

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, March 9, 2017
Commencing at 6:17 p.m.

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

MARGARITA GUTIERREZ
MIGUEL ORTIZ, (Arrived at 6:18 p.m.)
DAVID W. PRESSEY, (Arrived at 7:30 p.m.)
JOHN MEDINA, Alternate No. 1
JOSEPH D. BONACCI, Alternate No. 2
LIBERO MAROTTA, Alternate No. 3
PETER C. DOUMAS, Alternate No. 4
VICTOR M. GRULLON, Vice Chairman

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

KHALED DARDIR
HARLENNY E. JAVIER
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

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

BIANCA P. PEREIRAS, ESQ.,
Attorney for Applicant,
4415-4421 New York Ave., LLC

ADOLFO L. LOPEZ, ESQ.,
Attorney for Applicant, Baruch Hashem, LLC

BIANCA P. PEREIRAS, ESQ.,
Attorney for Applicant 207 39th Street, LLC

SANTO T. ALAMPI, ESQ.,
Attorney for Applicant, DDIS Union City, LLC

MARLENE CARIDE, ESQ.,
Attorney for Applicant, 25th Central Ave., LLC

BIANCA P. PEREIRAS, ESQ.,
Attorney for Applicant, Paula Escobar

I N D E X

	<u>PAGE</u>
CALL TO ORDER	9
SALUTE TO FLAG	9
ROLL CALL	10
APPROVAL OF PREVIOUS MEETING MINUTES	17
RESOLUTIONS	23/25
HEARINGS	
4415-4421 New York Ave., LLC	13
Baruch Hashem, LLC	27
207 39 th Street, LLC	190
DDIS Union City, LLC	65
25 th Central Ave., LLC	176
Paula Escobar	282
ADJOURNMENT	289

I N D E X

4415-4421 New York Ave., LLC
4415-4421 New York Avenue

WITNESSPAGE

Michael D. Kauker

13

I N D E XBaruch Hashem, LLC - 308-308A 35th Street

<u>WITNESS</u>	<u>PAGE</u>
Orestes Valella	29
Michael D. Kauker	38

E X H I B I T S

<u>NO.</u>	<u>DOCUMENT</u>	<u>PAGE</u>
A-1	Application, Two Pages	52

I N D E X

DDIS Union City, LLC
717-719 Bergenline Avenue

<u>WITNESS</u>	<u>PAGE</u>
Manuel Pereiras	70
Douglas Li	84
Michael T. Gere	99
 <u>SWORN PUBLIC</u>	
Larry Price	112

E X H I B I T S

<u>NO.</u>	<u>DOCUMENT</u>	<u>PAGE</u>
O-1	Package Submitted by Larry Price	159

I N D E X

25th Central Ave., LLC
2513 Central Avenue

WITNESSPAGE

Albert Arencibia

179

I N D E X

207 39th Street, LLC - 207 39th Street

<u>WITNESS</u>	<u>PAGE</u>
Manuel Pereiras	191
Michael D. Kauker	213
 <u>SWORN PUBLIC</u>	
Larry Price	251/273

1 MS. DILLON: Okay. Whenever you're ready,
2 Carlos.

3 MS. GUTIERREZ: Okay.

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

6 Please take notice that on Thursday, March
7 9, 2017, at six p.m., Regular Meeting is
8 scheduled for the Union City Zoning Board of
9 Adjustment to be held in the Municipal Chamber,
10 located on second floor, 3715 Palisade Avenue.

11 Everybody kindly rise to salute the flag,
12 please.

13

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

16

17 THE SECRETARY: Thank you.

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

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

1 Municipal Clerk.

2

3 **ROLL CALL:**

4

5 THE SECRETARY: Roll call for tonight's
6 meeting.

7 Andres Garcia? Absent.

8 Victor Grullon?

9 VICE CHAIRMAN GRULLON: Here.

10 THE SECRETARY: Margarita Gutierrez?

11 MS. GUTIERREZ: Here.

12

13 (Whereupon, Miguel Ortiz arrived at 6:18
14 p.m.)

15

16 THE SECRETARY: Miguel Ortiz? Mr. Ortiz is
17 on the way, but he's absent right now.

18 MR. SPATZ: He's coming. He's here.

19 He's here now.

20 THE SECRETARY: Oh, I'm sorry.

21 Mr. Ortiz arrived to the meeting.

22 MR. ORTIZ: Good evening.

23 How are you?

24 THE SECRETARY: Mr. Ortiz?

25 (Whereupon, there was a pause in the

1 proceedings.)

2 THE SECRETARY: I'll roll call again.

3 MR. SPATZ: Yeah, I'd do it one more time.

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

6 THE SECRETARY: Thank you.

7 Roll call for tonight's meeting.

8 Mr. Garcia? Absent.

9 Mr. Grullon?

10 VICE CHAIRMAN GRULLON: Here.

11 THE SECRETARY: Mrs. Gutierrez?

12 MS. GUTIERREZ: Here.

13 THE SECRETARY: Mr. Ortiz?

14 MR. ORTIZ: Here.

15 THE SECRETARY: Mr. Pressey's absent.

16 Mrs. Javier is absent.

17 Mr. Dardir is absent.

18 Mr. Medina?

19 MR. MEDINA: Here.

20 THE SECRETARY: Mr. Bonacci?

21 MR. BONACCI: Here.

22 THE SECRETARY: Mr. Marotta?

23 MR. MAROTTA: Here.

24 THE SECRETARY: Mr. Doumas?

25 MR. DOUMAS: Here.

1 THE SECRETARY: Let the record indicate
2 there are seven present.

3 Those absent tonight are Mr. Garcia, Mr.
4 Pressey, Mrs. Javier, Mr. Dardir.

5 So, we have a Board made up seven members.
6 We have a full quorum tonight.

7 * * *

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 **4415-4421 New York Ave., LLC - 4415-4421 New York**
2 **Avenue:**

3

4 THE SECRETARY: Mr. Paneque, please?

5 MR. PANEQUE: Thank you, Mr. Vallejo.

6 The first matter that I wanted to bring to
7 the Board's attention is the following.

8 It involves an application that was heard
9 last month, at the February 16th meeting. The
10 applicant's attorney was Ms. Pereiras.

11 Ms. Pereiras, if you would step up, along
12 with your expert witness, Mr. Kauker?

13 At the February 16th meeting, Ms. Pereiras
14 presented the case of 4415-4421 New York Avenue,
15 and she had -- Mr. Michael D. Kauker testified as
16 an expert planner.

17 Mr. Kauker's name was placed on the record.
18 He was accepted as an expert witness. However,
19 through an oversight, the oath was not
20 administered to Mr. Kauker.

21 In order to correct that oversight, we have
22 brought Mr. Kauker back this evening.

23 Mr. Kauker, will you please be sworn in at
24 this time?

25 MS. DILLON: Please raise your right hand.

1 Do you affirm that the testimony you gave
2 on February 16th was accurate?

3 MR. KAUKER: I do.

4 MR. PANEQUE: All right.

5 Mr. Kauker, you've had an opportunity to
6 review the transcript from the February 16th
7 meeting, specifically that part of the transcript
8 which relates to the testimony that you gave.

9 MR. KAUKER: That is correct.

10 MR. PANEQUE: Okay.

11 You understand that it's been brought to
12 your attention that due to an oversight, your
13 testimony was not given under oath.

14 MR. KAUKER: Yes. I am.

15 MR. PANEQUE: Okay.

16 Now that you have been sworn, is there
17 anything in that testimony that you would have
18 changed, knowing that you -- that testimony is
19 now considered to be under oath?

20 MR. KAUKER: No, there's not.

21 MR. PANEQUE: Okay.

22 And with respect to the testimony that was
23 given, your acceptance of it under oath is out of
24 your own volition.

25 Correct?

1 MR. KAUKER: Yes. Yes. I affirm that
2 everything that's included in the minutes is as I
3 testified to.

4 MR. PANEQUE: All right.

5 Thank you.

6 Do any of the Board members have any
7 questions of Mr. Kauker?

8 MR. MAROTTA: What address is this, again?

9 MR. PANEQUE: This is 4415-4421 New York
10 Avenue.

11 MR. MAROTTA: Okay.

12 Thank you.

13 MR. PANEQUE: All right?

14 So, just so that the record is clear, Mr.
15 Kauker has come back. Mr. Kauker has accepted
16 that the testimony that was given should have
17 been under oath, and he has been given the oath
18 tonight. And that testimony now is under the --
19 I guess, sanctity of an oath of Mr. Kauker.

20 All right.

21 Thank you, sir.

22 MS. PEREIRAS: Thank you --

23 MR. PANEQUE: Thank you, Ms. Pereiras.

24 MS. PEREIRAS: -- very much, counsel.

25 THE SECRETARY: Thank you, Mr. Paneque.

1 MS. GUTIERREZ: Thank you.

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 **APPROVAL OF PREVIOUS MEETING MINUTES:**

2

3 (1) Approval of previous meeting minutes from
4 February 16, 2017.

5

6 THE SECRETARY: Approval of Previous
7 Meeting Minutes from February 16, 2017.

8 Can I have a motion to adopt the --

9 VICE CHAIRMAN GRULLON: Motion.

10 THE SECRETARY: To approve.

11 Motion by Mr. Gullon.

12 Any second?

13 Second by Mr. Ortiz.

14 Roll call on the motion.

15 Mr. Gullon?

16 VICE CHAIRMAN GRULLON: Yes.

17 THE SECRETARY: Mrs. Gutierrez?

18 MS. GUTIERREZ: I abstain. I wasn't here
19 for that meeting.

20 THE SECRETARY: Mr. Ortiz?

21 MR. ORTIZ: Yes.

22 THE SECRETARY: Mr. Medina? Previous
23 meeting?

24 Abstain?

25 MR. MEDINA: Abstain. Yeah.

1 THE SECRETARY: All right.

2 Mr. Bonacci?

3 MR. BONACCI: Yes.

4 THE SECRETARY: Mr. Marotta?

5 MR. MAROTTA: I did -- I don't think I
6 heard that testimony.

7 Which application is this?

8 VICE CHAIRMAN GRULLON: These are the
9 minutes.

10 THE SECRETARY: Previous --

11 VICE CHAIRMAN GRULLON: The minutes --

12 THE SECRETARY: -- minutes.

13 VICE CHAIRMAN GRULLON: -- for the meeting.

14 MR. MAROTTA: I'm sorry.

15 THE SECRETARY: The previous meeting.
16 Meeting minutes.

17 MR. MEDINA: The one last month.

18 VICE CHAIRMAN GRULLON: Minutes for the
19 previous meeting.

20 THE SECRETARY: You was absent --

21 MR. MAROTTA: Oh.

22 THE SECRETARY: -- Mr. Marotta.

23 MR. MAROTTA: I wasn't at the previous
24 meeting.

25 THE SECRETARY: Absent. Okay.

1 Are you going to abstain?

2 MR. MAROTTA: Yes.

3 THE SECRETARY: Thank you.

4 Mr. Doumas?

5 MR. DOUMAS: Yes.

6 THE SECRETARY: Four in favor. Motion
7 carries.

8 Thank you.

9 We have three abstain.

10 Okay. We have a Resolution; 310 4th
11 Street.

12 This -- this application was approved on
13 January 12, 2017.

14 The member was present at this hearing of
15 the application was Mr. Grullon, Mrs. Gutierrez,
16 Mr. Ortiz --

17 MR. PANEQUE: Mr. Vallejo?

18 THE SECRETARY: Yes, sir.

19 MR. PANEQUE: With respect to the previous
20 action that was just taken on the approval of the
21 minutes, we have only four --

22 THE SECRETARY: Yes.

23 MR. PANEQUE: -- votes.

24 THE SECRETARY: Four votes and three
25 abstain.

1 MR. PANEQUE: And three abstain.

2 My understanding is that there has to be a

3 -- five --

4 THE SECRETARY: Have to be majority.

5 MR. SPATZ: For minutes?

6 MR. PANEQUE: For minutes.

7 THE SECRETARY: For minutes. Majority of
8 the quorum.

9 MR. SPATZ: I think it's a majority of the
10 people here. So, you have seven here and four --

11 MR. PANEQUE: Four out --

12 MR. SPATZ: -- said yes.

13 MR. PANEQUE: -- of seven.

14 MR. SPATZ: I think so. Yes.

15 THE SECRETARY: But even, I think Mr. --

16 MR. PANEQUE: But we had abstentions, so --

17 THE SECRETARY: Abstention. Yes. Abstain,
18 we have three.

19 If you want me to -- to -- I roll call,
20 again, because Mr. Marotta, he -- you know, he
21 received a transcript of the previous meet --
22 meeting.

23 MR. PANEQUE: Mr. Marotta?

24 MR. MAROTTA: Yup.

25 MR. PANEQUE: Did you sign a certification

1 | that you had read the minutes of the previous
2 | meeting?

3 | MR. MAROTTA: Yes.

4 | MR. PANEQUE: Okay.

5 | THE SECRETARY: All right.

6 | MR. PANEQUE: And did you read the entire
7 | transcript?

8 | MR. MAROTTA: Everything.

9 | MR. PANEQUE: Okay.

10 | MR. MAROTTA: Maybe three times.

11 | MR. PANEQUE: Then, since you have read the
12 | entire transcript, I would suggest that you vote
13 | on the approval of the minutes.

14 | The minutes contain the entire --

15 | MR. MAROTTA: I did not read the -- every
16 | -- every application.

17 | MR. PANEQUE: Okay.

18 | MR. MAROTTA: I'm sorry. I did not read
19 | every appli --

20 | MR. PANEQUE: All right.

21 | MR. MAROTTA: I read maybe two or three of
22 | them, not all of them.

23 | MR. PANEQUE: All right. Then he's not
24 | eligible --

25 | MR. MAROTTA: So, I have to abstain --

1 MR. PANEQUE: -- to vote on --

2 MR. MAROTTA: -- on that.

3 MR. PANEQUE: -- on the minutes.

4 THE SECRETARY: And we have three -- four
5 in favor, three abstain.

6 MR. SPATZ: I think that's -- yeah. I
7 don't think --

8 MR. PANEQUE: That's a majority of the --

9 MR. SPATZ: Yeah. It's a majority of the
10 votes that --

11 MR. PANEQUE: Okay.

12 THE SECRETARY: The majority.

13 * * *

14

15

16

17

18

19

20

21

22

23

24

25

1 **RESOLUTIONS:**

2

3 (1) 310 4th Street, LLC, 308-310 4th Street,
4 Block 14, Lots 27, 28. Proposed addition and
5 alteration to existing building and garage
6 structure to become three stories, five units
7 building.

8

9 THE SECRETARY: Okay. First Resolution,
10 310 4th Street.

11 Members can vote on this Resolution that
12 was approved at a previous meeting on January 12,
13 2017; Mr. Grullon, Mrs. Gutierrez, Mr. Ortiz, Mr.
14 Medina and Mr. Pressey.

15 Can I have a motion to adopt this
16 Resolution?

17 VICE CHAIRMAN GRULLON: Make a motion to
18 adopt the Resolution.

19 THE SECRETARY: Motion by Mr. --

20 MS. GUTIERREZ: I'm seconding.

21 THE SECRETARY: -- Victor Grullon.

22 Second by Margarita Gutierrez.

23 Roll call on the -- roll call on the
24 motion.

25 Mr. Grullon?

1 VICE CHAIRMAN GRULLON: Yes.

2 THE SECRETARY: Mrs. Gutierrez?

3 MS. GUTIERREZ: Yes.

4 THE SECRETARY: Mr. Ortiz?

5 MR. ORTIZ: Yes.

6 THE SECRETARY: Mr. Pressey's absent.

7 Mr. Medina?

8 MR. MEDINA: Yes.

9 THE SECRETARY: Four in favor. Motion
10 carries.

11 * * *

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 **RESOLUTIONS:**

2

3 (2) Davis T. Valdivia, 513 15th Street, Block 72,
4 Lot 7. Rear addition to an existing two family
5 home.

6 (3) Isaac Rosenberg, 403 34th Street, Block 198,
7 Lot 12. Propose a rear addiction (sic) to a two
8 family house.

9 (4) The Cheskel Rosenberg Family Trust, 3508
10 New York Avenue, Block 210, Lot 30. Propose two
11 families home.

12

13 THE SECRETARY: Now we have a Resolution 2,
14 3, and 4.

15 Resolution number 2.

16 Davis -- Davis -- I'm sorry -- T. Valdivia,
17 513 15th Street.

18 Resolution number 3.

19 Isaac Rosenberg, 403 34th Street.

20 Resolution number 4.

21 The Cheskel Rosenberg Family Trust, 3508
22 New York Avenue.

23 Member was present at this hearing; Mr.
24 Grullon, Mr. Ortiz, Mr. Pressey, and Mr. Doumas.

25 Can I have a motion to adopt these three

1 Resolutions?

2 VICE CHAIRMAN GRULLON: Move the motion.

3 THE SECRETARY: Motion by Mr. Grullon.

4 Second by?

5 Second by Mr. Ortiz.

6 Roll call on the motion.

7 Mr. Grullon?

8 VICE CHAIRMAN GRULLON: Yes.

9 THE SECRETARY: Mr. Ortiz?

10 MR. ORTIZ: Yes.

11 THE SECRETARY: Mr. Pressey's absent.

12 Mr. Doumas?

13 MR. DOUMAS: Yes.

14 THE SECRETARY: Three in favor. Motion

15 carries.

16 * * *

17

18

19

20

21

22

23

24

25

1 **Baruch Hashem, LLC - 308-308A 35th Street:**

2

3 THE SECRETARY: Okay.

4 First hearing tonight's agenda, Baruch
5 Hashem, LLC, 308-308A 35th Street.

6 Mr. Diaz? I mean, Mr. Lopez?

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

9 MR. LOPEZ: Good evening, Mr. Chairman,
10 lady and gentlemen of the Board.

11 I will first present to Mr. Paneque for his
12 review, the jurisdictional documents for the
13 matter.

14 MR. PANEQUE: Let the record reflect that
15 I've been provided by Mr. Lopez with a copy of
16 the list indicating all property owners within
17 the 200 foot radius of the property located at
18 308 35th Street in Union City.

19 That list, from the Tax Assessor's Office,
20 is dated February 23rd, 2017.

21 I've also been provided by Mr. Lopez with
22 an Affidavit of Service, indicating that notice
23 of tonight's hearing, with respect to the
24 property in question, was sent out on February
25 23rd, 2017. That Affidavit is signed by Mr.

1 Lopez.

2 Also been provided with a copy of the
3 Affidavit of Publication from The Jersey Journal,
4 which indicates that on February 22nd, notice of
5 tonight's hearing for March 9th, with respect to
6 the property at 308 35th Street, was published in
7 The Jersey Journal, and the copy of the notice
8 that was published.

9 In addition, I have the certified mail
10 receipts, and I have the green cards, which have
11 come back to date.

12 Based on the documentation that has been
13 provided, this Board does have the jurisdiction
14 to proceed and hear this matter.

15 MR. LOPEZ: Thank you.

16 VICE CHAIRMAN GRULLON: You may proceed,
17 Mr. Lopez.

18 MR. LOPEZ: Thank you, Mr. Paneque.

19 Thank you, Mr. Chairman.

20 Just by way of very brief review, this is a
21 legalization of an existing residential unit on
22 the second floor.

23 This is a mixed use property, located on
24 35th Street. Obviously, all the detail will be
25 given by Mr. Valella, as the architect, and Mr.

1 Kauker, who is our planner.

2 But once again, we're caught up with one of
3 those scenarios which are quite common in our
4 city. The Building Department does not have a
5 record of it, even though the Tax Assessor has
6 probably in excess of 30 years, does, in fact,
7 show this unit as an existing unit.

8 And that's what we're looking for tonight,
9 the legalization of this one unit on the second
10 floor.

11 And with that, I would offer as my expert
12 as architect, Mr. Valella.

13 Mr. Valella, as you all know, has been
14 previously sworn and has been previously admitted
15 as an expert.

16 If you'd like, I could voir dire, or you
17 could accept this credentials.

18 VICE CHAIRMAN GRULLON: We accept his
19 credentials.

20 MR. LOPEZ: Thank you, Mr. Chairman.

21 VICE CHAIRMAN GRULLON: Thank you.

22 MS. DILLON: Please raise your right hand.

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

25 MR. VALELLA: I do.

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

3 MR. VALELLA: Yes, be happy to.

4 Good evening.

5 My name is Orestes Valella, V-A-L-E-L-L-A.
6 I'm a registered architect in the State of New
7 York and the State of New Jersey. And my
8 professional offices are at 5809 Madison Street
9 in West New York, New Jersey.

10 MS. DILLON: Thank you.

11 MR. LOPEZ: Mr. Valella, you were contacted
12 by the property owners, at some point, and asked
13 to examine the property and prepare plans for
14 this evening's presentation.

15 Is that correct?

16 MR. VALELLA: Yes.

17 MR. LOPEZ: And when you, in fact, examined
18 the property, in anticipation of preparation of
19 the plans, please describe what you found at the
20 location.

21 MR. VALELLA: Well, we found three existing
22 units, a mixed use building. Just be -- I'll
23 just go into locating it --

24 MR. LOPEZ: Yeah.

25 MR. VALELLA: -- geographically for you.

1 This is Lots 9 and 10 on Block 210. It's
2 between New York Avenue and Palisade Avenue, as
3 counsel mentioned, on 35th Street. On the north
4 side of the street, there is an existing two
5 story structure there with commercial on the
6 ground floor, and three existing apartment
7 buildings on the second floor.

8 MR. LOPEZ: Mr. Valella, just before you
9 get into a description of the property, calling
10 your attention again to the lots, could you
11 please indicate the size of the lots?

12 MR. VALELLA: Sure.

13 The property is five -- has 5,000 square
14 feet, two 25 by 100s, or 50 by 100 foot property.

15 MR. LOPEZ: Okay.

16 So, it's a substantially large property, by
17 Union City standards.

18 MR. VALELLA: It's double the norm.

19 MR. LOPEZ: Double the norm.

20 MR. VALELLA: Double the nom.

21 MR. LOPEZ: Now, please describe, as --
22 before I interrupted.

23 MR. VALELLA: Sure.

24 So, the -- no, you didn't interrupt.

25 The apartments are, as counsel mentioned,

1 existing, and they've been there for quite
2 awhile. I believe they weren't on the tax
3 records in '73, but they were on the subsequent.

4 So, they are between late '70s and the '90s
5 is my guesstimate as to when these unit appeared.

6 MR. LOPEZ: And your estimate is based upon
7 your examination of the -- of the construction,
8 and the materials used.

9 MR. VALELLA: The vis --

10 MR. LOPEZ: Would that be fair to say?

11 MR. VALELLA: Visual examination, and also,
12 just the review of -- you know, the --

13 MR. LOPEZ: The records.

14 MR. VALELLA: -- the records would
15 corroborate that judgement.

16 MR. LOPEZ: Okay.

17 MR. VALELLA: There is three apartments
18 there.

19 The apartment number one is a 638 square
20 foot apartment.

21 Apartment number two is 1,251.

22 And the apartment in question, which is
23 facing 35th Street, is 594 square feet.

24 Apartment number 3 is a one bedroom with a
25 large kitchen, dining room, and a -- and a living

1 room.

2 Really, from a planning standpoint, there
3 really no need to make any modifications to the
4 structure. It's in good condition. It's there.
5 It's served its purposes for decades.

6 MR. LOPEZ: And in --

7 MR. VALELLA: And so, there is -- there's
8 no real need to make any modifications.

9 MR. LOPEZ: And in terms of the square
10 footage of the apartment, is it fully Code
11 compliant, with the current standards of the
12 Zoning Ordinance?

13 MR. VALELLA: Yes. The apartment is 594
14 square feet. I believe the minimum area for a
15 dwelling unit, one bedroom dwelling unit is 550.
16 So, there's no need for that either.

17 So, there's nothing here, from an
18 architectural standpoint. Should you grant an
19 approval, then -- you know, the Building
20 Department would look into the fire safe -- life
21 safety issues of the property, and then we may
22 get into -- you know, electrical, exit signs,
23 that kind of thing.

24 But we don't recommend any modifications to
25 it. The only thing that I am proposing is a

1 | skylight on the living room, so that it brings
2 | daylight, because the living room is an interior
3 | room, and we would like to get some daylight into
4 | that.

5 | But no -- no significant changes to the
6 | structure. It's all existing. It's all there.

7 | MR. LOPEZ: And Mr. Valella, because the
8 | application was prepared based upon your plans,
9 | can you just briefly go over, for the Board, the
10 | variances that will be required this evening,
11 | even though we have a planner coming in.

12 | MR. VALELLA: Sure.

13 | The -- as counsel mentioned, we're in the R
14 | low density residential district. A three
15 | family, which is the component that we are
16 | reviewing, is a permitted use.

17 | It's a -- the lot required would be 2500
18 | square feet and we have 5,000.

19 | The lot width is -- would be 25, we have
20 | 50.

21 | The lot depth would be a hundred. We do
22 | have a hundred.

23 | The front yard is non-compliant. It's a
24 | preexisting condition. Zero feet would be
25 | required, with a prevailing setback, and we have

1 zero feet, though it actually does comply. I
2 take that back. It's either zero feet or the
3 prevailing setback, and we are at zero feet.

4 The side yards would be two or -- and three
5 feet, for a sum total of five, and we have zero.
6 So that is a required.

7 The rear yard would be 25 percent of the
8 lot depth, which in our case is a hundred feet,
9 i.e., 25 feet, and we have zero.

10 Building coverage would be 60 percent,
11 maximum. We have a hundred.

12 The maximum number of stories would be
13 three, we have two.

14 The maximum height will be 40 feet, we have
15 about 20.

16 Lot coverage would be 75 percent, and we
17 are at a hundred percent.

18 And the parking, apartment number one is a
19 two bedroom apartment. That would require two
20 spaces.

21 Apartments three and -- two and three are
22 one bedroom apartments, and they would require
23 1.8.

24 So, we would require six parking spaces,
25 and none are on the property. None have been

1 | there for decades.

2 | MR. LOPEZ: Is it fair to say, Mr. Valella,
3 | that we -- in terms of what is being presented
4 | tonight, we are required to show the total number
5 | of parking spaces required, but we are not
6 | creating these variances today.

7 | Is that fair to say?

8 | MR. VALELLA: No. No.

9 | This -- this building has been happily in
10 | its existence at -- well, way before the '70s,
11 | but in its present incarnation, since the late
12 | '70s, serving its purpose. It's -- it's
13 | functioned since then.

14 | MR. LOPEZ: And the variances that you
15 | described, as far as the yards, again, is it fair
16 | to say that we are not creating these, these are
17 | all existing --

18 | MR. VALELLA: No.

19 | MR. LOPEZ: -- conditions?

20 | MR. VALELLA: These are all existing
21 | conditions that have been there -- and I keep
22 | repeating -- for quite awhile.

23 | MR. LOPEZ: Right.

24 | And the -- nothing being proposed here
25 | expands the envelope of the property in any way.

1 Is that correct?

2 MR. VALELLA: No. There is no need or
3 desire to do anything further.

4 MR. LOPEZ: All right.

5 And is there anything else you'd like to
6 add to?

7 MR. VALELLA: No. The building -- I mean,
8 I -- it's -- the area is quite a mix. I mean,
9 our planner will go into that. There's quite a
10 mix of use of properties in the neighborhood.

11 My old junior high school, Jefferson, is
12 there -- is there, et cetera, et cetera.

13 So, it fits within the character of the --
14 of the neighborhood.

15 MR. LOPEZ: Okay.

16 Thank you, Mr. Valella.

17 MR. VALELLA: Okay.

18 MR. LOPEZ: Mr. Kauker?

19 MS. DILLON: Mr. Valella?

20 MR. VALELLA: Oh, yes. I like it so much,
21 I want to keep it.

22 Sorry.

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

25 MS. DILLON: Please raise your right hand.

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

3 MR. KAUKER: I do.

4 MS. DILLON: Please state your name and
5 spell it for the record.

6 MR. KAUKER: Michael D. Kauker. Last name
7 is K-A-U-K-E-R.

8 MS. DILLON: Thank you.

9 MR. KAUKER: Thank you.

10 MR. LOPEZ: Mr. Kauker, you are a licensed
11 planner in the State of New Jersey.

12 Is that correct?

13 MR. KAUKER: That is correct. Yes.

14 MR. LOPEZ: And you've previously testified
15 before this Board?

16 MR. KAUKER: I've testified before this
17 Board numerous times.

18 MR. LOPEZ: And so, you've been accepted as
19 an expert in planning previously.

20 Is that correct?

21 MR. KAUKER: I have. Yes, sir.

22 VICE CHAIRMAN GRULLON: Yes.

23 MR. LOPEZ: I can further --

24 VICE CHAIRMAN GRULLON: He's accepted.

25 MR. LOPEZ: Thank you. Thank you, Mr.

1 Chairman.

2 Mr. Kauker, you were here during Mr.
3 Valella's testimony.

4 Do you agree, overall, with his overall
5 explanation of the property as he described?

6 MR. KAUKER: Yes, I do. His description of
7 the property and the building is -- is accurate,
8 as I had --

9 MR. LOPEZ: Oh.

10 MR. KAUKER: -- an opportunity to review
11 the plans that were prepared by his office.

12 MR. LOPEZ: All right.

13 So, from -- let's concentrate on your
14 expertise.

15 MR. KAUKER: Sure.

16 MR. LOPEZ: From a planning perspective,
17 could you please give us a brief description of
18 where the property is located, and what the
19 zoning is for such area?

20 MR. KAUKER: Certainly.

21 Briefly, again, I won't go into too much
22 detail, as Mr. Valella had -- had gone over it.

23 But the subject property is located on 35th
24 Street. It's on the north side of the street,
25 and it's located between Palisade Avenue to the

1 east and Pal -- I'm sorry -- and New York Avenue
2 to the west.

3 Let me just confirm that.

4 MR. LOPEZ: Um hum.

5 MR. KAUKER: Yes. And the property
6 consists of two lots. It's identified as Block
7 two -- 210, Lots 9 and 10 in Union City's tax
8 records.

9 And it has a lot area of exactly 5,000
10 square feet.

11 As was mentioned before, it's located in
12 the R, which is the low density residential
13 district. And the lot itself is currently
14 occupied by an existing two story building, which
15 is currently used as a mixed use building, which
16 contains two commercial units on the ground
17 floor, and at one point contained three resident
18 -- residential apartments on the third floor, but
19 now contains two, which is the reason we're here
20 before the Board. We're seeking legalization of
21 the third apartment unit on the second floor, in
22 accordance with the plans that were --
23 architectural plans that were provided.

24 One of the interesting things about this
25 site and -- and the area is its location. This

1 property is located, as I said, along 35th Street.
2 There really are a varied mix of uses on 35th
3 Street.

4 Immediately adjacent to the subject
5 property is a -- is a large parking lot, which is
6 utilized by the church that's located to the rear
7 of the -- of the subject property.

8 On the other side of the subject property
9 is a rectory building, which is owned by the
10 church, as well. And then, there's also another
11 smaller parking lot located behind that building,
12 as well.

13 On the opposite side of the street is a
14 very large parking lot, that is owned and -- and
15 utilized by the Verizon building, which also
16 occupies the remainder of -- of the south side of
17 35th Street.

18 So, essentially, 35th Street contains
19 parking lots on either side of the building.
20 Further down the street, there are a couple of
21 single family homes. And then, another mixed use
22 building on the corner.

23 And on -- on the opposite side of the
24 street is a large parking lot and a large
25 building that are owned by Verizon.

1 MR. LOPEZ: So, Mr. Kauker, would it be
2 fair to say that even though the property is
3 zoned in what is an R zone, the character of the
4 neighborhood is anything but residential in
5 nature.

6 MR. KAUKER: Yes, that is correct.

7 And -- and as I'll go into a little bit
8 later, I did have an opportunity to review the
9 Master Plan, and it's interesting to note that
10 the property is actually located within the
11 center city core area, which I'll go over when I
12 talk about the Master Plan, as well.

13 Briefly, with respect to the proposed
14 development, as I mentioned before, the applicant
15 proposes to maintain a mixed use and to add a
16 third apartment on the second floor.

17 The apartments -- there is one two bedroom
18 unit, and there are two one bedroom units. All
19 of the units comply with the -- with the design
20 standards and criteria in your -- in your Land
21 Use Ordinance.

22 One thing I did want to point out, as well,
23 there's no increase to the building itself. And
24 no changes -- real -- no significant or
25 substantial changes to the apartment units with

1 the exception, I think, of moving a door and --
2 and adding a skylight, as testified to
3 previously.

4 There are currently no parking spaces
5 provided on the -- on the site. And -- and there
6 would be six parking spaces that would be
7 required. That's an existing condition, which
8 I'll go over later, as well.

9 As I mentioned, the Master Plan, I did have
10 an opportunity to review the Master Plan. It was
11 prepared by Heyer Gruel and Associates. And it
12 was adopted in April 23rd of 2009.

13 My review of that document indicates that
14 there is, at least in my opinion, the proposal
15 does not conflict with any of the goals,
16 objectives, or principles of -- of the Master
17 Plan.

18 More specifically, it promotes the
19 following:

20 To provide a balance mix of land uses and
21 balanced development patterns in appropriate
22 locations; to provide a broad range of housing
23 choices; to promote and reinforce the city as a
24 desirable residential location; and to improve
25 the quality of life of the residents of Union

1 City.

2 It's my opinion that providing additional
3 housing in -- in an area where it's appropriate
4 will meet and further those goals of the Master
5 Plan.

6 As I mentioned before, as well, the
7 property itself is located within the center city
8 -- city core, which is -- which is basically
9 starts at 36th Street, and then goes in a
10 southerly direction, just past 495.

