

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, October 12, 2017
 Commencing at 6:17 p.m.

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

VICTOR M. GRULLON
 JOHN MEDINA
 MIGUEL ORTIZ
 DAVID W. PRESSEY
 JOSEPH D. BONACCI, Vice Chairman

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

MARGARITA GUTIERREZ
 PETER C. DOUMAS, Alternate No. 4
 LIBERO MAROTTA, 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, 800 Palisade Ave., LLC

BIANCA P. PEREIRAS, ESQ.,
Attorney for Applicant, Leonel Calvo

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

BIANCA P. PEREIRAS, ESQ.,
Attorney for Applicant, Dee Ferra

ANTHONY BIANCO, ESQ.,
Attorney for Applicant, New J. LLC

FRANK FERRARO, ESQ.,
Attorney for Applicant, T-Mobile Northeast, LLC,
711-715 Sip Street

FRANK FERRARO, ESQ.,
Attorney for Applicant, T-Mobile Northeast, LLC,
2017-19 Summit Ave.

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1 MS. DILLON: On the record.

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

4 Please take notice that on Thursday,
5 October 12, 2017, at six p.m., a Regular Meeting
6 is scheduled for the City of Union City Zoning
7 Board of Adjustment, to be held in the Municipal
8 Chamber, located on the Second Floor, 3715
9 Palisade Avenue, Union City, New Jersey.

10 Notice of this meeting has been provided as
11 follow:

12 Notice of this meeting setting forth the
13 time, date and location, to the agenda, to the
14 extent known, was sent to The Jersey Journal, The
15 Record, and The Hudson Reporter, has been posted
16 on the bulletin board in the City Hall, and has
17 been made available to the public in the Office
18 of the Municipal Clerk.

19 Can everybody kindly rise to salute the
20 flag, please?

21

22 (Whereupon, the Pledge of Allegiance was
23 said by all.)

24

25 THE SECRETARY: Thank you.

1

2 **ROLL CALL:**

3

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

6 Mr. Marotta? Absent.

7 Mr. Bonacci?

8 VICE CHAIRMAN BONACCI: Here.

9 THE SECRETARY: Mr. Grullon?

10 MR. GRULLON: Here.

11 THE SECRETARY: Ms. Gutierrez? Absent.

12 Mr. Ortiz?

13 MR. ORTIZ: Here.

14 THE SECRETARY: Mr. Pressey?

15 MR. PRESSEY: Here.

16 THE SECRETARY: Mr. Medina?

17 MR. MEDINA: Here.

18 THE SECRETARY: Mr. Doumas is absent.

19 Let the record indicate there are five
20 present. We have a full quorum.

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1 **APPROVAL OF PREVIOUS MEETING MINUTES:**

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3 (1) Regular Meeting held on September 14, 2017

4

5 THE SECRETARY: Approval of previous
6 meeting minutes.

7 Regular Meeting held on September 14, 2017.

8 Can I have a motion to adopt meeting
9 transcripts?

10 Motion by Mr. Bonacci.

11 Second by Mr. Ortiz.

12 Roll call on the motion.

13 Mr. Bonacci?

14 VICE CHAIRMAN BONACCI: Yes.

15 THE SECRETARY: Mr. Grullon?

16 MR. GRULLON: Yes.

17 THE SECRETARY: Mr. Ortiz?

18 MR. ORTIZ: Yes.

19 THE SECRETARY: Mr. Pressey?

20 MR. PRESSEY: Yes.

21 THE SECRETARY: Mr. Medina?

22 MR. MEDINA: Yes.

23 THE SECRETARY: Five in favor, motion
24 carries.

25

* * *

1 **ATTORNEY RESOLUTION:**

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3 (1) Resolution to appoint the Attorney for the
4 Zoning Board of Adjustment, commencing on July 1,
5 2017 through June 30, 2018

6

7 THE SECRETARY: Resolutions.

8 We have Attorney Resolutions, to appoint
9 the attorney of the Zoning Board of Adjustment,
10 commencing on July 1st, 2017 through June 30,
11 2018, retroactive to July.

12 Can I have a motion to adopt this
13 Resolution?

14 MR. GRULLON: Motion.

15 THE SECRETARY: Motion by Mr. Ortiz.

16 Second by Mr. Gullon.

17 Roll call on the motion.

18 Mr. Bonacci?

19 VICE CHAIRMAN BONACCI: Yes.

20 THE SECRETARY: Mr. Gullon?

21 MR. GRULLON: Yes.

22 THE SECRETARY: Mr. Ortiz?

23 MR. ORTIZ: Yes.

24 THE SECRETARY: Mr. Pressey?

25 MR. PRESSEY: Yes.

1 THE SECRETARY: Mr. Medina?

2 MR. MEDINA: Yes.

3 THE SECRETARY: Five in favor, motion
4 carries.

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1 **ADOPTION OF RESOLUTIONS:**

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3 (1) 704 8th LLC, 704 8th Street, Block 42, Lot
4 19. Legalization of existing ground floor
5 residential unit, interior alteration and
6 exterior rehabilitation of the structure to
7 create one three bedroom unit in each building.

8 **Approved on 09-14-2017**

9 (2) Cofradia Arquidiocesana De La Virgen De La
10 Caridad Del Cobre, Inc., 3333 Hudson Ave., Block
11 200, Lots 32, 33. Propose house of worship.

12 **Approved on 09-14-2017**

13 (3) Sundar Patel, Kalpana Patel, Vipin Patel, &
14 Maya Patel, 211 New York Ave., Block 8, Lot 6.
15 Construction of a new single family residence; to
16 replace a demolish (sic) fire damages (sic) two
17 family dwelling. **Approved on 09-14-2017**

18 (4) Ankur Patel & Vivek Patel, 209 New York
19 Ave., Block 8, Lot 5. Construction of a new
20 single family residence, to replace a demolished
21 fire damaged two family dwelling. **Approved on**
22 **09-14-2017**

23

24 THE SECRETARY: All right.

25 We have four Resolutions of the previous

1 | approvals, application approvals.

2 | First Resolution on tonight's meeting is
3 | 704 8th Street, LLC, 704 8th Street.

4 | Second Resolution.

5 | Cofradia Arquidiocesana De La -- De La
6 | Caridad Del Cobre, 3333 Hudson Avenue.

7 | Resolution number three.

8 | Sundar Patel, Kalpana Patel, Vipin Patel
9 | and Maya Patel, 211 New York Avenue.

10 | And Resolution number four.

11 | Ankur Patel and Vivek Patel, 209 New York
12 | Avenue.

13 | Can I have a motion to adopt these
14 | Resolutions?

15 | Motion by Mr. Bonacci.

16 | Any second on the motion?

17 | Mr. Ortiz, second.

18 | Roll -- roll call on the motion to adopt
19 | these Resolutions.

20 | Mr. Bonacci?

21 | VICE CHAIRMAN BONACCI: Yes.

22 | THE SECRETARY: Mr. Gullon?

23 | MR. GRULLON: Yes.

24 | THE SECRETARY: Mr. Pressey?

25 | MR. PRESSEY: Yes.

1 THE SECRETARY: Mr. Medina?

2 MR. MEDINA: Yes.

3 THE SECRETARY: Mr. Ortiz?

4 MR. ORTIZ: Yes.

5 THE SECRETARY: Five in favor, motion
6 carries.

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1 **800 Palisade Avenue, LLC:**

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3 THE SECRETARY: All right.

4 First application on tonight's agenda, 800
5 Palisade Avenue, LLC.

6 Mrs. Pereiras, please?

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

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

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

12 MR. PANEQUE: Let the record reflect that
13 I've been provided by Ms. Pereiras with the
14 following documentation:

15 I have a copy of a notice that went out to
16 all property owners within the 200 foot radius.

17 I have a certification as to the
18 publication and service, which is signed by Ms.
19 Pereiras, indicating that notice of tonight's
20 hearing was sent out to all property owners
21 within the 200 foot radius.

22 I've also been provided with an Affidavit
23 of Publication, with a date of September 29,
24 2017, issued by The Jersey Journal, indicating
25 that notice of tonight's hearing was published on

1 said date.

2 I've also been provided with the certified
3 mail receipts, with a U.S. Post Office stamp date
4 of September 29, 2017, as well as all of the
5 return receipts that have come back to date, and
6 the unopened, unclaimed mail.

7 I've also been provided with a list from
8 the Tax Assessor's Office, with a date of October
9 4th, 2017.

10 Actually, strike that.

11 The date on the list is September 25th,
12 2017, of all property owners within the 200 foot
13 radius of the property in the application, which
14 is 800 Palisade Avenue, Union City, New Jersey.

