRAS: Yes.

5 MR. MAROTTA: -- wide. No.

6 VICE CHAIRMAN GRULLON: We're not --

7 MR. MAROTTA: I'll tell you, Mr. Chairman,
8 I --

9 VICE CHAIRMAN GRULLON: Yeah, but we're not
10 -- we're not looking to see --

11 MR. MAROTTA: Not only will I oppose, I'll
12 oppose this all the way.

13 VICE CHAIRMAN GRULLON: We're not -- we're
14 not looking to see who's going to be living
15 there, whether the owner or who's going to be
16 renting or anything.

17 We're just trying to see if it's going to
18 be better than what it was there before. And
19 also, with that, what else can we do? Keep the
20 -- an empty lot?

21 MR. MAROTTA: You know --

22 MS. GUTIERREZ: Empty lot.

23 MR. MAROTTA: You know, Mr. Chairman, let
24 me tell you.

25 Like I say, I live in that area. There's

1 other -- there's vacant lots around there.

2 Something may develop with that.

3 But not to put this here over there. This
4 doesn't belong there. It's a violation --

5 It's not in accordance with our Ordinance.

6 MS. GUTIERREZ: An empty lot.

7 MR. MAROTTA: It's very much opposed to our
8 Ordinance.

9 MS. GUTIERREZ: Okay. Okay.

10 VICE CHAIRMAN GRULLON: Any --

11 MR. MAROTTA: You know, we got to think of
12 the City, too.

13 VICE CHAIRMAN GRULLON: Any other member of
14 the Board have any question?

15 At this point, I want to open to the
16 public.

17 Open to the public.

18 MR. PRICE: Larry Price, still under oath.

19 MR. BONACCI: Should have let the guy build
20 what he wanted.

21 MR. PRICE: By the way --

22 MR. BONACCI: The guy that had the fire.

23 MR. PRICE: -- a doghouse is an accessory
24 use. You have to build a house when you build a
25 doghouse.

1 MR. PEREIRAS: I have to come here too --
2 yeah.

3 MR. PRICE: Okay.

4 One question about possible purchases.

5 I know the economics say, if you could do
6 it, you'd do it. Okay.

7 But 205 sold last year.

8 MR. PEREIRAS: Um hum.

9 MR. PRICE: Was no possibility of buying it
10 from the person who bought it?

11 MR. PEREIRAS: I actually believe that an
12 offer was made, and they didn't accept it, if I'm
13 not --

14 MS. PEREIRAS: That is --

15 MR. PEREIRAS: -- mistaken.

16 MS. PEREIRAS: That is correct.

17 MR. PEREIRAS: Yes.

18 MS. PEREIRAS: My -- my -- the applicant
19 here reached out to them, tried to purchase it,
20 and no deal was struck. So, unfortunately --

21 MR. PRICE: Okay.

22 VICE CHAIRMAN GRULLON: Which lot --

23 MS. PEREIRAS: We were not able --

24 VICE CHAIRMAN GRULLON: Which lot --

25 MS. PEREIRAS: -- to pursue that.

1 VICE CHAIRMAN GRULLON: -- is 205 that
2 you're referring?

3 MR. PRICE: What's that?

4 VICE CHAIRMAN GRULLON: Two-oh-five is --

5 MS. GUTIERREZ: Two-oh-five.

6 VICE CHAIRMAN GRULLON: -- which lot?

7 MR. PRICE: I think is -- is the one right
8 next --

9 MR. PEREIRAS: Immediately to the north.

10 MS. GUTIERREZ: Immediately to that one.

11 MS. PEREIRAS: Yes.

12 MR. PRICE: Immediately to the north.

13 MR. PEREIRAS: Immediately to the north.

14 MS. GUTIERREZ: Yeah.

15 VICE CHAIRMAN GRULLON: Lot three?

16 MR. PRICE: Yeah. And that sold -- the --
17 the asking price was \$99,000.00, and it did sell.
18 But I guess he didn't want to resell.

19 MR. PEREIRAS: I think it sold for one-oh-
20 five, something like that.

21 MR. PRICE: Okay. The only -- as you know,
22 there's a big history.

23 By the way, I disagree with Mr. Marotta on
24 one thing, which is this is a nonconforming lot.
25 This lot has existed since at least 1873, because

1 | that's why the prior house that burned down was
2 | built.

3 | And a nonconforming lot is like a
4 | nonconforming use. It carries forward. So, it
5 | -- it accrues to the owner of everybody.