11 And then, also in an easterly direction and
12 westerly direction.

13 One of the principal goals of the center
14 city core, and one of the things that it
15 encourages, it encourages mixed use development,
16 with commercial use on the ground floor and --
17 and really encourages the residential or any
18 office type use to be located on the upper
19 floors.

20 And that's thoroughly consistent with what
21 we have here. We have a mixed use development
22 with commercial use on the ground floor and
23 residential use on the second floor.

24 So, in my opinion, the -- the application
25 is, as I said, consistent with the Master Plan of

1 Union City.

2 Now, with respect to the Zoning Ordinance,
3 it's located in the R residential zone. A mixed
4 use development is -- is not a permitted use in
5 the R residential zone.

6 This building is one that's -- and use is
7 one that's a preexisting nonconforming use. So,
8 the addition of the third use -- or the -- the
9 addition of the third residential unit would
10 require a D-2 variance from this Board, which
11 seeks an expansion of a preexisting nonconforming
12 use.

13 In order for the Board to grant a variance,
14 the applicant must make an affirmative showing of
15 the positive and the negative criteria of the
16 statute.

17 With respect to special reasons for a D-2
18 variance, special reasons generally are taken
19 from the purposes of zoning, dealing with the
20 promotion of the general welfare, among other
21 things.

22 But it -- it's my opinion that this
23 application does meet special reasons, and does
24 meet the positive criteria as follows:

25 Number one.

1 It's my opinion that the site itself is
2 particularly suited for the proposed use, because
3 of the presence of an existing building, and the
4 unique nature of the neighborhood, which can
5 adequately accommodate the additional unit on
6 this site.

7 As I mentioned before, there really aren't
8 any neighbors on either side. There are two
9 parking lots and a driveway, and then a rectory,
10 as well.

11 Because of the longstanding use of -- of
12 the property itself, as well, the property has
13 historically been used for three units on the
14 second floor, and two commercial units. Now,
15 we're just requesting that they be legalized.

16 And as I mentioned before, which is
17 important to note, they do meet the minimum
18 design sizes of the Ordinance, which means that
19 they can be accommodated within the structure.

20 Also, to provide additional housing
21 opportunities, to provide a balanced housing
22 supply.

23 And then, also, obviously, to -- the -- the
24 unit is going to have to be upgraded and meet all
25 Electrical Codes and -- and Building Codes, and

1 | those types of things.

2 | In addition, I did want to point out that
3 | Union City is located in Planning Area 1, which
4 | is a designated growth area, pursuant to the
5 | State Development and Redevelopment Plan.

6 | Obviously, what that does is encourages
7 | growth in already developed areas, which,
8 | obviously, Union City is.

9 | In my opinion, there's also a need for
10 | housing.

11 | I'll just briefly go over the U.S. Census
12 | data. I know I've gone over this with you
13 | before.

14 | But the U.S. Census data indicates that
15 | 83.4 percent of the housing units were
16 | constructed prior to 1989; 32.5 percent prior to
17 | 1939.

18 | So, obviously, there's a need for housing
19 | in Union City.

20 | In addition to that, as was mentioned
21 | before, all of the variances that exist on the
22 | property are all preexisting, in terms of the
23 | setbacks and other variances.

24 | With respect to the parking variance, the
25 | applicant obviously is required to have six

1 parking spaces, where none are provided.

2 But with respect to the parking variance,
3 because of the presence of that existing
4 building, it would be a hardship and somewhat
5 difficult to comply with that requirement of the
6 Ordinance.

7 MR. LOPEZ: That would be because it's
8 fully constructed, it's a hundred percent
9 coverage.

10 Is that correct?

11 MR. KAUKER: That is correct. There's a
12 building -- yes.

13 MR. LOPEZ: Is -- is -- was another factor,
14 relating to parking, the fact that there are,
15 basically, no residential structures anywhere on
16 that block, which would not create a burden by
17 creation of this additional unit?

18 MR. KAUKER: Yes, that's true, with the
19 exception of the three other single family units
20 --

21 MR. LOPEZ: Um hum.

22 MR. KAUKER: -- located on the other side
23 of the street, all of the other uses have
24 parking. You know, so that comes into play, as
25 well.

1 Also, another mitigating factor is the fact
2 that there's mass transit availability in the
3 area. There's a bus stop on the corner.

4 In addition to that, it's come to my
5 attention that there is also a new parking
6 garage, public parking garage being constructed,
7 I think within two blocks of -- of the subject
8 property, as well.

9 You know, finally, with respect to the D
10 variance, an applicant is required to make an
11 enhanced quality of proof.

12 It -- it's my opinion that -- that the --
13 essentially the character of the area, it
14 reconciles the omission from the Ordinance. And
15 -- and given the fact that it's actually
16 addressed in your Master Plan, and the Master
17 Plan recommends that this area be developed for
18 mixed uses, I think that meets the enhanced
19 quality of proof.

20 And just -- I forgot to address the
21 negative criteria with respect to any detriment
22 on the surrounding area, the public good, but
23 it's my opinion that -- you know, given the fact
24 that we're just -- we're -- we're adding a unit,
25 but we're not really adding a unit, because it's

1 | being fully contained within an existing
2 | structure, there's no expansion.

3 | I went over the existing uses and the fact
4 | that it's, in my opinion, consistent with the
5 | character of the neighborhood, I don't believe
6 | there'll be any detriment to the public good or
7 | the surrounding area.

8 | For those reasons, it's -- it's my opinion
9 | that the applicant meets its burden of proof and
10 | the Board can feel confident in granting the
11 | requested variances.

12 | Thank you.

13 | MR. LOPEZ: I have nothing further, Mr.
14 | Chairman.

15 | VICE CHAIRMAN GRULLON: Thank you, Mr.
16 | Kauker.

17 | MR. KAUKER: Thank you.

18 | VICE CHAIRMAN GRULLON: I have a question,
19 | Mr. Kauker.

20 | MR. KAUKER: Yes.

21 | VICE CHAIRMAN GRULLON: Could you explain
22 | me again the building coverage?

23 | MR. KAUKER: The building coverage.

24 | Well, it's -- the building exists and the
25 | building coverage is, basically, a hundred

1 percent.

2 VICE CHAIRMAN GRULLON: Hundred percent?

3 MR. KAUKER: Yes.

4 MR. LOPEZ: On the --

5 VICE CHAIRMAN GRULLON: And just the square
6 footage.

7 MR. LOPEZ: Is that on the ground floor?

8 Correct?

9 MR. KAUKER: I -- I'm going by the coverage
10 requirement. Let me see.

11 I'm referring to the architectural plans.

12 Well, yes. The -- well, the -- yeah. The
13 -- the coverage of the building on the ground
14 floor occupies the entire portion of the site.

15 The building is two stories, but there's a
16 portion of the building that's only one story.

17 VICE CHAIRMAN GRULLON: Yes, but the square
18 footage of the coverage area.

19 MR. KAUKER: The square footage is -- it's
20 a hundred percent of the site.

21 VICE CHAIRMAN GRULLON: Five thousand?

22 MR. KAUKER: Yes.

23 VICE CHAIRMAN GRULLON: Because I see a
24 document here that is -- it shows 2500.

25 MR. KAUKER: Well, the site itself is 5,000

1 square feet.

2 VICE CHAIRMAN GRULLON: Mr. Lopez?

3 MR. LOPEZ: Yeah.

4 MR. KAUKER: And I'm looking at --

5 MR. LOPEZ: If I may, we could have this
6 marked, perhaps.

7 MS. DILLON: Sure.

8 VICE CHAIRMAN GRULLON: Yes. This is what
9 I'm referring to.

10

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

13

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

16 MR. LOPEZ: Oh, we'll clear that up.

17 VICE CHAIRMAN GRULLON: Yeah, please.

18 MR. LOPEZ: Thank you, Mr. Chairman.

19 VICE CHAIRMAN GRULLON: I see it is a
20 hundred percent coverage there.

21 MR. LOPEZ: Yeah.

22 MR. KAUKER: Yes. It is.

23 VICE CHAIRMAN GRULLON: Some -- it's noted
24 here as 2500.

25 MR. LOPEZ: All right.

1 So, in the application, the floor area of
2 the building, what is shown on there?

3 MR. KAUKER: Five thousand square feet.

4 MR. LOPEZ: And the area of the lot covered
5 by the building, 2500 is shown, but that's not
6 correct.

7 Is -- is that right?

8 MR. KAUKER: No. Yes, it's 5,000 square
9 feet. I mean --

10 VICE CHAIRMAN GRULLON: Yeah.

11 MR. KAUKER: -- they're two separate lots.
12 Each lot is 2500 square feet. And obviously,
13 both those -- if -- according to the survey, the
14 building is -- occupies --

15 VICE CHAIRMAN GRULLON: A hundred percent.

16 MR. LOPEZ: A hundred percent.

17 MR. KAUKER: -- a hundred percent of the
18 site.

19 VICE CHAIRMAN GRULLON: Yeah. Okay. I
20 see.

21 MR. LOPEZ: Now, the second floor is -- is
22 somewhat less.

23 Is that correct?

24 MR. KAUKER: That is correct.

25 MR. LOPEZ: Yeah.

1 VICE CHAIRMAN GRULLON: And -- and my next
2 question will be for you, Mr. Lopez.

3 Do you know when your client acquired the
4 -- the property? When did he acquire?

5 MR. LOPEZ: Oh, we submitted a deed. I
6 have it.

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

9 MR. LOPEZ: My client acquired the property
10 by deed dated December 10, 2014.

11 VICE CHAIRMAN GRULLON: And at that time,
12 was he aware of the three apartment, anything --
13 any -- any document that can state that there
14 were three apartments?

15 MR. LOPEZ: Well, not at all. The problem
16 -- part of the problem that we have in Union
17 City, Mr. Chairman, is that when you acquire a
18 property, no CO is issued.

19 When you make application to the Building
20 Department, they give you a letter, basically,
21 indicating that no CO was required for the
22 transfer of this property.

23 The issue came up only later on, when they
24 tried to get some building permits, and the
25 Building Department records do not show this

1 third unit.

2 Again, because the Building Department uses
3 1994 records -- I'm sorry -- 1973 records, as a
4 basis, and this did not exist in 1973, in the
5 revaluation.

6 It did exist in the 1994 valuation, and
7 that's why Mr. Valella placed the construction of
8 this unit sometime in the late '70s or early
9 '80s.

10 So, there was no way for him to determine
11 other than a very -- very concise review of
12 zoning records. And --

13 VICE CHAIRMAN GRULLON: What about the
14 units? Were they -- are they occupied current?

15 MR. LOPEZ: No. This --

16 VICE CHAIRMAN GRULLON: They're not.

17 MR. LOPEZ: This particular unit was
18 vacated for this purpose, when the Building
19 Department advised him that it was an illegal
20 unit.

21 So, that one is -- that one is empty. The
22 others are occupied.

23 VICE CHAIRMAN GRULLON: And regarding to
24 the business on the -- on the ground floor, any
25 -- you know, proof that it is a preexisting

1 condition? The -- those business been there for
2 --

3 MR. LOPEZ: Well, the -- yes. All the
4 records --

5 VICE CHAIRMAN GRULLON: -- for a long time?

6 MR. LOPEZ: All the records show -- the
7 business has never -- has never been an issue.
8 The business appears going back as far -- well,
9 probably into '68, also.

10 So, that's -- the Building Department has
11 no issue with the mixed use nature, or with the
12 commercial aspect.

13 The only thing that we're here before you
14 today on is that one unit --

15 VICE CHAIRMAN GRULLON: Yes.

16 MR. LOPEZ: -- which did not appear.

17 Everything else seems --

18 VICE CHAIRMAN GRULLON: And I understand --

19 MR. LOPEZ: -- to be fine.

20 VICE CHAIRMAN GRULLON: -- that it's for
21 the one unit and but now I see, this application
22 is --

23 MR. LOPEZ: Correct.

24 VICE CHAIRMAN GRULLON: -- it's in the R
25 zone.

1 MR. LOPEZ: Yes.

2 VICE CHAIRMAN GRULLON: That's the reason
3 why I ask whether the --

4 MR. LOPEZ: Yes. Absolutely.

5 VICE CHAIRMAN GRULLON: -- whether the
6 business --

7 MR. LOPEZ: Everything has to be reviewed.

8 VICE CHAIRMAN GRULLON: -- whether the
9 business were preexisting --

10 MR. LOPEZ: Yes. Yeah.

11 VICE CHAIRMAN GRULLON: -- to today.

12 MR. LOPEZ: Yeah. That is clear. That's
13 in the assessment records.

14 VICE CHAIRMAN GRULLON: Okay.

15 No, I don't have any more question for Mr.
16 Kauker, do you? Any member of the Board?

17 MR. BONACCI: You guys said in the
18 beginning that it's a one -- right now, it's a
19 one two bedroom apartment, and the other one is a
20 one bedroom apartment.

21 That's the way it is currently?

22 MR. LOPEZ: Mr. Valella, you want to answer
23 that?

24 MR. VALELLA: Sure.

25 MS. DILLON: Just right in front of the

1 microphone, Mr. Valella. That's fine.

2 MR. VALELLA: Okay. There are three
3 existing apartments.

4 Apartment number one is a two bedroom
5 apartment.

6 Apartment number two and apartment number
7 three, which is the one in question, are both one
8 bedroom.

9 MR. BONACCI: Okay.

10 And there's a total of four existing
11 bathrooms.

12 MR. VALELLA: There is a total of one --
13 apartment number three has one bathroom.
14 Apartment number one has one bathroom. Apartment
15 number two has two bathrooms.

16 MR. BONACCI: Okay.

17 So, apartment number two --

18 MR. VALELLA: Has two bathrooms.

19 MR. BONACCI: -- has two bathrooms. And
20 that's the one that's 1,251 square feet.

21 MR. VALELLA: One thousand two hundred and
22 fifty-one. Yes, sir.

23 MR. BONACCI: And apartment three --

24 MR. VALELLA: Apartment number three --

25 MR. BONACCI: -- is 594 square feet.

1 MR. VALELLA: Yes, sir.

2 MR. BONACCI: Okay.

3 MR. VALELLA: And apartment number one is
4 638.

5 MR. BONACCI: Okay.

6 MR. VALELLA: Um hum.

7 MR. LOPEZ: Thank you.

8 VICE CHAIRMAN GRULLON: Mr. Valella, can
9 you please come back?

10 MR. VALELLA: Sure.

11 VICE CHAIRMAN GRULLON: You say that you --
12 on the inside of the building, all the walls, all
13 the fixtures, everything, looks to be preexisting
14 to --

15 MR. VALELLA: Yeah. There's no -- there's
16 no recent --

17 VICE CHAIRMAN GRULLON: Could you --

18 MR. VALELLA: -- construction there. I was
19 assuming before 2000. Once I reviewed the public
20 records with Mr. Lopez, it makes sense, somewhere
21 late '80s to '90 is when this was probably built.
22 Yes.

23 VICE CHAIRMAN GRULLON: And are you doing
24 any type of construction, renovation --

25 MR. VALELLA: No. There's no need for

1 anything --

2 VICE CHAIRMAN GRULLON: -- inside the
3 building? Are you proposing for that?

4 MR. VALELLA: What I want to do is put a
5 skylight on the roof to give the living room
6 daylight, because it doesn't have one at the
7 moment, and close the entrance and enter into the
8 living room.

9 But there is no changes to the apartments
10 that are necessary. It's in good condition. It
11 seems safe.

12 I always like to give the -- the preface
13 that if it's approved, and I'm not assuming it
14 is, then I have to go back for outlets, smoke
15 detectors, fire ratings, and those things, then
16 we address with the Building Department.

17 VICE CHAIRMAN GRULLON: Yeah, those are
18 requirement --

19 MR. VALELLA: Yes.

20 VICE CHAIRMAN GRULLON: -- by the Building
21 Department.

22 MR. VALELLA: Yes.

23 VICE CHAIRMAN GRULLON: I don't have any
24 more question.

25 MR. ORTIZ: Mr. Lopez?

1 MR. LOPEZ: Yes?

2 MR. ORTIZ: This property, how long you
3 mention?

4 MR. LOPEZ: I'm sorry.

5 MR. ORTIZ: How -- this property, the Tax
6 Assessor, did they consider that you're paying it
7 as a --

8 MR. LOPEZ: They've been paying as mixed
9 use, three residential and one -- and -- and one
10 commercial.

11 Correct.

12 That's what they've been paying taxes on
13 going back to the 1990s.

14 MR. ORTIZ: All right.

15 Thank you.

16 VICE CHAIRMAN GRULLON: No other member of
17 the Board?

18 Do you have any -- any more witness?

19 MR. LOPEZ: I -- I finished with my
20 presentation.

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

23 Open to the public.

24 Any member of the public want to step
25 forward?

1 No?

2 Closed to the public.

3 MS. DILLON: Thank you.

4 VICE CHAIRMAN GRULLON: Mr. Lopez, I want
5 to make a motion to grant the application, taking
6 in consideration that this is a preexisting
7 condition and your client acquired the property
8 with all this existing condition, I make my
9 motion to grant this application.

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

12 MS. GUTIERREZ: Second.

13 THE SECRETARY: Second by Mrs. Gutierrez.
14 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: Yes.

25 THE SECRETARY: Mr. Marotta?

1 MR. MAROTTA: Since the testimony is that
2 this building was there prior to 1970, which is
3 prior to our Zoning Ordinance in the City, it's
4 preexisting to that; the little problem I have is
5 that at that time, there were two units. It
6 seems to me that the 600 square foot unit, and
7 the 500 square foot unit were one -- one unit --
8 apartment at one time, and probably subdivided.
9 But there's no actual proof of that.

10 And since it's on the tax board and paying
11 taxes for three units, in addition to the
12 commercial unit, I'll vote yes.

13 THE SECRETARY: Thank you, Mr. Marotta.
14 Mr. Doumas?

15 MR. DOUMAS: Yes.

16 THE SECRETARY: Seven in favor. Motion
17 carries.

18 MR. VALELLA: Thank you.

19 VICE CHAIRMAN GRULLON: Thank you, Mr.
20 Lopez.

21 MR. LOPEZ: Thank you.

22 MS. GUTIERREZ: Thank you.

23 MR. LOPEZ: Thank you very much.

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

1 THE SECRETARY: Next application tonight's
2 agenda, 207 --

3 MR. SPATZ: They want to skip.

4 MR. PANEQUE: Mr. Vallejo, I believe Ms.
5 Pereiras is asking that she be carried.

6 MS. PEREIRAS: Heard at -- heard at the
7 end, if that's possible.

8 MR. PANEQUE: Towards the end because of --

9 THE SECRETARY: Sure.

10 MS. PEREIRAS: I know there's some shorter
11 applications before us and I just wanted to allow
12 them some courtesy.

13 THE SECRETARY: No problem. We can change
14 a little bit the order of the agenda -- tonight's
15 agenda.

16 * * *

17

18

19

20

21

22

23

24

25

1 **DDIS Union City, LLC - 717-719 Bergenline Avenue:**

2

3 THE SECRETARY: Then, we are going to go to
4 Alampi and DeMarrais are here?

5 MR. PANEQUE: Yes.

6 THE SECRETARY: The application DDIS Union
7 City, LLC, 717-719 Bergenline Avenue.

8 MR. ALAMPI: Thank you.

9 Good evening, members of the Board.

10 My name is Santo Alampi, and I represent
11 the applicant, DDIS Union City, LLC. The subject
12 property is 717-719 Bergenline Avenue here in the
13 city.

14 This is a request for a Certificate of
15 Nonconformity, pursuant to statute
16 N.J.S.A. 40:55D-68.

17 For the record, we provided notice within
18 200 feet and that notice, and the Affidavit, was
19 submitted to the Secretary prior to the hearing
20 this evening.

21 This application, as I stated, is a request
22 for a certificate of a prior nonconforming use.
23 This --

24 MR. PANEQUE: Mr. Alampi, --

25 MR. ALAMPI: Absolutely.

1 MR. PANEQUE: -- before we proceed, I just
2 need to establish the jurisdictional authority of
3 this Board.

4 So, I -- I need to verify the proof of
5 mailing and everything else.

6 Just give me one --

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

9 MR. PANEQUE: Mr. Alampi, do you happen to
10 have the Affidavit of Publication from the
11 newspaper?

12 Might be right -- that one right --

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

15 MR. PANEQUE: Thank you, sir.

16 Let the record reflect that I've been
17 provided, by Mr. Alampi, with the following
18 documents:

19 I've been provided with a list from the Tax
20 Assessor's Office, which is dated -- appears to
21 be January 18, 2017, noting all property owners
22 within the 200 foot radius of the property
23 located at 717-19 Bergenline Avenue.

24 I've also been provided with an Affidavit
25 of Publication, giving notice of tonight's

1 hearing on March 9, with respect to the property
2 located at 717-19 Bergenline Avenue.

3 I've also been provided with copies of the
4 notices that were sent in the mail, also dated
5 February 17, 2017, as well as copies of the
6 official certified mail receipts, with a stamped
7 date of February 23rd, 2017, and the green cards
8 that have come back to date.

9 The last item that I have been provided
10 with is an Affidavit of Service, which is signed
11 by a Caroline Ursillo, and it's notarized by Mr.
12 Alampi, in which she certifies that notice of
13 tonight's hearing was sent out by certified mail,
14 return receipt requested, on February 23rd, 2017,
15 which coincides with the proof -- the proof that
16 has been submitted.

17 Based on the documentation provided, this
18 Board does have jurisdiction to proceed and hear
19 this matter.

20 Thank you, sir.

21 VICE CHAIRMAN GRULLON: You may proceed,
22 Mr. Alampi.

23 MR. ALAMPI: Thank you, counsel.

24 Thank you, Chairman.

25 Again, this is a request for the

1 Certificate of Prior Nonconforming Status under
2 Section 68 of the statute.

3 This property has existed probably since
4 about 1900. It's on Bergenline Avenue, on the
5 corner of Bergenline and 7th Street. And the
6 property consists of commercial space and a
7 residential unit on the first floor, and three
8 residential units on the second floor.

9 Currently, the building actually has two
10 residential units on the first floor. We've gone
11 through great lengths to find some individuals
12 who lived in and around the property back in the
13 late '60s, early '70s and forward, and we have
14 found some of those individuals, and they will
15 testify that the property had three units on the
16 second floor, one residential unit on the first
17 floor, and commercial space on the first floor.

18 You have the architectural plans in front
19 of you. I have the architect here this evening.
20 His plan shows the existing condition, which has
21 a residential unit on the first floor, that
22 apparently came to be after 1974.

23 It is unclear how it came to be, but the
24 commercial space was made smaller, and that
25 residential unit was added, at some point in

1 time.

2 To the best of our knowledge, we've done
3 OPRA requests, we've been down to the Building
4 Department, we dugged through some boxes and we
5 cannot find any pertinent records as to how that
6 would have happened. We looked at tax cards and
7 -- and such.

8 But again, I think the best evidence is
9 people in the neighborhood that can tell you what
10 they witnessed and what they saw, and what
11 existed back in, like I said, 1970, 1971.

12 So, unless there are any questions, I will
13 not have the architect testify unless the Board
14 feels that's necessary, but I would like to have
15 the first witness, Michael Gere brought up and
16 sworn in.

17 MS. DILLON: Mr. Alampi?

18 MR. ALAMPI: Yes?

19 MS. DILLON: Right in front of that
20 microphone there.

21 If you could just stay --

22 MR. PANEQUE: Mr. Alampi?

23 MR. ALAMPI: Yes?

24 VICE CHAIRMAN GRULLON: Mr. Alampi?

25 MR. PANEQUE: Since these plans are being

1 presented, and they are drawn by Mr. Pereiras, we
2 do need Mr. Pereiras to testify --

3 VICE CHAIRMAN GRULLON: Testify.

4 MR. PANEQUE: -- as to them.

5 Before you proceed with the fact witnesses
6 --

7 MR. ALAMPI: Okay.

8 MR. PANEQUE: -- as to -- you know, history
9 of this matter.

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

12 MS. DILLON: Please raise your right hand.

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

15 MR. PEREIRAS: I do.

16 MS. DILLON: Please state your name and
17 spell it for the 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 MS. DILLON: Thank you.

22 MR. PEREIRAS: Thank you.

23 I am still licensed in the State of New
24 Jersey.

25 VICE CHAIRMAN GRULLON: We -- we are

1 | pleased to accept your qualifications.

2 | MR. PEREIRAS: Thank you very much.

3 | MR. ALAMPI: Hi, Manny.

4 | MR. PEREIRAS: Hello.

5 | MR. ALAMPI: Manny --

6 | MS. DILLON: Mr. Alampi, just one step
7 | closer to the microphone for me.

8 | MR. ALAMPI: Absolutely.

9 | MS. DILLON: Thank you.

10 | MR. ALAMPI: Manny, you were retained by
11 | the applicant here this evening to prepare
12 | existing conditions of the building.

13 | Is that correct?

14 | MR. PEREIRAS: Correct. We're talking over
15 | five years ago, my office was retained to prepare
16 | drawings for this building. Five years ago, we
17 | surveyed it and prepared the drawings that you
18 | see before you today.

19 | MR. ALAMPI: And those drawings reflect the
20 | existing condition five years ago.

21 | Is that correct?

22 | MR. PEREIRAS: That is correct.

23 | MR. ALAMPI: And is there any reason for
24 | you to believe that there's been any change from
25 | five years ago?

1 MR. PEREIRAS: None at all.

2 MR. ALAMPI: But your drawings are based on
3 your physical inspections and surveying work five
4 years ago.

5 Is that correct?

6 MR. PEREIRAS: Correct.

7 MR. ALAMPI: And your drawings reflect that
8 the first floor consists of two residential units
9 and a commercial space, and the second floor
10 consists of three residential units.

11 Is that correct?

12 MR. PEREIRAS: Those are the current
13 conditions. Yes.

14 MR. ALAMPI: Counsel, I have no further
15 questions of Mr. Pereira.

16 VICE CHAIRMAN GRULLON: Mr. Pereira, did
17 you get an opportunity to visit the site, lately,
18 after the --

19 MR. PEREIRAS: Not lately.

20 VICE CHAIRMAN GRULLON: I know this --
21 these plans are from 2012.

22 MR. PEREIRAS: Back in --

23 VICE CHAIRMAN GRULLON: Have you -- have
24 you --

25 MR. PEREIRAS: Back in 2012, I visited the

1 | site several times. We did several inspections.
2 | We spoke with tenants and -- but not in the past
3 | five years, I haven't returned.

4 | VICE CHAIRMAN GRULLON: And everything,
5 | what we have here in question is the one
6 | apartment on the ground floor, the additional
7 | apartment.

8 | MR. ALAMPI: It is our position that that
9 | apartment does not predate the Zoning Ordinance.
10 | That the Zoning Ordinance, in 1974, what was
11 | there before, and the testimony I believe we're
12 | going to hear from the witnesses who were alive
13 | at the time, and familiar with the property is
14 | there was commercial space and one residential
15 | unit on the first floor, and three apartments on
16 | the second floor.

17 | VICE CHAIRMAN GRULLON: But at the moment,
18 | there are two apartments on the first floor.

19 | MR. ALAMPI: That is correct.

20 | And for the record, the reason that we
21 | submit the plan is to tell the Board exactly what
22 | is at the property. We're not trying to hide the
23 | ball. This is what's there. However it
24 | happened, it happened. But this is what's there,
25 | and we want the Board to be able to visualize

1 | what is there.

2 | VICE CHAIRMAN GRULLON: And how many
3 | apartments on the second floor?

4 | MR. PEREIRAS: Three, right?

5 | MR. ALAMPI: Yes.

6 | VICE CHAIRMAN GRULLON: Yeah. So, three
7 | then?

8 | According to the memo from Building
9 | Department, there are two units, and one
10 | commercial. Like Building Department is not
11 | recognizing any apartment on the ground floor.

12 | MR. PEREIRAS: We don't know where those
13 | units are recognized, or what is and what isn't.

14 | The Building Department recognizes two
15 | residential, one commercial. We have, as an
16 | existing condition, three units on the -- the
17 | second floor and one residential on the ground
18 | floor, plus a commercial. The configure -- how
19 | that was changed, I really don't know. I
20 | couldn't begin to speculate that.

21 | But just to talk about existing conditions
22 | on what we have, on the second floor, we have
23 | those three apartments.

24 | One is 590 square feet, and it's considered
25 | a two bedroom apartment.

1 Another one is 450 square feet. It's a one
2 bedroom --

3 I'm sorry. It's a -- it is a one bedroom
4 apartment.

5 And then, the last one is 484 square feet,
6 and it's an existing two bedroom apartment.
7 These are small two bedrooms, small apartments.

8 On the ground level, we have an existing
9 apartment that's -- that is actually a
10 combination -- there's two apartments there now.
11 One is what we recognize, which is about 983
12 square feet in total size.

13 VICE CHAIRMAN GRULLON: But a total of five
14 apartments.

15 MR. PEREIRAS: Cor --

16 MR. ALAMPI: Five existing now.

17 MR. PEREIRAS: Five exist -- right.

18 MR. ALAMPI: Four apartments is what
19 predates the Ordinance.

20 MR. PEREIRAS: Yes.

21 MR. ALAMPI: This is not a variance
22 application. So, --

23 VICE CHAIRMAN GRULLON: No. What -- what
24 I'm trying to understand is the memo from the
25 Building Department called for two units and one

1 commercial.

2 MR. ALAMPI: I don't know what --

3 VICE CHAIRMAN GRULLON: And what I have in
4 front of me are five units --

5 MR. ALAMPI: Correct.

6 VICE CHAIRMAN GRULLON: -- and one
7 commercial.

8 MR. ALAMPI: Existing.

9 And what I'm saying is I have no idea where
10 the Building Department got those records, or how
11 they maintained that record, what they're looking
12 at to show that record.

13 The testimony that you're going to hear
14 from neighborhood residents is prior to the
15 Ordinance, in 1974, this is what was there.

16 VICE CHAIRMAN GRULLON: No, I understand
17 that. That I understand.

18 MR. PEREIRAS: And my documents are simply
19 demonstrating an as-built condition.

20 So, that's what's there, period.

21 VICE CHAIRMAN GRULLON: Existing condition.

22 MR. PEREIRAS: I'm not showing what were
23 any -- any changes.

24 VICE CHAIRMAN GRULLON: Yes.

25 MR. ALAMPI: Correct.

1 VICE CHAIRMAN GRULLON: Counselor, on the
2 publication, what -- can we -- can I know what
3 the publications reads? Because I'm looking at
4 two units, what was informed to the neighborhood?

5 MR. PANEQUE: Well, I'll get the
6 publication and see what's noticed.

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

9 MR. PANEQUE: Is that it?

10 For the record, the publication reads as
11 follows:

12 Please take notice that the applicant,
13 DDIS, Union City, LLC, through their undersigned
14 attorneys, Alampi and DeMarrais, has filed an
15 application for Certificate of Prior
16 Nonconforming Status with the Zoning Board of
17 Adjustment of the City of Union City, pursuant to
18 N.J.S.A. 40:55D-68, so as to certify that the
19 property consists of a prior nonconforming
20 structure and use.

21 Specifically, the applicant seeks to have
22 certified that the structure consists of four
23 residential units and one commercial unit, and
24 has consisted of same prior to the adoption of
25 the Union City Zoning Ordinance in 1974.

1 The subject property is designated as Block
2 35, Lots -- Lots 7.01 and 8.01, on the tax map of
3 the City of Union City.

4 So, the notice is no -- a certification
5 that the property consists of four residential
6 and one commercial.

7 Now, what the plans are showing are five
8 residential units in total. We have two on the
9 ground floor, behind the commercial, and three
10 upstairs.

11 So, the question, either for Mr. Alampi or
12 -- or Mr. Pereiras is, since you're only noticing
13 for four residential, what's happening with the
14 fifth unit?

15 MR. ALAMPI: The fifth unit will convert
16 back to the commercial space that it was.

17 MR. PANEQUE: And which unit is that being
18 proposed as?

19 MR. ALAMPI: The unit behind the commercial
20 space was part of the commercial space, as I
21 understand it.

22 Again, there will be testimony from the
23 people that will establish that, but my
24 understanding is this fifth unit, on the first
25 floor, behind the commercial space, was

1 originally part of the commercial space, prior to
2 1974.

3 MR. PANEQUE: Now, there's been no
4 testimony, other than what you've just stated on
5 the record, as to the intention of having that
6 unit revert back to the commercial space.

7 Do you want to question your architect on
8 that or --

9 MR. ALAMPI: I don't feel the architect's
10 the appropriate witness to -- to provide that
11 testimony.

12 MR. PANEQUE: Okay.

13 MR. ALAMPI: My statements are not
14 testimony, obviously.

15 As a matter of law, if it's a preexisting
16 structure and use, that was three residential on
17 the second floor --

18 MS. DILLON: Just back to the microphone.

19 MR. ALAMPI: -- one residential on the
20 first floor, and commercial space on the first
21 floor, and the testimony becomes or is that this
22 fifth unit on the first floor was part of the
23 commercial space, by law, it would go back as
24 being part of the commercial space.

25 VICE CHAIRMAN GRULLON: Mr. Alampi, but the

1 fifth unit, you mentioned that is part of the --
2 the commercial space, that become a residential
3 or commercial?