15 Based on the documentation that's been
16 provided, this Board has jurisdiction to proceed
17 and hear this matter.

18 MS. PEREIRAS: Thank you very much,
19 counsel.

20 Good evening, counsel, good evening
21 Chairman, members of the Board.

22 May it please the Board, Bianca Pereiras on
23 behalf of the applicant.

24 This is in regards to property located at
25 800 Palisade Avenue. What we are looking to do

1 is to construct a new two family dwelling.

2 We have one expert to testify before the
3 Board this evening, and that is our architect,
4 Mr. Manuel Pereiras.

5 MS. DILLON: Please raise your right hand.

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

8 MR. PEREIRAS: I do.

9 MS. DILLON: Name for the record.

10 MR. PEREIRAS: Manny Pereiras,
11 P-E-R-E-I-R-A-S, with Pereiras Architects
12 Ubiquitous, 1116 Summit Avenue, Union City.

13 MS. DILLON: Thank you.

14 MS. PEREIRAS: And for purposes of the
15 record, Mr. Pereiras has testified in the past
16 before this Board, and I ask that he be accepted
17 as an expert in the field of architecture.

18 VICE CHAIRMAN BONACCI: We accept your
19 qualifications.

20 MR. PEREIRAS: Thank you.

21 MS. PEREIRAS: Mr. --

22 MR. PEREIRAS: It's good to be here.

23 MS. PEREIRAS: Mr. Pereiras, are you
24 familiar with 800 Palisade Avenue?

25 MR. PEREIRAS: I am.

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

3 MR. PEREIRAS: I have.

4 MS. PEREIRAS: And would you kindly walk us
5 through the application?

6 MR. PEREIRAS: I would be very happy to.

7 For purposes of this presentation, the same
8 drawings that are before you are placed on this
9 easel.

10 What we have in a typical Union City R
11 zone, whereas a typical lot is 25 by 100, we're
12 in -- presented with a much better situation.

13 The frontage on Palisade Avenue is actually
14 37.36 -- 37.5 feet wide. So, we have an
15 oversized lot, width-wise, and a much oversized
16 lot also lengthwise.

17 At one end, it's 114 feet in depth, and
18 then, it does a strange thing. It actually does
19 an L shape around and hugs the adjacent property
20 to the side, and that L goes another 75 feet
21 down.

22 So, we have a full square footage of 5,187
23 square feet.

24 So, as you know, in the -- in an R zone,
25 we're typically allowed a three family house in

1 2500 square feet. We're close to -- you know,
2 we're -- we are at 5,800 square feet. However,
3 we're only presenting a two family house with
4 very generous setbacks.

5 What we have existing there is a structure
6 that is nonconforming in almost all sides. We
7 have a two inch setback along the south side.
8 The rear yard's only 16.5 feet setback. The
9 front yard is seven foot eight.

10 We're actually going to demolish that house
11 and create a new structure, that's only a two
12 family house, with very generous setbacks on
13 every side.

14 First and foremost, we're pushing the house
15 back so that we have a ten foot front yard
16 setback along the front of the house.

17 In the -- near the front of the house,
18 along Palisade Avenue, we're creating a five foot
19 nine inch setback on both sides, so it's going to
20 create and really standout the house in a very
21 beautiful way from the adjoining neighbors.

22 And then, as you go further into the house,
23 the stairs are actually going to sit on the
24 property line, and then the building itself is
25 going to be setback three foot one.

1 So, in the front, it's going to be measured
2 five foot nine. At the stairs, it's zero, just
3 the stairs, no covering over that. And then,
4 further back, it's three foot one setback.

5 We are asking for a variance on the rear
6 yard, where -- since the site tapers, it's 20
7 feet at the lowest point, it's 24 feet over here,
8 but then we also have the entire rear yard
9 setback -- rear yard that is this entire area.
10 So, we are asking for a -- for a variance there,
11 although it's better than what it used to be,
12 we're actually reducing the -- the rear yard
13 setback, and we have a generous -- very, very
14 generous rear yard here.

15 And what we're proposing is simply a three
16 story structure. We're not going any higher.

17 I'm going to turn now -- actually, before
18 we go there, we're proposing two driveways. So,
19 each of the two family -- you know, one family
20 and one family, each of them has a driveway. So,
21 we're taking two cars and putting them within the
22 building, so that each of these two family houses
23 have two cars within the building, and they have
24 the driveway area in order to pull up their
25 garage door and get the car in.

1 We also are providing landscaping. So, on
2 each side of that driveway, there is a
3 landscaping trail, so that we're going to be able
4 to introduce greenery to the front yard on
5 Palisade Avenue. Very -- another very beautiful
6 feature.

7 Here, you see the three separate floors.
8 This is the ground floor level, where you see
9 parking along the front of the building. The
10 rear of the building has one of the master
11 bedrooms. Each of these units has three master
12 bedroom suites. Master, bathroom, walk-in
13 closet, and then storage area, with utilities on
14 the ground floor.

15 If you go upstairs, led by the stairs along
16 the side, you enter into a small parlor where you
17 have your kitchen and dining area, and another
18 master suite along the front of the house.

19 And if you go further up in the stairs, you
20 have another parlor with a family room and
21 another master suite. The rear of the house has
22 a -- what we did in the rear, also, is that we
23 stepped back the top floor, so that that top
24 floor has a terrace overlooking New York City,
25 along the top.

1 There is a small Juliette balcony along the
2 front of the building, on both the second and
3 third floor. It's only an 18 inch Juliette
4 balcony, where you could open your doors towards
5 Palisades Avenue.

6 Turning now to the elevations.

7 You can see it's a simple, clean, modern
8 design. The entire height of the building is 35
9 feet, in compliance with the Ordinance. You have
10 the garage doors along the front of the building,
11 with a hard stucco base, a metal panel siding for
12 the top two floors, with very large glass windows
13 with the Juliette balconies.

14 And as you could see on the side, you have
15 the stairs that lead you to the first floor
16 above.

17 One of the things that we did, we hate the
18 -- we hate the presence and the kind of design --
19 typical design, where you have these huge stairs
20 in front of the building, that's why we tucked it
21 all in the side. And then, we also played with
22 the heights a little bit, so that you only go up
23 a few steps, enter into a foyer, and then walk in
24 up a little bit higher, so it reduces kind of the
25 scale of those monster steps. It makes them very

1 subtle and very nice and very elegant.

2 These are going to be two extremely
3 beautiful units. Two single family houses,
4 basically. It's a two family, sharing the wall
5 down the middle, with amazing views of New York
6 City, sitting right here in -- in lovely Union
7 City.

8 This is the side view. It's simply going
9 to be vinyl siding, as encouraged by our
10 Ordinance. And it's a very simple design. You
11 could see that the stairs lead up gradually to
12 that first floor there.

13 I'm open for your questions.

14 MR. PRESSEY: Can you repeat the size of
15 the bedrooms?

16 MR. PEREIRAS: The size of the bedrooms?
17 They're -- they're very generous size.

18 So, on the third floor, it's 14.8 by 17.
19 But then, that's the bedroom itself. In addition
20 to that, you have a four by ten closet and a six
21 by 17 master bath.

22 The other floors are actually very similar
23 sized bedrooms. Actually, almost identical. The
24 smallest one is 14.8 by 16.

25 VICE CHAIRMAN BONACCI: Mr. Pereiras, can

1 | you provide some testimony regarding the
2 | compliance with the Palisade Preservation Overlay
3 | District that this is situated in?

4 | MR. PEREIRAS: Be happy to. And if you
5 | don't mind me saying I don't believe that --

6 | Mr. Spatz, I defer to you.

7 | MR. SPATZ: Okay.

8 | MR. PEREIRAS: Does -- does it do anything
9 | that changes this --

10 | MR. SPATZ: No. You're -- you're in the
11 | Palisades Overlay zone, --

12 | MR. PEREIRAS: Yeah.

13 | MR. SPATZ: -- which is on the eastern side
14 | of Palisade Avenue, and then down to the border
15 | for Union City.

16 | MR. PEREIRAS: Um hum.

17 | MR. SPATZ: And just to indicate for the
18 | Board, and for the record that the property does
19 | not have steep slope --

20 | MR. PEREIRAS: It doesn't. Yeah.

21 | MR. SPATZ: -- area, so I think that's just
22 | to address that.

23 | MR. PEREIRAS: That's the only thing I
24 | could think of. Yeah.

25 | There is a Steep Slope Ordinance. This

1 | site is relatively flat. The furthestmost portion
2 | of it has a little bit of a slope. However, it
3 | doesn't qualify as a steep slope. So, we're --
4 | we're not effected by that.

5 | VICE CHAIRMAN BONACCI: Okay.