6 | Anyway, the -- the only point I want to
7 | make on the record here is that Section 50 -- by
8 | the way, there was an approval for a two family
9 | by the Planning Board, which was, yes, appealed.
10 | And then, affirmed by the Law Division, and is
11 | now on appeal at the Appellate Division.

12 | Okay. And tonight's application, or
13 | approval is significant because Section 55 of the
14 | Union City Land Development Ordinance says the
15 | following:

16 | If there is a prior approval existing on
17 | any property that has been granted by the
18 | Planning Board or Zoning Board of Adjustment of
19 | the City of Union City, that is still in
20 | existence at the time another approval is
21 | obtained from either of these Boards, then the
22 | prior approval shall be automatically vacated
23 | upon the subsequent approval.

24 | And I just want to make it -- you approve
25 | this one, the one on appeal in the -- which is by

1 a different party not by --

2 MS. PEREIRAS: Correct.

3 MR. PRICE: -- Mr. Tan -- Mr. -- Mr. Tan?

4 MR. PEREIRAS: Mr. Tan.

5 MS. PEREIRAS: That's correct.

6 MR. PRICE: Yeah. Is -- becomes moot.

7 So, I just want to make that clear on the
8 record. You approve, they die.

9 Okay.

10 Thank you.

11 MR. PEREIRAS: Um hum.

12 VICE CHAIRMAN GRULLON: And that -- and
13 that approval was for a two -- three units?

14 MR. PEREIRAS: A two -- two.

15 MS. PEREIRAS: Two family.

16 MR. PEREIRAS: Yeah. Two family.

17 MR. PRICE: That was for two units.

18 MR. PEREIRAS: Yeah. And -- and our
19 applicant is well aware that that's the case.

20 VICE CHAIRMAN GRULLON: Any other member of
21 the public?

22 Closed to the public.

23 Mr. Pereiras, taking in consideration that
24 it's a preexisting lot, there's nothing you can
25 do, and the -- the well intention of buying the

1 adjacent properties and unsuccessful, I make a
2 motion to grant this application to allow the one
3 -- one -- a one unit to be built on that -- in
4 this lot.

5 THE SECRETARY: Motion to grant the
6 application by Mr. Gullon.

7 Second by Mr. Ortiz.

8 MR. MAROTTA: What did he say? A motion to
9 deny? What did he say?

10 THE SECRETARY: Roll call on the motion.
11 Mr. Gullon?

12 VICE CHAIRMAN GRULLON: Yes.

13 THE SECRETARY: Mrs. Gutierrez?

14 MS. GUTIERREZ: Yes.

15 THE SECRETARY: Mr. Ortiz?

16 MR. ORTIZ: Yes.

17 THE SECRETARY: Mr. Medina?

18 MR. MEDINA: Yes.

19 THE SECRETARY: Mr. Bonacci?

20 MR. BONACCI: I'm going to recuse myself
21 from this.

22 THE SECRETARY: Recuse.

23 Mr. Marotta?

24 MR. MAROTTA: No, and my reasons were
25 given.

1 THE SECRETARY: No.

2 Four in favor, motion carries.

3 MS. PEREIRAS: Thank you all very much.

4 THE SECRETARY: One against, one recuse.

5 MR. PEREIRAS: Thank you, everyone.

6 MS. PEREIRAS: Thank you.

7 MS. GUTIERREZ: Thank you.

8 MS. PEREIRAS: Good night.

9 MS. GUTIERREZ: Good night.

10 MS. PEREIRAS: Have a happy Thanksgiving.

11 MR. PANEQUE: Thank you.

12 MS. GUTIERREZ: Happy Thanksgiving.

13 MS. PEREIRAS: See you next month.

14

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

17 * * *

18

19

20

21

22

23

24

25

1 **Iglesia Evangelica Apostoles y Profetas - 1709**

2 **New York Avenue:**

3

4 VICE CHAIRMAN GRULLON: No. We have to --
5 we have to adjourn the meeting.

6 Motion to adjourn the meeting.

7 MR. PANEQUE: Not yet. We have one more.

8 MS. GUTIERREZ: We have one more?

9 MR. DILLON: Adjourn the last one.

10 MR. PANEQUE: Yeah.

11 MS. GUTIERREZ: Oh, no.

12 MR. DILLON: First one on the agenda.

13 THE SECRETARY: Oh.

14 VICE CHAIRMAN GRULLON: Oh, one more. One
15 more. One more.

16 THE SECRETARY: Call it?

17 Next -- next application on tonight's
18 agenda --

19 MS. GUTIERREZ: Hey, guys.

20 THE SECRETARY: May I have your --

21 VICE CHAIRMAN GRULLON: One more
22 application.

23 THE SECRETARY: May I have your attention,
24 please?

25 Iglesia Evangelica Apostoles y Profetas,

1 1709 New York Avenue.