4 MR. ALAMPI: It will have to be converted
5 back to the commercial --

6 VICE CHAIRMAN GRULLON: Commercial.

7 MR. ALAMPI: -- space.

8 VICE CHAIRMAN GRULLON: Would be an
9 extension of the commercial.

10 MR. ALAMPI: Correct.

11 VICE CHAIRMAN GRULLON: Okay. Be one
12 commercial and four residential.

13 MR. ALAMPI: That is correct.

14 VICE CHAIRMAN GRULLON: At the end of the
15 application. Okay.

16 MR. ALAMPI: Correct.

17 VICE CHAIRMAN GRULLON: Thank you.

18 Mr. --

19 MR. ALAMPI: As a preexisting nonconforming
20 structure.

21 VICE CHAIRMAN GRULLON: That's the way you
22 --

23 MR. ALAMPI: And use.

24 VICE CHAIRMAN GRULLON: -- noted -- you
25 said in your notifications.

1 MR. ALAMPI: Correct.

2 MR. PANEQUE: Mr. Alampi, the plans that
3 have been presented --

4 MR. ALAMPI: Correct.

5 MR. PANEQUE: -- date back to 2012.

6 MR. ALAMPI: Yes.

7 MR. PANEQUE: And those plans clearly show
8 the commercial on the ground floor, two
9 apartments on the ground floor, and three
10 apartments upstairs.

11 So, that's a total of five residential
12 units.

13 MR. ALAMPI: No question about it.

14 MR. PANEQUE: Okay.

15 Now, in your application, you did attach
16 Notices of Violations that have been given to
17 your client from the City Construction Building
18 Department.

19 MR. ALAMPI: Correct.

20 MR. PANEQUE: Okay.

21 Those Notices of Violations date to March
22 of 2016, last year.

23 MR. ALAMPI: Correct.

24 MR. PANEQUE: Now, those Notices of
25 Violation are indicating that there's six units.

1 | Where is the sixth unit?

2 | MR. ALAMPI: I believe the sixth unit is
3 | the commercial space. That's my understanding.

4 | MR. PANEQUE: Well, it's -- it's not
5 | talking about the commercial space. As I read
6 | it, it says failed to obtain required Certificate
7 | of Occupancy for creation of nonconforming
8 | apartments throughout structure, six total.

9 | So, it's specifically referring to --

10 | MR. ALAMPI: I believe the commercial space
11 | they're talking about as the sixth unit. But
12 | there's six units in the building, five
13 | residential, one commercial.

14 | MR. PEREIRAS: Actually, I -- I just need
15 | to expand what my knowledge.

16 | When we first measured the building, there
17 | was a nonconforming illegal unit in the basement,
18 | which, at that time, was actually demolished, to
19 | the best of my knowledge.

20 | That was in the basement plan. It was
21 | located here.

22 | And I don't know if that's the additional
23 | unit that is being referenced.

24 | MR. PANEQUE: All right.

25 | And Mr. Pereiras, you testified that since

1 2012, you have not gone back.

2 MR. PEREIRAS: Correct.

3 MR. PANEQUE: So, as we stand here this
4 evening, you couldn't tell us what's presently
5 there.

6 MR. PEREIRAS: I cannot.

7 MR. PANEQUE: And although Mr. Alampi makes
8 the argument that the sixth unit is the
9 commercial, I beg to differ because the Notices
10 of Violation makes no mention of a commercial
11 unit. It's specifically referring to residential
12 apartments. And they're actually giving us a
13 number for the residential apartments as six,
14 which doesn't coincide with what's in the plan.

15 So, between 2012 and today, at least in
16 2016, there appears to have been six units.

17 Is your client here to testify?

18 MR. ALAMPI: My client is here.

19 MR. PANEQUE: Okay.

20 MR. ALAMPI: And we can have him testify as
21 to the existing condition.

22 MR. PANEQUE: Is -- is -- all right. You
23 can have that.

24 VICE CHAIRMAN GRULLON: Yes. Okay. Could
25 you bring your client?

1 MR. LI: Good evening.

2 Yeah. I --

3 MS. DILLON: One second --

4 VICE CHAIRMAN GRULLON: One minute.

5 MS. DILLON: -- sir.

6 I'm going to put this on you for the record
7 and I have to swear you in. You can hold that or
8 put it in your pocket.

9 Sir, please raise your right hand.

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

12 MR. PEREIRAS: Yes.

13 MR. LI: Um hum.

14 MS. DILLON: Verbally.

15 MR. ALAMPI: You got to verbalize it.

16 MR. LI: Oh, say again. I'm sorry.

17 MS. DILLON: Do you affirm the testimony
18 you are about to give this Board is the whole
19 truth?

20 MR. LI: Yes.

21 MS. DILLON: Okay.

22 Could you please state your name and spell
23 it for the record?

24 MR. LI: My name is Douglas Li.

25 MS. DILLON: Douglas?

1 MR. LI: Li, L-I. Yes.

2 MS. DILLON: L?

3 MR. LI: L-I.

4 MS. DILLON: L-I.

5 Okay. Thank you, Mr. Li.

6 MR. ALAMPI: Mr. Li, are you a member of
7 DDIS, Union City, LLC?

8 MR. LI: Yes.

9 MR. ALAMPI: And does DDIS, Union City, LLC
10 own the building located at 717-719 Bergenline
11 Avenue?

12 MR. LI: Yes.

13 MR. ALAMPI: And Mr. Li, you've been
14 sitting in the chamber during the presentation
15 here this evening.

16 MR. LI: Yes.

17 MR. ALAMPI: And you heard the questions
18 regarding the existing condition at the subject
19 property.

20 Is that correct?

21 MR. LI: Correct.

22 MR. ALAMPI: And you understand that the
23 architectural plan, which was prepared at your
24 behest, in 2012, showed three units on the second
25 floor.

1 Correct?

2 MR. LI: Correct.

3 MR. ALAMPI: Two units on the first floor,
4 residential units.

5 Correct?

6 MR. LI: Correct.

7 MR. ALAMPI: And commercial space on the
8 first floor.

9 MR. LI: Correct.

10 MR. ALAMPI: Is that accurate, as we stand
11 here today, as there is a question about a
12 potential sixth residential unit, perhaps in the
13 basement.

14 MR. LI: No. The basement, when the
15 purchase, there's the basement unit and then, we
16 put it as storage.

17 MR. ALAMPI: Have you removed whatever was
18 in that unit? Was there a kitchen in that unit?

19 MR. LI: Not the -- the -- there is a sink.
20 It's not workable. There is a sink nearby the --
21 sink, something. Nearby the -- the water tank.
22 And never been work.

23 And then, we have the -- the room, it's
24 just as storage now, yeah.

25 MR. ALAMPI: You understand that we are

1 here tonight trying to establish that this
2 property contained three units on the second
3 floor, residential, one unit residential on the
4 first floor, and commercial space on the first
5 floor.

6 Correct?

7 MR. LI: Say again. One unit?

8 MR. ALAMPI: One residential unit on the
9 first floor and commercial space on the first
10 floor.

11 Correct?

12 MR. LI: Now is two units.

13 MR. ALAMPI: Not now.

14 MR. LI: Oh, yes.

15 MR. ALAMPI: The reason we're here tonight.

16 MR. LI: Yeah. Yeah. Yes. Yes.

17 MR. ALAMPI: So, you would agree, before
18 this Board, that if there is a unit in the
19 basement, that would be removed.

20 MR. LI: Yes.

21 MR. ALAMPI: Do you agree?

22 MR. LI: Yeah. Yes.

23 MR. ALAMPI: And do you agree that the
24 residential unit on the first floor would be
25 converted back to the commercial space, as it was

1 prior to 1974?

2 MR. LI: Yes. Yeah.

3 MR. ALAMPI: And you understand if the
4 Board grants you the Certificate of Preexisting
5 Nonconformity, it will be three units on the
6 second floor, residential units; one residential
7 unit on the first floor; and commercial space on
8 the first floor.

9 MR. LI: Yes.

10 MR. ALAMPI: Counsel, I have no further
11 questions for Mr. Li.

12 VICE CHAIRMAN GRULLON: Mr. Li?

13 MR. LI: Yes?

14 VICE CHAIRMAN GRULLON: I have a question.
15 Since when are you part of this LLC? Of
16 this --

17 MR. LI: Back in --

18 VICE CHAIRMAN GRULLON: Since when do you
19 own this property?

20 MR. LI: Back in 19-6 -- 1906 (sic).

21 MR. ALAMPI: When did you purchase the
22 property?

23 MR. LI: Nineteen oh-six (sic).

24 MR. MAROTTA: No.

25 VICE CHAIRMAN GRULLON: No, no. Can't be.

1 MR. MAROTTA: No, no.

2 MR. ALAMPI: When did you buy it?

3 MR. LI: Yeah.

4 MR. ALAMPI: Two thousand six?

5 MR. LI: Two thousand -- two thousand --
6 yeah. About ten years.

7 VICE CHAIRMAN GRULLON: You don't -- you
8 don't look --

9 MR. ALAMPI: Yeah.

10 VICE CHAIRMAN GRULLON: -- that old.

11 MR. ALAMPI: Not 1906.

12 MR. LI: I'm sorry, 2006. I'm sorry.
13 Apologize.

14 VICE CHAIRMAN GRULLON: Okay.

15 MR. LI: Sorry. Sorry.

16 Apologize.

17 VICE CHAIRMAN GRULLON: Okay.

18 No, I don't have anymore question for Mr.
19 Li.

20 Do you, guys?

21 MR. BONACCI: Yeah. Sure.

22 MR. MAROTTA: I got a problem with the --
23 there's an apartment in the basement, which is
24 that sixth apartment that counsel referenced, am
25 I reading the -- and I read the report, too.

1 You know, maybe this application is
2 premature. And I've been around the City a long
3 time. People say they're going to remove
4 something, that doesn't mean it's going to be
5 removed.

6 VICE CHAIRMAN GRULLON: Yes.

7 MR. MAROTTA: I think this might be
8 premature. I don't know.

9 You know what I'm saying, counsel?

10 VICE CHAIRMAN GRULLON: Yeah. Any -- any
11 decision that this Board make --

12 MR. MAROTTA: Right now -- right now, I
13 have six units there. We don't have five.

14 That's the way --

15 VICE CHAIRMAN GRULLON: I understand.

16 MR. MAROTTA: -- it exists right now.

17 VICE CHAIRMAN GRULLON: But --

18 MR. MAROTTA: We have six units and we have
19 the commercial.

20 VICE CHAIRMAN GRULLON: But what they
21 requesting now is for three units --

22 MR. MAROTTA: They're requesting --

23 VICE CHAIRMAN GRULLON: -- on the second
24 floor --

25 MR. MAROTTA: -- a -- a precondition (sic)

1 unit --

2 VICE CHAIRMAN GRULLON: -- one unit on the
3 first floor.

4 MR. MAROTTA: -- of five units and a
5 commercial, but we have six.

6 MR. ALAMPI: That's not what we're
7 requesting.

8 VICE CHAIRMAN GRULLON: No, I know.

9 MR. ALAMPI: What we're requesting is to
10 establish a legally vested right that existed
11 prior to 1974.

12 Whatever the existing condition is today,
13 it is. My client bought the building in 2006.
14 These conditions predated 2006.

15 When my client bought the building, of
16 course, in Union City, there are no COs. He
17 bought it believing that all of it was legal.

18 Through his own hard work, he has now
19 learned that it's four residential units and one
20 commercial, prior to 1974.

21 Despite the fact that financially this has
22 become a bad deal, my client is willing to accept
23 that that is what it was, because that is what
24 the testimony is going to show.

25 MR. PANEQUE: Mr. Alampi, do you happen to

1 have a copy of the 1973 tax assessment, showing
2 how many units were actually there?

3 MR. ALAMPI: I do not have that copy.

4 MR. PANEQUE: Okay. For some reason, we
5 don't have it.

6 MR. ALAMPI: Do you have it?

7 MR. PANEQUE: It's -- it --

8 MR. ALAMPI: I could not get it.

9

10 (Whereupon, David Pressey arrived at 7:30
11 p.m.)

12

13 MR. PANEQUE: Okay. We don't have it
14 tonight.

15 MR. MAROTTA: No.

16 MR. PANEQUE: Normally, the Building
17 Department attaches it to their memo, but for
18 some reason, in this application, it has not been
19 attached.

20 THE SECRETARY: Mr. Paneque, I'm sorry to
21 interrupt you.

22 MR. PANEQUE: Yes.

23 THE SECRETARY: May I have a second?

24 Mr. Pressey joined the meeting. Let the
25 record indicate that we have eight members right

1 now.

2 Thank you, Mr. Paneque.

3 MR. PANEQUE: Thank you, Mr. Vallejo.

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

6 MR. ALAMPI: Counsel, I would like to at
7 least call up the next witness. I'll look
8 through my file again, but I'd like to call up
9 the witness, have him sworn in and move the
10 proceeding along, as far as his testimony, and
11 for what it will be.

12 MR. BONACCI: Can we still ask Mr. Li a
13 couple questions?

14 VICE CHAIRMAN GRULLON: Yes.

15 MR. BONACCI: Okay.

16 VICE CHAIRMAN GRULLON: We're not finished
17 with Mr. Li. Just give us one minute.

18 And you have a question for Mr. Li?

19 MR. BONACCI: Yes.

20 MR. PANEQUE: Okay.

21 MR. BONACCI: Mr. Li, so you purchased the
22 building about ten years ago?

23 MR. LI: Yes.

24 MR. BONACCI: Okay.

25 And after you purchased the building, did

1 | you rent out any of the spaces to anybody? Have
2 | you had any tenants in the last ten years?

3 | MR. LI: All the unit, you mean?

4 | MR. BONACCI: Any of them?

5 | MR. LI: Yeah.

6 | MR. BONACCI: Okay. So, you rented out a
7 | few apartments.

8 | Right?

9 | MR. LI: Yeah.

10 | MR. BONACCI: You were able to rent out all
11 | the apartments?

12 | MR. LI: Not all the time. Sometimes --

13 | MR. BONACCI: Sometimes empty.

14 | MR. LI: In and out. Yeah.

15 | MR. BONACCI: Sometimes, they're full.

16 | MR. LI: Yes.

17 | MR. BONACCI: Okay.

18 | In the basement, you said there was
19 | something that appeared to be a sink, but it
20 | wasn't working.

21 | MR. LI: Yeah. Yes.

22 | MR. BONACCI: Was there a stove down there?

23 | MR. LI: No stove.

24 | MR. BONACCI: No stove.

25 | MR. LI: No stove.

1 MR. BONACCI: How about a bathroom? Was
2 there a bathroom down there?

3 MR. LI: Bathroom. Old bathroom is there
4 and we are now use as a storage.

5 MR. BONACCI: Did it look like anybody, at
6 any time, even before you bought the building,
7 was living down there?

8 MR. LI: Yeah. Before. And then we --

9 MR. BONACCI: Looked like somebody.

10 MR. LI: Yeah. Yeah. Before.

11 MR. BONACCI: But since you've had it --

12 MR. LI: Yeah.

13 MR. BONACCI: Since the last ten years, --

14 MR. LI: Um hum.

15 MR. BONACCI: -- you never rented out the
16 basement --

17 MR. LI: No.

18 MR. BONACCI: -- to anybody.

19 MR. LI: No. No.

20 MR. BONACCI: Okay.

21 How about the business? The residential?

22 MR. LI: Business, they have the -- the
23 deli.

24 MR. BONACCI: Okay. So, there's --

25 MR. LI: The deli.

1 MR. BONACCI: -- a deli.

2 MR. LI: Yeah.

3 MR. BONACCI: And the apartments.

4 MR. LI: Yeah.

5 MR. BONACCI: So, it's been a total of four
6 apartments since you've owned it. Four
7 apartments and one deli?

8 MR. LI: Five apartments.

9 MR. ALAMPI: Five apartments.

10 MR. BONACCI: Five apartments.

11 MR. LI: Five apartments.

12 MR. BONACCI: And one deli.

13 MR. ALAMPI: Yes.

14 MR. BONACCI: But nothing in the basement.

15 MR. LI: No.

16 MR. BONACCI: Okay. Okay.

17 VICE CHAIRMAN GRULLON: Any other member of
18 the Board?

19 MR. PRESSEY: The basement, the bathroom
20 was used?

21 MS. DILLON: Just sit forward, Mr. Pressey,
22 please.

23 MR. PRESSEY: No?

24 MR. LI: No.

25 MR. MAROTTA: Why do you say bathroom?

1 MS. GUTIERREZ: Mr. Pressey?

2 VICE CHAIRMAN GRULLON: Mr. Pressey?

3 MS. DILLON: Just sit forward.

4 MR. MAROTTA: Why do you say a bathroom?

5 VICE CHAIRMAN GRULLON: Get closer to the
6 microphone.

7 MS. GUTIERREZ: To the microphone, please.

8 MR. ALAMPI: I think the testimony --

9 MR. PRESSEY: So, nothing was used in the
10 -- in the basement?

11 MR. LI: No. Nobody use it. Not use --
12 not functional. No. No.

13 MR. PRESSEY: Not functional.

14 MR. ALAMPI: We suspect, at one point in
15 time, there may have been some use down there,
16 but now it's non-functional. It's been either
17 broken or disconnected, to some extent, and is
18 being used for storage.

19 VICE CHAIRMAN GRULLON: And I just -- the
20 testimony is really to -- to demolish --

21 MR. LI: Yes.

22 VICE CHAIRMAN GRULLON: I mean, to -- to
23 make that as a storage area only.

24 MR. ALAMPI: Yes.

25 We're just trying to legitimize, as best we

1 can, what was there at what point in time.

2 VICE CHAIRMAN GRULLON: At this point, you
3 could bring your next witness. Your next --

4 MR. ALAMPI: Thank you.

5 VICE CHAIRMAN GRULLON: -- witness.

6 MS. DILLON: Mr. Li, I have to take the
7 microphone.

8 MR. LI: Thank you.

9 MS. DILLON: Thank you. Thank you very
10 much.

11 MR. GERE: Hello.

12 MS. DILLON: Hello.

13 How are you?

14 MR. GERE: I'm okay.

15 MS. DILLON: Just hold on to that.

16 MR. GERE: I just want to go home. I'm
17 tired.

18 MS. DILLON: Okay. I understand.

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

21 MR. GERE: How are you, sir?

22 Want to go home. I'm hungry.

23 I'm sure you guys are, too.

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

1 THE SECRETARY: Can we have a five minute
2 break?

3 Five minute break, please.

4

5 (Whereupon, the Board recessed from 7:37
6 p.m. to 7:45 p.m.)

7

8 THE SECRETARY: May I have your attention,
9 please?

10 Go back on the record.

11 Thank you.

12 MS. DILLON: Are you ready for me to swear
13 him in?

14 MR. ALAMPI: Yes, I am.

15 MS. DILLON: Okay.

16 Sir, please raise your right hand.

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

19 MR. GERE: Absolutely.

20 MS. DILLON: Please state your name, spell
21 it for the record, and give your address.

22 MR. GERE: Michael T. Gere, G-E-R-E.

23 MS. DILLON: G-E?

24 MR. GERE: R-E.

25 MS. DILLON: And your address?

1 MR. GERE: My address right now is 317
2 Mountain Road, but I grew up downtown. So, I got
3 the whole history of downtown.

4 MS. DILLON: Okay.

5 Thank you.

6 And you've just got to go back to the mic
7 for me.

8 MR. ALAMPI: Thank you.

9 MS. DILLON: Thank you.

10 MR. ALAMPI: Good evening, Mr. Gere.

11 MR. GERE: Good evening, sir.

12 MR. ALAMPI: Mr. Gere, you've been in the
13 chamber listening to the testimony here this
14 evening.

15 MR. GERE: Correct.

16 MR. ALAMPI: And the dialogue between the
17 Board?

18 MR. GERE: Absolutely.

19 MR. ALAMPI: And you understand that the
20 application being presented is for something we
21 call a Certificate of Prior Nonconforming Status.
22 But the property is 717-719 Bergenline Avenue.

23 MR. GERE: Correct.

24 MR. ALAMPI: Ever see this property before?

25 MR. GERE: Absolutely. I grew up in that

1 neighborhood, so I know the neighborhood and I
2 wish I knew -- I wish some of the neighbors were
3 still alive.

4 MR. ALAMPI: So, when you say you grew up
5 in the neighborhood, this is on the corner of
6 what?

7 MR. GERE: That's on the corner of
8 Bergenline Avenue and 8th Street.

9 MR. ALAMPI: And where did you live growing
10 up?

11 MR. GERE: I grew up between Bergenline and
12 New York Avenue, 421 7th Street. So I --

13 MR. ALAMPI: How far do you think that is
14 from this property?

15 MR. GERE: That's a block and a half away.

16 MR. ALAMPI: Okay.

17 And you were alive in the 1960s?

18 MR. GERE: Yeah. Yeah.

19 MR. ALAMPI: I wasn't, but okay.

20 MR. GERE: Okay. Thanks a lot, pal. I
21 appreciate hearing that.

22 MR. ALAMPI: So, you're familiar with this
23 property in the '60s?

24 MR. GERE: Absolutely. I --

25 MR. ALAMPI: And in the '70s?

1 MR. GERE: In the '70s also. In the '80s,
2 in the '90s, and all the way through.

3 MR. ALAMPI: Okay.

4 MR. GERE: Because my roots are down there,
5 so I'm always downtown.

6 MR. ALAMPI: So, here's a tough question.
7 1965, how old are you?

8 MR. GERE: I was four years old.

9 MR. ALAMPI: Nineteen seventy, how old are
10 you?

11 MR. GERE: Nineteen seventy, I was ten
12 years old, 11 years old.

13 MR. ALAMPI: Okay.

14 MR. GERE: Right.

15 MR. ALAMPI: Hang out on that corner?

16 MR. GERE: Well, I used to be on the
17 corner, but I used to get chase -- chased away
18 from the lady that had the restaurant at that
19 time, Ms. Escovez (phonetic). She used to chase
20 us.

21 MR. MAROTTA: Excuse me?

22 When you're talking that way, we --

23 MR. GERE: Oh, I apologize.

24 MR. MAROTTA: -- can't hear you --

25 MR. GERE: Okay.

1 MR. MAROTTA: -- on this side.

2 The voice doesn't turn around. You got to
3 talk this way.

4 MR. ALAMPI: We'll talk this way then.

5 MR. GERE: Okay.

6 We'll -- we'll come right over to you, Mr.
7 Marotta.

8 VICE CHAIRMAN GRULLON: Mr. -- Mr. Alampi,
9 you need to go in front of the mic.

10 MR. MAROTTA: No, but talk --

11 MR. GERE: Okay.

12 MR. MAROTTA: -- facing front.

13 MR. ALAMPI: All right.

14 So, can you tell us about this property?
15 You were a young man.

16 MR. GERE: Yeah. I used to shovel
17 sidewalk, sweep the stairs down for Gus, at that
18 time. And --

19 MR. ALAMPI: Who was Gus?

20 MR. GERE: Gus Hornstein (phonetic). He
21 was original owner of the property.

22 MR. ALAMPI: Okay.

23 MR. GERE: And as far -- as far back as I
24 can remember, on the second floor, there was
25 three apartments. On the first floor, there was

1 one, with the commercial, which was a restaurant.

2 MR. ALAMPI: Okay.

3 MR. GERE: But back then, in the -- in the
4 late '60s, it used to be an old fountain shop,
5 like a soda shop.

6 MR. ALAMPI: Okay.

7 MR. GERE: Back then. And then, it was
8 converted into a restaurant.

9 MR. ALAMPI: You remember that.

10 MR. GERE: I remember that, because I used
11 to get chased away all the time.

12 MR. ALAMPI: Drinking soda.

13 MR. GERE: Drinking soda and eating chips.

14 MR. ALAMPI: Okay.

15 MR. GERE: And spilling the chips on the --
16 the chips on the sidewalk and getting chased.

17 MR. ALAMPI: All right. And you would
18 sweep and do some odd jobs around --

19 MR. GERE: Absolutely.

20 MR. ALAMPI: -- the property --

21 MR. GERE: I would sweep.

22 MR. ALAMPI: -- for Gus?

23 MR. GERE: I would shovel and sweep the
24 stairs down from the second floor all the way
25 down to the sidewalk.

1 MR. ALAMPI: So, you would sweep the
2 interior stairs.

3 MR. GERE: Oh, yeah. Absolutely.

4 MR. ALAMPI: So, you were familiar with the
5 people that lived in the building.

6 MR. GERE: Yeah. But you know, to be
7 honest with you, I can't remember their names. I
8 know their faces, but they're all resting in
9 peace.

10 MR. ALAMPI: Okay.

11 And it's your testimony that there were
12 three apartments on --

13 MR. GERE: On the second --

14 MR. ALAMPI: -- the second --

15 MR. GERE: -- floor.

16 MR. ALAMPI: One apartment on the --

17 MR. GERE: One apartment on the first
18 floor. And then, you had the restaurant.

19 The apartment that's existing right now, in
20 the back, that was part of the commercial
21 property.

22 MR. ALAMPI: Okay.

23 Counsel, I have nothing further for Mr.
24 Gere.

25 MR. GERE: Thank you.

1 MR. MEDINA: I have a question before you
2 go.

3 MR. GERE: Yes.

4 MR. MEDINA: When you say in the first
5 floor, it was commercial.

6 Right?

7 MR. GERE: Yes.

8 MR. MEDINA: What was in the back exactly?
9 It was apartment? It was --

10 MR. GERE: No, no, no.

11 MR. MEDINA: You just say the --

12 MR. GERE: What it was --

13 MR. MEDINA: You --

14 MR. GERE: It was just like a little rest
15 area for the people that worked in the
16 restaurant. They used to go back there and sit
17 down and relax.

18 MR. MEDINA: But that's not considered as a
19 unit.

20 MR. GERE: No. It real -- there -- it
21 wasn't a unit at that time. It was just like one
22 big room back there, where people would just sit
23 down and relax in between -- because the
24 restaurant and luncheonette was always busy.

25 MR. MEDINA: So, it's not no apartment.

1 MR. ALAMPI: And that was behind the
2 commercial space.

3 MR. GERE: Behind -- behind the commercial
4 --

5 MR. MEDINA: Yeah.

6 MR. GERE: -- space. Right.

7 MR. ALAMPI: There was another residential
8 unit on that floor.

9 MR. GERE: That's correct.

10 MR. ALAMPI: And who lived in that unit?

11 MR. GERE: You know, I -- I think that --
12 that's where Gus resided.

13 MR. ALAMPI: Okay.

14 MR. GERE: That's where I believe Gus was.

15 MR. MEDINA: But that was --

16 Excuse me?

17 That was the same floor that what you just
18 said?

19 MR. GERE: Yeah.

20 MR. MEDINA: Behind, as you say.

21 Right?

22 MR. ALAMPI: He's saying what we've been
23 discussing as the fifth unit --

24 MR. GERE: Right.

25 MR. ALAMPI: -- behind the commercial

1 space.

2 MR. GERE: Right.

3 MR. MEDINA: Yeah.

4 MR. ALAMPI: He's saying that wasn't.

5 MR. GERE: No. That wasn't there.

6 MR. ALAMPI: That was part of the --

7 MR. GERE: That was -- that was part --

8 MR. ALAMPI: -- the soda shop, deli --

9 MR. GERE: -- of the restaurant.

10 MR. ALAMPI: Restaurant.

11 MR. GERE: The luncheonette.

12 MS. DILLON: One at a time --

13 MR. GERE: Back then, it was --

14 MS. DILLON: -- gentlemen.

15 MR. GERE: -- a luncheonette.

16 MS. DILLON: Please.

17 MR. GERE: Okay.

18 VICE CHAIRMAN GRULLON: Okay.

19 MR. MEDINA: Okay.

20 MR. GERE: That's it. Yes?

21 VICE CHAIRMAN GRULLON: Mr. Gere?

22 MR. GERE: Yes.

23 VICE CHAIRMAN GRULLON: Since you grew up

24 in that area, and you say that you know the

25 property since 1965, do you notice any major

1 construction on that property --

2 MR. GERE: Not at all.

3 VICE CHAIRMAN GRULLON: -- during the time
4 that you know?

5 MR. GERE: Not at all.

6 VICE CHAIRMAN GRULLON: Not that you
7 recall.

8 MR. GERE: No. As far as I -- you know, I
9 remember it the way it was back then --

10 VICE CHAIRMAN GRULLON: The only -- the
11 only thing that you can consider that was not
12 preexisting is the -- the resting area for the
13 restaurant, that it was converted into --

14 MR. GERE: That's correct. Yeah.

15 VICE CHAIRMAN GRULLON: -- an apartment.

16 MR. GERE: Yeah. That was part of the --
17 the luncheonette, which I call a luncheonette --

18 VICE CHAIRMAN GRULLON: Yes. Yes.

19 MR. GERE: -- and they -- now -- now they
20 call it a restaurant, or whatever they want to
21 call it, but it was a luncheonette back then.

22 VICE CHAIRMAN GRULLON: Do you still go to
23 the area there?

24 MR. GERE: Oh, oh, yeah. I used to shovel
25 snow, and spill chips on the sidewalk and get

1 | chased, by the young lady back here, Ms. Escovez.

2 | She used to chase me. Go, go, go.

3 | Yes, sir.

4 | MR. PRESSEY: So, Mr. Gere, most of it has
5 | remained the same?

6 | MR. GERE: Absolutely.

7 | MR. PRESSEY: Yeah.

8 | MR. GERE: Yes.

9 | MR. PRESSEY: No problem?

10 | MR. GERE: No problem.

11 | MR. PRESSEY: Everything still is.

12 | MR. GERE: It's still the same.

13 | MR. PRESSEY: Thank you.

14 | MR. GERE: Okay.

15 | VICE CHAIRMAN GRULLON: Thank you.

16 | Do you have any other witness?

17 | MR. ALAMPI: I have some other witnesses
18 | who are Spanish speaking witnesses. So, they
19 | won't be able to testify tonight. We would have
20 | to come back with a Spanish interpreter.

21 | But at this point --

22 | VICE CHAIRMAN GRULLON: But you -- I don't
23 | know about the rest of the Board members, but in
24 | my opinion, I think we have heard enough
25 | testimony --

1 MR. PRESSEY: Sufficient. Right.

2 VICE CHAIRMAN GRULLON: -- to understand
3 that there were one unit -- one legal unit on the
4 first floor.

5 MR. GERE: Right. And three upstairs.

6 VICE CHAIRMAN GRULLON: And three on the --

7 MR. GERE: Second floor.

8 VICE CHAIRMAN GRULLON: -- on the second
9 floor, and nothing on the -- on the basement.

10 MR. GERE: No.

11 VICE CHAIRMAN GRULLON: Nothing in the
12 basement.

13 MR. GERE: No. Nothing at all.

14 VICE CHAIRMAN GRULLON: Was used as a
15 storage --

16 MR. GERE: Storage.

17 VICE CHAIRMAN GRULLON: -- previously.

18 And that's what I understand. I don't
19 think --

20 MR. ALAMPI: And those other ladies would
21 testify to that.

22 VICE CHAIRMAN GRULLON: Yes.

23 MR. ALAMPI: So if the Board's satisfied,
24 then --

25 VICE CHAIRMAN GRULLON: Well, we are. I

1 don't know about the other members of the Board.

2 We are satisfied?

3 MR. PRESSEY: No other question.

4 MS. GUTIERREZ: No. No, we are.

5 MR. PRESSEY: No other question.

6 VICE CHAIRMAN GRULLON: Yeah. Okay.

7 Then, if you don't have any other witness,
8 at this point I want to open it to the public.

9 Open to the public.

10 Could you step forward, Mr. -- Mr. Price?

11 MR. GERE: Thank you.

12 Yes, sir. Oh.

13 MS. DILLON: That's all right. Just stay
14 right there.

15 MR. GERE: Okay.

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

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

20 MR. PRICE: I do.

21 MS. DILLON: Name and address for the
22 record.

23 MR. PRICE: Larry Price, 1006 Palisade.

24 MS. DILLON: Thank you.

25 MR. PRICE: Okay. One question.

1 MR. GERE: Yes, sir.

2 MR. PRICE: You grew up at 420 -- by the
3 way, you refer to Gus. That's Mr. --

4 MR. GERE: Hornstein.

5 MR. PRICE: -- Hornstein.

6 MR. GERE: Right.

7 MR. PRICE: Okay. You grew up at 421 --

8 MR. GERE: Seventh.

9 MR. PRICE: -- 7th Street.

10 MR. GERE: Right. Between Bergenline --

11 MR. PRICE: When did -- when did you move?

12 MR. ALAMPI: Let him ask the question.

13 MR. GERE: Oh, okay. Sure.

14 MR. PRICE: When did you move from there?

15 MR. GERE: I moved from there 1985, when I
16 got married.

17 MR. PRICE: Okay, 19 --

18 MR. GERE: Which was a mistake. The
19 marriage.

20 MR. PRICE: Okay.

21 Okay. You refer to a couple of activities
22 here. One was that you got chased away by the
23 woman who ran the restaurant.

24 MR. GERE: Yeah, because we used to make a
25 mess on the sidewalk.

1 MR. PRICE: Gus had you sweep down the
2 stairs. That's from the second floor --

3 MR. GERE: Second floor all the way down,
4 and shovel the snow.

5 MR. PRICE: Okay. Outside the --

6 MR. GERE: Outside the premises.

7 MR. PRICE: Okay.

8 Did he have you do work inside the
9 apartment?

10 MR. GERE: Absolutely not. No.

11 MR. PRICE: Okay.

12 Were you ever in the apartments?

13 MR. GERE: I -- I was, at one time. You
14 know, just to say hello to Gus and let him know I
15 was there to take care of general maintenance.

16 MR. PRICE: That was in his apartment,
17 which you said --

18 MR. GERE: Was on the first floor.

19 MR. PRICE: Which was on the first floor.

20 MR. GERE: Right.

21 MR. PRICE: The second floor. Were you
22 ever in any of those?

23 MR. GERE: No, I don't remember being up
24 there.

25 MR. PRICE: Okay.

1 MR. GERE: I remember sweeping down the
2 stairs.

3 MR. PRICE: Yes. Okay.

4 Okay. A question has come up --

5 MR. GERE: Okay.

6 MR. PRICE: -- about construction, an
7 extension in 1973.

8 MR. GERE: Okay.

9 MR. PRICE: On the second floor --

10 MR. GERE: Right. Building out through.

11 MR. PRICE: Build it out. Do you remember
12 construction like that?

13 MR. GERE: I -- I remember seeing it being
14 done, but I -- you know, I -- I know Gus' father
15 had something to do with that, and that was just
16 to extend the apartment on the second floor,
17 which he only extend -- put a kitchen on. That's
18 all he did.