6 | So, the application, in your opinion,
7 | doesn't do anything to change that.

8 | MR. PEREIRAS: It preserves the Palisades
9 | as they are and it doesn't effect the steep
10 | slope.

11 | VICE CHAIRMAN BONACCI: Okay.

12 | Can you provide a little testimony with
13 | regards to emergency evacuation procedures,
14 | lighting, emergency lighting?

15 | MR. PEREIRAS: I'd be happy to. I'd like
16 | to remind you, this is a two family house. So,
17 | the standards are actually extremely low, based
18 | -- this Board is very used to seeing multi-
19 | families and larger structures.

20 | This is a two family house. So, the
21 | occupancy is obviously very low for a unit like
22 | this, and it's only a three story structure.

23 | So, since it's a new structure, it's going
24 | to be in compliance with all new local Codes.
25 | The -- there's a fire separation rating between

1 the garage area and the house itself. There's a
2 fire separation -- a two hour fire separation
3 between the two units. So, there's a great deal
4 of fire safety there.

5 There's going to be a inter-connected fire
6 alarm system, which -- within each of these
7 houses, individual to each of the houses.

8 And then, egress from this, in case of an
9 emergency, is extremely simple. First and
10 foremost, you have your front door exit. You
11 have exit through -- inside the building,
12 throughout the -- through the garage that has
13 egress doors, as well.

14 You have emergency escape exit through the
15 windows, which is permitted. You also have
16 emergency escape through the rear yard, where
17 it's also deemed, what we call from a Code and
18 safety standpoint, an area of refuge. Anything
19 greater than 50 feet from a building is
20 considered an area of refuge, and we have that
21 because of the interesting topography of the
22 site.

23 So, this is -- it's as safe of a structure
24 you could possibly kind of present, as a two
25 family house, and located on the site, it's an

1 extremely safe building.

2 VICE CHAIRMAN BONACCI: Okay.

3 You don't look -- you're not seeking any
4 sort of parking variances.

5 MR. PEREIRAS: We are. We do, because the
6 Ordinance would require 2.5 spaces per unit,
7 since these are three bedrooms, and we have two
8 per each unit.

9 That said, there's a significant hardship
10 because of the size of the lot. We could make
11 this in compliance, in which case, we would have
12 much less setbacks, which I think is a favorable
13 zoning solution, a zoning alternative to having
14 less setbacks.

15 And yet -- and in comparison to other
16 properties within the same neighborhood, this is
17 a significant amount of parking; two per unit.
18 So, we have four parking spaces in total, whereas
19 five would be required.

20 So -- and -- and Mr. Spatz, do you agree
21 with those numbers?

22 MR. SPATZ: I actually have that -- that
23 only two spaces are required for each unit, for a
24 three bedroom, in a -- in a two family house, so
25 you do --

1 MR. PEREIRAS: Because it's a two family.

2 Yes.

3 MR. SPATZ: Right.

4 MR. PEREIRAS: I'm going to off RSIS
5 standards. I'm used to -- I'm before the Zoning
6 Board, I'm used to --

7 You're completely right.

8 MR. SPATZ: Right.

9 MR. PEREIRAS: So, we don't even need a
10 variance.

11 MR. SPATZ: Correct.

12 MR. PEREIRAS: So, we're in compliance.

13 MR. SPATZ: Correct.

14 VICE CHAIRMAN BONACCI: So, no parking
15 variance is required.

16 MR. SPATZ: No parking variance is needed.
17 The only variance needed is for the rear yard.

18 VICE CHAIRMAN BONACCI: Rear yard.

19 MR. PEREIRAS: Right.

20 VICE CHAIRMAN BONACCI: Okay.

21 MR. PEREIRAS: And I'd like to clarify that
22 the stairs, to get into the house, have a side
23 yard setback. Just the stairs.

24 VICE CHAIRMAN BONACCI: Let me see if I had
25 anything else for you.

1 No, that's it. I don't have any more
2 questions for you now.

3 MR. GRULLON: And Mr. Pereiras, could you
4 describe the variance you're requesting for the
5 rear yard?

6 MR. PEREIRAS: Absolutely.

7 MR. GRULLON: Could you --

8 MR. PEREIRAS: I'll --

9 MR. GRULLON: Could you go over that?

10 MR. PEREIRAS: I'll be doing that in more
11 detail.

12 So, the rear yard, the way our Ordinance
13 defines it, it's 25 percent of the overall depth
14 of the building, which in many ways, we're almost
15 like penalized for having a larger lot, which is
16 a little -- it's counterintuitive.

17 Since we have 117 foot lot, we're required
18 28 foot basic setback from the rear yard. So, we
19 don't comply with that full 28 feet. We have 20
20 feet at the worst spot, 24 feet here, but we have
21 this entire rear yard area along this portion.
22 And please keep in mind, I think this is
23 significantly important, the existing rear yard
24 on this property, as it is right now, is only 16
25 feet five inches. So, we're actually improving

1 | it significantly. We're cutting it back even
2 | further.

3 | VICE CHAIRMAN BONACCI: The minimum rear
4 | yard requirement is 25 feet. And the buildings
5 | will have a rear yard of 20.4. So, you guys are
6 | only off by a little bit more than four feet,
7 | almost five.

8 | Do you guys have any more questions?

9 | MR. GRULLON: There's an existing structure
10 | there now, no?

11 | MR. PEREIRAS: There is.

12 | MR. GRULLON: And is -- is the existing
13 | structure providing parking?

14 | MR. PEREIRAS: It is not.

15 | MR. GRULLON: It's not. Okay. Well, we
16 | can say that what you're proposing will be an
17 | improvement to the -- you know, to the area.

18 | MR. PEREIRAS: It's an improvement for many
19 | reasons.

20 | First and foremost, we're building a new
21 | state-of-the-art facility, with increased
22 | setbacks. So, there's a fire safety there.
23 | That's a huge improvement for the neighborhood.

24 | There's an aesthetic improvement
25 | definitely. And -- and this is my baby. I love

1 | what I do, and I have a father's eye on it, but
2 | it would be a significant aesthetic improvement.

3 | There will be cars taken off the street,
4 | because we will be providing parking for four
5 | cars. So, that's another big improvement to the
6 | neighborhood.

7 | And we're creating more -- more of a
8 | landscaping presence along Palisade Avenue, by
9 | having the landscaping patches that we are
10 | proposing as well.

11 | So, all of these factors create a
12 | significant improvement to the neighborhood, and
13 | -- and provide for positive criteria.

14 | VICE CHAIRMAN BONACCI: Mr. Pereiras, you
15 | guys are going to have to demolish the existing
16 | one story --

17 | MR. PEREIRAS: Yes.

18 | VICE CHAIRMAN BONACCI: -- structure.

19 | Do you foresee there to be any sort of
20 | problem with the demolition of the structure, in
21 | regards to the neighbors or anything being
22 | difficult in that regard?

23 | MR. PEREIRAS: Wonderfully, we have an
24 | excellent Building Department that really crosses
25 | their T's and dots their I's. There is an 11

1 point checklist item in order to do any
2 demolition of structures in this town.

3 That includes such items as having an
4 environmental check for asbestos. It has such
5 items as baiting for rodents. It has a
6 requirement to notice the neighbors of the
7 property.

8 And I could go on and on for the list of
9 requirements that are very much in detail
10 reviewed, scrupulously reviewed by the inspectors
11 and by myself, as the architect preparing and
12 presenting the project.

13 So, all of these things take place. And
14 because of that, it provides me a great deal of
15 confidence that these buildings will be
16 demolished in -- in a proper way that will be of
17 minimum interference and annoyance to the
18 neighbors.

19 Will there be annoyance? Of course there
20 is. There's noise with demolition. There's some
21 dust with demolition. But these are all factors
22 that could be mitigated significantly, and we
23 will do that to the best of our ability.

24 VICE CHAIRMAN BONACCI: Mr. Pereiras, can
25 you testify that there will -- that you'll meet

1 the requirements with regards to the building
2 materials?

3 MR. PEREIRAS: Absolutely. It's an
4 Ordinance. We can't do anything -- you know,
5 that's another thing our Building Department will
6 check very clearly, and -- and we will be in
7 compliance with that.

8 VICE CHAIRMAN BONACCI: At this time, we'd
9 like to open questions to the public.

10 MS. DILLON: Mr. Price, please raise your
11 right hand.

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

14 MR. PRICE: I do.

15 MS. DILLON: Name and address for the
16 record, please.

17 MR. PRICE: Larry Price, 1006 Palisade.

18 MS. DILLON: Thank you.

19 MR. PRICE: Could you flip to the
20 renderings or the side views, whatever you call
21 them?

22 Okay. Now, in the lower one there, you
23 show three floors. Now, the first floor, the
24 lower floor that you show is the one that you go
25 onto when you go up the steps.