2 The applicants are seeking one year
3 extension. This -- the previous Resolution was
4 memorialized on December 10, 2015.

5 Mr. Paneque, please?

6 MR. PANEQUE: Yes.

7 Mr. Vallejo, I understand that there was a
8 call made to the applicant, and they're not here
9 tonight.

10 THE SECRETARY: Yes, Mr. Paneque.

11 MR. PANEQUE: Okay. The applicant is not
12 here tonight. The -- the reason for their
13 absence is unknown at this time. Several calls
14 were made.

15 This is the -- the church that's looking
16 for an extension of a Resolution that was
17 memorialized on December 10th.

18 The next Board meeting is December 8. So,
19 they will still be within the one -- the period
20 seeking the application.

21 It's going to be my suggestion that this be
22 carried over to the next meeting, and they'll
23 still be within the time.

24 And Mr. Vallejo will notify the applicant
25 that they have to be here next time.

1 THE SECRETARY: Yes, Mr. Pereiras (sic).

2 I am sorry, Mr. Paneque.

3 MS. GUTIERREZ: Ah, Mr. Pereiras?

4 MR. PANEQUE: I'm not as good looking as
5 that guy over there.

6 All right.

7 THE SECRETARY: Can I have a motion to
8 carry over this appli --

9 VICE CHAIRMAN GRULLON: Yes.

10 THE SECRETARY: -- this --

11 VICE CHAIRMAN GRULLON: Yes. I make a
12 motion to carry it.

13 THE SECRETARY: -- request?

14 MS. GUTIERREZ: I'm seconding.

15 THE SECRETARY: Motion by Mr. Grullon.

16 VICE CHAIRMAN GRULLON: Adjourn the
17 application.

18 THE SECRETARY: Second by Mrs. Gutierrez.

19 Roll call on the motion to carry this
20 application on December 8, 2016.

21 Mr. Grullon?

22 VICE CHAIRMAN GRULLON: Yes.

23 THE SECRETARY: Mrs. Gutierrez?

24 MS. GUTIERREZ: Yes.

25 THE SECRETARY: Mr. Ortiz?

1 MR. ORTIZ: Yes.

2 THE SECRETARY: Mr. Medina?

3 MR. MEDINA: Yes.

4 THE SECRETARY: Mr. Bonacci?

5 MR. BONACCI: Yes.

6 THE SECRETARY: Mr. Marotta?

7 MR. MAROTTA: Yes.

8 THE SECRETARY: Six in favor, motion
9 carries.

10 * * *

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 **ADJOURNMENT:**

2

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

6 Motion by Mrs. Gutierrez.

7 Second by?

8 Mr. Ortiz.

9 MR. BONACCI: Everybody.

10 VICE CHAIRMAN GRULLON: Everybody.

11 MR. MEDINA: Yeah, everybody.

12 MS. GUTIERREZ: Everybody want to get out
13 of here.

14 THE SECRETARY: Roll call on the motion.

15 Mr. Grullon?

16 VICE CHAIRMAN GRULLON: Yes.

17 THE SECRETARY: Mrs. Gutierrez?

18 MS. GUTIERREZ: Yes.

19 THE SECRETARY: Mr. Ortiz?

20 MR. ORTIZ: Yes.

21 THE SECRETARY: Mr. Medina?

22 MR. MEDINA: Yes.

23 THE SECRETARY: Mr. Bonacci?

24 MR. BONACCI: Si, senor. Yes.

25 THE SECRETARY: Mr. Marotta?

1 Mr. Marotta?

2 MR. MAROTTA: Yes.

3 THE SECRETARY: Six in favor, motion
4 carries.

5 Let's -- let the record show the meeting
6 has ended.

7 Thank you.

8 Good night, everyone.

9
10 (Whereupon, the proceedings were concluded
11 at 9:51 p.m.)

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 STATE OF NEW JERSEY :

2 :

3 COUNTY OF ESSEX :

4

5 I, DEBRA A. KASZNIAK, assigned transcriber,
6 do hereby affirm that the foregoing is a true and
7 accurate transcript in the matter of the REGULAR
8 MEETING of the UNION CITY ZONING BOARD OF
9 ADJUSTMENT heard on Thursday, November 17, 2016
10 and digitally recorded.

11

12

13

14

15

16

17

18

19

20

21

22

23

24 Monitored by: Kevin Dillon, Jr.

25 Proofread by: Deborah Dillon