19 MR. PRICE: Okay.

20 MR. GERE: And that -- that was -- that
21 would have completed the three apartments on the
22 second floor.

23 MR. PRICE: Okay.

24 You weren't involved in the construction?

25 MR. GERE: Oh, I was young.

1 MR. PRICE: You were 12.

2 MR. GERE: Okay.

3 MR. PRICE: Okay. But sorry, I answered my
4 own question.

5 But do you remember approximately when that
6 construction was?

7 MR. GERE: No, to be honest with you. I
8 know it was in the early '70s. I know that.

9 MR. PRICE: Early seven -- when you were
10 ten or 12.

11 MR. GERE: Yeah. Yeah.

12 MR. PRICE: Okay. Okay.

13 Thank you very much.

14 MR. GERE: Thank you, sir.

15 VICE CHAIRMAN GRULLON: Any other member of
16 the public want to step forward?

17 No one else from the public?

18 Closed to the public.

19 MR. PRICE: Oh, by the way, was that --

20 MS. DILLON: Back to the microphone, Mr.
21 Price.

22 MR. PRICE: Oh, sorry.

23 When you said you were opening it to the
24 public, that's -- all of the questions --

25 VICE CHAIRMAN GRULLON: Or you could ask

1 question of the architect, if you want.

2 MR. PRICE: Oh, okay.

3 VICE CHAIRMAN GRULLON: You're not done,
4 yet, --

5 MR. PRICE: No.

6 VICE CHAIRMAN GRULLON: -- Mr. Price?

7 MR. PRICE: No, I'll pass. I'll pass.

8 VICE CHAIRMAN GRULLON: You'll pass.

9 MR. GERE: Thank you.

10 VICE CHAIRMAN GRULLON: Okay. Again,
11 closed to the public.

12 See, at this point, Mr. Alampi, I want to
13 make some recommendation on this application.

14 One thing that I would like to see is
15 current updates. It's outdated from 2012, five
16 years ago. I would like to see something that
17 shows the four units, the layout for the four
18 units, and -- and if it's possible to get the tax
19 assessor document that shows what -- what you are
20 paying taxes for.

21 You know what I mean?

22 Usually, we get it with this memo, but at
23 this time, they didn't send it.

24 MR. ALAMPI: Well, so here's --

25 VICE CHAIRMAN GRULLON: And we could carry

1 | this to the next meeting and --

2 | MR. ALAMPI: Here's my only issue with both
3 | of those requests.

4 | I obviously have no problem submitting and
5 | putting on file the as-built corrected plan, when
6 | we reconfigure and put the building the way it's
7 | supposed to be.

8 | VICE CHAIRMAN GRULLON: Okay.

9 | MR. ALAMPI: As testified to.

10 | VICE CHAIRMAN GRULLON: Yes.

11 | MR. ALAMPI: I will absolutely -- we'll
12 | have to pull probably some permits to do some of
13 | the work, and we would comply with that.

14 | With respect to the tax card, of course, I
15 | can get the current tax card from my client and
16 | supply that to the Board.

17 | As far as doing that prior to approval of
18 | the request, the problem is the request is for
19 | this Board to recognize that this is a
20 | preexisting nonconforming use.

21 | So, it's a question of whether or not this
22 | Board believes that prior to 1974, there were
23 | three residential units on the second floor, one
24 | residential unit on the first floor, and one
25 | commercial unit on the first floor.

1 That is all that is being asked. We are
2 not seeking any variance relief or anything of
3 that nature. We're trying to establish an
4 existing vested property right.

5 So, while I have no problem with doing
6 those things, down the road, at least as the
7 plans are concerned, because I don't -- I mean, I
8 guess I could have an architectural plan drawn,
9 as kind of a proposed plan, but I don't know what
10 that would do for the Board as far as --

11 VICE CHAIRMAN GRULLON: What's most
12 important is a document that present me from the
13 Tax Assessor that you're being pay -- paying
14 taxes for four units and one commercial.

15 MR. ALAMPI: Oh, I'm sure --

16 VICE CHAIRMAN GRULLON: Before --

17 MR. ALAMPI: -- I'm not.

18 VICE CHAIRMAN GRULLON: Before --

19 Huh?

20 Before we make a motion.

21 MR. ALAMPI: I'm sure I'm not being paid
22 taxes as four and one. I would have presented
23 that to prove that this has been existing that
24 way.

25 According to the memo that I saw, the

1 Building Department's saying it's two and one. I
2 haven't seen what record they're relying on, but
3 that's what the Building Department record is
4 claiming. And we're being issued violations for
5 the current state of the building, which is five
6 and one.

7 So, if the question is, are you being taxed
8 as four and one? I'm going to go out on a limb
9 here and tell you we are not. We will be taxed
10 as four and one if the Board recognizes this
11 preexisting nonconformity. But --

12 VICE CHAIRMAN GRULLON: You know even --

13 MR. ALAMPI: I can ask Mr. Li how it's
14 being tax -- I don't think it's --

15 VICE CHAIRMAN GRULLON: Actually --

16 MR. ALAMPI: -- four and one on the tax
17 card.

18 VICE CHAIRMAN GRULLON: The procedure that
19 we follow here is that we see a document from the
20 Building Department.

21 Doesn't matter if it's -- if there -- if it
22 shows there is a two unit, and one commercial.
23 And then our assumption will be that we are
24 granting your request, to expand it to a four
25 units and one commercial.

1 But I don't have anything to guide me here
2 now.

3 MR. ALAMPI: Oh, but I want to be clear for
4 the record, and because Mr. Price is here, I
5 always want to be very clear, that I'm not asking
6 for this Board to expand a use.

7 This is under 68 of the statute. This is a
8 little unique in this sense. It's not a
9 variance. We're not seeking a variance. I'm
10 seeking to establish that this property has a
11 vested right that existed before the Zoning
12 Ordinance.

13 That's why the testimony is about 1974.
14 That's why we found Mr. Gere, who's now living on
15 Mountain Road and who grew up in the neighborhood
16 and was sweeping the steps in 1969, '70, for this
17 guy, Gus.

18 That's why that testimony is being
19 presented to the Board. That's why we found the
20 operator of the restaurant from the early '70s.

21 Mr. Li bought this building in 2006. He
22 didn't know any of these people. He went through
23 a lot to do this investigation, if you will.

24 So, we're not looking to expand anything.
25 We're trying to establish a preexisting right

1 from the early '70s.

2 VICE CHAIRMAN GRULLON: You are trying to
3 legalize --

4 MR. ALAMPI: I'm trying to legalize --

5 VICE CHAIRMAN GRULLON: -- the existing
6 use.

7 MR. ALAMPI: -- the situation.

8 VICE CHAIRMAN GRULLON: But in order for us
9 --

10 MR. ALAMPI: Absolutely.

11 VICE CHAIRMAN GRULLON: -- to -- to grant
12 -- to make a motion to grant this application to
13 be legal, we -- we, as a Board, we want to know
14 how it's registered at the Building Department,
15 and I don't have anything to show me that from
16 the Building Department.

17 And that's what I'm asking you, to see if
18 it's possible for you --

19 MR. ALAMPI: Well, but what you will issue
20 is a Certificate -- you'll do a Resolution.

21 VICE CHAIRMAN GRULLON: Do we have that?

22 MR. ALAMPI: You'll issue a Certificate of
23 Preexisting Nonconformity. And you will then
24 submit that to the tax office and the Building
25 Department.

1 We will have to pull certain permits, I am
2 sure electrical and what not, to make those
3 demolition changes and to put back the commercial
4 space.

5 And the Building Department will require a
6 set of plans. And that, along with the
7 Certificate, will become the documentation that
8 my client then can utilize to deal with any
9 violations in the future, to maybe one day
10 transfer the property. He's going to --

11 This way, the next person doesn't wind up
12 in this situation.

13 Unfortunately, this happens and tends to
14 happen more when -- you know, the COs aren't
15 being issued upon the sale.

16 You know, this would have come up at the
17 time of the sale, and it would have been -- been
18 a flag at that point.

19 So, you're absolutely going to issue
20 something that the tax office will then use to
21 tax this building properly, as four and a
22 commercial space. Absolutely.

23 Counsel, do you disagree with that?

24 MR. PANEQUE: Well, I just want to -- for
25 purposes of informing the Board, I have pulled up

1 the tax records on this property that are
2 provided by the New Jersey Association of County
3 Tax Boards.

4 And the property is described as two
5 floors, one commercial, three units.

6 MR. ALAMPI: Okay.

7 MR. PANEQUE: And that's what is being
8 presently taxed at. So, the --

9 MR. ALAMPI: So, we'll pick up one
10 residential unit and one commercial space.

11 MR. PANEQUE: Now, the Tax Assessor's
12 assessing three units. The Building Department
13 is only recognizing two of those units. And
14 that's why they're -- the violations that are
15 being handed out are indicating that they found
16 six units and four of them are illegal, or
17 nonconforming, to use the better term.

18 So we have the Building Department only
19 recognizing two. The Tax Assessor is assessing
20 the property as three residential units and one
21 commercial.

22 And Mr. Alampi is asking that this Board
23 recognize that four of the units predate 1974.

24 The question to this Board then becomes, is
25 this Board satisfied with the evidence that's

1 | been presented to give an affirmative vote to Mr.
2 | Alampi's request that this Board is satisfied
3 | that these four units preexisted the 1974
4 | Ordinance?

5 | So that's the question that's before the
6 | Board.

7 | VICE CHAIRMAN GRULLON: And --

8 | MR. ALAMPI: The four units and the one
9 | commercial.

10 | MR. PANEQUE: The one commercial.

11 | VICE CHAIRMAN GRULLON: And what you --
12 | what you just explained, could that be considered
13 | as part of the application?

14 | MR. PANEQUE: Well the --

15 | VICE CHAIRMAN GRULLON: Because what I'm
16 | asking you for is --

17 | MR. PANEQUE: Yes. It's not. I'm -- I'm
18 | -- I pulled this up from the website, just so
19 | that we have some more information. I'm not
20 | testifying.

21 | It should be an accurate record of -- of
22 | how the property is being taxed, because this is
23 | actually information that's derived from the tax
24 | card in the Tax Assessor's Office.

25 | The property also indicates that it was

1 | last -- well, the last deed that was recorded was
2 | April 3rd, 2006, in which the applicant, DDIS,
3 | Union City, LLC, purchased the property.

4 | So, we have one city department, which is
5 | the Tax Office, recognizing three units for
6 | purposes of what they're taxing.

7 | We have the Building Department only
8 | recognizing two, for purposes of their records,
9 | although we don't have that here, other than a
10 | memo that says that they only recognize two
11 | units.

12 | And then, we have the testimony from Mr.
13 | Alampi's witness, saying that as far back as he
14 | recalls, there were three units upstairs and one
15 | to the side of the commercial establishment.

16 | This Board needs to vote on whether the
17 | evidence as been presented is enough to convince
18 | this Board that these four units were in
19 | existence prior to 1974.

20 | MR. MAROTTA: Mr. Chairman, the problem I
21 | have is that we have a contradiction here.

22 | If the -- if the Tax Department says
23 | they're -- they're taxing with three units, they
24 | don't just tax the three units. They evidently
25 | -- the -- the Assessor evidently makes an

1 inspection to find out.

2 I have to conclude that there was an
3 inspection made.

4 VICE CHAIRMAN GRULLON: Yes.

5 MR. MAROTTA: But that contradicts the
6 testimony of the witness, who was relatively
7 young at the time. He was 12 in 1974. And we're
8 talking about prior to 1974.

9 You know, I have a -- I have a problem with
10 this, as to which way to go.

11 I just raise that for the members of the
12 Board.

13 VICE CHAIRMAN GRULLON: Mr. Price, do you
14 --

15 MR. PRICE: Yeah. I have --

16 MR. ALAMPI: I'm going to object to Mr.
17 Price continuing to just get up and talk whenever
18 he likes.

19 I mean, he gave his comments. He made --

20 MR. DOUMAS: I agree.

21 MR. ALAMPI: -- questions of witnesses.
22 He's done.

23 MR. PRICE: I'm waiting for the Chairman to
24 recognize me --

25 MR. ALAMPI: And I'm asking --

1 MR. PRICE: -- which is --

2 MR. ALAMPI: -- the Chairman not to
3 recognize you.

4 MR. MAROTTA: I want to hear from him.

5 MR. PRICE: Well, my -- my question -- you
6 know, I have a presentation to make, and a
7 question.

8 MR. ALAMPI: I don't think he has the right
9 --

10 MR. PRICE: Should I --

11 MR. ALAMPI: -- to make a presentation.

12 MR. PRICE: Do we want to do it tonight, or
13 do you want me to wait for Mr. Alampi to complete
14 his, and then give mine?

15 VICE CHAIRMAN GRULLON: Presentation of
16 what, Mr. Price?

17 MR. PRICE: On -- on --

18 VICE CHAIRMAN GRULLON: On this
19 application?

20 MR. PRICE: What?

21 VICE CHAIRMAN GRULLON: On this
22 application?

23 MR. PRICE: Yeah. Oh, yes. Absolutely.

24 VICE CHAIRMAN GRULLON: Because I believe
25 we closed to the public.

1 MR. PRICE: No, no. This is not --

2 MR. ALAMPI: We absolutely did.

3 MR. PRICE: -- a public -- this is not a
4 public question. This is a presentation to be
5 made.

6 MR. ALAMPI: Mr. Price is a member of the
7 public, and when the Board closes to the public
8 --

9 MR. PRICE: That was questions --

10 MR. ALAMPI: -- Mr. Price is done.

11 MR. PRICE: -- from the public.

12 MR. ALAMPI: And comments.

13 MR. PRICE: This is not a question.

14 MR. MAROTTA: You know --

15 MR. PRICE: This is a --

16 MR. MAROTTA: I take offense that we're, in
17 fact, trying to deny somebody the right to speak
18 to this Board.

19 MR. PRICE: So, no. I -- I waited.

20 MR. DOUMAS: He didn't deny him the right
21 to speak to the Board. He opened it to the
22 public. He spoke.

23 MR. PRESSEY: And that was that.

24 MR. DOUMAS: He closed it to the public.

25 And we --

1 MR. PRESSEY: Right.

2 MR. DOUMAS: -- moved on.

3 MR. PRESSEY: Yeah.

4 MR. MAROTTA: The -- the attorney is --

5 MR. PRICE: It was not --

6 MR. MAROTTA: -- wants to --

7 MR. PRICE: -- made clear --

8 MS. DILLON: Gentleman, --

9 MR. MAROTTA: -- deny him the right to
10 talk.

11 MS. DILLON: -- it has to be one at time.

12 MS. GUTIERREZ: Okay. One at a time. One
13 at a time.

14 VICE CHAIRMAN GRULLON: Mr. Alampi, I
15 understand that we have some discussion after we
16 close to the public, and we might have people
17 that want to address some of the -- you know,
18 communication we have after we close to the
19 public.

20 I would suggest that we grant Mr. Price the
21 right to -- to speak again.

22 MR. ALAMPI: Mr. Chairman, obviously, it's
23 your meeting, and you make all of those
24 decisions.

25 I would respectfully submit that the Board

1 was deliberating and the Board should not reopen
2 it to Mr. Price, who is now apparently going to
3 hand out --

4 VICE CHAIRMAN GRULLON: Actually --

5 MR. ALAMPI: He's going to hand out
6 documents.

7 VICE CHAIRMAN GRULLON: Oh, no. We have --
8 it have to be accepted first.

9 MR. PANEQUE: Mr. Price, first --

10 VICE CHAIRMAN GRULLON: Let him see it.

11 MR. PANEQUE: Yeah.

12 MR. PRICE: No, you got one.

13 VICE CHAIRMAN GRULLON: Mr. Alampi, the
14 reason was because I -- I request for a document
15 and I request for new proof before making a
16 motion to carry the application. And that's why
17 this open up more questions from the public.

18 MR. ALAMPI: If Mr. Price is allowed to --

19 MS. DILLON: Back to the microphone,
20 please.

21 MR. ALAMPI: Mr. Price is allowed to now
22 get up and hand out documents and --

23 MR. PRESSEY: Well, continue. Continue.
24 Continue.

25 MR. ALAMPI: He'll hand out documents.

1 MR. PRESSEY: Continue.

2 MR. MAROTTA: One --

3 MR. PRESSEY: Continue.

4 MR. PRICE: Okay.

5 MR. PRESSEY: Continue.

6 You're allowed to continue. Continue.

7 MR. PANEQUE: Mr. Price --

8 MR. PRESSEY: Continue.

9 MR. ALAMPI: I got nothing.

10 MR. PRESSEY: What do you mean you got

11 nothing?

12 MR. ALAMPI: Continue to say that Mr. Price

13 is going to be allowed to hand out documents --

14 MR. PRESSEY: No. You have the floor.

15 MR. ALAMPI: Thank you. Thank you.

16 All I'm suggesting is the matter was open,

17 deliberation was going on, and now Mr. Price

18 wants to come up, he wants to interrupt the

19 deliberation, he wants to hand out documents, and

20 he wants to start --

21 MR. PRESSEY: Should not --

22 MR. ALAMPI: -- presenting, I don't know?

23 What did you call it?

24 MR. PRESSEY: It was closed.

25 MR. ALAMPI: A presentation?

1 MR. PRICE: Presentation.

2 MR. PRESSEY: It was closed and -- it was
3 closed to the public, Mr. Chairman.

4 Correct?

5 It was closed to the chair -- it was closed
6 to the public.

7 MR. BONACCI: To the public.

8 MR. DOUMAS: Yes.

9 MR. PRICE: Wait a minute. We've always
10 traditionally --

11 MR. PRESSEY: Then --

12 MR. PRICE: -- here --

13 MR. MAROTTA: I -- I --

14 MR. PRICE: It's questions from the public.

15 MR. PRESSEY: I should be able to continue.

16 MR. PRICE: And then, comments from the
17 public.

18 MS. GUTIERREZ: One at a time.

19 MR. PRICE: This is my comment.

20 MR. MAROTTA: I didn't think we were
21 deliberating, I think we're really discussing
22 this.

23 MR. PRICE: But my -- before was my
24 questions from the -- from the witness. You
25 know.

1 MR. DOUMAS: I just don't understand how --

2 MR. PRICE: It was not made clear that --

3 MR. DOUMAS: -- somebody from the public
4 can come up here and start handing things out
5 after we've --

6 MR. PRESSEY: Um hum.

7 MR. DOUMAS: -- closed it --

8 MR. PRESSEY: Um hum.

9 MR. DOUMAS: -- for the public.

10 MR. PRESSEY: Yeah.

11 MR. DOUMAS: There's no decorum. This is
12 -- this is --

13 MR. PRICE: Sir? Mr. Doumas?

14 MR. DOUMAS: Yes?

15 MR. PRICE: A member of the public is
16 entitled to make a --

17 MR. DOUMAS: You were.

18 MR. PRICE: -- presentation --

19 MR. DOUMAS: You were absolutely entitled.
20 And you had --

21 MR. PRICE: No.

22 MR. DOUMAS: -- your --

23 MR. PRICE: No.

24 MR. DOUMAS: -- opportunity --

25 MR. PRICE: I was --

1 MR. DOUMAS: -- to do so. And then, you
2 sat back down. And then, out of left field, you
3 come back up here and -- and approach the Board
4 physically.

5 It's -- it's inappropriate.

6 MR. PRESSEY: Right.

7 VICE CHAIRMAN GRULLON: Was he granted
8 permission?

9 MR. DOUMAS: It's inappropriate.

10 MR. PRESSEY: Yes.

11 MR. DOUMAS: The whole thing --

12 MR. PRESSEY: Yes.

13 MR. DOUMAS: -- is inappropriate.

14 MR. PRESSEY: Yeah.

15 MR. DOUMAS: The whole thing.

16 MR. PRESSEY: So, I cannot accept this. So
17 --

18 VICE CHAIRMAN GRULLON: Mr. Price?

19 MR. DOUMAS: I don't want to see it.

20 MR. PRESSEY: Can they --

21 MR. DOUMAS: I don't want to even look at
22 it.

23 MR. PRESSEY: -- continue?

24 MR. MAROTTA: Counselor, is it
25 inappropriate?

1 MR. PRICE: Okay.

2 MS. DILLON: Wait.

3 MR. DOUMAS: Nobody has to look at it.

4 MR. PRICE: I've -- I've --

5 MR. MAROTTA: Let's ask counsel --

6 MR. PRICE: -- submitted to the Board.

7 MS. DILLON: Wait. Wait.

8 MR. MAROTTA: -- if it's inappropriate.

9 MS. DILLON: It has to be one --

10 MR. PRICE: I want a document number.

11 MS. DILLON: -- speaker at a time --

12 THE SECRETARY: One at a time, please.

13 MS. DILLON: -- or the record's going to be
14 muddled.

15 MR. PRESSEY: All right.

16 MR. PRICE: Yes.

17 VICE CHAIRMAN GRULLON: Mr. Price, I -- in
18 my -- also understanding that you got permission
19 from -- from the attorneys to get -- to
20 distribute this to the Board, but I was just told
21 that you did not get permission from them, before
22 distributing to the Board.

23 You have to present it to the attorneys.

24 MR. PRICE: He's got a copy. I gave him a
25 copy. I gave --

1 VICE CHAIRMAN GRULLON: Is this okay to be
2 distribute?

3 MR. PANEQUE: There's a procedure that must
4 be followed, --

5 VICE CHAIRMAN GRULLON: You have to follow
6 --

7 MR. PANEQUE: -- Mr. Price.

8 VICE CHAIRMAN GRULLON: -- procedure, Mr.
9 Price.

10 MR. PANEQUE: And --

11 MS. GUTIERREZ: Give you this back.

12 MR. PANEQUE: The -- the floor --

13 VICE CHAIRMAN GRULLON: It has to be --

14 MR. PANEQUE: -- was open to --

15 VICE CHAIRMAN GRULLON: It has to be
16 marked.

17 MR. PANEQUE: -- the public.

18 MS. GUTIERREZ: Give all that back.

19 MR. PANEQUE: And you had an opportunity to
20 get up and speak.

21 MS. GUTIERREZ: Give me all that back.

22 MR. PANEQUE: Now, I under --

23 MS. GUTIERREZ: Give me all that back.

24 MR. PANEQUE: I understand --

25 MR. DOUMAS: Yeah. Then you can look at

1 it.

2 MR. PANEQUE: -- but you never reserved the
3 right to make any presentation. And if that --

4 MR. PRICE: But those --

5 MR. PANEQUE: The --

6 MR. PRICE: -- were questions. You know,
7 he had made his presenta -- he had a witness --

8 MR. ALAMPI: I'm the applicant, Mr. Price.

9 MR. PRICE: He had a witness here, were
10 there any questions? Yes. I had questions.

11 No one said -- you know, this is your only
12 time to speak. And, traditionally, this Board
13 has had a division between questions and comments
14 from the public. This is my comment.

15 And the public is entitled to make
16 comments.

17 VICE CHAIRMAN GRULLON: Mr. Price, and we
18 are allowing you to speak. But this here, you
19 had to get it approved by the attorneys before
20 you distribute to the Board.

21 MR. PRICE: Excuse me?

22 Where -- what is -- what is your authority
23 for making that statement?

24 VICE CHAIRMAN GRULLON: You had to get that
25 into the record before you give it to the -- to

1 the Board.

2 MR. PRICE: I'm not an applicant, I'm an
3 objector. I can come up and here, and that's
4 exactly what I've done. And I would ask you to
5 -- to --

6 MR. ALAMPI: So, now the record --

7 MR. PANEQUE: Well, Mr. --

8 MR. ALAMPI: -- is going to reflect that --

9 MR. PRESSEY: No. No. We did that with
10 the public and it's over.

11 MR. ALAMPI: -- Mr. Price is a formal
12 objector to the application.

13 MR. PRESSEY: It's over. We did that with
14 the public already.

15 Am I right, Mr. Chairman?

16 MR. ALAMPI: When I --

17 MR. PRESSEY: We did that with the public.

18 MR. ALAMPI: -- represent parties objecting
19 --

20 MR. PRESSEY: That's it.

21 MR. ALAMPI: -- to applications --

22 MR. MAROTTA: It's the attorney --

23 MR. ALAMPI: -- I make that known from the
24 beginning of the proceeding.

25 MR. PRESSEY: We did that with the public.

1 MR. MAROTTA: It's the attorney's decision,
2 not the Chairman's.

3 MR. PRESSEY: We did that with the public.

4 MR. PANEQUE: Mr. Price --

5 MR. MAROTTA: That's why we have an
6 attorney.

7 MR. PRESSEY: We did that with the public.

8 MR. PANEQUE: You can't hand over documents
9 to the Board unless these documents are first
10 marked for exhibits, so they become part of the
11 record.

12 All right. So, you're -- you're not
13 following the protocol that has to be followed.

14 Now, the opportunity to the public was
15 made. You did get up. You asked questions.

16 I -- I know that you're saying that
17 traditionally this Board has had a two part way
18 of handling this.

19 As long as I've been sitting here, that's
20 never been the case. We haven't bifurcated the
21 witnesses into questions and then comments.

22 In fact, many times that I remember, you've
23 gone up, you've asked your questions, and then
24 you've made a comment while you were still
25 holding the floor.

1 Now, my under -- my recollection is that
2 Mr. -- Vice Chairman Grullon asked several times,
3 are there any other members of the public? The
4 question was asked at least twice after you had
5 sat down.

6 At no point did anybody else get up,
7 including yourself. And then the statement was
8 made on the record that it was now closed to the
9 public.

10 At this point, the deliberation became one
11 of what this Board was being asked to do.

12 Mr. Alampi made his request to the Board,
13 and I was providing information to the Board as
14 to what they were being asked to do with respect
15 to the vote.

16 But for you to get up in the middle of that
17 deliberation between the Board and what Mr.
18 Alampi's asking the Board to do it is not proper
19 protocol. So, I --

20 MR. PRICE: Well --

21 MR. PANEQUE: -- leave it to the Chairman's
22 discretion. And -- and the Chairman can decide,
23 because he's the one who runs this Board.

24 But your opportunity to be heard on this
25 application did take place and was already closed

1 out.

2 MR. PRICE: Just for future reference,
3 okay?

4 I mean this isn't the only board. Every
5 board -- every other board, it's always -- if --
6 if an objector has a presentation to make, he is
7 required to wait until the applicant has
8 completed his case.

9 And that's what I've done. I've been very
10 polite and I have waited for my -- the applicant
11 to complete his case.

12 And now you say that I will be penalized
13 for that, for being polite. Now --

14 MR. PRESSEY: No. No.

15 MR. PANEQUE: Wait, wait, wait, wait.

16 MR. PRICE: And for --

17 MR. PANEQUE: No, no, no, no, no.

18 MR. PRESSEY: No. That's not --

19 MR. PRICE: Okay.

20 MR. PRESSEY: That's not it at all.

21 MR. PANEQUE: No.

22 VICE CHAIRMAN GRULLON: Mr. Price?

23 MR. PANEQUE: I -- I don't --

24 MR. PRESSEY: No.

25 MR. PANEQUE: -- in any way want to imply

1 | that you're going to be --

2 | MR. PRESSEY: No.

3 | MR. PANEQUE: -- penalized.

4 | MR. PRESSEY: No. Not at all.

5 | MR. PANEQUE: Okay? I'm just saying that
6 | at this point, okay, Mr. Alampi's still
7 | presenting his application. I don't -- I don't
8 | think he's seceded his right to the floor yet.

9 | Is that correct, Mr. Alampi?

10 | MR. ALAMPI: That is correct.

11 | MR. PANEQUE: Okay.

12 | Now, as long as I've been sitting here,
13 | okay, there's never been a case where after the
14 | applicant finishes his application, okay, the
15 | Board, or the Vice Chairman of the Board has
16 | asked, is there anybody here who's objecting to
17 | the application?

18 | All the objections have taken place during
19 | the time of public --

20 | MR. PRESSEY: Right.

21 | MR. PANEQUE: -- comment. Okay?

22 | MR. PRICE: Just because they're questions.
23 | They're --

24 | MR. PANEQUE: Well --

25 | MR. PRICE: You know, it's not a

1 presentation.

2 MR. PANEQUE: I understand that.

3 MR. PRICE: I -- I'm an objector with a
4 presentation to make --

5 MR. PANEQUE: Okay.

6 MR. PRICE: -- that is a traditional right
7 of an objector.

8 MR. PANEQUE: Now what --

9 MR. PRICE: You're denying me that right.

10 MR. PRESSEY: No.

11 MR. PANEQUE: I'm not denying you --

12 MR. PRESSEY: Not at all.

13 MR. PANEQUE: -- anything.

14 MR. PRICE: That's not going to go well.

15 MR. PRESSEY: Not at all.

16 MR. PANEQUE: Mr. Price, --

17 MR. PRESSEY: Not at all.

18 MR. PANEQUE: -- my suggestion to you is
19 this.

20 Let Mr. Alampi finish his presentation.

21 Okay? Once he's done, then you can ask to
22 address the Board and ask the Board if they will
23 allow you to present an objection to the
24 application at that point. But --

25 MR. MAROTTA: You're right. Yeah.

1 MR. PANEQUE: -- Mr. Doumas did have a
2 comment to make, and -- and so did Mr. Pressey
3 that you approaching the Board in the middle of
4 Mr. Alampi's presentation was not the correct,
5 proper method --

6 MR. PRICE: Okay. Let's --

7 MR. PANEQUE: -- for you to do this.

8 MR. PRICE: Let's play the tape back here a
9 little bit.

10 The Chair asked, apparently, for new plans.

11 MR. PANEQUE: Yes.

12 MR. PRICE: Which means there will be an
13 adjournment to next time.

14 MR. PANEQUE: That hasn't been decided yet.

15 MR. PRICE: Well, okay. My question then
16 was simply to say, I have a presentation to make.
17 Should I wait for the conclusion of the
18 applicant's case, or do you want me to make it
19 tonight?

20 I understood the answer be make it tonight.
21 That's why I gave --

22 MR. PANEQUE: Okay.

23 MR. PRICE: But --

24 MR. MAROTTA: I -- I --

25 MR. PANEQUE: I -- I don't --

1 MR. PRICE: To the Board --

2 MR. PANEQUE: -- think there was an answer.

3 MR. PRICE: -- and pass out, to make my
4 presentation.

5 MR. MAROTTA: I --

6 MR. PRICE: I can wait till the applicant
7 has completed his case, but I don't think that I
8 can be denied the right to make my presentation.

9 MR. PANEQUE: Well --

10 MR. MAROTTA: Counselor, I don't -- I don't
11 believe Mr. Price should do it right now. I
12 don't -- I don't think -- if -- if the applicant
13 hasn't concluded, then Mr. Price, in my opinion,
14 shouldn't go forward.

15 MR. PANEQUE: We -- we don't know if the
16 applicant has concluded, because I did ask Mr.
17 Alampi and he has indicated --

18 MR. MAROTTA: Well, I heard him say
19 something before --

20 MR. PANEQUE: -- that he hasn't finished
21 his case.

22 MR. MAROTTA: -- about two other witnesses
23 who were going to testify in Spanish.

24 MR. PANEQUE: Okay. Let's --

25 MR. MAROTTA: And that he's going to bring

1 | somebody to translate it. So that means he
2 | hasn't --

3 | MR. PANEQUE: Yeah.

4 | MR. MAROTTA: -- concluded.

5 | MR. PANEQUE: My recommendation, now, Mr.
6 | Price, to you, most respectfully, is to wait
7 | until Mr. Alampi has indicated to the Board that
8 | he's done.

9 | And then, at that moment, if you want to
10 | get up and ask the Board to be allowed to present
11 | your objection, then the Board can address that
12 | question.

13 | MR. PRICE: Okay.

14 | VICE CHAIRMAN GRULLON: Any -- any
15 | documentation that has to be presented to the
16 | Board, has to be marked into evidence. I
17 | understand that.

18 | MR. PANEQUE: Correct. Yeah.

19 | VICE CHAIRMAN GRULLON: Yes.

20 | MR. PANEQUE: There's a procedure.

21 | VICE CHAIRMAN GRULLON: Yes.

22 | MR. PANEQUE: You just can't get up --

23 | VICE CHAIRMAN GRULLON: And that's -- that
24 | -- that was my concern, only that the information
25 | that you're giving us, is not marked into

1 evidence.

2 And I know it's a presentation that you --
3 you probably come -- probably come and stand
4 point of view, but I would like you to get it to
5 -- to the proper channels.

6 MR. PRICE: Okay. You want me to wait
7 until the applicant has --

8 MR. MAROTTA: Yes.

9 VICE CHAIRMAN GRULLON: Yes. Please.

10 MS. GUTIERREZ: Yes.

11 MR. PRICE: Okay. In --

12 VICE CHAIRMAN GRULLON: Right.

13 MR. PRICE: -- which case --

14 VICE CHAIRMAN GRULLON: You will have --
15 you will have the right to present this other
16 document. If you want you can leave it here.

17 MR. PRICE: Any others?

18 MR. ALAMPI: Mr. Chairman, if I may, my --
19 my issue has now become this, as to Mr. Price.

20 Mr. Price has now stood up. Said he wants
21 to make a presentation and said that he's
22 objecting to this application.

23 If Mr. Price is now going to object to
24 something, let's give a good example.

25 The notice is deficient and what we've done

1 for the past hour and a half is a complete waste
2 of everybody's time. That's not right. It's
3 just not right.

4 I have a feeling that there's going to be
5 some kind of legal argument as to jurisdiction,
6 based on the document that was handed to me.