1 Correct?

2 MR. PEREIRAS: The steps are exterior
3 steps. So, they're on the outside of the
4 building. And you lead up to here, to the second
5 floor.

6 MR. PRICE: Okay.

7 MR. PEREIRAS: So, you enter the building
8 proper on the second floor.

9 MR. PRICE: Okay.

10 Now, I've been in the existing building,
11 and although it may not be steep slope, there is
12 a pronounced slope to this site.

13 MR. PEREIRAS: Um hum.

14 MR. PRICE: So, in the rendering there, you
15 show windows in the lower -- but, what's in
16 there?

17 MR. PEREIRAS: So, the -- the floor plan is
18 the best area to -- to illustrate what's there.

19 So, from this point to this point, which is
20 about a third of the way through the building,
21 there's parking. So, there's two garage -- two
22 car -- car garage.

23 The first small area is a laundry closet.
24 So their washer and dryer is there.

25 MR. PRICE: But we're talking about the

1 first floor. I'm not concerned about the first
2 floor, I'm concerned about the floor underneath
3 it.

4 MR. PEREIRAS: I don't show any windows.
5 It's crawl -- it's --

6 MR. PRICE: Well --

7 MR. PEREIRAS: It's a slab on grade.

8 MR. PRICE: Well, let's go back to the side
9 view.

10 MR. PEREIRAS: Um hum.

11 MR. PRICE: From grade?

12 MR. PEREIRAS: Yeah. The topography of the
13 site really tapers off more after the building.
14 If --

15 MR. PRICE: What are these?

16 MR. PEREIRAS: Those -- that's the first
17 floor, Mr. Price. Goes straight across.

18 That's where the bedroom is in the rear.

19 MR. PRICE: What -- from the curb or from
20 the front step --

21 MR. PEREIRAS: Um hum.

22 MR. PRICE: -- to the rear of the building,
23 what is the drop in elevation?

24 MR. PEREIRAS: There is an existing drop of
25 almost 18 inches, and we're proposing to

1 eliminate that drop in the -- in our proposed
2 building. So that is pretty much level. It's
3 going to be at grade at that point.

4 MR. PRICE: Is this building -- the rear of
5 your proposed building much less -- much less
6 than the proposed --

7 MR. PEREIRAS: Yeah. It's about seven feet
8 less, yes.

9 MR. PRICE: -- the exist -- the rear of the
10 existing building?

11 MR. PEREIRAS: Yes.

12 MR. PRICE: Okay.

13 Reason I'm asking this, the -- the existing
14 building is, quote unquote, one story, which
15 means from the curb, it goes up -- you know,
16 there's one story. But there's a second -- a
17 complete story, in fact, a complete apartment in
18 the lower floor because the slope of -- in fact,
19 if you were to go out the back of the existing
20 building from the lower floor, you would have to
21 step down.

22 MR. PEREIRAS: Um hum.

23 MR. PRICE: And those -- those ceilings are
24 generous. They're probably nine feet, maybe even
25 ten feet.

1 MR. PEREIRAS: And --

2 MR. PRICE: So --

3 MR. PEREIRAS: But the first floor also
4 steps up a few -- a couple --

5 MR. PRICE: There --

6 MR. PEREIRAS: Few steps.

7 MR. PRICE: There is a step up at the front
8 of the building --

9 MR. PEREIRAS: Um hum.

10 MR. PRICE: -- two feet or maybe three
11 feet.

12 MR. PEREIRAS: Um hum.

13 MR. PRICE: So -- yeah. The floor of the
14 -- of the ground floor apartment is probably,
15 maybe three feet above the -- because the
16 property not only goes this way, but it also goes
17 this way.

18 MR. PEREIRAS: And we could accomplish the
19 same thing, if we wanted to. However, we can't
20 because we're providing the -- that floor at
21 grade, with the parking. So, what we have left
22 over down below isn't a full height to make it a
23 habitable space.

24 MR. PRICE: All right. Okay.

25 Okay. That's one -- I just make one

1 comment about the rear yard setback.

2 I mean, you know, rear yard setbacks are
3 really, really important when there's somebody
4 living back of you.

5 MR. PEREIRAS: Um hum.

6 MR. PRICE: There's nobody living back of
7 this proper -- because it's -- it's the Palisades
8 and -- you know, it's just -- it's wild country.
9 So, I -- you know, technically, a rear yard
10 setback is required, but I don't think it's too
11 important.

12 Thank you.

13 MR. PEREIRAS: Thank you, Mr. Price.

14 MR. ORTIZ: Thank you, Mr. Price.

15 MR. PANEQUE: Any other members?

16 VICE CHAIRMAN BONACCI: Any other members
17 from the public?

18 Okay. Closed to the public.

19 Okay. I'm going to make a motion to
20 approve the application, but just for the record,
21 just so that we have this on the record, the
22 reasons for the approval, I'd like to state that
23 I feel that the site plan, including the proposed
24 conditions, provide for adequate emergency, fire
25 and police access and protection. It seems as

1 | though there'll be appropriate lighting, and as
2 | you testified, greenery, landscaping, which will
3 | make it a more attractive and convenient layout.

4 | So, with that said, I'll make a motion to
5 | approve this application.

6 | THE SECRETARY: Motion to approve the
7 | application by Mr. Bonacci.

8 | MR. GRULLON: Second.

9 | THE SECRETARY: Second by Mr. Grullon.

10 | Roll call on the motion to approve this
11 | application.

12 | Mr. Bonacci?

13 | VICE CHAIRMAN BONACCI: Yes.

14 | THE SECRETARY: Mr. Grullon?

15 | MR. GRULLON: Yes.

16 | THE SECRETARY: Mr. Pressey?

17 | MR. PRESSEY: Yes.

18 | THE SECRETARY: Mr. Medina?

19 | MR. MEDINA: Yes.

20 | THE SECRETARY: Mr. Ortiz?

21 | MR. ORTIZ: Yes.

22 | THE SECRETARY: Five in favor, motion
23 | carries.

24 | MS. PEREIRAS: Thank you all very much.

25 | THE SECRETARY: Thank you.

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

3 * * *

1 **Leonel Calvo - 709 New York Avenue:**

2

3 THE SECRETARY: Next application on
4 tonight's agenda, Leonel Calvo, 709 New York
5 Avenue.

6 Mrs. Pereiras, please?

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

9 VICE CHAIRMAN BONACCI: Thank you.

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

12 MR. PANEQUE: For the record, I've been
13 provided by Ms. Pereiras with the following
14 documentation:

15 Been provided with a copy of the tax list
16 from the Union City Tax Assessor's Office, dated
17 September 25th, 2017, showing all property owners
18 within the 200 foot radius of 709 New York
19 Avenue, Union City, New Jersey.

20 I've also been provided with a
21 certification as to publication and service,
22 signed by Ms. Pereiras, indicating that notice of
23 tonight's hearing, October 12, 2017, with respect
24 to the property at 709 New York Avenue, was sent
25 out by certified mail to all property owners on

1 September 29, as well as published in the local
2 newspaper.

3 I've also been provided with an Affidavit
4 of Publication from The Jersey Journal,
5 indicating that notice of tonight's hearing for
6 October 12, with respect to the property at 709
7 New York Avenue was published in The Jersey
8 Journal on September 29, 2017.

9 I've also been provided with the certified
10 mail receipts, with a postmark date of September
11 29, 2017, as well as the certified green cards
12 that have come back to date, and the unclaimed
13 envelopes.

14 Based on the documentation that's been
15 provided, I find that this Board does have
16 jurisdiction to proceed and hear this matter.

17 MS. PEREIRAS: Thank you very much,
18 counsel.

19 Again, Bianca Pereiras, on behalf of the
20 applicant for 709 New York Avenue, also known as
21 Block 36, Lot 5.

22 We're located in the CN neighborhood
23 commercial zone, and what we have existing is a
24 two family home. We're looking to legalize a
25 basement apartment, and also create a front

1 addition to the building.

2 We have one expert to testify, and that is
3 our architect, Mr. Manuel Pereiras.

4 MR. PEREIRAS: I recognize that I am still
5 under oath.

6 MS. PEREIRAS: Mr. Pereiras, are you
7 familiar with 709 New York Avenue?

8 MR. PEREIRAS: I am.

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

11 MR. PEREIRAS: I have.

12 MS. PEREIRAS: And could you kindly walk us
13 through the proposed addition, and legalization?

14 MR. PEREIRAS: I'd be very happy to.

15 We're on the west side of New York Avenue,
16 it's a CN zone. We have a typical 25 by 100 lot.
17 What is untypical of this location is that
18 there's an existing structure that's set back --
19 it is set back 63 feet from the curb line, and
20 it's an existing two family house. It's actually
21 a duplex on the first two floors. One is
22 partially below grade. Then, there's another
23 unit on the top floor.

24 What we're looking to do is provide a front
25 yard addition. It's actually a 19 foot three

1 | inch addition to the front yard of the building,
2 | keep the rest of the building on the perimeter
3 | the same setbacks that it is. We're not touching
4 | that -- that existing shell, and providing this
5 | new 19 foot three front yard -- front addition
6 | that still provides us with a 43 feet eight inch
7 | front yard, in which case we could provide for
8 | parking at an existing curb cut.

9 | So, we're going to have plenty of parking
10 | for this three family house that we propose, and
11 | we're taking this opportunity to take an
12 | extremely ugly, small, frame structure and
13 | provide a new, beautiful brick façade to it. So,
14 | we're providing a front stoop, with columns, so
15 | that it provides a covered entrance for the unit
16 | that's above, and the lower unit.

17 | As you could see here, the lower unit is
18 | located three feet one -- three -- a little bit
19 | over three feet below grade, but we created this
20 | well in order to make it feel a lot more open,
21 | and then introduce windows at that level, with
22 | steps going down.

23 | And then, provided brick and stone
24 | trimmings for the two floors above that, with a
25 | nice new cornice.

1 There are existing nonconformities for
2 pretty much everything.

3 The rear yard is only two foot four inches.
4 The side yards are two feet and one foot eight.
5 But then, again, these are all existing
6 nonconformities. We're not demolishing the
7 structure. We're keeping the existing structure
8 and it would be a hardship to the -- to the
9 applicant to demolish this existing house that
10 has been in existence there for many years.

11 The -- there's an existing nonconformity
12 for rear yard, side yard and for permitted use,
13 as well. The zone, in the CN zone, we require
14 commercial along the ground floor. This is a
15 residential house. We ask that it be continued.
16 We propose to continue the residential use as a
17 three family, so we do not have a commercial -- a
18 commercial component.

19 That's why we're coming before this Board
20 to introduce the residential on that ground
21 level, without a commercial component. And we
22 are asking for a use variance on that. Then,
23 again, this is an expansion of that existing
24 condition of residential.

25 And parking.

1 We -- if this were a commercial property,
2 the amount of parking that would be required for
3 this would be one spot for every 300 square feet,
4 whereas we're required two and a half spots for -
5 - per unit here. So, we're at seven and a half
6 spots, whereas in our parking in the front of the
7 building, we provide parking for that.

8 Turning now to page Z02. In sheet Z02, we
9 see our proposed plans. We're renovating the
10 interior of each of these units, making it into
11 three, three bedroom units. They're efficiency
12 units.

13 Where you walk in to the space, you're open
14 into a large living, kitchen, bathroom area, with
15 two bedrooms along the rear. The smaller bedroom
16 is eight foot seven by 11.5. The larger bedroom
17 is 10.10 by nine. And then, another bedroom
18 along the front of the building that's 11 by ten.

19 As you go to the floors above, it's overall
20 the same concept. Open floor plan area, kitchen,
21 living/dining room, bathroom and two bedrooms
22 along the back. Although the bedroom along the
23 front of the building becomes a little bit
24 larger. It's 11.8 by nine, with its own master
25 bath there, as well, and closet.

1 As you go to the highest floor, the third
2 floor, the floor plan actually flips. We have
3 the two bedrooms along the front of the building,
4 and one through the back, but the dimensional --
5 the dimensions of the bedrooms are roughly the
6 same.

7 This application creates an opportunity to
8 make an existing building that is in extremely
9 dilapidated, you could notice from the photograph
10 on sheet Z01, it's a dilapidated building. We're
11 going to make it fit today's standards, a little
12 bit of what we spoke about before. It's going to
13 meet all of the current Codes, including Fire
14 Codes. It's going to have an alarm system. It's
15 going to have a brick façade. It's going to have
16 all the proper fire separations between the
17 units. It's going to provide parking along the
18 front of the building, between the building
19 itself and the -- and the streetscape on Palisade
20 -- on New York Avenue.

21 And that concludes my testimony. I'm open
22 for questions.

23 VICE CHAIRMAN BONACCI: Okay.

24 So, you're going to have three units, and
25 each unit is going to have a total of three

1 bedrooms.

2 MR. PEREIRAS: That's correct.

3 VICE CHAIRMAN BONACCI: Okay.

4 The square footage of each unit? Can we
5 start with that, the square footage of each unit?

6 MR. PEREIRAS: Absolutely.

7 It's not where I normally show it. Okay.
8 Here it is.

9 Eight hundred ninety square feet for the
10 lower level; 770 for the mid-level, the second
11 floor; and the third floor is 930 square feet.

12 VICE CHAIRMAN BONACCI: Okay.

13 Now, my next question. The square footage
14 of each of the bedrooms.

15 MR. PEREIRAS: Square footage?

16 VICE CHAIRMAN BONACCI: Yeah, the bedrooms.

17 MR. PEREIRAS: Okay. Do you want the
18 smallest?

19 VICE CHAIRMAN BONACCI: Yeah. Let's go
20 small to high.

21 MR. PEREIRAS: The smallest bedroom would
22 be 98.9 square feet, not in -- not counting the
23 closets.

24 VICE CHAIRMAN BONACCI: And what's the
25 biggest one?

1 MR. PEREIRAS: The biggest one is 100
2 square feet exactly, plus the closets, plus the
3 master bath.

4 VICE CHAIRMAN BONACCI: Okay. Mr. Spatz?

5 MR. SPATZ: Yes?

6 VICE CHAIRMAN BONACCI: Mr. Pereira gave
7 us testimony that the square footage of each of
8 the units, 890 square feet, 770 square feet, 930
9 square feet.

10 MR. SPATZ: Right.

11 VICE CHAIRMAN BONACCI: Do those meet the
12 requirements?

13 MR. SPATZ: The minimum unit size
14 requirements are only triggered by four units or
15 more.

16 VICE CHAIRMAN BONACCI: Okay.

17 MR. SPATZ: So, since this is a three unit
18 building, it -- it wouldn't matter, but I think
19 two out of the three conform.

20 VICE CHAIRMAN BONACCI: Same thing with the
21 bedrooms?

22 MR. SPATZ: That's correct. We don't have
23 a bedroom size requirement.

24 VICE CHAIRMAN BONACCI: Okay.

25 Mr. Pereira, can you tell me, just shed a

1 | little bit light on what's new in the -- the
2 | application? So, there's a lot of preexisting
3 | nonconforming stuff --

4 | MR. PEREIRAS: Right.

5 | VICE CHAIRMAN BONACCI: -- with regards to
6 | the minimum rear yard and the side yards.

7 | MR. PEREIRAS: All right.

8 | VICE CHAIRMAN BONACCI: So, just explain to
9 | me what the new stuff is.

10 | MR. PEREIRAS: I'd very happy to.

11 | As you could see from this diagram, the
12 | darker color is all the existing building. So,
13 | as you could see, the side yard setback is at
14 | two. The side yard over here is one foot eight.
15 | The rear yard is two foot four.

16 | What we're proposing to do is simply an
17 | addition to the front. We're taking the same
18 | exact structure and we're extending it out
19 | forward.

20 | So, in many ways, you could say that we're
21 | expanding on the side yard variance, as well,
22 | because we're continuing what's there. So, that
23 | would be an expansion of existing side yard.

24 | The rear yard, we're not touching. It's
25 | existing and remains. We're not changing that.

1 And the front yard, we're reducing it, but
2 we're still way within the conformance of the --
3 the Code, which is 43 feet eight inches.

4 What -- what this application is really
5 about is more about the use, if this Board is
6 comfortable with a three family here, when we're
7 in the CN district. I -- I make the argument
8 that it is in conformance as residential, because
9 this is a mixed use area. There's a lot of
10 apartments. Each of -- each of these properties,
11 all in that area, have residential components to
12 it. I can't think of one that's strictly
13 commercial. So, this is in conformance in that.

14 The question is whether you need the
15 frontage and the commercial space on the ground
16 floor. Commercial is not -- you know, brick and
17 mortar, commercial, retail is not very strong
18 right now. It's changing in the -- in the
19 millennial world that we're living in. It's not
20 something that the applicant wants to pursue and
21 move forward with. However, I think that the
22 businesses that we do have there will definitely
23 benefit from having three apartments that are
24 going to be three families of consumers, that
25 could help influx a little bit of commerce into

1 | that area that is necessary.