7 So, now, Mr. Price wants to wait until
8 everybody sat here for two hours and went through
9 the dance to now say, well, they don't even have
10 the right to make this application, perhaps.

11 I -- I think that perhaps he should proffer
12 for the Board exactly what it is that his
13 objections are, just bullet point them for the
14 Board what his objections are.

15 VICE CHAIRMAN GRULLON: Did you get a copy
16 of --

17 MR. ALAMPI: I'm reserving my right to
18 continue but --

19 MR. MAROTTA: Excuse me?

20 MR. ALAMPI: -- I think he should proffer
21 that.

22 MR. MAROTTA: Mr. Alampi, if you knew that
23 he was going to make a legal argument as to
24 jurisdiction, you should have let us know before
25 that, so he could make that legal argument before

1 | you make a presentation.

2 | MR. ALAMPI: I didn't know if he was going
3 | to or not. I'm here presenting an --

4 | MR. MAROTTA: You just --

5 | MR. ALAMPI: -- application.

6 | MR. MAROTTA: You just said that you looked
7 | at something and you --

8 | MR. BONACCI: Just now.

9 | MR. ALAMPI: Based on what --

10 | MS. GUTIERREZ: Just now.

11 | MR. ALAMPI: -- he just handed me.

12 | MR. DOUMAS: Five minutes ago.

13 | MR. MAROTTA: Oh, oh, okay. All right.

14 | Okay.

15 | MS. GUTIERREZ: Just now.

16 | MR. MAROTTA: I thought you had it before.

17 | MR. ALAMPI: These are the thoughts that
18 | come to my mind.

19 | MR. MAROTTA: I thought you had it before.

20 | MR. ALAMPI: I did not.

21 | So, I ask that Mr. Price proffer for this
22 | Board, and myself, what his objections are, so
23 | that maybe I have to deal with them right now.

24 | If it's jurisdictional in nature, there's
25 | no reason for us to continue going further, until

1 the Board rules on that issue, counsel.

2 MR. PRESSEY: Well --

3 (Whereupon, there were multiple speakers.)

4 VICE CHAIRMAN GRULLON: Can they discuss
5 that off the record or not?

6 MR. PANEQUE: No, not off the record. Keep
7 everything on the record.

8 MR. PRESSEY: The Board will decide. Okay.

9 MR. PANEQUE: Mr. Price --

10 VICE CHAIRMAN GRULLON: Mr. Alampi, are you
11 finished with your presentation?

12 MR. ALAMPI: I am not done with my
13 presentation.

14 However, if Mr. Price is formally objecting
15 to the application, he should have stood up at
16 the beginning of the hearing, said, my name is
17 Larry Price. I live at 1106 (sic) Palisade
18 Avenue, and I'm objecting to this application.

19 MR. MAROTTA: Right.

20 MR. ALAMPI: And here are what my
21 objections are. And I'm going to --

22 MR. MEDINA: Yup. He's right.

23 MR. ALAMPI: -- cross examine these people
24 as we go.

25 MR. PRESSEY: He's right.

1 MR. MAROTTA: That's right.

2 MR. ALAMPI: That didn't happen.

3 MR. MEDINA: Yeah.

4 MR. ALAMPI: Okay. So be it.

5 But if he's now going to raise a
6 jurisdictional issue, which is threshold for this
7 Board to even hear the application --

8 MR. MEDINA: Um hum.

9 MR. PRESSEY: Um hum.

10 MR. ALAMPI: -- what are we waiting for?
11 Two hours of testimony?

12 That's a waste of this Board's time and
13 it's not right to everybody here in the public.

14 MR. MAROTTA: You're right. You're right.

15 MR. ALAMPI: Or the applicant.

16 VICE CHAIRMAN GRULLON: Mr. Price, you want
17 to bring your claim and mark it into evidence?

18 MR. ALAMPI: I don't want the document
19 marked into evidence. I want him to proffer what
20 it is that his objection is.

21 He has an objection, according to him.

22 MR. PRICE: By the way --

23 MR. ALAMPI: Let's hear what it is.

24 MR. PRICE: There's a little bit of --
25 whatever.

1 The fact is that Mr. Alampi got a call from
2 me ten days ago, based on the legal notice in the
3 paper.

4 And I said -- you know, the problem is,
5 this thing came before the Board in 2013, and
6 this has got res judicata written all over it.

7 So, he had warning.

8 MR. MAROTTA: Excuse me?

9 MR. PRICE: I provided --

10 MR. MAROTTA: What did you say? I didn't
11 hear it fully.

12 MR. PRICE: I said I gave him a call. Mr.
13 Alampi a telephone call, ten days ago, based on
14 the -- on the thing in the paper and the notice,
15 and I said, the problem is, your client came
16 before the Zoning Board four years ago on
17 essentially the same thing. And this has got res
18 judicata written all over it. So, he had
19 forewarning.

20 I provided documents to Mr. Paneque.

21 MR. MAROTTA: Did -- did he call you, then,
22 Mr. Alampi?

23 MR. ALAMPI: He called me. I thought --

24 MR. MAROTTA: Raise --

25 MR. ALAMPI: -- I explained to him --

1 MR. MAROTTA: Raised an issue --

2 MR. ALAMPI: -- why res judicata doesn't
3 apply.

4 And when I saw him here tonight and he
5 didn't get up --

6 MR. MAROTTA: Excuse --

7 MR. ALAMPI: -- and object --

8 MR. MAROTTA: Excuse me?

9 MR. ALAMPI: -- I thought he --

10 MR. MAROTTA: He raised an issue with you
11 ten days ago approximately --

12 MR. ALAMPI: He called me ten days ago.

13 MR. MAROTTA: Let me finish, please.

14 MR. ALAMPI: Absolutely.

15 MR. MAROTTA: He raised an issue with you
16 ten days ago that goes to jurisdiction?

17 MR. ALAMPI: He did.

18 MR. MAROTTA: That's what res judicata is.

19 I asked you --

20 MR. ALAMPI: He did.

21 MR. MAROTTA: -- that question before. You
22 said you just found out. Now we find out you
23 found out ten days ago.

24 MR. ALAMPI: I just found out that he is
25 going to raise the issue.

1 He called me. We had a conversation about
2 it. He didn't submit a letter.

3 Now he's saying he submitted documents to
4 the Board.

5 I'm the applicant. He's submitting
6 documents to the Board. He's not copying me on
7 these?

8 This is my application, not his
9 application. And now --

10 MR. MAROTTA: Well, then, if you knew --

11 MR. ALAMPI: -- he wants to tell this Board
12 --

13 MR. MAROTTA: If you knew he raised a
14 question --

15 MR. ALAMPI: -- about res judicata.

16 MR. MAROTTA: If you knew he raised a
17 question of res judicata, as an attorney you know
18 he's raising a question as to jurisdiction. So,
19 you knew that ten days ago.

20 And I think it might have been incumbent
21 upon you, at the beginning of this hearing, to
22 tell the Board that Mr. Price is going to raise
23 an issue as to jurisdiction. Then we hear from
24 that issue first.

25 MR. ALAMPI: I didn't --

1 MR. MAROTTA: If we --

2 MR. ALAMPI: -- know that. I didn't know
3 he was going to raise it. He sat here for two
4 hours, didn't mention it. It's jurisdictional.

5 MR. MAROTTA: Over ten days ago.

6 MS. GUTIERREZ: Okay.

7 VICE CHAIRMAN GRULLON: Now -- now that we
8 --

9 MS. GUTIERREZ: You have to --

10 VICE CHAIRMAN GRULLON: -- have this on the
11 record --

12 MS. GUTIERREZ: You have to --

13 VICE CHAIRMAN GRULLON: -- I would like to
14 see what Mr. Price has --

15 MS. GUTIERREZ: Yeah, that's it.

16 VICE CHAIRMAN GRULLON: -- to say.

17 Could you explain --

18 MR. PRICE: Well, no. No.

19 Let me -- let me make my presentation at
20 the completion of his or let me make my
21 presentation now.

22 I'm not giving you the Reader's Digest --
23 whatever.

24 I mean, this -- what Mr. Alampi's saying is
25 this is a threshold issue. It should have been

1 | decided before he had to give his case.

2 | But I don't set the jurisdic -- I discussed
3 | this with the attorney for the Board. I'll --
4 | so? I'll give my case at the -- at the
5 | conclusion of the applicant's case.

6 | MR. ALAMPI: Again, for the record, if Mr.
7 | Price is submitting things to this Board on my
8 | application and not copying on me --

9 | MR. ORTIZ: He should have done that --

10 | MR. ALAMPI: -- that is --

11 | MS. GUTIERREZ: Right from the beginning.

12 | MR. ALAMPI: -- unacceptable.

13 | MR. PANEQUE: Mr. Price?

14 | MR. ALAMPI: He's now objecting, so we'll
15 | deal with all this now.

16 | MR. PANEQUE: Let's hear your objection.

17 | MR. PRESSEY: Yeah. Continue.

18 | MS. GUTIERREZ: Yeah.

19 | MR. PRICE: My objection --

20 | MS. GUTIERREZ: We have to continue. We
21 | have to finish with this.

22 | MR. PANEQUE: Let's hear your -- your
23 | presentation.

24 | VICE CHAIRMAN GRULLON: Presentation.

25 | MS. GUTIERREZ: We're not going to be here

1 all night.

2 MR. PRICE: Okay. We're going to do it
3 tonight then?

4 MR. PANEQUE: Yes.

5 MR. PRESSEY: Well --

6 MR. PRICE: Okay. Okay.

7 MR. MEDINA: Well, the last thing that we
8 should --

9 We just have to finish. Because we have
10 two hour on this case and it's not only that.

11 MR. ORTIZ: It's not fair to the other --

12 MR. MEDINA: I'm hungry. And I'm hungry.
13 So, come on, guys. Let's go together, get this
14 done. Come on.

15 MR. PRICE: Okay. Have you got ten
16 minutes?

17 MR. MEDINA: Not going be all night, hear
18 one case.

19 MR. PRICE: Mr. Medina, you got ten
20 minutes?

21 MR. MEDINA: Enough. It's enough.

22 MR. PRICE: Okay. I talk fast.

23 MR. PANEQUE: Let's have it marked for
24 identification.

25 (Whereupon, there was a pause in the

1 proceedings.)

2 MS. DILLON: Do you have an extra copy for
3 me?

4 MR. PRICE: Oh.

5 MS. DILLON: If you have one.

6 MR. PRICE: Well --

7 MS. DILLON: If not, I'll ask Carlos.

8 MR. PRICE: Probably not but --

9 MS. DILLON: Okay.

10 MR. PRICE: I'll just short somebody down
11 -- they look pretty hostile anyway.

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

14

15 (Whereupon, Package Submitted by Larry
16 Price was received and marked as Exhibit O-1.)

17

18 MS. DILLON: Okay. We're still on the
19 record.

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

22 MR. PRICE: Okay.

23 MS. DILLON: Excuse me?

24 VICE CHAIRMAN GRULLON: Okay. We're on --
25 we're on the record. Please. Silent.

1 MR. PRICE: Okay. A few papers.

2 Mr. Li, who owned the building directly,
3 apparently, in those days, in 1970 -- 2013 came
4 in with an application for one commercial and
5 five residential units.

6 Okay. Same question arose then. Second
7 page, we received a memo from the Building
8 Department, dated April 10, 2013, which says 717-
9 719 Bergenline Avenue has two units and one
10 commercial space. That's -- whatever.

11 Okay. So, Mr. Li filed an application for
12 five units. Okay.

13 The testimony of his architect, who was Mr.
14 Pereiras, buttressed the idea that in 1974 the --
15 the building, in fact, consisted of one
16 commercial space and two residential units.

17 If you turn to the pages of the transcript,
18 if you turn to page 199 --

19 MR. ALAMPI: For the record, counsel, I do
20 object to Mr. Price pointing this out, --

21 MR. PRESSEY: One ninety-nine. Right here.

22 MR. MAROTTA: Yeah.

23 MR. ALAMPI: -- reading this.

24 MR. MAROTTA: I'm looking at the other one,
25 the court.

1 MR. ALAMPI: I have no idea how accurate --

2 MR. MAROTTA: There's a court order here.

3 MR. ALAMPI: -- where this comes from, et
4 cetera.

5 MR. PRESSEY: Um hum.

6 MR. MAROTTA: Yeah. There's an order from
7 the court.

8 MR. MEDINA: Yes.

9 MR. PANEQUE: Objection noted.

10 MR. ALAMPI: Thank you, counsel.

11 MR. PRICE: Okay.

12 Mr. Price: But you're really saying then
13 is likelihood is the Construction Code said that
14 there were two apartments. There was probably
15 one apartment on each floor.

16 Mr. Pereiras: More than likely.

17 Mr. Price: And those apartments were, over
18 time, subdivided. Two on the first floor, three
19 on the second floor.

20 Mr. Pereiras: Correct.

21 Mr. Price: Okay.

22 So, the testimony from what was then the
23 applicant's architect said that there were really
24 two apartments originally, and the one on the
25 third floor was divided into three, and the

1 apartment on the second floor divided into two.

2 On page 197, okay.

3 Mr. Pereiras: Everything's existing.

4 Everything currently there and it's been there
5 for quite some time.

6 Mr. Isa, who is the attorney for the Board
7 at the time: How long would you estimate that?

8 Mr. Pereiras: I -- I would say it was done
9 in the 1980s.

10 The magical date, of course, is 1974. So,
11 the testimony -- okay.

12 So, the conclusion there, on page 198, by
13 Chairman Garcia was: Yup.

14 We are --

15 Remember, the application is for five.

16 -- we are legalizing three. Right?

17 Mr. Isa: So, we're legalizing three units.

18 So, the Board made a determination, at that
19 point, that there was -- that the Building
20 Department was right. It was one commercial
21 unit. There were two residential units.

22 Okay. Because I didn't like the --
23 whatever, I challenged the action and took it --
24 filed an action in lieu of prerogative writs with
25 the Law Division.

1 Mr. Li was properly served with the papers
2 and did not make an appearance. And the last two
3 pages that you see here --

4 MR. MAROTTA: Crazy.

5 MR. PRICE: -- are --

6 MR. MAROTTA: Crazy.

7 MR. PRICE: -- the order from the Law
8 Division, basically canceling the --

9 MR. MAROTTA: This is crazy.

10 MR. PRICE: So, the point I make here, and
11 I'm reading from Cox and Koenig, under the
12 doctrine of res judicata, if the same parties or
13 their privies do seek the same relief in the same
14 factual setting, the case may be dismissed on the
15 grounds that it has already been decided.

16 This Board decided in 2014, two residential
17 units.

18 And whatever.

19 The principles of res judicata and
20 collateral estoppel are applicable not only to
21 the parties in courts of law, but also in
22 administrative tribunals, and agency hearings.

23 Whatever, which is, of course, what this
24 is.

25 The Resolution of the Planning Board was a

1 determination made by a quasi-judicial body which
2 precluded plaintiff from again submitting the
3 same issue to the Zoning Board.

4 And that's my case. You've already decided
5 it. I had to go to court twice -- once and I
6 don't have to -- I shouldn't have to go to court
7 twice.

8 That's the point.

9 MR. PANEQUE: Mr. Price?

10 MR. MAROTTA: That's a legal question
11 that's got to be decided.

12 MR. PANEQUE: Mr. Price, the last
13 application, the one that you just read that had
14 been applied, granted, and then appealed, was a
15 request to go from two to five.

16 MR. PRICE: Correct.

17 MR. PANEQUE: Okay?

18 The application, as I understand it before
19 the Board today, is to legalize one on the ground
20 floor and the three on the top, which is four
21 units.

22 MR. PRICE: Yes.

23 MR. PANEQUE: Okay.

24 So, would you not say that that is a
25 different application?

1 MR. PRICE: Well, no, I would not, but I
2 would say it's different -- the quantity, I don't
3 think matters. But it's a qualitative difference
4 in the sense that in 2013, the -- the applicant
5 was asking to legalize three apartments via
6 variance.

7 Okay. And of course -- of course, vacated
8 that.

9 What they're doing tonight is claiming --
10 you know, under Section 70B, that this is a --

11 MR. ALAMPI: That's not true.

12 MR. PRICE: -- that this is -- that this is
13 a -- that this building in 1974 had four
14 residential -- and that they qualify as
15 preexisting nonconforming uses.

16 MR. PRESSEY: Nineteen seventy-four.

17 MR. PRICE: The problem that I have with
18 that was that as part of the 2013 application,
19 this Board determined that there were only two
20 residential units --

21 MR. MEDINA: Nineteen seventy-four.

22 MR. PRICE: -- in 1974.

23 MR. MAROTTA: Wow.

24 MR. PANEQUE: May I also --

25 MR. MEDINA: Nineteen seventy-four.

1 MR. PANEQUE: As I -- as I understand, the
2 2013 application, there was a finding of fact by
3 this Board and a -- and a request from the
4 applicant to go from three to five.

5 MR. MEDINA: Five.

6 MR. PANEQUE: Thereby legalizing two. And
7 their argument at that time was that the three
8 preexisted the 1974 Ordinance. And the two that
9 they were asking for --

10 MR. PRESSEY: Right.

11 MR. PANEQUE: -- legalization did not.

12 MR. PRESSEY: Right.

13 MR. PRICE: No. They --

14 MR. ALAMPI: No, counsel.

15 If I may, since it's my application? Mr.
16 Price has raised his issue.

17 Res judicata doesn't apply. First of all,
18 I'm under a different section of the statute.
19 Okay? And it's Section 68 not 70B.

20 So, there was a variance application made
21 some years back. It was for variance relief. So
22 you got a different part of the statute
23 implicated. That alone answers the question.

24 But if that's not enough. That application
25 was for five units. This application, under a

1 different part of the statute, is for four units.

2 Clearly, this Board hears applications on
3 properties multiple times, in different and
4 various configurations.

5 Case law's clear. Substantially different
6 application.

7 I would submit to the Board that this isn't
8 an application, first of all, as defined under
9 the MLUL. This is a request for a Certificate of
10 Preexisting Nonconformity under a different
11 section of the statute.

12 Secondly, five to four is substantially
13 different, no different than a ten foot side yard
14 to a five foot side yard. Different application.

15 Res judicata doesn't apply, collateral
16 estoppel doesn't apply. There is nothing to bar
17 this applicant from coming here.

18 If the Board does not grant this
19 application, my client could absolutely make
20 another variance application for ten units on
21 this property, if he wanted to. Clearly, the
22 Board would not say, we've already heard about
23 this property, so you're barred.

24 That would not be the case. The Board
25 would do its job, listen to the testimony, wait

1 and see if the applicant satisfied the burden of
2 proof.

3 I have nothing further on it, and that's my
4 position.

5 MR. PRICE: I have --

6 MR. PANEQUE: Mr. Alampi, I -- I do have a
7 -- a question for you.

8 And that is if you're coming under 68 to
9 ask this Board to make a determination that those
10 four units existed prior to 1974, how do, then,
11 you answer the application's presentation in
12 2013, where it was presented to this Board that
13 it was three units?

14 MR. ALAMPI: It was presented through the
15 architect that the existing structure was five
16 units, residential units.

17 MR. PANEQUE: And only three of them --

18 MR. ALAMPI: The Building Department made a
19 determination that they only had on record three
20 units.

21 We've had conversation here tonight, the
22 Tax Office has one number, the Building
23 Department has a different number.

24 That's why the application was made as a
25 variance application for five to legitimize what

1 | was existing, what was in the structure. That
2 | was the application.

3 | There was no determination as to what was
4 | there by the applicant. The applicant said this
5 | was five units. The Building Department, through
6 | enforcement, is challenging that and saying it's
7 | not five.

8 | MR. PRICE: I have one --

9 | MR. MAROTTA: Can --

10 | MR. PRICE: -- response to --

11 | Oh.

12 | MR. MAROTTA: Excuse me?

13 | From -- from what I heard, from reading of
14 | the transcript, I also heard something that
15 | contradicted some testimony tonight with
16 | reference that some of these apartments were
17 | subsequent to 1974.

18 | So, that raises another question.

19 | You know, I -- I don't know if you can make
20 | an opinion tonight, I know, myself, I would want
21 | time to research this to see if Mr. Price is
22 | right, or we go ahead with Mr. Alampi.

23 | MR. PRICE: Allow me to make one response
24 | to Mr. Alampi's comments.

25 | The rules on res judicata say if it's a

1 substantially different application, res judicata
2 does not apply.

3 I have a feeling that a very good case
4 could be made -- you know, in 2013, he asked for
5 five. Okay. If he came in with an application
6 not for declaration that there were four existing
7 apartments, but came in for an -- that -- or if
8 he came in with ten, for an applica -- that is
9 probably a substantially different application
10 and the Board could hear that application.

11 This is different. As part of the 2013
12 application -- you know, both the Chairman and
13 the attorney for the Board said, we are
14 legalizing three units, which says there are two
15 existing legal units. That's -- that's on page
16 198 of the --

17 MR. ALAMPI: Counsel, I'm --

18 MR. PRICE: And -- and --

19 MR. ALAMPI: -- not engaging in speculation
20 that Mr. Price --

21 What I can tell you is the testimony --

22 MR. PRICE: Wait. Mr. --

23 MR. ALAMPI: -- of the architect --

24 MR. PRICE: -- Alampi --

25 MR. ALAMPI: -- was simply approximation.

1 Do you know approximately when this was done? I
2 don't know. Approximately? Sure. But I don't
3 know when this was done.

4 That was the testimony that I heard,
5 according to what was read by Mr. Price.

6 As far as the Board legalizing three units?
7 That's not what the Board was doing. The Board
8 was granting a variance. They weren't legalizing
9 three units. They were granting a variance to
10 permit five units and one commercial space.

11 That's what the application is for. That's
12 what the Board would have been doing.

13 MR. PRESSEY: Mr. Price, continue.
14 Continue, please.

15 MR. PRICE: Okay. What I -- I think --
16 okay, so all I'm saying, the Board, as part of
17 their variance grant, in 2013, made a
18 determination that there were two legal
19 residential units. Okay. So, you've already
20 covered that ground.

21 Now, they're coming in with a -- they want
22 a declaration that they're four legal units.

23 I'm saying, the Board has already decided
24 that question. You decided four years ago it's
25 two. And you're precluded from -- by the way,

1 and the fact that it's five then and four now,
2 no. That's -- that -- that's not what counts.
3 You decided it was two then, and it's -- you
4 know, you can't make another decision now.

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

7 VICE CHAIRMAN GRULLON: Are you done, Mr.
8 Alampi?

9 MR. ALAMPI: I'm just going to continue to
10 respond to any other --

11 VICE CHAIRMAN GRULLON: Are you done, Mr.
12 Price?

13 MR. ALAMPI: -- objections --

14 MR. PRICE: I'm done.

15 MR. ALAMPI: -- Mr. Price has.

16 VICE CHAIRMAN GRULLON: Okay.

17 MR. PRICE: Ten minutes. You happy?

18 VICE CHAIRMAN GRULLON: Mr. Alampi --

19 MR. ALAMPI: Yes.

20 VICE CHAIRMAN GRULLON: -- you know, after
21 hearing all this presentation from Mr. Price, and
22 hearing also your answer, I -- I want to maintain
23 the same decision that I had before.

24 I would like to see a sketch with the four
25 -- with the layout of the four units. And also,

1 documentation that -- to provide to the Board
2 from Building Department, from the Tax Assessor
3 how many units that we have involved in this
4 case.

5 And I know and understand that what you're
6 looking for is to legalize four units; one on the
7 ground floor, with the commercial in front, and
8 three on the second floor.

9 But I would like to carry this -- this --

10 MR. ALAMPI: Let's carry --

11 VICE CHAIRMAN GRULLON: -- matter for the
12 --

13 MR. ALAMPI: -- the application.

14 VICE CHAIRMAN GRULLON: -- for the next
15 meeting.

16 MR. ALAMPI: What is the date?

17 THE SECRETARY: Motion on the table to
18 carry this application for April 6.

19 MR. PANEQUE: April 6.

20 THE SECRETARY: Second by?

21 VICE CHAIRMAN GRULLON: With the condition
22 of the --

23 THE SECRETARY: Margarita Gutierrez.

24 VICE CHAIRMAN GRULLON: -- getting a sketch
25 --

1 THE SECRETARY: Motion by Mr. Grullon.

2 VICE CHAIRMAN GRULLON: -- of the layout
3 for the -- for the four apartments.

4 MS. GUTIERREZ: With the -- with the --

5 VICE CHAIRMAN GRULLON: And -- any --

6 MR. ALAMPI: I understand.

7 VICE CHAIRMAN GRULLON: -- recommendation
8 that you can provide that shows the three units
9 that we just saw, that --

10 MS. GUTIERREZ: From the tax -- Tax
11 Assessor.

12 VICE CHAIRMAN GRULLON: -- on the -- from
13 the Tax Assessor, and the three units that
14 Building Department has, just to have it on the
15 record.

16 MR. ALAMPI: Very good.

17 VICE CHAIRMAN GRULLON: Thank you, Mr.
18 Alampi.

19 THE SECRETARY: Motion on the table by Mr.
20 Grullon to adjourn the application.

21 Second by Margarita Gutierrez.

22 Roll call on the motion.

23 Mr. Grullon?

24 VICE CHAIRMAN GRULLON: Yes.

25 THE SECRETARY: Mrs. Gutierrez?

1 MS. GUTIERREZ: Yes.

2 THE SECRETARY: Mr. Ortiz?

3 MR. ORTIZ: Yes.

4 THE SECRETARY: Mr. Medina?

5 MR. MEDINA: Yes.

6 THE SECRETARY: Mr. Bonacci?

7 MR. BONACCI: Yes.

8 THE SECRETARY: Mr. Marotta?

9 MR. MAROTTA: Yes.

10 THE SECRETARY: Mr. Doumas?

11 MR. DOUMAS: Yes.

12 THE SECRETARY: Motion carries. Seven in
13 favor. No new notice required. Next meeting
14 April 6th.

15 Thank you.

16 MR. ALAMPI: Thank you.

17 VICE CHAIRMAN GRULLON: Thank you, Mr.
18 Alampi.

19 MS. GUTIERREZ: Thank you.

20 MR. ALAMPI: Good night, everybody.

21 VICE CHAIRMAN GRULLON: Good night.

22 MS. GUTIERREZ: Good night.

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

25 * * *

1 **25th Central Ave., LLC - 2513 Central Avenue:**

2

3 THE SECRETARY: I think Mrs. Caride need a
4 coffee.

5 Next application tonight's agenda, 25
6 Central Avenue, LLC, 2513 Central Avenue.

7 Mrs. Caride, please.

8 MS. CARIDE: Thank you, Carlos.

9 Good evening, everyone.

10 Unfortunately, mine's --

11 MS. GUTIERREZ: Hi.

12 MS. CARIDE: -- going to be anticlimactic
13 after that.

14 Mr. Paneque, I have jurisdictional
15 documents.

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

18 MR. PANEQUE: For the record, I've been
19 provided by Ms. Caride with the following
20 documentation:

21 I have a letter from the Tax Assessor's
22 Office, with a list of all property owners within
23 the 200 foot radius of 2513 Central Avenue. Said
24 list is dated February 8, 2017.

25 I also have an Affidavit of Publication,

1 signed by Ms. Caride, indicating that notice of
2 tonight's hearing for March 9th with respect to
3 the property at 2513 Central Avenue was given to
4 all property owners by certified mail and
5 published in the newspaper.

6 I also have an Affidavit of Publication
7 which was published in the local Jersey Journal.
8 That Affidavit indicates that the notice was
9 published on February 25th, 2017 for tonight's
10 hearing on March 9, with respect to the property
11 at 2513 Central Avenue.

12 I've also been provided with a copy of the
13 public notice that was mailed out, the certified
14 mail receipts that were sent, and the green cards
15 that have come back to date.

16 Based on the documentation that's been
17 provided, this Board has the jurisdiction to hear
18 this matter.

19 MS. CARIDE: Thank you, Mr. Paneque.

20 VICE CHAIRMAN GRULLON: You may proceed, --

21 MS. CARIDE: Chairman, --

22 VICE CHAIRMAN GRULLON: -- Ms. Caride.

23 MS. CARIDE: -- good evening.

24 Members of the Board, good evening.

25 THE SECRETARY: Thank you.

1 MS. CARIDE: I represent 25th Central Ave.,
2 LLC, that purchased the property at 2513 Central
3 Avenue, in September of 2014, in a sheriff's
4 sale.

5 When he purchased the property, the
6 property at the time had the commercial, which is
7 a bakery on the first floor, and had two two
8 bedroom apartments up on the second floor, back
9 in 2014, when he had purchased it.

10 He has kept the property the same way as he
11 purchased it; the two apartments on the second
12 floor, the commercial on the first floor.

13 In July of 2016, August of 2016, he found
14 out, through the Building Department, that, in
15 fact, the previous owner, who had been
16 foreclosed, had been issued a violation for
17 having illegal apartment on the second floor.

18 We're not certain which of the two
19 apartments was the legal apartment or the illegal
20 apartment, so we're here with an application to
21 legalize the two apartments that have been there
22 since he purchased back in 2014.

23 I have with me the architect, Mr.
24 Arencibia.

25 Chairman, Mr. Paneque, I know that Mr.

1 Arencibia has testified in the past before this
2 Board.

3 VICE CHAIRMAN GRULLON: Many occasions.
4 He's well accepted here.

5 MS. CARIDE: Okay.

6 MR. ARENCIBIA: Thank you --

7 MS. CARIDE: Thank you.

8 MR. ARENCIBIA: -- very much.
9 Thank you.

10 MS. DILLON: Please raise your right hand.

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

13 MR. ARENCIBIA: I do.

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

16 MR. ARENCIBIA: Albert Arencibia,
17 A-R-E-N-C-I-B-I-A.

18 MS. DILLON: Thank you.

19 MS. CARIDE: Before I let Mr. Arencibia
20 proceed, I just received, from Mr. Vallejo, the
21 information from the Building Department, which
22 has that building listed in their records as one
23 commercial, one apartment on the second floor.

24 Mr. Arencibia, did you have an opportunity
25 to go to that location?

1 MR. ARENCIBIA: Yes, I did.

2 MS. CARIDE: And you had an opportunity to
3 examine the site?

4 MR. ARENCIBIA: Yes.

5 MS. CARIDE: Please provide your -- your
6 observations of the location to the Board.

7 MR. ARENCIBIA: Okay. Well, hello,
8 everybody. Good evening, everybody.

9 Basically, it's Central Avenue. It's -- it
10 has -- predominantly, it's a mixed neighborhood.
11 They have some commercial properties, but it's
12 predominantly residential in nature.

13 The existing building itself has a bakery
14 on the ground floor, has a loading dock fronting
15 Central Avenue, as well. And they have a kitchen
16 below.

17 What this application is trying to legalize
18 the two apartments that are on the second floor.

19 Based on my walk through the building, and
20 looking at the entire structure, these units have
21 been here for a number of years. So, it's been
22 many, many years.

23 So I can't tell when they were there for --

24 VICE CHAIRMAN GRULLON: So, to legalize one
25 of the apartment on the second floor.

1 MR. ARENCIBIA: I -- I believe so, yes,
2 although we do say, in our application, I think,
3 this is to legalize two of the apartments. But
4 if just one's legal that we're trying to legalize
5 just the one.

6 MS. CARIDE: The reason that we have the
7 application to legalize both is because we don't
8 know which one of the two was the legal
9 apartment.

10 So that's why we want to just make sure
11 that everything is legalized up on the second
12 floor.

13 So, we do know that the record reflects
14 that there's one commercial, one legal. We just
15 don't know which of the apartments on the second
16 floor was the legal apartment.

17 MR. ARENCIBIA: Okay.

18 Again, for this application, there's
19 absolutely no work being proposed.

20 The entire site is a hundred percent
21 coverage. The building on the -- building -- lot
22 lines are like zero on both sides.

23 So, the entire building has variances on
24 everything. Everything is preexisting, however.
25 So, we're not exacerbating any of the existing

1 | variances that are there.

2 | Of course, the parking would be increased,
3 | based on the fact that we legalize one additional
4 | unit, based on the parking requirement.

5 | But everything else, as far as variances,
6 | stay exactly the same. There's absolutely no
7 | impact based on the proposed application that we
8 | have before the Board.

9 | MS. CARIDE: And you stated that, in your
10 | observation, that those units were older units.

11 | MR. ARENCIBIA: Yes. They've been there
12 | for many years. The kitchens. The stoves are
13 | really old, the sinks are old. They've
14 | definitely been there for many, many years.

15 | MR. PRESSEY: Can you describe it?

16 | MR. ARENCIBIA: I'm sorry?

17 | MR. PRESSEY: Can you describe?

18 | MR. ARENCIBIA: Sure. I mean, I -- I have
19 | drawings of it.

20 | MR. PRESSEY: Yes.

21 | MR. ARENCIBIA: So, I can show you on the
22 | plans.

23 | You have -- basically, have again, like I
24 | said, there's a loading dock on the left hand
25 | side of the building, if you're looking at it

1 from the front.

2 On the right hand side, there's a
3 storefront, which used to be -- actually sell
4 some of the baked goods in the front of the
5 building, on the right hand side. However, they
6 don't do that anymore.

7 Basically, what they do is they -- they
8 used it as a bakery production, and then they
9 have a loading -- they have a truck. They come
10 in with a van and they wheel the things out, and
11 they sell it to the neighborhood local places.

12 In the middle of the building itself
13 there's an existing old staircase. Again, it's
14 been there many years, well too, the threads and
15 risers are the old fashioned type, so it's been
16 there for many, many years. It's narrower than
17 is permitted by Code. So, again, that's also
18 been there for many years. It's very clear.

19 So, you basically go up one flight of
20 stairs, straight ahead. You have one apartment
21 unit. You turn around, one apartment unit facing
22 the front of the street on Central Avenue,
23 consisting of a living room, kitchen area and two
24 bedrooms and a bathroom.