2 | More commerce, more commercial isn't
3 | necessarily required there, even though our
4 | Ordinance encourages that.

5 | VICE CHAIRMAN BONACCI: Okay.

6 | Okay so, basically, the variance that
7 | you're seeking is with regards to the CN
8 | district, and you don't have commercial anymore.

9 | MR. PEREIRAS: Correct.

10 | VICE CHAIRMAN BONACCI: And it's going to
11 | be strictly residential.

12 | MR. PEREIRAS: Correct.

13 | VICE CHAIRMAN BONACCI: Okay.

14 | MR. PEREIRAS: And -- and I think it's
15 | important to also talk about what would typically
16 | be approved in the CN district.

17 | I've come before this very Board and, in a
18 | typical 25 by 100, in a CN district, and I've
19 | done this I think four times already within the
20 | past year, we've had a small commercial space on
21 | the ground floor in the front, a residential unit
22 | in the back, and then an additional four units
23 | above, two per floor.

24 | So, what's generally approved, and what
25 | would be consistent with our Ordinance

1 | completely, except for a use variance because of
2 | the unit in the back, which is required for
3 | federal guidelines and ADA standards, you would
4 | typically have a five residential units, plus a
5 | commercial space.

6 | So, the application that we have before you
7 | is reduced significantly from that. So, instead
8 | of having five residential units, and a
9 | commercial space, we only have three residential
10 | units.

11 | So, we're not even asking -- or the
12 | applicant's not asking for the five residential
13 | that would typically be approved, this is a very
14 | modest application of three residential units,
15 | within this 25 by 100.

16 | And if we were in the R zone, it wouldn't
17 | even be a use variance, we'd be going before the
18 | Planning Board because a three family would be
19 | permitted.

20 | So, this could become a lot bigger, lot
21 | more aggressive building, six units in total.
22 | It's not. It's a three unit building that we're
23 | asking this Board to approve.

24 | VICE CHAIRMAN BONACCI: So, Mr. Pereiras,
25 | would you testify that you feel this qualifies as

1 a low density populated application?

2 MR. PEREIRAS: How you define low density
3 varies significantly. I think it's very safe to
4 say that in the standards of Union City, where
5 you have three units permitted, on a 25 by 100,
6 in the majority of Union City, it wouldn't be low
7 density, it would be normal density.

8 VICE CHAIRMAN BONACCI: Okay.

9 Just one last question for you with regards
10 to the parking spaces.

11 MR. PEREIRAS: Yes.

12 VICE CHAIRMAN BONACCI: So, it -- I see
13 here that the entire front yard of the site is
14 paved.

15 MR. PEREIRAS: That is correct.

16 VICE CHAIRMAN BONACCI: Okay.

17 Can you clarify whether any additional
18 parking spaces can be provided?

19 MR. PEREIRAS: Absolutely.

20 Well, we have -- right now, they park about
21 six cars in that space. If you go by standards
22 of parking, that amount of cars would not fit on
23 that space, although we all know how valuable
24 parking is in Union City, and we find a way
25 somehow to get cars in there.

1 I would be comfortable, from a zoning
2 standpoint, to say that there's parking for four
3 cars. It allows them to go diagonally and
4 there's an existing curb cut there.

5 So, what we're presenting on this -- on
6 this case is that we have parking for four cars
7 in the front yard, more can potentially be
8 provided.

9 VICE CHAIRMAN BONACCI: So, it's safe to
10 say you can testify that the site will have four
11 parking spaces.

12 MR. PEREIRAS: Yes. And I think it's
13 important, also, to clarify that in comparison
14 with what's normally approved there, like I said,
15 those structures have zero parking spaces.

16 So, normally, we would put six units with
17 no parking. Here, we're doing three units with
18 parking. So, I believe it's an improvement.

19 VICE CHAIRMAN BONACCI: So, four parking
20 spaces.

21 MR. PEREIRAS: Yes.

22 VICE CHAIRMAN BONACCI: Okay.

23 I don't have any more questions.

24 MR. GRULLON: For the parking spaces, the
25 requirement for these three units would be six

1 parking spaces.

2 MR. PEREIRAS: We're -- we fall under RSIS,
3 so it would be nine.

4 MR. SPATZ: Right. It's nine spaces.

5 MR. GRULLON: Nine spaces and you're
6 providing four.

7 MR. PEREIRAS: Yes.

8 MR. PANEQUE: Mr. Pereiras, can you clarify
9 on your plans, you have listed as providing two
10 spaces only.

11 MR. PEREIRAS: That's a -- that's a
12 typographical error. I'm not sure why -- you
13 know, and -- and here's why we probably presented
14 it that way.

15 In order to be in conformance fully with
16 standards, you have an eight by 18 space. We
17 would not be able to fit that, other than two
18 spaces there. However, in all practicality, and
19 I feel comfortable in saying this, that with a 25
20 foot setback and 43 foot eight, we have the
21 capacity, comfortably, to put four cars in there.

22 MR. PANEQUE: Okay.

23 So, for purposes of this application, is it
24 your request to apply for a variance with two
25 spaces?

1 MR. PEREIRAS: I think it's a variance with
2 four spaces with a technical waiver for the size
3 of the spaces, as well.

4 MR. PANEQUE: Okay.

5 And will it be the size of the spaces that
6 you're seeking for four?

7 MR. PEREIRAS: It would be a technical
8 waiver on aisle width. The aisle width would be
9 about -- about ten feet. And then, the -- the
10 spaces would be -- would probably be about a 16
11 by eight. And if give you me a break, I'll
12 calculate them exactly, but that's roughly what
13 the size would be.

14 MR. PANEQUE: Okay.

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

17 VICE CHAIRMAN BONACCI: I don't have any
18 more questions.

19 MR. PANEQUE: Open to the public.

20 VICE CHAIRMAN BONACCI: If there's anybody
21 from the public that would like to ask any
22 questions on this application, now's your chance.

23 Okay. Closed to the public.

24 Okay.

25 I'm going to make a motion to approve this

1 application. Again, for the record, just want to
2 put some reasons for the approval.

3 Although this is a commercial zone, and now
4 your application is strictly residential, I feel
5 that your testimony sheds light on the fact that
6 it meets -- the application meets the current
7 need of the neighborhood, which I think is
8 inherently beneficial, as well as -- you know,
9 improving the site plan overall. And you know,
10 just to update what's been in existence there for
11 awhile, and it -- it's going to be -- you know, a
12 fresh upgrade -- you know, a nicer visual for the
13 neighborhood overall.

14 So, with that, I'm going to make a motion
15 to approve this application.

16 THE SECRETARY: Motion to approve the
17 application by Mr. Bonacci.

18 MR. GRULLON: Second.

19 THE SECRETARY: Second by Mr. Grullon.

20 MR. PANEQUE: Before we -- we have a vote,
21 Mr. Vallejo, I just want a clarification, okay,
22 so that we're very clear.

23 The application has been amended to include
24 a parking size waiver.

25 Correct?

1 MR. PEREIRAS: Yes.

2 MR. PANEQUE: All right. So, the parking
3 spaces that are going to be provided are four,
4 but they will be less in size than what would be
5 required by the Ordinance.

6 MR. PEREIRAS: That's correct.

7 MR. PANEQUE: So, if this Board sees to
8 vote on the approval that's been put forth, it
9 would be approving with the parking waiver, size.

10 Strike that.

11 Parking size waiver.

12 THE SECRETARY: That means we -- we need
13 revised plans.

14 MR. PANEQUE: That's up to --

15 MR. SPATZ: I --

16 MR. PANEQUE: Mr. Spatz?

17 MR. SPATZ: I -- I think prior to the
18 Resolution, if they can update the plans to show
19 the parking spaces --

20 MR. PEREIRAS: Okay.

21 MR. SPATZ: -- on that, we'll review that
22 prior to the Resolution being adopted.

23 VICE CHAIRMAN BONACCI: Mr. Spatz, do we
24 need like exact parking specifications,
25 measurements, and so forth?

1 MR. SPATZ: Well, I think that they're
2 going to put them on the -- on the site plan. We
3 will review them. You know, they are asking for
4 a waiver, in terms of size. I think that the
5 fact that this is a three family house, and if
6 people going on the property are living there,
7 they will -- you know, adjust to smaller spaces
8 and a smaller aisle. So, I think that that would
9 be fine.

10 And we'll review that prior to the
11 Resolution being adopted.

12 VICE CHAIRMAN BONACCI: Okay.

13 THE SECRETARY: Motion on the table to
14 adopt -- to approve this application by Mr.
15 Bonacci.

16 Seconded by Mr. Grullon.

17 Roll call on the motion to approve this
18 application with the new revised plans update.

19 Mr. Bonacci?

20 VICE CHAIRMAN BONACCI: Yes.

21 THE SECRETARY: Mr. Grullon?

22 MR. GRULLON: Yes.

23 THE SECRETARY: Mr. Pressey?

24 MR. PRESSEY: Yes.

25 THE SECRETARY: Mr. Medina?

1 MR. MEDINA: Yes.

2 THE SECRETARY: Mr. Ortiz?

3 MR. ORTIZ: Yes.

4 THE SECRETARY: Five in favor, motion
5 carries.

6 Thank you.

7 MS. PEREIRAS: Thank you very much.

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

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1 **Lidia Sevillano - 424 8th Street:**

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3 THE SECRETARY: Next application on
4 tonight's agenda, Lidia Sevillano, 424 8th Street.

5 Mrs. Pereiras, please?

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

8 VICE CHAIRMAN BONACCI: Thank you.

9 MR. PANEQUE: Thank you, sir.

10 Let the record reflect that I've been
11 provided with the following documentation by Ms.
12 Pereiras.

13 I've been provided with a certification as
14 to publication and service, signed by Ms.
15 Pereiras, indicating that notice of tonight's
16 hearing with respect to the property at 2017-19
17 Summit Avenue (sic), was -- was sent out for
18 publication on September 29, 2017, as well as
19 notices having gone out on said date.

20 I've also been provided with a copy of the
21 notice that have gone out, as far as the tax list
22 from the Tax Assessor's Office, dated September
23 25th, 2017, showing all property owners within the
24 200 foot radius.

25 I've also been provided with the certified

1 mail receipts, with a postmark date of September
2 29, as well as the green cards that have come
3 back to date, and the unclaimed envelopes.

4 Based on the documentation that has been
5 provided, this Board has jurisdiction to proceed
6 and hear this matter.

7 MS. PEREIRAS: Thank you very much.

8 THE SECRETARY: Thank you.

9 MS. PEREIRAS: Again, Bianca Pereiras, on
10 behalf of the applicant, 424 8th Street is the
11 property address. The applicant is Lidia
12 Sevillano.

13 What we have currently on the property is a
14 legal three family home, and what we're looking
15 to do is to legalize a basement apartment.

16 We're located in the R, low density
17 residential. And we have one expert to testify
18 before the Board, that is our architect, Mr.
19 Manuel Pereiras.

20 MR. PEREIRAS: I recognize that I am still
21 under oath.

22 MS. PEREIRAS: Mr. Pereiras, are you
23 familiar with 424 8th Street?

24 MR. PEREIRAS: I am.

25 MS. PEREIRAS: And did you prepare the

1 drawings that are before this Board?

2 MR. PEREIRAS: I have.

3 MS. PEREIRAS: And would you kindly walk us
4 through the application?

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

6 A little bit of history I think is
7 important on this.

8 Ms. Sevillano is a widower (sic). She has
9 a disabled son that lives at home with her, that
10 she takes care of, and that's become a little bit
11 overwhelming to her, and she's asked her other
12 son to move in.

13 We started these drawings five years ago,
14 actually over five years ago, six years ago is
15 when we started these drawings. She decided not
16 to move forward with the application.

17 Now, she can't handle this home situation
18 anymore. She needs her son to move in, so she's
19 decided to move forward. She has enough money to
20 -- to legalize the basement unit that was in
21 existence for some time, that her husband had
22 built himself, and the widow now needs her son to
23 live there. And that's why we're before this
24 Board.

25 There's existing three units in the site.

1 One is along the rear portion of the building.

2 It's a two story unit. Two along here. And what
3 we're proposing to do is one in the basement.

4 We have an existing site that's 2,700
5 square feet. Since this is a little bit of a
6 larger site, it gives us a little bit more
7 argument, also, to -- to request this additional
8 unit from the three that would typically be
9 approved.

10 We also have something that's not typical
11 in this immediate neighborhood, which is parking.
12 There's an existing carport along the side of
13 this building. You could fit two cars in that
14 carport. So, we are providing existing parking
15 for this unit.

16 And her son, who's going to live there, and
17 I know that the approvals go beyond this -- this
18 applicant, but the son doesn't have -- doesn't
19 own a car. So, that's, at least for this current
20 applicant and the current use, a benefit there.

21 There's existing nonconformities for
22 various things. We have an existing two foot
23 setback along one side, and only .7 feet along
24 the other side, at the rear portion of the
25 structure.

1 We have an existing 2.4 feet setback along
2 the front of the building. And the rear of the
3 building is only .3 feet away from the rear. But
4 then, again, we're not requesting any changes to
5 the shell of this building. We're not making any
6 changes to the site whatsoever. Everything is
7 completely confined to existing conditions within
8 the building.

9 We're taking the existing unit, in the
10 basement, and we're legalizing it. So, we're
11 doing several things to make it into a legal
12 unit.

13 We're making the bedroom safe for emergency
14 egress. So, we're creating a window well. We're
15 actually increasing the opening and creating a
16 window well in order to be able to escape in case
17 of a fire.

18 We're also creating a fire separation from
19 that unit. That's actually going to be a two
20 hour fire separation from that unit to the rest
21 of the building.

22 We're also providing that unit with an
23 automatic sprinkler system, so that if there's
24 ever a fire, that would extinguish the fire
25 immediately, or hopefully do so. And this entire

1 structure will be provided with a -- with a low
2 voltage alarm system.

3 Technically, this would also still only be
4 considered a three unit building along here,
5 because the rear structure is considered an
6 independent structure from a Code perspective, as
7 well, because that's also a two hour fire
8 separation between that and the front of this
9 building.

10 So, what we're looking to do again, it's
11 very simply legalize what is already there, and
12 make it safe.

13 This unit is 435 square feet. So, it's --
14 it's less than what is normally the -- the
15 requirement of the town, but then again, this is
16 an existing condition. She doesn't have the
17 capacity or the ability, it would be technically
18 infeasible to grow this unit in any way. She has
19 an immediate need and hardship in order to get
20 her son to go there and live there with them, so
21 that she could -- he could help them.

22 That concludes my testimony. I'm open for
23 your questions.

24 VICE CHAIRMAN BONACCI: Okay.

25 So, Mr. Pereiras, we are seeking to

1 | legalize the basement.

2 | MR. PEREIRAS: Correct.

3 | VICE CHAIRMAN BONACCI: And the rear
4 | apartment.

5 | MR. PEREIRAS: Actually, there's some
6 | confusion there. The Building Department issued
7 | their memo today, late today, so we weren't able
8 | to address it with them prior to that. However,
9 | we have records, and counsel could help you with
10 | that, we went through the entire process of
11 | legalizing that rear unit already. That was done
12 | back five years ago, when this issue first
13 | arrived.

14 | We went through the Building Department.
15 | We -- we went through the process, and it is a
16 | legal three unit right now. What we're seeking
17 | to do is legalize the fourth unit, the basement.

18 | VICE CHAIRMAN BONACCI: So, you're
19 | testifying that the rear apartment is already
20 | legalized, and you're not looking to legalize
21 | that now.

22 | MR. PEREIRAS: Correct.

23 | MS. PEREIRAS: That's correct.

24 | VICE CHAIRMAN BONACCI: We don't have any
25 | records from the Building Department that says --

1 MR. PEREIRAS: We do.

2 MS. PEREIRAS: What -- what I do have, just
3 to make it easier, I have the original permits --

4 VICE CHAIRMAN BONACCI: Okay.

5 MS. PEREIRAS: -- that were issued to her
6 for the legalization of that rear unit. So, I
7 actually have a construction permit notice, dated
8 January 27, 2014.

9 And if I might -- if I may read this into
10 the record:

11 It says, legalization of rear, detached
12 dwelling unit to convert two family structure to
13 a three family structure, as per plans, as well
14 as all the approvals that were issued following
15 that permit.

16 I don't know if that helps.

17 And I've also submitted four permit
18 approvals for plumbing, electrical, building and
19 what else? Fire?

20 MR. PANEQUE: All right. Let the record
21 reflect I've been provided with the following
22 documentation:

23 I've been provided with a copy of a
24 construction permit notice, with a date of issue
25 of January 27, 2014, for the property at 424 8th

1 Street.

2 The construction permit notice indicates
3 that the permits were issued for building,
4 plumbing, electrical, fire protection for the
5 legalization of a rear detached dwelling unit to
6 convert two family structure to three family
7 structure as per plans.

8 The -- I've also been provided with the
9 stickers that were issued, upon final inspection;
10 approval for plumbing, dated May 5th, 2014;
11 approval for electrical, dated May 7, 2014;
12 approval for building, June 24, 2014; and
13 approval for fire, May 15, 2014.