25 And you turn around and you have a larger

1 unit in the back. Basically, still two bedrooms,
2 but a larger living room space, a kitchen,
3 bathroom. But that -- that unit in the rear also
4 has access to an outdoor deck that is all --
5 encompasses the entire roof of the bakery
6 building.

7 That's pretty much it.

8 MR. PRESSEY: Thank you.

9 MS. CARIDE: Roughly, based on your
10 opinion, how old do you think that the -- the
11 apartment fixtures are? Roughly?

12 MR. ARENCIBIA: Oh, I would say twenty-plus
13 years, at least.

14 VICE CHAIRMAN GRULLON: Mr. Arencibia, were
15 you inside the apartment? Did you --

16 MR. ARENCIBIA: Yes.

17 VICE CHAIRMAN GRULLON: Can you testify to
18 see how the units -- because I don't see the
19 square footage of the units.

20 MR. ARENCIBIA: No. I -- I'm sorry for the
21 Board -- I didn't -- I didn't have square footage
22 on the units.

23 But they're rather small units. The front
24 -- front bedroom, I would say -- I would say it's
25 no more than about 750 square feet. And the rear

1 unit is probably maybe eight -- about 900,
2 probably the rear unit.

3 Again, everything is to the lot line. All
4 buildings on that -- on that entire block are --
5 you know, side line to side line, zero lot line.

6 VICE CHAIRMAN GRULLON: And you're not
7 proposing any renovation, or construction of any
8 --

9 MR. ARENCIBIA: Absolutely not.

10 I mean, what will happen, if the Board does
11 grant the approval for legalizing the apartment,
12 we will, of course, have to provide plans to the
13 Building Department in order to update --

14 VICE CHAIRMAN GRULLON: Sure.

15 MR. ARENCIBIA: -- certain things that will
16 be in the building --

17 VICE CHAIRMAN GRULLON: To bring it up to
18 Code.

19 MR. ARENCIBIA: -- for the --

20 MR. PRESSEY: Like egress.

21 MR. ARENCIBIA: Correct.

22 MS. CARIDE: Correct.

23 MR. PRESSEY: Egress of it?

24 MR. ARENCIBIA: Yes. Egress is -- is
25 clear.

1 MR. PRESSEY: Right.

2 MR. ARENCIBIA: Egress works fine.

3 MR. PRESSEY: Right.

4 MR. ARENCIBIA: That's not a problem.

5 MR. PRESSEY: Yeah. Okay.

6 MR. ARENCIBIA: The thing is, there
7 probably might be some type of GFI, some type of
8 fire rating, some sealing, things like that.
9 Those things --

10 MR. PRESSEY: Like that.

11 MR. ARENCIBIA: -- will be -- we'll have to
12 address.

13 MR. PRESSEY: Okay.

14 MR. ARENCIBIA: Maybe some venting for some
15 of the exhaust. But those -- those things like
16 that, we have to do.

17 MR. PRESSEY: Thank you.

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

20 Do you have?

21 No more question from the Board.

22 At this time -- time, I want to open it to
23 the public.

24 Any member of the public?

25 MS. CARIDE: I warned him.

1 VICE CHAIRMAN GRULLON: Closed to the
2 public.

3 Taking in consideration the -- they have
4 this application just to legalize one unit,
5 you're calling for the two units to be legalized.
6 Building Department is showing that they have one
7 unit that is legal and one commercial.

8 And per testimony of Mr. Arencibia, it's a
9 preexisting condition, I will make a motion to
10 grant this application.

11 MS. CARIDE: Thank you, Chairman.

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

14 Any second?

15 Second by Mr. Pressey.

16 Roll call on the motion.

17 Mr. Grullon?

18 VICE CHAIRMAN GRULLON: Yes.

19 THE SECRETARY: Mrs. Gutierrez?

20 MS. GUTIERREZ: Yes.

21 THE SECRETARY: Mr. Ortiz?

22 MR. ORTIZ: Yes.

23 THE SECRETARY: Mr. Pressey?

24 MR. PRESSEY: Yes.

25 THE SECRETARY: Mr. Medina?

1 MR. MEDINA: Yes.

2 THE SECRETARY: Mr. Bonacci?

3 MR. BONACCI: Yes.

4 THE SECRETARY: Mr. Marotta?

5 MR. MAROTTA: Yeah. I have to conclude
6 that building's been there way before -- way
7 before we had our Zoning Ordinance, and I don't
8 see any evidence that it was -- that the
9 apartments were put there subsequent to it, so I
10 have to say yes.

11 THE SECRETARY: Seven in favor. Motion
12 carries.

13 MR. PANEQUE: You forgot Mr. Doumas.

14 THE SECRETARY: Yeah.

15 MR. DOUMAS: Yes.

16 THE SECRETARY: Only seven can vote.

17 MS. CARIDE: Thank you very much, everyone.

18 MS. GUTIERREZ: Thank you.

19 MR. SPATZ: Right. You only get seven
20 votes.

21 MS. CARIDE: Carlos, take care of
22 Margarita.

23 THE SECRETARY: Only seven can vote.

24 MR. SPATZ: He's the alternate.

25 MS. CARIDE: Give her a bottle of water.

1 MS. GUTIERREZ: Two minute break.

2 VICE CHAIRMAN GRULLON: Two minute break.

3 THE SECRETARY: Yeah.

4 Two minute break, please.

5 Thank you.

6 MS. CARIDE: Have a good evening,
7 everybody.

8 Thank you.

9 MR. ARENCIBIA: Thank you, everybody.

10 Next time will be a little longer.

11

12 (Whereupon, the Board recessed from 8:56
13 p.m. to 9:01 p.m.)

14 * * *

15

16

17

18

19

20

21

22

23

24

25

1 **207 39th Street, LLC - 207 39th Street:**

2

3 MS. DILLON: Okay.

4 Okay, Carlos.

5 On the record.

6 MS. GUTIERREZ: Okay.

7 THE SECRETARY: May I have your attention,
8 please?

9 MS. GUTIERREZ: Let's go. Let's go.

10 MR. PRESSEY: Thank you.

11 MS. GUTIERREZ: I want to go home.

12 THE SECRETARY: Next application on
13 tonight's agenda, 207 39th Street, LLC, 207 39th
14 Street.

15 Mrs. Pereiras, please?

16 MS. PEREIRAS: Thank you very much, Mr.
17 Vallejo.

18 Good evening, members of the Board.

19 May it please the Board, Bianca Pereiras,
20 on behalf of 207 39th Street, LLC.

21 If the Board may recall, we had presented
22 our jurisdictional proofs at the last meeting,
23 and jurisdiction was acquired then.

24 We have a property located between Palisade
25 and Hudson Avenue, on 39th Street. What we are

1 proposing is a four story, nine unit building,
2 consisting of three studio apartments and six two
3 bedroom units.

4 We have two experts to testify before the
5 Board this evening, and I'd like to begin the
6 presentation with our architect, Mr. Manuel
7 Pereiras.

8 MS. DILLON: Mr. Pereiras, you continue
9 under oath.

10 MR. PEREIRAS: I am aware of that.

11 MS. PEREIRAS: Mr. Pereiras, are you
12 familiar with 207 39th Street?

13 MR. PEREIRAS: I am.

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

16 MR. PEREIRAS: I have.

17 MS. PEREIRAS: And would you kindly walk us
18 through the application?

19 MR. PEREIRAS: Be very happy to.

20 It's actually -- I'm going into the 12th
21 year that I opened my practice in Union City.
22 The 50 by a hundred lot that we often see before
23 this Board, I've had a chance to modify it
24 through the years, every time a little bit
25 perfect. And after I finish a building type

1 several times, I try to see what went wrong,
2 what's -- what was done right, and I try to make
3 it better every time.

4 And this is the latest iteration of that.

5 So, standing on my soapbox for one second,
6 what we have typically in Union City, on a 25 by
7 100 lot, is a three family house.

8 What do you have in a three family house?
9 You have three apartments. Each of them with
10 three bedrooms.

11 Sometimes, and -- and I refuse to present
12 that to the Board, and -- and when we go before
13 the Planning Board, I usually do smaller units.
14 But what is typically approved, and there's been
15 several approved within the last few months, is a
16 three family house with three bedrooms in each
17 apartment.

18 That's nine -- nine bedrooms for one
19 property that's 25 by 100.

20 And then, below it is parking. And the
21 mere fact is that parking doesn't work in that
22 situation, because we have a 25 foot lot, we have
23 two feet on one side, three feet on the other,
24 that our Ordinance says is our side yards. And
25 then, you have the thickness of the walls. So,

1 | you're losing almost seven feet just in site and
2 | wall thickness and cars simply don't work and
3 | don't park well within it.

4 | It's a disaster to have three families,
5 | nine -- nine bedrooms, with very limited parking.

6 | So, what's the alternative to that? I
7 | think one of the -- great positive alternatives
8 | to that is by combining two lots. So, instead of
9 | having a three family and three family, nine
10 | bedrooms plus nine bedrooms, and 18 bedrooms in
11 | one lot, with two separate driveway entrances,
12 | it's to combine them into a small building, and
13 | make that building with one single driveway
14 | entrance, so we're not losing parking from the
15 | street, we're losing only one -- one curb cut.
16 | And we have apartments that work within. And
17 | instead of a walkup four story building, we
18 | actually have an elevator building. We have a
19 | building with two means of egress, two fire
20 | stairs. And that's what we're able to provide
21 | when we join properties like this.

22 | One of the key things that I've been
23 | struggling with, for several years now, is how to
24 | make parking work for this building type. How to
25 | make parking convenient.

1 And we've been successful, to a certain
2 extent, with small cars. But the problem is that
3 people don't always have small cars.

4 So, this is the newest iteration that I've
5 created and I'd like to open this as a dialogue
6 with the Board, to come out with a building type
7 that works beautifully on a 50 by a hundred in
8 this application.

9 Let's talk about this site in particular.
10 We have a site that's slightly shy of 50. We're
11 actually at 49.75 feet. So, we're just slightly
12 shy of 50 feet, and we're slightly shy of a
13 hundred feet in depth. We're at 99.95. So, it's
14 practically a hundred feet. That gives you a
15 total site area of 4,972.51 square feet.

16 Our planner is going to talk about the
17 variances that that triggers, and provide
18 testimony for that.

19 But one of the first things I did is I'm
20 looking at setbacks for this building. Even
21 though our Ordinance says two feet on one side,
22 and three feet on the other, five foot total,
23 quite frankly, that's not enough. Okay? Because
24 of Code reasons, we need to increase that.

25 So, we're taking that into consideration.

1 So, first and foremost, we're increasing
2 one of our side yards to three foot eight inches,
3 which is a total of 44 inches, which creates a
4 legal means of egress and legal path off the side
5 of the building.

6 So, as we look into the site, on one side,
7 we have a three foot eight side yard. And then,
8 on the other side, we have a three foot side
9 yard. So, we're passing with those limits, and I
10 think that's very important because it's taking
11 our Ordinance and seeing the things that are a
12 little bit deficient, and making them a little
13 bit better.

14 So, we're increasing our side yards more
15 than what our Ordinances require.

16 In -- in so doing -- I'm going to turn to
17 the next page -- the biggest problem in these
18 buildings is parking, and making it work really
19 well.

20 So, I'm looking at this, I'm trying to
21 think outside the box in how to make parking
22 work. So, one of the first things I did is I
23 squeezed the mechanicals into the minimum area
24 possible. We -- we worked the system where we're
25 actually overlapping meters and having the

1 | sprinkler manifold in a way so it fits in a
2 | smaller room.

3 | We're doubling the stairs so that it's
4 | heading up and we could put the manifold, the
5 | mechanical room underneath the stair in this
6 | portion. And we combined the space that is the
7 | lobby for the stair and the elevator, so that
8 | we're creating the smallest possible area for our
9 | interior lobby.

10 | And then, the other thing I did is I
11 | eliminated from the parking level structure, the
12 | second stairwell that we often see located here,
13 | that makes parking -- normally, we see parking
14 | along this side, and then the stairwell, and it
15 | makes it very hard for a large car to maneuver.

16 | So, what we're doing is we're creating
17 | parking spaces now including and -- and taking
18 | into account the structure, that it allows us to
19 | have seven cars with a 23 foot wide aisle.

20 | This is important for this Board to
21 | understand that we often, and this Board has done
22 | it often, we approve parking spaces and I see
23 | this all the time in buildings I come across,
24 | other -- designed by other people, or -- or what
25 | not, that simply just don't work. Okay? They're

1 nice fantasy spots.

2 These are real spots. These are seven
3 spots that even if you have a SUV, you can
4 maneuver in and out.

5 And that's the direction we tried to go
6 with this project.

7 So, what we're providing for is seven real
8 large spots, where you could fit even an SUV into
9 it, and -- and provide it.

10 So, using that concept of having our seven
11 spots, we did the breakup of our building
12 upstairs.

13 So, we decided to move forward with six two
14 bedroom apartments. Okay? We could have
15 squeezed three bedrooms. We could --

16 No, we elected to do two bedroom apartments
17 that are nice, large and beautiful.

18 So, our two bedroom apartments along the
19 left side of the building is 1,240 square feet.
20 And you come up the elevator, you have a nice
21 elevator building, come out of the lobby, you
22 walk into the hallway and you enter the
23 apartment. You're entered into a modern floor
24 plan, where it's an open floor plan.

25 You have living room and dining room area,

1 going towards the kitchen, and then the bedrooms
2 along the back.

3 And you have decent size bedrooms. So,
4 they're a little bit over ten feet by 14 feet,
5 the secondary bedroom. And then, the master
6 bedroom is 13 by 17, and it has its walk-in
7 closet and master bath.

8 On the other side of the building, we have
9 the second -- the other two bedroom unit, and
10 it's a very similar concept. It's an 850 square
11 foot two bedroom unit.

12 You walk into a living room, dining room,
13 kitchen space. And then, the privacy area where
14 you have a second bedroom, and your master, which
15 is 15 by 12, with its master suite closet and --
16 and bathroom.

17 What we did with the additional three
18 units, and the concept is that you have smaller
19 units. We did economic units that are 400 square
20 feet and meets our Ordinance as our requirement
21 for minimum square footage at 400 square feet,
22 and we created three studios with that space.

23 So, what -- and studios, under our
24 Ordinance, doesn't -- don't require additional
25 parking.

1 So, in -- so, in concept, we have six two
2 bedroom units, with seven parking spaces and
3 three additional studio spaces that, in -- in
4 theory, don't demand additional parking, to
5 create this building type.

6 And then, to further kind of explain what
7 we do with the building, we worry a lot about the
8 scale of the neighborhood.

9 So, in order to not have a mass of 50 foot
10 wide and -- and I -- and it's important, and --
11 and just as comparison, you go literally across
12 the street from this project, you have a massive
13 building that is just a blank façade. There's
14 parking underneath it. It's huge. It goes from
15 one end to -- it goes at least a hundred feet on
16 the site. This is 37 -- I think it's 3701
17 Palisade, and I think our planner could talk
18 about it further.

19 But it's just a blank façade, that has --
20 it's a huge massive structure that is going to
21 actually make our building look -- the building
22 that we're presenting here look very small,
23 because what we do in our building is we try to
24 maintain the character of the neighborhood.

25 So, you have existing houses there. Some

1 two, some three, and actually there's some four
2 family houses that are on a 25 by 100 lot. We
3 try to respect that aesthetic that's going down
4 the street.

5 So, we break the façade down by having it
6 into two pieces and make sure that they're
7 recessed. So, I take that elevator portion of
8 it, and I step it back.

9 And this is a rendering of what we're
10 planning to do.

11 So, we have two vertical elements, and they
12 work to the scale of a 25 by 100 site that works
13 with the immediately neighboring areas and with
14 that setback in between them.

15 And what that does, it keeps that rhythm of
16 the low scale, yet it matches the larger scale.
17 We have Union Hill High School or -- not high
18 school, I'm sorry. It's from habit. You have
19 Union Hill right down the corner. That's a --

20 MS. GUTIERREZ: Union City High School.

21 MR. PEREIRAS: No, no. Not --

22 MS. GUTIERREZ: Okay.

23 MR. PEREIRAS: -- Union City High School.

24 The -- yeah. What --

25 MS. GUTIERREZ: Oh, the one --

1 MR. PEREIRAS: What's Union Hill now?
2 What's it called?

3 MR. PRESSEY: Middle School.

4 VICE CHAIRMAN GRULLON: Middle School.

5 MS. GUTIERREZ: Middle School.

6 MR. PEREIRAS: It's still Union --

7 MR. PRESSEY: Middle School.

8 MR. PEREIRAS: Union Hill Middle School.

9 MS. GUTIERREZ: Yes.

10 MR. PEREIRAS: Union Hill Middle School is
11 a four story structure, up on a berm. So, it's
12 actually a large -- a much larger structure. So,
13 this is a lot smaller scale.

14 So, this building relates to both the
15 smaller houses and the larger structures, and it
16 -- we made a brick façade in order to meld with
17 the neighborhood.

18 So, and -- and then, we accentuated the --
19 the entrance. We broke the scale down to the
20 entrance. So, when you enter the building right
21 in the middle, you have a small canopy, it's a
22 low level. So, you're not entering into a big,
23 massive building.

24 MR. PRESSEY: That's the parking? I'm
25 sorry. Is that the parking, right there?

1 MR. PEREIRAS: So, the driveway is right
2 next to it. So, yeah. So, in comparison to --
3 if this was a three family house, you would have
4 a big driveway on this side, you would have a big
5 driveway on that side.

6 MR. PRESSEY: Um hum.

7 MR. PEREIRAS: Luckily, with this
8 presentation, the way we do it, we eliminate one
9 of the driveways. We limit it to one spot.

10 So, we have a nice, wide safe driveway
11 point entrance.

12 MR. PRESSEY: And out?

13 MR. PEREIRAS: So, we're getting rid of one
14 parking space off the street, but now we gained a
15 lot more and we're gaining what the neighbor
16 didn't have.

17 MR. PRESSEY: In and out?

18 MR. PEREIRAS: Yes. In and out from the
19 same point.

20 MR. PRESSEY: Right.

21 MR. PEREIRAS: And just to clarify it, this
22 is the ground floor. Here's our driveway, in and
23 out.

24 MR. PRESSEY: Right.

25 MR. PEREIRAS: We have a 23 foot wide

1 aisle.

2 MR. PRESSEY: Right.

3 MR. PEREIRAS: We don't -- I haven't
4 presented that in -- in a scale of a 50 by a
5 hundred. We never have that, because we have
6 parking on that side, we have parking over here.
7 So, we have smaller spaces, usually. And then,
8 you have a 17 foot aisle that cars have to back
9 up twice.

10 MR. PRESSEY: Right.

11 MR. PEREIRAS: This is a different way of
12 looking at it. This is providing real parking
13 for our neighborhood. This is what we need.

14 We don't need ten spaces that don't work.
15 We need seven good spaces, that people could
16 actually park and it's taking cars off the
17 street.

18 MR. PRESSEY: Okay.

19 And as far as taking -- we have something,
20 as far as like a light or something outside?

21 MR. PEREIRAS: I think that's absolutely a
22 great idea. I know you always have concerns with
23 that.

24 So, what we could do is, we could put a
25 light fixture, a -- a stop and go light, at the

1 outside of the garage, and have one at the
2 inside. And we could also put one of those
3 concave or convex mirrors at the entrance, so you
4 could have good visibility.

5 However, we also tried to work with that by
6 setting the building back. So, if you see here
7 --

8 MR. PRESSEY: Right.

9 MR. PEREIRAS: -- I did the lobby steps
10 back, it's still setback one foot from the --
11 from the front yard setback. And then, this sets
12 back two.

13 That gives cars an opportunity where
14 they're inching forward, before they actually get
15 into the public right-of-way.

16 So, you'll see the car, and this car will
17 be present to the sidewalk, for pedestrian
18 visibility and for the driver's visibility,
19 before you actually hit the public right-of-way.

20 And that's done purposefully.

21 MR. PRESSEY: And what --

22 MR. PEREIRAS: And those couple feet make a
23 big difference.

24 MR. PRESSEY: What would be the curb?

25 MR. PEREIRAS: The what?

1 MR. PRESSEY: The curb.

2 MR. PEREIRAS: The curb. The size of the
3 curb.

4 MR. PRESSEY: Yeah.

5 MR. PEREIRAS: Okay. Thirteen feet is what
6 we propose.

7 MR. PRESSEY: Thirteen?

8 MR. PEREIRAS: So, it's an -- it's an
9 official curb. We don't have a very wide street,
10 so the 13 foot curb is exactly what's right in
11 order to get the cars and maneuver in and out of
12 that driveway.

13 So, in conclusion, we have a nine unit
14 building. Six that are two bedrooms, three
15 economy studios. Okay? This is -- and I know
16 we're being a little bit aggressive here, and we
17 want to open a dialogue with the Board.

18 You know, we're asking for nine units. I
19 think it's appropriate, in the sense that we have
20 seven real parking spaces, and we have six two
21 bedroom apartments.

22 So, each of those two bedroom apartments is
23 going to have a parking space. And then, we have
24 the additional floating -- floating parking space
25 that is either used by one of the studios, or for

1 a second person in one of those two bedrooms.

2 And -- and I'd like to hear the dialogue
3 and how the Board is receptive or not to this
4 concept, but we think that it's appropriate and
5 it's a good use of scale of the building, a good
6 density for the loca -- for the area, and a good
7 way of -- a good solution for parking.

8 VICE CHAIRMAN GRULLON: Do you have another
9 witness, --

10 MS. PEREIRAS: We do.

11 VICE CHAIRMAN GRULLON: -- Ms. Pereira?

12 MS. PEREIRAS: I'd like to call Mr. Michael
13 Kauker.

14 MR. MAROTTA: I have a question for the
15 architect.

16 MR. PEREIRAS: Yes.

17 MR. MAROTTA: The Code requires a nine foot
18 wide parking space, and you're providing a
19 parking space eight feet seven inches.

20 Correct?

21 MR. PEREIRAS: So, our Ordinance has a
22 recommendation of nine feet -- actually, is it
23 8.6 or nine feet?

24 MR. SPATZ: Nine.

25 MR. PEREIRAS: It's nine feet by 18. We

1 have the full depth of 18. We're providing 8.6.

2 Now -- 8.7, actually. Now, the way I'm
3 measuring that parking space is that -- and this
4 is something you don't often see. We have our
5 structure already in there. So, you're having a
6 real true eight foot seven clear, and that's what
7 I'm presenting before this Board.

8 You're not going to have a nine foot
9 parking space, less the structure that you can't
10 get in.

11 So, often, and I've seen a lot of drawings
12 with this, we measure from the center point of
13 the column line over.

14 But yes, we ask for a waiver. This is not
15 a variance that we're asking for, but we're
16 asking for a waiver for parking space size.

17 MR. MAROTTA: Am I -- am I --

18 MR. PEREIRAS: For the width, from --

19 MR. MAROTTA: Am I --

20 MR. PEREIRAS: -- nine foot to eight foot
21 seven.

22 MR. MAROTTA: You finished?

23 Am I correct in saying you're providing a
24 smaller parking space than what the Code calls
25 for?

1 Yes or no?

2 MR. PEREIRAS: Well, you're using the word
3 Code. That's an incorrect --

4 MR. MAROTTA: Yes or --

5 MR. PEREIRAS: Semantically --

6 MR. MAROTTA: -- no? Are you providing a
7 smaller --

8 MR. PEREIRAS: Semantically is incorrect.

9 MR. MAROTTA: -- parking space than what is
10 required?

11 MR. PEREIRAS: Yes.

12 MR. MAROTTA: Yes, right?

13 Now, you're also providing a 23 foot
14 interior circulation aisle, when 24 feet is
15 required. So, you're making it a smaller
16 circulation aisle.

17 Correct?

18 MR. PEREIRAS: General industry standard is
19 23 feet.

20 MR. MAROTTA: My question is yes or no.
21 Are you making it smaller?

22 MR. PEREIRAS: Mr. Spatz, is it 24 in our
23 Ordinance?

24 MR. SPATZ: The -- yes, because we follow
25 the Residential Site Improvement Standards, which

1 requires --

2 MR. PEREIRAS: Okay.

3 MR. SPATZ: -- a 24 foot --

4 MR. MAROTTA: Yes?

5 MR. SPATZ: -- width.

6 MR. PEREIRAS: Yes.

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

8 Why are you making the spaces smaller and
9 the circulation smaller?

10 MR. PEREIRAS: Mr. Marotta, because we are
11 in Union City, New Jersey. We are one of the
12 most densely populated cities. It would be
13 impossible to do anything more, and this Board
14 regularly -- regularly approves a much small --
15 much significantly smaller aisle space, usually
16 about 17 feet, this Board approves, on a repeated
17 basis. And we usually and typically approve
18 smaller parking spaces, much smaller parking
19 spaces.

20 So, if you compare us to RSIS standards,
21 which is a statewide standard, we are smaller.

22 If you compare me to any other structure in
23 Union City, I can't think of one structure that
24 has -- that is compliant -- I can't think of one
25 that is compliant with those dimensions.

1 MR. MAROTTA: I'm very, very familiar with
2 what this Board has done in the past --

3 MR. PEREIRAS: And recently.

4 MR. MAROTTA: -- with respect to parking.
5 That doesn't make it right.

6 Okay?

7 The fact that you're a little larger than
8 what they did in the past doesn't mean you're
9 right.

10 MR. PEREIRAS: I'm not --

11 MR. MAROTTA: Let's get that straight.

12 MR. PEREIRAS: -- saying I'm a little bit
13 larger.

14 MR. MAROTTA: Okay?

15 MR. PEREIRAS: I'm saying that this Board
16 --

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

18 MR. PEREIRAS: -- the discretion to compare
19 and understand what's taking place in the city.
20 This Board has the understanding. They all live
21 in Union City. We all understand how difficult
22 it is to get parking. And we all understand the
23 -- the levels that we go through in order to
24 obtain parking.

25 MR. MAROTTA: You finished?

1 Let me ask this question. Is the reason
2 you're making the spaces smaller and the
3 circulation smaller so you could get seven spaces
4 in there? If you follow the -- the regular
5 regulation, you would only get maybe six spaces.

6 Is that the reason why?

7 MR. PEREIRAS: Yes.

8 MR. MAROTTA: Thank you.

9 Now, also, what are we losing a curb --
10 because of the curb cut, we're also losing
11 another parking space.

12 Right?

13 MR. PEREIRAS: Actually, no, because the --
14 we haven't even spoken about what's existing
15 there on the site.

16 The existing site has an existing curb cut.
17 It is actually one foot wider than what we're
18 proposing.

19 So, we're actually reducing the existing
20 curb cut. So, in -- we are not losing any
21 parking spaces off the street based on this
22 design, and what our proposal is.

23 MR. MAROTTA: So --

24 MR. PEREIRAS: So, the difference between
25 the existing to the proposed is none.

1 And if I were to compare it to what could
2 potentially be there as of right, then we're
3 actually in a much better situation, because if
4 you build two three family houses, you lose the
5 other space, as well.

6 MR. MAROTTA: So --

7 MR. PEREIRAS: So, this is a much better
8 alternative.

9 MR. MAROTTA: So, what you're saying, then,
10 is that with the curb cut to permit cars to go
11 into this project, the same number of vehicles
12 could still park on that side of the street that
13 park there today.

14 MR. PEREIRAS: Yes.

15 MR. MAROTTA: Is that what you're saying?

16 MR. PEREIRAS: Yes, I am.

17 MR. MAROTTA: Okay.

18 In other words, the -- the curb cut doesn't
19 take away parking.

20 MR. PEREIRAS: Correct.

21 MR. MAROTTA: Thank you.

22 MR. PEREIRAS: Thank you.

23 MR. MAROTTA: I have no more questions.

24 MS. PEREIRAS: I'll proceed with Mr.
25 Kauker.

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

3 MS. DILLON: Mr. Kauker, please raise your
4 right hand.

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

7 MR. KAUKER: I do.

8 MS. DILLON: If you could please state your
9 name and spell it for the record.

10 MR. KAUKER: Michael D. Kauker,
11 K-A-U-K-E-R.

12 MS. DILLON: Thank you.

13 MS. PEREIRAS: And Mr. Kauker previously
14 testified and continues to be under oath.

15 Mr. Kauker, did you prepare -- did you have
16 a chance to review the drawings prepared by Mr.
17 Pereiras?

18 MR. KAUKER: I did. Yes.

19 MS. PEREIRAS: And have you had a chance to
20 visit the site in question?

21 MR. KAUKER: I have. Yes.

22 MS. PEREIRAS: And can you please describe
23 the project, from a planning perspective?

24 MR. KAUKER: Certainly.

25 The project itself, as Mr. Pereiras has

1 mentioned, what we're looking to do is demolish
2 an existing building. The structure is older.
3 It's somewhat in disrepair. And construct in its
4 place a brand new, four story, nine unit,
5 multiple family building.

6 The subject property is located on the
7 south side of 39th Street, between Palisade Avenue
8 to the west and Hudson Avenue to the east. It's
9 identified as Lot (sic) 227, Lot 16 and 17 in
10 Union City's tax records.

11 It has a lot area of just under 5,000
12 square feet, 4,972 square feet to be exact. And
13 it's located in the R low density residential
14 district.

15 As I mentioned, the site's currently
16 occupied by a two story older structure,
17 residential structure.

18 With respect to the surrounding conditions,
19 and Mr. Pereiras did a -- did a great job of
20 describing the surrounding conditions, but I
21 think they're somewhat important to note with
22 respect to this application.

23 You know, one thing that I would like to
24 point out is that our lot is five -- close to
25 5,000 square feet, which is larger than most of

1 the other lots on the street. Most of the
2 interior lots are smaller, 2500 square foot lots
3 with two family homes, one to two family homes
4 located upon them.

5 There are some other larger lots that are
6 located on the street. More specifically, two
7 properties removed from this property there is a
8 three story, multiple family structure.

9 What's interesting to note about this is
10 this project was designed where there are five
11 structures, there are five garages in each
12 structure.

13 It's difficult to tell, but it appears that
14 each -- each of the units contains either two to
15 three dwelling units for each of those.

16 So, one of the points I wanted to try to
17 make was those are developed where they each have
18 a separate garage. Five of those structures each
19 have a separate curb cut.

20 And to get to Mr. Marotta's point, he was
21 talking about on-street parking, you lose -- if
22 you look at the aerial, and if you look at the
23 street, you lose, basically, five -- at least
24 five on-street parking spaces due to that design,
25 as opposed to the design that we propose this

1 evening, where we have one curb cut which allows
2 entrance to a garage with seven parking spaces.

3 And again, it's a wash between on-street
4 parking from what's existing and what's proposed,
5 because there's an existing curb cut and we still
6 propose a curb cut. So, there's no difference in
7 on-street parking with respect to this project.

8 There's another larger structure, multiple
9 family building that's located on the opposite
10 side of the street that actually takes up the
11 entire block along -- it goes from 39th Street to,
12 I believe, 40th Street, if I'm going in the right
13 direction.

14 So, the character of the area is generally
15 mixed and varied. I would say that this
16 proposal, in terms of -- you know, the size of
17 the building, and -- and the type of use is
18 consistent, as there are two other multiple
19 family dwellings on -- on the street that exist.

20 With respect to proposed development, as I
21 mentioned, it's a four story building. It's 40
22 feet in height, and there are nine units. There
23 are three studio apartments and then, there are
24 six two bedroom units. There are a total of
25 seven parking spaces proposed.

1 I've had an opportunity to review the
2 Master Plan and Zoning Ordinance. In my opinion,
3 this project is consistent with a number of the
4 goals and objectives, as provided for in the
5 Master Plan.

6 Firstly, to provide a balanced mix of land
7 uses in Union City; to protect and preserve the
8 established residential character; to provide a
9 broad range of housing choices; to promote and
10 reinforce the city as a desirable residential
11 location.

12 And one of the things, interestingly
13 enough, what I wanted to point out was in the
14 Master Plan, it contains a population density
15 map, which looks at the density in specific areas
16 of Union City.

17 In this area, it's basically the second
18 highest density in all of Union City at 81 to 120
19 persons per acre.

20 So, what we're proposing, in my opinion, is
21 consistent with respect to the density in this
22 area.

23 As I mentioned, it's located in the R
24 residential zone. Multiple family is not a
25 permitted use in the R residential zone,

1 | therefore, we're seeking a D-1 use variance.

2 | In order for the Board to grant a use
3 | variance, the applicant must make an affirmative
4 | showing of both the positive and the negative
5 | criteria.

6 | The positive criteria states that a
7 | variance can only be granted in particular cases
8 | and for special reasons.

9 | The negative criteria consists of two
10 | parts. We must show that there will not be a
11 | substantial detriment to the public good, and
12 | there will not be a substantial detriment to the
13 | zone plan and the Master Plan of the community.

14 | This is a little bit different than the
15 | last application I testified. That was a D-2.
16 | This is a pure D-1 use variance.

17 | In this instance, I would submit to the
18 | Board that the general welfare is promoted for a
19 | number of reasons.

20 | I would submit to the Board that the site
21 | itself is particularly suited for the proposed
22 | use. As I mentioned before, it's almost 5,000
23 | square feet in area, which is larger than many of
24 | the other lots in the area, which are 2500 square
25 | feet, approximately.

1 The influence of the surrounding land uses
2 also makes it suited. I mentioned before, the
3 presence and the existence of the multiple family
4 structure -- two -- actually, two multiple family
5 structures along 39th Street, as well.

6 It's also going to promote the general
7 welfare because we're providing new housing,
8 which helps to provide a balanced housing supply.
9 And we're also promoting a desirable visual
10 environment because we're constructing a more
11 aesthetically pleasing brand new building.

12 As I mentioned before, if you look at a
13 number of the other structures, even the existing
14 multiple family that's two properties removed,
15 it's a much older structure. And -- and many of
16 the structures on the street are older and in
17 disrepair.

18 So, I think this is going to be a great
19 aesthetic improvement to fit this area of 39th
20 Street.

21 In addition, it's my opinion that this is a
22 more efficient use of the property. As mentioned
23 by Mr. Pereiras before, you could construct,
24 conceivably, two three family homes on this
25 property, as you could construct a three family

1 | home on a 2500 square foot lot. Although being
2 | we're somewhat deficient, theoretically, you
3 | could potentially get two three family homes.

4 | He went into the analysis of the bedrooms
5 | and all that. So, essentially, you have three --
6 | two, three family homes. Each of those three
7 | family homes has three bedrooms. You get nine
8 | units each -- I'm sorry -- nine bedrooms each, a
9 | total of 18 bedrooms.

10 | So, in comparison of bedrooms, which is one
11 | measure of intensity of the use, it's comparable
12 | to what's permitted in the Zoning Ordinance.

13 | The other thing I wanted to point out, as I
14 | talk to you about parking -- you know, you look
15 | at having what we propose with one curb cut, if
16 | it's developed separately, each 2500 square foot
17 | lot, whether it be for a one family, a two family
18 | or a three family, you'd have two separate curb
19 | cuts. You'd lose two parking spaces on the -- on
20 | the street.

21 | One of the reasons why I also brought up
22 | the other multiple family down the street is
23 | because that has five separate curb cuts. So,
24 | again, as I said, you lose five on-street parking
25 | spaces with that type of development.

1 With respect to this particular use, and I
2 know I've mentioned this before, I'll just --
3 it's a new application, I'll mention it again. I
4 think the redevelopment of this property would be
5 a benefit to the community.

6 Again, there is a need for housing in Union
7 City, especially new housing that's built in
8 accordance with modern day building standards.

9 Again, just to go over the 2010 census
10 data; 83.4 percent of the housing units were
11 constructed prior to 1989, and 32.5 percent
12 constructed prior to 1939, and only 16.6 percent
13 of the housing units have been constructed since
14 1990.

15 Again, this represents upgrade of the
16 housing stock that addresses that need.

17 I mentioned before that we would promote a
18 desirable visual environment, through the
19 construction of an aesthetically pleasing
20 building.

21 And finally, with respect to the C
22 variances. We do require some bulk variances
23 with respect to the proposed development.

24 A front yard -- I'm just going to go over
25 all the variances, and I'll provide the

1 justification, although technically, when you
2 have a D-1 use variance, the bulk variances are
3 subsumed within the request for D variance.

4 Basically, you have to show that the site
5 can accommodate that use and -- and the bulk
6 requirements that are associated with it.

7 The applicant proposes a front yard setback
8 of one foot, where the Ordinance requires a front
9 yard setback of ten feet, or at the prevailing
10 setback line.

11 There are other structures that are -- you
12 know, have -- have other setbacks that are
13 similar to this.

14 And the one thing I wanted to -- did point
15 out was with respect to the articulation, and the
16 difference in the building setback, that somewhat
17 mitigates the front yard setback, if you look at
18 the architectural design of the structure.

19 And again, it's -- it's the lobby that's
20 one foot. The remainder of the building is set
21 back further. And then, if you see the center
22 corridor, it's set back even further, which, as
23 it relates to the street, provides a building
24 that's -- you know, relates well to the
25 streetscape.

1 There's a variance for rear yard setback.
2 The Ordinance requires a setback of 24.9 feet.
3 The applicant proposes a rear yard setback of
4 nine feet nine inches to the stairwell, and 14
5 feet nine inches to the building.

6 One of the things, with respect to the
7 existing condition of the site, there's actually
8 a shed and an existing detached garage that's
9 right on the property line.

10 So, those will obviously will be removed
11 and this building will be setback further than
12 those existing structures.

13 Building coverage.

14 The Ordinance permits a maximum building
15 coverage of 60 percent, where a coverage of 72.7
16 percent is proposed.

17 This is essentially a result of providing
18 parking underneath the building. Obviously, in
19 order to provide that parking, you need to have a
20 certain area that's large enough to accommodate
21 it.

22 Lot coverage.

23 Maximum build -- maximum coverage of 85
24 percent is permitted, where we propose 90
25 percent. Again, that's a result of providing the

1 parking beneath the building.

2 And in addition to that, the lot coverage
3 includes walkways in the front of the building --
4 in the front and around the perimeter of the
5 building, as well.

6 And the coverage requirements, in my
7 opinion, are mitigated by the landscaping that's
8 provided and proposed.

9 The variances, in -- in essence, are
10 required for the appropriate redevelopment of
11 this property, to redevelop it in accordance with
12 the plan that's provided.

13 And I think it's going to be something
14 that's much more beneficial to the actual street
15 itself, and -- and to Union City as a whole.

16 We do also require a building height
17 variance. It's not for the height in numerical
18 feet, but it's for the height with respect to the
19 number of stories.

20 We propose a four story building, where
21 three stories is permitted. But one thing I
22 wanted to point out, 40 -- 40 feet is permitted,
23 which we comply with the 40 foot requirement.
24 So, it's really a difference in the number of
25 stories.

1 Again, this is a provision of providing
2 parking on the ground floor level. I think the
3 provision of parking on the ground floor level
4 outweighs any detriment that may result due to
5 the grant of a variance for one additional story.

6 There are other structures in the area that
7 are four stories. You have the multiple family
8 building across the street, and then there are
9 other buildings that are close, not on the same
10 street, but are four or five stories and much
11 taller than this.

12 And again, given the fact that it is 40
13 feet, which is consistent with the Ordinance, I
14 don't think that it would be inconsistent or have
15 any undue impact on the surrounding area.

16 Finally, the last variance that's required
17 is for parking. In Mr. Pereiras' calculation on
18 his plan, there were 12 parking spaces that were
19 required.

20 I know Mr. Spatz also provided a memorandum
21 which indicated that 17 spaces were required. In
22 any event, we're deficient. We provide seven
23 parking spaces.

24 One of the things I just did want to
25 mention, which I always mention, the parking

1 standards are -- standards are based upon the
2 RSIS, or the Residential Site Improvement
3 Standards.

4 Now, these standards apply to the State of
5 New Jersey as a whole. Whether or not you live
6 in an urban area, like Union City, or a rural
7 area, like -- you know, western New Jersey.

8 Obviously, the -- the conditions of both
9 these areas and the situations are different.

10 In Union City, you have availability of
11 mass transit. You don't need to rely on the
12 automobile as much as you do in a rural type
13 community.

14 There is the provision of mass transit in
15 the area, again. So that's something that
16 mitigates the need for parking.

17 So, I believe that the seven parking spaces
18 that are proposed are -- are adequate for the
19 number of units that are proposed on the site.

20 Finally, with respect to the negative
21 criteria, I just did want to point out that it's
22 my opinion, there'll no substantial detriment to
23 the public good.

24 It's my opinion that the redevelopment of
25 the property would actually have a positive

1 impact on the community, because of the improved
2 aesthetic appearance, and also for the reasons
3 that I mentioned before related to the type of
4 development that we're proposing, and the fact
5 that there's only one curb cut.

6 So, you take more parking off-street, and
7 then you put it on the site, as opposed to losing
8 parking spaces on the street.

9 The proposed use is consistent with other
10 newer multiple family uses in Union City. It
11 will also not create a significant increase in
12 traffic that would burden the existing roadway
13 system.

14 And I think that the -- the traffic that's
15 generated from a nine unit development could be
16 accommodated in Union City.

17 In my opinion, there'll be no substantial
18 impairment to the intent and purpose of the
19 Master Plan or Zoning Ordinance.

20 In my opinion, as I mentioned before, it's
21 consistent with and furthers a number of goals
22 and objectives of the Ordinance and -- I'm sorry
23 -- of the Master Plan of Union City.

24 And then, with respect to the Medici
25 enhanced quality of proof, the deviation is

1 reconciled, in my opinion, because of the
2 changing conditions in Union City.

3 Obviously -- you know, one of the reasons I
4 -- I talked about the comparison and the existing
5 structures that existed, they're older -- you
6 know, buildings that are in disrepair.

7 Obviously, many of those buildings are
8 being demolished and then these types of
9 developments are being constructed in their
10 place.

11 And I do think that this area, along 39th
12 Street, is appropriate for that type of
13 development.

14 Finally, one of the other things that I did
15 want to point out is I did a quick analysis of
16 the school children that could be generated from
17 this type of -- from the proposed development.
18 And then, also from a permitted development.

19 With this development, we have nine units.
20 As I said there are three studio apartments and
21 there are six two bedroom apartments.

22 Total number of school children generated
23 from this type of development is 1.1 school
24 children.

25 If you look at the scenario where you

1 develop two three family homes, one three family
2 home on each of the 2500 square foot lots, you'd
3 have a total of six units. Those six units would
4 generate 4.83 school aged children.

5 So, what we're proposing actually has less
6 of an impact on the school system than a
7 permitted use, under the Zoning Ordinance.

8 So, for all of those reasons, as I mention,
9 it's my opinion that the applicant has met its
10 burden of proof, that the positive criteria
11 outweigh the negative criteria, and I do feel
12 confident that the Board could grant the
13 requested variances.

14 Thank you.

15 VICE CHAIRMAN GRULLON: Mr. Kauker?

16 MR. KAUKER: Yes.

17 VICE CHAIRMAN GRULLON: The existing
18 condition of the building, did you get an
19 opportunity to look at it?

20 MR. KAUKER: I did, yes.

21 VICE CHAIRMAN GRULLON: What -- what is
22 there now? How many apartments?

23 MR. KAUKER: I believe -- well, I think
24 it's a two family -- it's either a two family --
25 it's currently -- it looks like it's currently

1 vacant. I don't think anybody's living in there
2 now. When I drove by tonight -- you know, there
3 were -- there was like a board pushed up against
4 the window. It doesn't look like it's occupied.

5 MS. PEREIRAS: It's not.

6 MR. KAUKER: I could be -- okay. So, it's
7 not occupied. So --

8 VICE CHAIRMAN GRULLON: In -- in a lot of
9 this size --

10 MR. KAUKER: Um hum.

11 VICE CHAIRMAN GRULLON: -- 50 by a hundred
12 --

13 MR. KAUKER: Yes.

14 VICE CHAIRMAN GRULLON: -- you could -- you
15 could build two three family houses without
16 coming to the Board.

17 MR. KAUKER: You could. I mean, to be
18 quite honest, this is a 40 -- just shy of 5,000
19 square feet. So, you may have to go -- you would
20 have to go before the Planning Board for a lot
21 area variance, if you chose to do that.

22 VICE CHAIRMAN GRULLON: And you're not
23 requesting for height variance.

24 MR. KAUKER: We're requesting a variance
25 for the number of stories, but not the numerical

1 height. So, that doesn't -- it's not a D
2 variance with respect to height. It's a C
3 variance.

4 VICE CHAIRMAN GRULLON: I think a question
5 is for Mr. Pereiras.

6 Mr. Pereiras, I understand that you're ask
7 -- you're asking for a -- for a smaller size in
8 parking lot -- in parking spaces, eight -- 8.7.

9 MR. PEREIRAS: Yes.

10 VICE CHAIRMAN GRULLON: I just want to say
11 that, for the record, that our practice in the
12 past, for allow -- allowing parking smaller than
13 what -- what is required, is in order to provide
14 -- to get more -- more cars off the street, to
15 provide more parking in premises.

16 I know it's some -- I've seen parking that
17 is being approved by -- by this Board of even
18 7.6, 8.5, 8.2. And I believe that by you trying
19 to accommodate seven cars there, that's -- it's a
20 good thing that will -- you know, provide more
21 parking.

22 But I have a question. If -- if we need to
23 accommodate nine cars there, nine parking spaces,
24 and I see you have a rear yard, will that be a
25 detriment to the -- to the application? I know

1 | you already requested for a -- for a backyard
2 | variance.

3 | MR. PEREIRAS: Yes. Let's -- let's analyze
4 | this in several ways.

5 | And I was able to also think of Mr.
6 | Marotta's question. And even with my plan
7 | existing as is, I am able to accommodate a full
8 | nine foot parking space.

9 | I chose not to for several reasons. And
10 | I'll -- I'll walk you through that, and then I'll
11 | -- I'll walk --

12 | MS. DILLON: Mr. Kauker --

13 | MR. PEREIRAS: -- through the scenario.

14 | MS. DILLON: -- can you take the mic?

15 | MR. KAUKER: Yup.

16 | MS. DILLON: Hold on, Manny. I'm going to
17 | give you the mic.

18 | MR. KAUKER: You want that up there, Manny,
19 | or no?

20 | MR. PEREIRAS: No. I'm going to --

21 | VICE CHAIRMAN GRULLON: And one thing, Mr.
22 | Pereiras --

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

25 | VICE CHAIRMAN GRULLON: You know, regarding

1 to the driveway, the 33 foot driveway that --

2 MR. PEREIRAS: Yes.

3 VICE CHAIRMAN GRULLON: -- you have, I -- I
4 understand that, because you are providing ample
5 side yard --

6 MR. PEREIRAS: Yes.

7 VICE CHAIRMAN GRULLON: -- in order for the
8 fire department to go through, especially after
9 what happened in -- in Summit Avenue. We want
10 buildings to be built with enough space for fire
11 department to get to the back of the building.
12 And I will rather to sacrifice a space from
13 inside, from the driveway to the parking lot, and
14 make sure that we provide enough space for the
15 fire department to go and -- you know, respond to
16 an emergency situation.

17 MR. PEREIRAS: That's so exactly right.
18 I'm so glad you said that. That fire hit home
19 really hard. It's a tragedy of what happened.

20 VICE CHAIRMAN GRULLON: Yes.

21 MR. PEREIRAS: And I feel we have -- we all
22 have to be responsible. We have to do -- we have
23 to create safe buildings.

24 So, as you were saying, I'm providing a
25 full three feet on that side. I don't need to,

1 from our Ordinance. Our Ordinance doesn't
2 require that.

3 I could actually shift it over, our wall
4 another foot. I would have the whole 24 foot
5 wide aisle, as RSIS standards. That's not my
6 intention. I'm giving that three feet. I'm
7 sacrificing our aisle space in order to have a
8 safe way of getting fire department in on both
9 sides, and a safe means of egress on this side
10 that we're proposing a three foot eight, rather
11 than just three foot or less than we often see.

12 In addition to that, just as the way I
13 presented this presented this project, I show an
14 eight foot seven parking space. But notice, I
15 have 18 inches between parking spaces where the
16 columns are, and I have two feet at both ends.
17 Two feet on this end, and more on this end.

18 It's not a requirement to do that. RSIS
19 doesn't even -- doesn't even say that. It's just
20 practicality. When you have a car right up
21 against the wall, how are you going to open your
22 door? How you going to move in and out? So, I'm
23 providing those two feet there.

24 For purposes of this Board, I could easily
25 say, we have nine foot parking spaces. I get rid

1 of those two -- those spaces there. My -- my
2 aisle spaces are easily nine feet. And that
3 could be done.

4 If this Board wants to squeeze more spaces
5 in here, we could do that. We can make -- reduce
6 the size of the -- the parking spaces, as well,
7 down to eight feet and we could reduce our rear
8 yard, which is -- it's really, I think, even
9 appropriate for the density that we have in Union
10 City, to reduce the rear yard several feet, in
11 order to get another parking space in there.

12 To get two more parking spaces, no, that's
13 not realistic. But we could get another parking
14 space there.

15 We even have the option, if you wanted to,
16 and this is something we do often, but I don't
17 advise it is that instead of having eight -- 18
18 foot parking spaces, we have 16 foot parking
19 spaces. We lose the foot on the side yard. And
20 now, we have eight feet where we could fit two
21 cars along the side, and you have a 16 foot aisle
22 space.

23 We do that often, and it's all over Union
24 City. I was hoping not to do that in this
25 project.

1 But I -- I'll listen to the Board. I'll
2 take your advice and we're -- and the applicant
3 is fully willing to do whatever this Board thinks
4 is necessary in order to get this project
5 approved and move forward on a positive light.

6 VICE CHAIRMAN GRULLON: I don't have any
7 more question.

8 MR. MAROTTA: Yeah. I have questions.
9 Mr. Kauker, please.

10 MS. DILLON: Just go in front of the
11 microphone, Mr. Kauker, if you could?

12 Thank you.

13 MR. MAROTTA: Mr. Kauker, in your
14 testimony, you made reference to a -- a multiple
15 family dwelling on the corner.

16 MR. KAUKER: Yes.

17 MR. MAROTTA: And I think you even said
18 there might be two multiple family buildings.

19 MR. KAUKER: There -- yes, there are.

20 MR. MAROTTA: Is the --

21 MR. KAUKER: They're right across the
22 street.

23 MR. MAROTTA: And the reason you -- is the
24 reason that you mentioned that so that this
25 building is compatible with that?

1 MR. KAUKER: Yeah. In terms of the, yes,
2 multiple family type of dwelling. Yes, that was
3 the reason I mentioned it.

4 MR. MAROTTA: Did you read the Coventry
5 Square case in Supreme Court?

6 MR. KAUKER: I'm familiar with --

7 MR. MAROTTA: Where the Supreme Court said
8 --

9 MR. KAUKER: -- Coventry Square.

10 MR. MAROTTA: -- a Board, that's us --

11 MR. KAUKER: Right.

12 MR. MAROTTA: -- must focus on the
13 deviations --

14 MR. KAUKER: Right.

15 MR. MAROTTA: -- from the standards.

16 MR. KAUKER: Right.

17 MR. MAROTTA: Not whether the proposed use
18 is compatible with other uses.

19 MR. KAUKER: Right.

20 MR. MAROTTA: Did you read that?

21 MR. KAUKER: I did. But that's -- the
22 Coventry case is related to a D-3 variance for a
23 conditional use.

24 MR. MAROTTA: Okay.

25 MR. KAUKER: This is a pure D-1 use

1 variance.

2 MR. MAROTTA: Let me ask you this. In
3 planning --

4 MR. KAUKER: Um hum.

5 MR. MAROTTA: -- is safety of the residents
6 of a community a factor?

7 MR. KAUKER: Yes, it is.

8 MR. MAROTTA: In fact, you said you read
9 our Ordinance, and in our Ordinance, we say the
10 purpose is to develop land in a manner which will
11 promote the public health, safety and welfare of
12 the people.

13 Correct?

14 MR. KAUKER: That -- that's correct. And
15 that mirrors the Municipal Land Use --

16 MR. MAROTTA: Are you --

17 MR. KAUKER: -- Law.

18 MR. MAROTTA: Are you familiar with the
19 parking situation in Union City?

20 MR. KAUKER: I mean, yes, I am. I'm --
21 I've --

22 MR. MAROTTA: Do you know that Union City,
23 several years ago, introduced an Ordinance to
24 allow parking of vehicles in bus stops? Did you
25 know that?

1 MR. KAUKER: That I did not know.

2 MR. MAROTTA: Would you say that in your
3 opinion as a planner, when there's parking in bus
4 stops, that raises a safety factor.

5 MR. KAUKER: So, let me get this straight.
6 They passed an Ordinance to permit --

7 MR. MAROTTA: To permit parking --

8 MR. KAUKER: -- parking in --

9 MR. MAROTTA: -- in --

10 MR. KAUKER: -- bus stops for --

11 MR. MAROTTA: -- because there's no parking
12 in the city. So, -- (indiscernible) -- park in
13 bus stops.

14 MR. PEREIRAS: In certain --

15 MR. MAROTTA: My question to you --

16 MR. PEREIRAS: At certain hours. It's not
17 --

18 MR. MAROTTA: Look, look. I'm not talking
19 to you, sir.

20 MR. PEREIRAS: -- during the day. They're
21 --

22 MR. PRESSEY: No. No.

23 MR. KAUKER: I don't see how that relates
24 to this specific application.

25 MR. MAROTTA: My question --

1 MR. KAUKER: But --

2 MR. MAROTTA: -- to you is this, as a
3 planner --

4 MR. KAUKER: Yeah.

5 MS. GUTIERREZ: It's only night time.

6 MR. MAROTTA: -- if parking is permitted in
7 bus stops, does that raise a safety factor?

8 Yes or no?

9 MR. KAUKER: It depends.

10 MR. MAROTTA: On what?

11 MR. KAUKER: Well --

12 MR. MAROTTA: On whether or not buses come
13 there?

14 MR. KAUKER: The -- true. I mean, if
15 you're -- if you're talking about efficiency. If
16 -- for example, if a bus stop is only used at a
17 specific time, and you're allowing a vehicle to
18 park there when a bus is not going to be there,
19 and as long as that vehicle is removed when the
20 bus is going to use it, then it may be
21 appropriate.

22 MR. MAROTTA: Do you know that recently,
23 and I say recently within the last two months --

24 MR. KAUKER: Um hum.

25 MR. MAROTTA: -- the City of Union City

1 | adopted a new Ordinance with reference to
2 | parking, with a finding that there's limited
3 | parking for the residents of the City?

4 | Are you aware of that?

5 | MR. KAUKER: I am. And that's why -- one
6 | of the issues, with respect to parking in Union
7 | City, you have a lot of buildings, as I mentioned
8 | before, and a lot of them are older buildings.
9 | They don't provide parking on-site. They have to
10 | rely all on the street.

11 | So, as these redevelopment opportunities
12 | come along, it's an opportunity to provide
13 | parking, actually, on the site and off the
14 | street. So, it actually helps --

15 | MR. MAROTTA: All right.

16 | This --

17 | MR. KAUKER: -- to address that issue.

18 | MR. MAROTTA: -- this project, sir,
19 | requires 17 off-street parking spaces, and you're
20 | providing seven.

21 | Is that correct?

22 | MR. KAUKER: Well, it's -- depending upon
23 | how it's calculated. There --

24 | MR. MAROTTA: Well, according to what I
25 | read here, that's what it is.

1 MR. KAUKER: Well, there were two -- there
2 was a calculation that there were 12 and there
3 was a calculation there --

4 MR. MAROTTA: Well, when I --

5 MR. KAUKER: -- were 17. So --

6 MR. MAROTTA: -- spoke to the architect, he
7 agreed there were seven.

8 MR. KAUKER: No. There are only seven
9 parking spaces on-site.

10 MR. MAROTTA: And 14 are --

11 MR. KAUKER: That's correct.

12 MR. MAROTTA: Seventeen are required. Now,
13 that --

14 MR. KAUKER: According to --

15 MR. MAROTTA: -- that means --

16 MR. KAUKER: -- your planner, yes.

17 MR. MAROTTA: -- you're providing 40
18 percent of what's required, or you have a
19 deficiency of 60 percent.

20 Now, my question is this. Is 60 percent
21 deficiency substantial?

22 MR. KAUKER: Well, if you're looking from
23 the requirements of the RSIS, a 60 percent
24 deviation would be substantial.

25 MR. MAROTTA: It's a substantial deviation.

1 Right?

2 MR. KAUKER: But --

3 MR. MAROTTA: It's a substantial impairment
4 on the Code.

5 Right?

6 MR. KAUKER: Well, no, because that's the
7 way --

8 I'll wait.

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

11 MR. MAROTTA: I'm sorry.

12 MR. KAUKER: That's -- that's a deviation
13 from the Residential --

14 MR. MAROTTA: Also, our -- our Ordinance
15 requires a ten foot setback.

16 MR. KAUKER: Yes.

17 MR. MAROTTA: And -- and --

18 MR. KAUKER: That's correct.

19 MR. MAROTTA: -- the project here gives you
20 a one foot setback, or ten percent of what's
21 required. That's a 90 percent deficiency.

22 Would you say that's substantial?

23 MR. KAUKER: In this case, I -- I would say
24 that's not substantial.

25 MR. MAROTTA: That's not substantial?

1 MR. KAUKER: No. I think you have to look
2 at a couple different factors.

3 Number one, the Ordinance is ten feet, I
4 believe, or the prevailing setback, if I'm not
5 mistaken.

6 And again, the one foot -- I'm just going
7 to refer to this exhibit -- the one foot is from
8 the lobby area. The remainder of the building is
9 set back even further and then, there's another
10 portion that's set back even further.

11 If you look at the setbacks of other
12 buildings on the street, too, they have similar
13 setbacks, where they're either zero foot setback
14 or -- you know, somewhere in between zero and ten
15 feet.

16 MR. MAROTTA: Mr. Kauker --

17 MR. KAUKER: Yes?

18 MR. MAROTTA: -- before I came here
19 tonight, I rode up the street. I -- I see
20 setbacks on those houses on there. This is not
21 compatible with those houses.

22 MR. KAUKER: Well, with the houses. As I
23 said be --

24 MR. MAROTTA: This one foot setback is not
25 compatible.

1 MR. KAUKER: Not with the houses, but with
2 the multiply family structure --

3 MR. MAROTTA: I'm talking about the --

4 MR. KAUKER: -- that's located --

5 MR. MAROTTA: -- the houses -- the
6 predominantly number of houses on -- on that
7 street have setbacks.

8 Correct?

9 MR. KAUKER: If you look at the one and two
10 family structures that exist, they do have
11 setbacks. You're correct.

12 MR. MAROTTA: Okay.

13 So, this is not compatible with that.

14 Right?

15 MR. KAUKER: Well, it's --

16 I'm sorry.

17 MR. PEREIRAS: No, they don't. A lot of
18 them don't have setbacks.

19 MR. MAROTTA: Look, what are we doing here?

20 MR. BONACCI: They're looking for setbacks.

21 MR. PEREIRAS: A lot of the structures --

22 MR. MAROTTA: The plan says a setback.

23 MR. PEREIRAS: -- don't have setbacks.

24 MR. KAUKER: Well --

25 MR. MAROTTA: The application says there's

1 a setback.

2 MR. KAUKER: No, no. There is a setback
3 variance, but Mr. Pereiras is just pointing out a
4 picture that he did take --

5 MR. MAROTTA: Let me --

6 MR. KAUKER: -- along 39th Street.

7 Like I said, it looks like the single
8 family homes, the one and two family homes, as I
9 said, it doesn't look like any of the setbacks
10 are ten feet. They may be five feet. They may
11 be six feet.

12 You know, the setbacks vary along the
13 street. And in my opinion, if you look at --
14 again, if you look at this particular
15 application, as it relates to the street, you
16 have a one foot setback that's located, again,
17 from the property line.

18 So, you still have the property line, you
19 have the sidewalk. So, you still have a good
20 distance. It's not going to be like this
21 building is right up on the street.

22 So, you're still going to have a setback,
23 in my opinion. It's -- it's appropriate and it
24 wouldn't have an undue impact on the --

25 MR. MAROTTA: All right.

1 MR. KAUKER: -- neighborhood.

2 MR. MAROTTA: My next question is this.

3 You said that you read the Zoning Ordinance
4 in Union City, and you, of course, read, then,
5 under the purpose, Section 223-2, the purpose of
6 the Zoning Ordinance is to promote the
7 conservation of open space.

8 You read that, didn't you?

9 MR. KAUKER: I didn't read the entire
10 Ordinance. I read it as it related to this --

11 MR. MAROTTA: Well --

12 MR. KAUKER: -- specific application.

13 MR. MAROTTA: Would you take my word for it
14 that it's --

15 MR. KAUKER: I will -- I will take your
16 word because --

17 MR. MAROTTA: Okay.

18 MR. KAUKER: -- I have read that before,
19 and I'm --

20 MR. MAROTTA: Now --

21 MR. KAUKER: -- familiar with that.

22 MR. MAROTTA: Now, the -- the project here
23 has a 60 foot max -- proposed 72.72 percent
24 coverage, which is 20 percent more than allowed.

25 That's not preserving open space, is it?

1 It's taking away from open space, isn't it?

2 MR. KAUKER: Well, I don't think you -- you
3 know, talking about preserving open space is
4 providing something that's a little bit more
5 substantial than something -- you know, one --
6 one of the things I would point out, too, is that
7 we are actually providing a good deal of open
8 space, compared to other projects, Union City.

9 If you look at the --

10 MR. MAROTTA: We're --

11 MR. KAUKER: If you look at the site --

12 MR. MAROTTA: Mr. --

13 MR. KAUKER: -- plan that was provided --

14 MR. MAROTTA: Mr. Kauker, we're here on
15 this project.

16 MR. KAUKER: I know and I'm --

17 MR. MAROTTA: Not on other projects.

18 MR. KAUKER: I know but what I'm pointing
19 out -- what I'm pointing out --

20 MR. MAROTTA: Because there were mistakes
21 made in the past, don't mean we should continue.

22 MR. KAUKER: What I'm pointing out, in my
23 opinion, there's an appropriate amount of open
24 space on this project.

25 If you look in the rear, Mr. Pereiras was

1 | talking about before the rear yard, there's --
2 | there's a significant grassed area located in the
3 | rear yard. Again, there are three foot setbacks
4 | provided alongside the building, and then there's
5 | a landscaped area that's provided in the front of
6 | the building, as well.

7 | So, I think in terms of meeting that
8 | provision of the Ordinance, I believe that this
9 | project does provide an appropriate amount of
10 | open space.

11 | MR. MAROTTA: Let me ask -- let me ask you
12 | the question this way.

13 | Are you saying that coverage of 72.72
14 | percent gives you the same amount of open space
15 | if you had coverage of 60 -- 60 percent -- 60
16 | feet.

17 | MR. KAUKER: You're talking building
18 | coverage or impervious?

19 | MR. MAROTTA: Building coverage.

20 | MR. KAUKER: Well, building coverage is a
21 | little different because building coverage is the
22 | amount of coverage that the building can occupy.
23 | And then, you can also have impervious coverage,
24 | which also reduces open space, as well.

25 | MR. MAROTTA: Also, so -- so we do have

1 substantial impairments, don't we?

2 MR. KAUKER: I -- as I -- as I just
3 mentioned, I don't believe on this project we do
4 have a substantial impairment. I think that --

5 MR. MAROTTA: Ninety percent is not
6 substantial?

7 MR. KAUKER: I -- I think if you look at a
8 lot of the property conditions, the existing
9 property conditions and what's being built,
10 especially in an urban area, you have coverages
11 that are well above that.

12 MR. MAROTTA: I have no more questions.

13 Thank you very much, Mr. Kauker.

14 MR. KAUKER: Thank you.

15 MR. PRESSEY: No. No other questions. No
16 other questions.

17 MR. PANEQUE: Open to the --

18 VICE CHAIRMAN GRULLON: Any other member?

19 MR. PRESSEY: No. No other member.

20 MR. MAROTTA: Mr. Chairman, I have some
21 comments to make on this, a little discussion on
22 this.

23 Okay?

24 VICE CHAIRMAN GRULLON: Okay. You want to
25 make your comments now?

1 MR. MAROTTA: Unless you want the -- unless
2 you have the public.

3 Is the public going to speak first?

4 VICE CHAIRMAN GRULLON: No, I have -- I'm
5 going to open it to the public.

6 MR. MAROTTA: The public wants to speak
7 first, I'll wait.

8 VICE CHAIRMAN GRULLON: Open to the public.

9 MR. PRICE: Larry Price.

10 Still under oath.

11 Quick question about the parking
12 requirement. There seems to be some debate here.

13 Now, there are six two bedroom apartments.

14 MR. KAUKER: Correct.

15 MR. PRICE: Each bedroom apartment requires
16 two parking spaces. That's 12. I assume there's
17 no debate about that.

18 Right?

19 MR. KAUKER: Yes.

20 MR. PRICE: Okay. Then, there are -- then

21 --

22 MR. KAUKER: Correct.

23 MR. PRICE: Yes, there are no debate.

24 Okay. Then there are three studios.

25 MR. KAUKER: Correct.

1 MR. PRICE: Okay. If they're considered
2 one bedroom, that would be one --

3 MR. KAUKER: One point eight.

4 MR. PRICE: -- point eight.

5 MR. KAUKER: Um hum.

6 MR. PRICE: Five point four, let's round to
7 five. That would be 17.

8 MR. KAUKER: Correct.

9 MR. PRICE: Do you feel that --

10 MS. DILLON: One step closer, Mr. Kauker,
11 please.

12 MR. KAUKER: Yes.

13 MR. PRICE: Okay. Do you feel that the
14 studio should have a different requirement than
15 the requirement for a one bedroom?

16 MR. KAUKER: I -- you know, to be honest
17 with you, I'm not sure how the RSIS categories
18 it. I'd have to double check.

19 MR. PRICE: It doesn't. That's the
20 problem.

21 Okay. Okay.

22 MR. KAUKER: If -- if you're asking --

23 MR. PRICE: You don't have a substitute for
24 a studio apartment.

25 MR. KAUKER: I'd -- I'd have to do a little

1 research.

2 MR. PRICE: Okay, that's -- that's fair.

3 MR. KAUKER: Yeah. I couldn't -- I
4 honestly couldn't -- couldn't answer the
5 question.

6 MR. PRICE: Okay.

7 Some -- but the numbers seem to be 12 and
8 17.

9 Okay, 12 means there's no parking
10 requirement for a studio.

11 MR. KAUKER: Right.

12 MR. PRICE: Is that your position or --

13 MR. KAUKER: As I said, I didn't -- I
14 relied upon the calculation that was done by Mr.
15 Pereiras. And then, I had an opportunity to look
16 at the memorandum that was prepared by Mr. Spatz.

17 MR. PRICE: Should I be directing this to
18 Mr. -- question to Mr. Pereiras?

19 MR. PEREIRAS: Your -- your interpretation
20 of how --

21 MR. PRICE: No. No.

22 MR. PEREIRAS: -- I came to that number is
23 correct.

24 Our Ordinance is very specific, lists a two
25 bedroom with the parking requirement, a one

1 | bedroom with the parking requirement, and it
2 | specifically omits a studio.

3 | In my interpretation, I interpret that it's
4 | -- that it doesn't require parking, which makes
5 | sense in Union City. A person that is renting --
6 | and maybe I'm making some -- some assumptions
7 | here, but a 400 small square foot apartment would
8 | possibly not have a car. And it makes sense that
9 | they would not have a studio.

10 | That said, we defer to the City Planner.
11 | If he believes that our requirement is 17, then
12 | we are asking for a variance for the deficiency
13 | of those ten cars. If -- even though, in my
14 | opinion, our requirement is 12.

15 | MR. PRICE: Okay.

16 | MR. PEREIRAS: But just to be safe and on
17 | the record, we'll ask for the full variance.

18 | MR. PRICE: Okay. Variance of ten.

19 | Okay.

20 | Thank you.

21 | VICE CHAIRMAN GRULLON: Mr. --

22 | MR. MAROTTA: Mr. Chairman, I want to --

23 | VICE CHAIRMAN GRULLON: Mr. Spatz, can you

24 | --

25 | MR. SPATZ: Yes?

1 VICE CHAIRMAN GRULLON: -- clarify the
2 parking count situation?

3 MR. SPATZ: Sure.

4 My review of the Municipal Land -- of the
5 Residential Site Improvement Standards is that
6 studio apartments are treated as a one bedroom
7 apartment.

8 And so, they would need 1.8 per unit.
9 That's how I arrived at the 17.

10 If you were to make a case as to why a
11 variance should be granted, the idea that a
12 studio apartment might not have -- require a
13 space would be a valid way of doing it. But to
14 me, the numerical calculation comes to 17 spaces.

15 MR. MAROTTA: Mr. Chairman, I'd like to
16 introduce for the record a letter I recently
17 received from Lieutenant Ramon Vasquez, who's the
18 Acting Executive Director of the Union City
19 Parking Authority.

20 This came within the last week. And he's
21 telling us that we recognize that parking in
22 Union City is limited. And we are working
23 diligently to improve parking for our residents.

24 It goes on to say that after careful
25 consideration, and input from many residents, the

1 Union City Parking Authority, in partnership with
2 Mayor Brian P. Stack, implemented a new Parking
3 Ordinance last year to address issues concerning
4 limited parking.

5 They're being very polite when they say
6 limited parking. I think all of us sitting at
7 this table here know there is no parking in Union
8 City.

9 Okay?

10 Now, I might be new to this Board, I'm a
11 new member, but I'm not new to the Zoning Board,
12 because I've been coming here over a dozen years
13 ago, as you know.

14 And I've objected to many, many
15 applications, such as this application, which
16 deprives the residents of this city with parking.

17 I happen to be a fortunate citizen in the
18 city. You know, I pay \$10,000.00 a year in
19 taxes, but I got a garage in front of my house
20 and I can park there.

21 But what about the residents who pay the
22 same amount of taxes, and they don't have
23 garages, and they got to walk six, seven, eight
24 blocks from their home to park, to find a parking
25 space?

1 When I got this letter, I said to myself,
2 why? Why do we have this crisis of parking in
3 Union City?

4 And because of my many years coming before
5 this Board, and I've -- I've challenged quite a
6 few applications; I've been successful on some,
7 and unsuccessful on others. But I've lived here
8 all my life, which is more than 80 years. Okay?

9 I've been Corporation Counsel in this city
10 for years. I've been involved politically for 30
11 or 40 years. I've traveled up and down this
12 city. I know the city. I've never seen a
13 parking situation as drastic as we have today.

14 And why do we have it? Right here. This
15 Board created the situation in this city.

16 VICE CHAIRMAN GRULLON: Mr. Marotta, I
17 don't --

18 MR. MAROTTA: Because -- Mr. --

19 VICE CHAIRMAN GRULLON: -- I don't agree
20 with that.

21 MR. MAROTTA: Mr. Chairman, I'm going to
22 tell you that, conservatively, over the last
23 dozen years, with all the variances that were
24 granted, we placed from 500 to 750 more cars on
25 the streets of this city that shouldn't be there.

1 VICE CHAIRMAN GRULLON: Mr. Marotta --

2 MR. MAROTTA: Let me finish and then you
3 could -- let me finish.

4 If I sound upset, I am upset because I'm a
5 lifelong resident of this city, and I love this
6 city. And what's happening is drastic.

7 I think it's time to say, Basta Ya. Enough
8 is enough.

9 If a developer wants to come into Union
10 City, they build according to the Code. And they
11 give -- especially multi-families, they give us
12 the Code. They give us the proper number of
13 parking spaces, not putting them on the street,
14 because we put more -- ten more cars on the
15 street, you're effecting the safety of the -- of
16 the residents.

17 And I'm going to request of you tonight,
18 Mr. Chairman, on any future application, of a
19 multi-family dwelling, I'm going to ask you to
20 subpoena our Chief of Police, as our expert on
21 parking and on safety due to parking in Union
22 City.

23 I want the Chief here as a witness to
24 testify.

25 Enough is enough. This -- this project's

1 got to go down. It's no good for the city. It's
2 no good for the residents of the city.

3 Let's think of the people in the city.
4 Let's think of these residents. Not the out-of-
5 town developers who come in here to make a
6 fortune on the backs of the people of Union City.

7 The time to stop. I vote no on this --
8 (indiscernible).

9 VICE CHAIRMAN GRULLON: We're not voting
10 yet, Mr. Marotta.

11 Mr. Marotta, first of all, I want to say
12 that I'm glad that Ordinance got adopted on
13 parking, to correct the parking situation.

14 One of the reason we have this major
15 madness in parking situation is because we have
16 people from other towns coming to park in Union
17 City.

18 MR. MAROTTA: You want me to count --

19 VICE CHAIRMAN GRULLON: And that's what is
20 referred to. He's not referring to --

21 MR. MAROTTA: Do you want me to count --

22 VICE CHAIRMAN GRULLON: -- the resident of
23 Union City.

24 And I pay taxes here, and more than what
25 you do.

1 MR. MAROTTA: Mr. -- Mr. Chairman, I'll
2 tell you what --

3 VICE CHAIRMAN GRULLON: And we're not here
4 to discuss with you.

5 One thing -- one question that --

6 MR. MAROTTA: You count all the variances
7 you gave and see what it comes --

8 VICE CHAIRMAN GRULLON: I don't want -- I'm
9 not -- I'm not responding to your comments. I
10 just say, the letter that you received is an
11 Ordinance that was adopted, and I'm glad it was,
12 because it was -- this was the only city that
13 didn't have an Ordinance like that around --
14 around the Lincoln Tunnel.

15 Everybody was coming to Union City --

16 MS. GUTIERREZ: And parking.

17 VICE CHAIRMAN GRULLON: -- to park here.
18 Then take a bus and leave.

19 MS. GUTIERREZ: Yes. And leave.

20 MR. MAROTTA: Mr. Chairman --

21 VICE CHAIRMAN GRULLON: And I know because
22 every time we have snow, that we have to remove
23 the snow out of the street, we had to call people
24 from West New York, from --

25 MS. GUTIERREZ: North Bergen.

1 VICE CHAIRMAN GRULLON: -- from everywhere.

2 MS. GUTIERREZ: North Bergen.

3 VICE CHAIRMAN GRULLON: From Hoboken that
4 comes --

5 MR. MAROTTA: Mr. --

6 VICE CHAIRMAN GRULLON: -- to park here in
7 our city.

8 MS. GUTIERREZ: Yes.

9 MR. MAROTTA: Mr. Chairman --

10 VICE CHAIRMAN GRULLON: And we all know
11 that.

12 MR. MAROTTA: Mr. Chairman --

13 VICE CHAIRMAN GRULLON: You didn't mention
14 that.

15 MR. MAROTTA: -- those cars park in drive
16 -- in -- in crosswalks?

17 VICE CHAIRMAN GRULLON: Let me --

18 MR. MAROTTA: And they don't get tickets?

19 VICE CHAIRMAN GRULLON: And let me tell you
20 the --

21 MR. MAROTTA: Don't cars park in --

22 VICE CHAIRMAN GRULLON: The practice of
23 this Board has been that we -- we allow 1.4
24 parking spaces per apartment. That's what we
25 allow.

1 And we've been -- some -- in some cases,
2 we've been allowing one per apartment.

3 But never allowing any buildings to be
4 built without --

5 MS. GUTIERREZ: Without no parking.

6 VICE CHAIRMAN GRULLON: -- the proper
7 situation.

8 MS. GUTIERREZ: Yes.

9 MR. MAROTTA: No.

10 MS. GUTIERREZ: Yes.

11 MR. MAROTTA: You can't say that, because
12 the -- the --

13 MS. GUTIERREZ: Yes.

14 MR. MAROTTA: -- facts don't support you.
15 The record does not support you.

16 VICE CHAIRMAN GRULLON: I'm not -- I'm not
17 going --

18 MR. MAROTTA: You know?

19 VICE CHAIRMAN GRULLON: -- to argue with
20 you.

21 MR. MAROTTA: I'll bring you the facts.
22 I'll do the research myself and show you.

23 VICE CHAIRMAN GRULLON: You can do
24 whatever.

25 Mr. Spatz?

1 MR. SPATZ: Yes.

2 VICE CHAIRMAN GRULLON: In a two three
3 family home, that is allowed to be built there,
4 what would be the parking count?

5 MR. SPATZ: Okay.

6 VICE CHAIRMAN GRULLON: And how many curb
7 cuts? How many cars will be off the street?

8 MR. SPATZ: I'll look at the Ordinance.

9 MS. GUTIERREZ: We're -- (indiscernible) --
10 for that.

11 VICE CHAIRMAN GRULLON: Because that's what
12 we -- one thing that we take in consideration --

13 MS. GUTIERREZ: Always.

14 VICE CHAIRMAN GRULLON: -- when we're
15 looking --

16 MS. GUTIERREZ: Always.

17 VICE CHAIRMAN GRULLON: -- for an
18 application --

19 MS. GUTIERREZ: Always.

20 VICE CHAIRMAN GRULLON: -- what's -- what
21 could be built, what's there, in -- in the
22 proposed application.

23 We don't go like we any application, and I
24 don't agree that you say that we, as a Board, has
25 create the condition --

1 MR. MAROTTA: Absolutely.

2 MS. GUTIERREZ: No. No.

3 MR. MAROTTA: Absolutely. Absolutely.

4 VICE CHAIRMAN GRULLON: If that's your
5 opinion, that's your opinion. But that's not --

6 MR. MAROTTA: No. That's my --

7 VICE CHAIRMAN GRULLON: I don't think --

8 MR. MAROTTA: -- opinion, based on fact.

9 VICE CHAIRMAN GRULLON: -- that's anybody
10 else opinion.

11 MS. GUTIERREZ: We're not. We're not.

12 VICE CHAIRMAN GRULLON: You could go and
13 make a --

14 MR. MAROTTA: Based on fact.

15 MR. DOUMAS: Maybe we should vote.

16 MR. SPATZ: Okay. Our -- the Residential
17 Site Improvement Standards and our Ordinance
18 indicates that for a three family house, you use
19 the standards for a townhouse development.

20 So, if you could build three family houses,
21 on each lot, each unit having three bedrooms, the
22 total required would be 14.4 spaces, or round it
23 to 14 spaces would be required if you had two
24 three family homes --

25 VICE CHAIRMAN GRULLON: And curb --

1 MR. SPATZ: -- on each lot.

2 VICE CHAIRMAN GRULLON: And you will have
3 curb cuts?

4 MR. SPATZ: And you would have a curb cut
5 on each one. So, you would lose one -- I think
6 there's an existing curb cut on the property now,
7 which is being replaced by the garage, so you
8 would lose one street space and you would require
9 14 spaces.

10 VICE CHAIRMAN GRULLON: Thank you, Mr.
11 Spatz.

12 Mr. Pereiras, you -- you know as a Board,
13 we always had this practice to sometime accept
14 smaller parking spaces in order to provide more
15 on-site parking.

16 MR. PEREIRAS: Yes.

17 VICE CHAIRMAN GRULLON: And also, that we
18 have allowed, in the past, even 1.3, 1.4 parking
19 spaces per unit.

20 Is it possible that you, on this
21 application, that you talk to your client and see
22 if you want to go with six unit, not the --

23 MS. GUTIERREZ: The nine unit.

24 VICE CHAIRMAN GRULLON: Not the studio
25 apartment. Go with -- with six -- with six two

1 | bedroom units and eight parking spaces, at least.

2 | MR. PEREIRAS: Are we dropping the
3 | complete, from nine to six? Not even -- we're
4 | not even considering eight?

5 | VICE CHAIRMAN GRULLON: I don't see how we
6 | could do that, because you have one studio in
7 | each apartment. Unless you want to keep a studio
8 | on --

9 | MR. PEREIRAS: Because -- what I would
10 | propose to the Board is we're looking at a -- a
11 | slightly -- a slight difference. So, if I were
12 | to lose the studios, okay, I would keep the --
13 | the both sides of the building the same, and I
14 | would make -- every studio that I lose, I would
15 | make it into a three bedroom apartment with the
16 | -- make the two bedroom into a three bedroom. I
17 | would propose that.

18 | And I -- and I ask the Board, and I think
19 | it would be reasonable that we drop down from
20 | nine to eight units, and we go to a three bedroom
21 | in the one that we dropped the studio.

22 | So, instead of a studio, it's shifted to a
23 | three bedroom, and then we have two studios.

24 | I think that's completely reasonable. And
25 | you know, we have an interesting situation in

1 | this room today, because Mr. Marotta was so
2 | passionate about how he loves Union City, and I
3 | think it's evident that all of us really do.

4 | I mean, the entire Board wouldn't be here
5 | if we didn't love Union City. And we all -- I
6 | mean, I grew up here. I genuinely say I love
7 | Union City. That's why I work in this town. I
8 | want to make it a better place.

9 | And that's particularly why I think this
10 | development is important, because we have such a
11 | problem with parking. Instead of having those
12 | two three family houses, I'm proposing a building
13 | that makes -- that works, that makes sense.

14 | But from a client perspective, if you're
15 | telling me I'm dropping down to six units, then
16 | no developer would want to do that.

17 | Why? Because then I have the same number
18 | of units as if I had a three family house, where
19 | I would get three bedrooms in each one, and I
20 | don't have to build a second fire stair, I don't
21 | have to build an elevator.

22 | It doesn't make sense. This project will
23 | get canned, and I would go to the Planning Board
24 | and I will build two three family houses, which
25 | creates the problem that Mr. Marotta hates.

1 That is what we want to avoid. That's why
2 I'm before this Board, because from a client
3 perspective, I'd rather have six units that are
4 three bedrooms each, in front of the Planning
5 Board, I'll get approved in one hearing, and
6 forget it.

7 But you know what? That's the worst thing
8 for Union City.

9 So, I -- that's why I'm here before this
10 Board. I'm asking for nine units. Three that
11 are studios, because it makes sense, because
12 otherwise, forget about this elevator, forget
13 about making a beautiful brick building that has
14 all these nice windows, and all these nice
15 setbacks on the side, I'll build two three family
16 houses.

17 It has to make sense for Union City. It
18 has to make sense for a developer, and that's why
19 I'm coming and appealing to this Board.

20 So, if you're telling me, you know what,
21 Manny, you're being too aggressive, nine units.
22 You know what, I understand that. We'll drop
23 that studio. We'll make one of the units a three
24 bedroom.

25 But if it goes under eight units --

1 VICE CHAIRMAN GRULLON: Could you --

2 MR. PEREIRAS: -- then there's no point of
3 building this.

4 VICE CHAIRMAN GRULLON: Could you provide
5 the eight parking spaces?

6 MR. PEREIRAS: Yes. We could do that. We
7 could do that --

8 VICE CHAIRMAN GRULLON: Eight parking
9 spaces.

10 MR. PEREIRAS: -- if you allow me to reduce
11 my rear yard setback by four feet.

12 MR. BONACCI: Can I interject --

13 VICE CHAIRMAN GRULLON: Yes.

14 MR. BONACCI: -- for a second?

15 Okay. Manny, in the beginning, when you
16 introduced the thing, you admitted that it was
17 going to be aggressive --

18 MR. PEREIRAS: Yes. I understand.

19 MR. BONACCI: -- to go -- to go with nine
20 units.

21 When you guys had mentioned what would be
22 -- that this was a more efficient use, I'm
23 thinking compared to what?

24 The answer is what you just said, compared
25 to doing two three family homes.

1 There was some testimony before that said
2 the area of where this is, 39th to 40th Street,
3 something like that was the most populated area
4 of the most densely populated area being Union
5 City.

6 So, what makes sense then is to keep it
7 more densely populated? You know what I mean?

8 So, that's where I had trouble wrapping my
9 brain around it.

10 MR. PEREIRAS: The question is, how you
11 interpret density. Okay? If I'm looking at two
12 three bedroom -- two three family houses, we're
13 looking at 18 bedrooms. Okay?

14 Eighteen bedrooms as opposed to our
15 project, which is 12 bedrooms, plus three
16 studios. If we kept the studios as one bedroom,
17 those are 15 bedrooms.

18 So, in -- in a very, very reasonable way,
19 even though we have more units, we have less
20 bedrooms, which means less people. Less bedrooms
21 means less people.

22 So, our density for this building is less
23 than two three family homes, if you use that
24 interpretation.

25 And I feel that that's critical for this

1 case, and when you're judging this, that this is
2 a less dense. Even though on paper more units
3 equals more density, we all know the reality.
4 Less bedrooms is less density. More bedrooms is
5 more density.

6 That's the reality. And that's why I'm
7 proposing this, because even though we have nine
8 units, we have 15 bedrooms, which is less than
9 the alternative of 18 bedrooms. Less dense.

10 MR. BONACCI: Okay.

11 MR. MAROTTA: Mr. Chairman, let's be
12 realistic.

13 It's an economic situation. It's
14 economically better to have this than to have the
15 two three families. Simple as that.

16 VICE CHAIRMAN GRULLON: Um hum.

17 MR. MAROTTA: And that's been the problem.

18 MR. PEREIRAS: No.

19 MR. MAROTTA: The developers --

20 MR. PEREIRAS: On the contrary.

21 MR. MAROTTA: -- come in, economically.

22 MR. PEREIRAS: It's a lot cheaper to build
23 two --

24 VICE CHAIRMAN GRULLON: Mr. Pereira?

25 MR. PEREIRAS: -- three family houses.

1 MR. MAROTTA: More money in --

2 VICE CHAIRMAN GRULLON: In order to
3 accommodate parking in a -- in a --

4 MR. MAROTTA: There's more money in it.

5 VICE CHAIRMAN GRULLON: -- three family
6 house, what I have seen in the past is that all
7 cars are tandem parking.

8 MR. PEREIRAS: That's correct.

9 VICE CHAIRMAN GRULLON: How would you
10 accommodate 15 parking spaces in a -- in a --
11 let's say, a three family house?

12 MR. PEREIRAS: The -- the blunt answer is
13 you cannot. Okay? It's impossible.

14 MS. GUTIERREZ: No. There's no way.

15 MR. PEREIRAS: There are two ways of
16 interpreting a three family house in Union City
17 that I have seen. Okay?

18 Either you go tandem, with four cars deep
19 and then two cars in the drive, which still only
20 gives you six cars and it's tandem. It just
21 doesn't work when you have three different units.

22 Or you build to the property lines. You
23 get rid of your setbacks, and you have four cars
24 in the rear of the property, and one on the side,
25 and then one in the front, which still only gives

1 | you six cars, and trust me, I've tried to drive
2 | in and out. They don't work. And we lose our
3 | setbacks which is just unsafe. It really is
4 | unsafe.

5 | So, there is no safe, good alternative in
6 | the three family situation. It shouldn't be
7 | allowed in our Ordinance. It shouldn't be done,
8 | but it is, and that's what's going to get built,
9 | unless we build -- approve a project like this.

10 | VICE CHAIRMAN GRULLON: Any -- any other
11 | member?

12 | Okay.

13 | I'm just going to open it to the public one
14 | more time.

15 | Last time, Mr. Price.

16 | MR. PRICE: Larry Price.

17 | By the way, I think yours is a very good
18 | suggestion.

19 | By the way, the -- the first comment that I
20 | want to make is a three story, three family
21 | house, which means two bedrooms -- or sorry --
22 | three bedrooms, three bedrooms, one bedroom
23 | behind the garage, is a given when you go to the
24 | Planning Board.

25 | If you have a four story building, they get

1 approval sometimes, whatever. That would be
2 three bedrooms, three bedrooms, and then parking
3 on the ground floor. But I challenge those. I
4 got two of them in court right now and I think
5 they're going to lose. And if not, they're going
6 to spend three years and 50 grand on legal fees.

7 So, to say that the -- you know, the
8 alternative is just go to the Planning Board and
9 get a four story building approved isn't quite
10 accurate.

11 Now, I think this building modified the way
12 you're talking about, which is and -- and you can
13 change it to three bedroom apartments, if you
14 want, but to have six two bedroom, or three
15 bedroom apartment, get rid of the studios, have
16 eight parking spots, that's a big improvement, I
17 think, over two three family houses.

18 The truth is, with the three family houses,
19 you have four real parking spots inside, and four
20 jokes, which are the guys you'll have on the
21 apron. This would be eight real parking spots.

22 I think it's much better -- and I wouldn't
23 challenge this if it's six apartments. If it's
24 eight or nine, this will be challenged.

25 So, I think the --

1 Frankly, I think the best alternative is
2 what you suggested. And if they don't like it,
3 they can go to the Planning Board and get sued
4 there.

5 It's late. I don't like to normally be
6 this blunt, but it's late and I'm tired. Okay.

7 MR. BONACCI: Chairman?

8 VICE CHAIRMAN GRULLON: Thank you, Mr.
9 Price.

10 MR. BONACCI: I think -- I think that --

11 MR. PEREIRAS: I'm tired, too --

12 MR. BONACCI: -- that's the best.

13 MR. PEREIRAS: -- but just to address Mr.
14 --

15 Should I?

16 VICE CHAIRMAN GRULLON: Yeah. Go ahead.

17 MR. PEREIRAS: Were you talking? I'm
18 sorry.

19 MR. BONACCI: No. I was just --

20 MR. PEREIRAS: Just to address Mr. Price's
21 comments.

22 Let's say, on a very conservative note, we
23 compare these to a three family that's three
24 stories. We're still building six apartments --
25 six bedrooms for the top units, and we'd always

1 do two bed -- three bedrooms each above. So,
2 that's six -- six bedrooms. Plus, in the ground
3 floor, we've been doing them with two bedrooms
4 and they're approved, and you haven't appealed
5 any of them, Mr. Price.

6 So, we still have ten bedrooms in total in
7 that -- eight bedrooms in total in that
8 situation.

9 So, if we built two of those, and I'm
10 saying -- and we're speaking conservatively here,
11 if we build two of those, we're at 16 bedrooms,
12 which we still have less. We still have 15.

13 So, even on the most conservative note that
14 we say we can't approve this, it's -- it's -- we
15 still have less bedrooms. We still have less
16 density.

17 That said, the Planning Board has been
18 approving, and I don't present them, because I
19 hate them that much. That's how -- that's my
20 integrity, and that's what I do.

21 I don't present them, because I hate them
22 that much. Four story, three families. They're
23 done by other people. They've been approved, and
24 they've been approved this last month. And they
25 were approved a couple months ago, they were

1 approved. And it's been done. And Mr. Price has
2 them in court, but Mr. Price has not won. And
3 there's a lot of them built all over town. So,
4 it's a fair comparison to make.

5 That said, even conservatively, with
6 something that Mr. Price has not appealed, and
7 will not appeal, we're still talking 16 bedrooms.
8 What we're proposing is 15 bedrooms. It's less.

9 MR. BONACCI: But if you drop the studios,
10 you're saying you get the parking.

11 VICE CHAIRMAN GRULLON: You would drop one
12 studio and --

13 MR. PEREIRAS: We'll --

14 VICE CHAIRMAN GRULLON: -- provide two --
15 two more parking spaces.

16 MR. PEREIRAS: One more parking --

17 VICE CHAIRMAN GRULLON: I mean, one more.

18 MR. PEREIRAS: -- space.

19 Yes.

20 VICE CHAIRMAN GRULLON: Any other comments
21 from the Board?

22 Okay.

23 Closed to the public.

24 Again, for the record, I don't believe that
25 this Board has, in the past, used the practice to

1 generate -- to make worse the parking situation
2 in Union City.

3 And I'm glad the Ordinance was adopted,
4 because I believe most of the problems that we
5 have in the city are created from all the
6 vehicles coming from all the cities to take our
7 spaces.

8 And the projects that we've been -- that
9 have been in front of -- of our Board here, we
10 always outweigh to see what's -- what's allowed
11 to be constructed there.

12 And I'm a resident of Union City, and have
13 seen a lot of three family houses. A lot of
14 them. And you go two -- two or three year after
15 the construction, they don't use the garage for
16 parking, because it's no -- there's no -- it's no
17 way they can -- they can manage to park the cars.
18 All cars in the -- parking on the street, off-
19 site.

20 When I see application that gives me a
21 whole floor for parking, that will bring the
22 resident of the building to put their cars inside
23 the building, not to -- because of the situation
24 of having tandem parking, they will have to go
25 and find off-street parking -- off -- off-site

1 parking on the street, and make the situation
2 worse.

3 I believe this type of -- of application
4 will be a better fit for the area than a three --
5 two three family house.

6 With that saying, I make a motion to grant
7 the application, with the condition to reduce the
8 application to eight units, and make it to be
9 eight parking spaces.

10 And please submit plans before.

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

13 Second by Margarita Gutierrez.

14 Okay, being that there are eight members,
15 only seven can vote. Mr. -- I'm going to call
16 only seven members. Alternate 4 is going to --
17 hold on, on the vote.

18 All right.

19 Roll call on the motion.

20 Mr. Gullon?

21 VICE CHAIRMAN GRULLON: Yes, with the
22 condition.

23 THE SECRETARY: Make notice that they need
24 a revised plans, also.

25 VICE CHAIRMAN GRULLON: Yes.

1 THE SECRETARY: Mrs. Gutierrez?

2 MS. GUTIERREZ: Yes, with all the
3 conditions said.

4 THE SECRETARY: Mr. Ortiz?

5 MR. ORTIZ: Yes.

6 THE SECRETARY: Mr. Pressey?

7 MR. PRESSEY: Yes.

8 THE SECRETARY: Mr. Medina?

9 MR. MEDINA: Yes.

10 THE SECRETARY: Mr. Bonacci?

11 MR. BONACCI: No.

12 THE SECRETARY: Mr. Marotta?

13 MR. MAROTTA: No.

14 THE SECRETARY: Five in favor, two against.
15 Motion carries.

16 MS. PEREIRAS: Thank you all very much.

17 MR. PEREIRAS: Thank you, everyone.

18 Thanks.

19 MS. PEREIRAS: Thank you.

20 MS. GUTIERREZ: Thank you.

21 MR. MAROTTA: I'd bring this to court. And
22 I'd win.

23 MR. DOUMAS: I think it's a beautiful
24 building.

25 MR. MAROTTA: I win. Beauty has nothing to

1 do with it.

2 MR. DOURMAS: It makes perfect sense.

3 * * *

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 **Paula Escobar - 2404 Summit Avenue:**

2

3 VICE CHAIRMAN GRULLON: There's one more
4 application.

5 MR. PRESSEY: Come in.

6 MR. MAROTTA: Okay. I'm leaving.

7 MR. PANEQUE: Wait. Wait.

8 MR. PRESSEY: Where you going?

9 MR. PANEQUE: We're not done yet.

10 MR. PRESSEY: No. One more. One more.

11 THE SECRETARY: One more. One more.

12 MR. PRESSEY: One more. One more.

13 THE SECRETARY: No. One more.

14 No, don't leave.

15 MS. GUTIERREZ: Don't leave.

16 THE SECRETARY: All right.

17 MR. PRESSEY: One more. This will take --
18 this will take ten minutes. Ten minutes. Ten
19 minutes.

20 THE SECRETARY: All right. Next
21 application on tonight's agenda is a
22 continuation.

23 MR. PRESSEY: Continuation.

24 THE SECRETARY: Paula Escobar, 2404 Summit
25 Avenue.

1 This was adjourned on January 12 and also
2 on February 16.

3 MR. PANEQUE: Members of the Board, Mr.
4 Chairman, this application was carried to tonight
5 in order for the applicant to submit the ingress
6 and egress easement, which was made a condition
7 for this daycare center.

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

10 MR. PANEQUE: Now, I've had an opportunity
11 to speak to Ms. Pereiras. She had the agreement
12 prepared, however the surveyor did not prepare
13 the correct metes and bounds description,
14 describing the actual easement. He prepared a
15 metes and bounds description for the entire
16 property.

17 It was explained that in order for the
18 application to be approved, the easement
19 agreement had to contain a metes and bounds
20 description of the actual easement, so that in
21 the future, there wouldn't be any change of where
22 the easement was located.

23 Since the agreement was not properly
24 prepared, I'm going to request that this matter
25 be carried to the next meeting in order to allow

1 the applicant's attorney and the surveyor to
2 correct that issue, and submit the agreement for
3 us to review.

4 If it's properly corrected at the next
5 application, then we can vote on the Resolution.

6 You have a question, Mr. Marotta?

7 MR. MAROTTA: Well, my -- my question -- is
8 not a question.

9 I wasn't at that last meeting when the --
10 when the experts testified, so I received a
11 transcript, and I read the transcript over maybe
12 three times, so I could participate in -- in the
13 determination to be made here.

14 So, I have some comments to make on this,
15 because I don't think this project should be
16 approved, because the -- in my opinion, they
17 failed to prove their case. And I'd like to take
18 five minutes and -- and explain it to you, to the
19 Board.

20 Or you want me to wait until the next
21 meeting to do that?

22 MR. BONACCI: Yeah. We'll wait till the
23 next meeting.

24 MR. PANEQUE: Because of the time --

25 MR. MAROTTA: I can do it in five minutes.

1 MS. GUTIERREZ: Have to wait till the
2 meeting.

3 MR. BONACCI: No, we can wait.

4 MS. GUTIERREZ: We can wait till the
5 meeting.

6 MR. BONACCI: We'll wait. We'll wait.

7 MS. GUTIERREZ: We'll wait.

8 MR. PANEQUE: I think the consensus is, Mr.
9 Marotta to --

10 MR. MAROTTA: I'm talking about the
11 testimony of their -- of their planner.

12 MR. PANEQUE: Yes.

13 MR. MAROTTA: The planner did not prove the
14 case.

15 MR. PANEQUE: Why don't we allow you to
16 make those comments at the next meeting?

17 MR. MAROTTA: At the next meeting, before
18 we --

19 MR. PANEQUE: Before we take the vote.

20 MR. MAROTTA: Okay. Sure.

21 MR. PANEQUE: And then, it will be fresh in
22 everybody's mind.

23 MR. MAROTTA: Okay. Right. Okay.

24 MR. PANEQUE: In order for them to --

25 MR. MAROTTA: Great.

1 MR. PANEQUE: -- cast a vote.

2 MR. MAROTTA: Thank you very much.

3 THE SECRETARY: Okay. The --

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

6 THE SECRETARY: Okay.

7 The members was present at the -- at the
8 hearing of the application was Mr. Grullon, Mrs.
9 Gutierrez, Mr. Ortiz, Mr. Pressey and Mr. Medina.

10 I also have an Affidavit from Mr. Marotta
11 that he read the transcripts of the previous
12 meetings.

13 Can I have a motion to adjourn this
14 application?

15 VICE CHAIRMAN GRULLON: Motion to adjourn
16 it --

17 THE SECRETARY: Motion --

18 VICE CHAIRMAN GRULLON: -- to the next
19 meeting.

20 THE SECRETARY: Motion by Mr. --

21 MS. GUTIERREZ: Second it.

22 THE SECRETARY: -- Grullon.

23 Second by Mr. Pressey.

24 Roll call on the motion.

25 Should I get everybody?

1 MR. SPATZ: You can because it's of the
2 Board here to adjourn. So, yeah, you can call
3 everybody.

4 THE SECRETARY: Mr. Gullon?

5 VICE CHAIRMAN GRULLON: Yes.

6 THE SECRETARY: To adjourn the application.
7 Mrs. Gutierrez?

8 MS. GUTIERREZ: Yes.

9 THE SECRETARY: Mr. Ortiz?

10 MR. ORTIZ: Yes.

11 THE SECRETARY: Mr. Pressey?

12 MR. PRESSEY: Yes.

13 THE SECRETARY: Mr. Medina?

14 MR. MEDINA: Yes.

15 THE SECRETARY: Mr. Bonacci?

16 MR. BONACCI: Yes.

17 THE SECRETARY: Mr. Marotta?

18 MR. MAROTTA: Yes.

19 THE SECRETARY: Mr. Doumas?

20 Mr. Doumas?

21 MR. DOUMAS: Yes.

22 THE SECRETARY: Yes.

23 And is eight in favor. Motion carries.

24 MR. SPATZ: Yeah.

25 MS. PEREIRAS: Thank you all very much.

1 Good night. I'll see you --

2 MS. GUTIERREZ: Good night.

3 MS. PEREIRAS: -- next month.

4 MR. BONACCI: Thank you.

5 * * *

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 **ADJOURNMENT:**

2

3 THE SECRETARY: All right.

4 There being no other application on
5 tonight's agenda, can I have a motion to end
6 tonight's meeting?

7 Motion by Mr. Pressey.

8 MS. GUTIERREZ: I'm seconding.

9 THE SECRETARY: Second by Mrs. Gutierrez.
10 All in favor?

11

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

13

14 THE SECRETARY: The ayes have it.

15 Thank you.

16 Good night everyone.

17 MR. SPATZ: Take care.

18

19 (Whereupon, the proceedings were concluded
20 at 10:27 p.m.)

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, March 9, 2017 and
10 digitally recorded.

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25 Monitored and proofread by: Deborah Dillon