14 Based on the stickers that have been
15 provided, it does appear that the Construction
16 Official's Office, the Building Department, did
17 approve this third unit on the evidence that has
18 been presented to the Board.

19 So, the representation made by Mr. Pereiras
20 and Ms. Pereiras that there is a third unit,
21 which has already been legalized or approved is
22 evidenced by these permits. And therefore, the
23 applicant is coming before the Board this evening
24 seeking the legalization of the fourth unit,
25 which would be the basement unit. And that is

1 | what is -- would be before the Board this
2 | evening.

3 | VICE CHAIRMAN BONACCI: Counsel, did you
4 | say the year on that is 2014?

5 | MR. PANEQUE: That's 2014, yes.

6 | VICE CHAIRMAN BONACCI: So, that would
7 | trump this?

8 | MR. PANEQUE: Well, the -- attached to the
9 | documentation we have is a violation notice, but
10 | that violation notice is -- predates the '14
11 | date, which is January of 2012.

12 | On that violation, they were seeking to
13 | have the nonconforming basement unit addressed.
14 | So, for some reason, the basement unit has been
15 | nonconforming, at least since 2012, or prior to
16 | that. And then, in 2014, they legalized the rear
17 | unit.

18 | MR. PEREIRAS: That is correct.

19 | MR. PANEQUE: Is that a correct assessment,
20 | Mr. Pereiras and Ms. Pereiras?

21 | MS. PEREIRAS: Yes, it is.

22 | MR. PEREIRAS: That is correct.

23 | MR. PANEQUE: Okay.

24 | Mr. Spatz, anything you would like to add
25 | to this?

1 MR. SPATZ: Just whether there's a copy of
2 the CO for that back unit.

3 MS. PEREIRAS: Again, we only saw the memo
4 from the Building Department --

5 MR. SPATZ: Um hum.

6 MS. PEREIRAS: -- at four o'clock. So, I
7 wasn't able to obtain that.

8 MR. SPATZ: Right.

9 MS. PEREIRAS: I did go to my client's
10 home. She's with her disabled son, so she wasn't
11 able to make it here herself. And that's all I
12 could get with such short notice.

13 MR. SPATZ: Right. So, I mean, perhaps --
14 you know, the Board would make it a condition is
15 to get the CO as part of the --

16 MS. PEREIRAS: That's fine.

17 MR. SPATZ: -- you know, the application.

18 MR. PANEQUE: Yeah.

19 MR. SPATZ: Just to further document that
20 beyond just simply issuing the permits for the
21 work and signing off on them, that they did,
22 ultimately, issue a CO. That way, to me, I think
23 that closes that.

24 VICE CHAIRMAN BONACCI: Okay.

25 MS. DILLON: Are you going to mark --

1 MR. PANEQUE: Now -- yeah. We're going to
2 have these marked for --

3 MS. PEREIRAS: And I have copies.

4 MR. PANEQUE: You have copies?

5 MS. PEREIRAS: Can I give you the copies?

6 MS. DILLON: Yeah.

7 MS. PEREIRAS: I'd rather --

8 MR. PANEQUE: We could have the copies?

9 Mr. Spatz, just as a point of
10 clarification, --

11 MR. SPATZ: Yes.

12 MR. PANEQUE: -- a three unit, three family
13 unit would have been permitted under the
14 Ordinance, in this zone?

15 MR. SPATZ: That -- that's correct. We
16 allow one, two and three in that zone, in the R
17 zone. The fourth unit is what generates the use
18 variance and why they're here this evening.

19 And that basement unit is technically
20 undersized, which now is triggered because it's a
21 fourth unit. So, there is a density variance
22 required.

23 MS. DILLON: So, I'm going to mark those --
24 all of those documents as A-1. It's -- they're
25 all copies here, and it's three pages in total.

1 MR. PANEQUE: Yes.

2 Thank you.

3 MS. DILLON: Okay.

4

5 (Whereupon, Construction Permit 2014-0074
6 and Stickers, Approval of Fire, Building,
7 Electrical and Plumbing were received and marked
8 as Exhibit A-1.)

9

10 THE SECRETARY: Mr. Paneque, for the
11 record, they should -- they have -- for
12 clarification, they will show up legalization
13 only of the basement apartment?

14 MR. PANEQUE: The application tonight is
15 only for approval of legalization of the basement
16 unit. But there's going to be a condition that
17 they provide the Certificate of Occupancy for the
18 rear unit, which was -- apparently should have
19 been done in 2014, when all these permits were
20 signed off on.

21 THE SECRETARY: Okay.

22 Thank you.

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

25 VICE CHAIRMAN BONACCI: Good?

1 MR. PANEQUE: Yes.

2 VICE CHAIRMAN BONACCI: Okay.

3 Mr. Pereiras, the size of the basement, do
4 you have square feet on that?

5 MR. PEREIRAS: Yeah. It's 440, which is
6 undersized. No, 435.

7 VICE CHAIRMAN BONACCI: Can you testify as
8 to what it's currently -- how it's being used
9 now? Is it being used now as a basement? As a
10 basement or as an apartment?

11 MR. PEREIRAS: Since 2012, when they were
12 issued the violations, she -- she removed the
13 stove, she removed the shower, as she was
14 directed to by the Building Department, and it's
15 currently just being used as storage for her.

16 So, it's not being used as an apartment
17 currently. It is only now that she needs her son
18 to move back in that she's requesting that to
19 legally be done and -- and is coming before this
20 Board.

21 VICE CHAIRMAN BONACCI: Now, maybe you guys
22 can help me with this.

23 If we were to legalize the basement as an
24 apartment, does that trigger some sort of parking
25 variance that they would need to meet, as well?

1 MR. PEREIRAS: Yes.

2 MR. SPATZ: Yes. The -- the total number
3 of cars required is -- is eight. And they
4 provide two --

5 MR. PEREIRAS: Correct.

6 MR. SPATZ: -- existing. So, yes, there is
7 a parking variance required, as well.

8 MR. PEREIRAS: Technically, we'd be
9 expanding on an existing variance.

10 VICE CHAIRMAN BONACCI: What do you mean by
11 that, when you say, expanding on an existing
12 variance?

13 MR. PEREIRAS: So, prior to this
14 application, we were in -- we had insufficient
15 parking. We only had two, whereas six were
16 required. Now, eight are required, and we still
17 only have two.

18 So, before we were deficient six cars -- I
19 mean, before we were deficient four cars, now
20 we're deficient six cars. So, we are expanding
21 on an existing variance.

22 VICE CHAIRMAN BONACCI: Okay.

23 MS. DILLON: Wait. No, go ahead.

24 Wait a minute.

25 It's -- it's okay. The -- nothing

1 | happened. It just -- the screen went black, but
2 | it's fine. It's still recording.

3 | So sorry.

4 | MR. MEDINA: Still recording.

5 | VICE CHAIRMAN BONACCI: So, you're going to
6 | be deficient eight parking spaces if we give you
7 | the approval to legalize the basement.

8 | MR. PEREIRAS: Six parking spaces.

9 | VICE CHAIRMAN BONACCI: Six.

10 | There's a driveway there now?

11 | MR. PEREIRAS: Yes.

12 | VICE CHAIRMAN BONACCI: It holds two cars?

13 | MR. PEREIRAS: Yes.

14 | VICE CHAIRMAN BONACCI: Eighth Street, is
15 | there a municipal parking lot on 8th Street?

16 | MR. PEREIRAS: Yes, there is. There is --

17 | VICE CHAIRMAN BONACCI: How far is the
18 | municipal lot from your application address?

19 | MR. PEREIRAS: I want to see if we could
20 | see it from the aerial to make it -- to
21 | illustrate it clearly. I think we can. It's
22 | that close.

23 | No, we can't see it from the aerial.

24 | So, we're in the 400 block, so we're
25 | between Bergenline and New York Avenue, and the

1 | municipal lot is between Central and Summit. So,
2 | we're four blocks away.

3 | VICE CHAIRMAN BONACCI: I understand the
4 | need of your applicant. It's just the problem
5 | that I foresee is, in the future, if it gets
6 | handed off to somebody else, that it's legalized
7 | and now it's got all those units that are
8 | legalized and it's undersized, and there's a lot
9 | of parking requirements attached to it. So,
10 | that's where I see the problem.

11 | MR. PEREIRAS: Maybe I could make this a
12 | little bit better, and this is something I
13 | haven't discussed with my applicant.

14 | But I understand how much of an issue the
15 | size of the unit is. But I think it -- I could
16 | talk to my client and I think she -- the
17 | applicant would be okay with demolishing the wall
18 | to the bedroom so that instead of a one bedroom,
19 | this becomes a studio apartment. And I hope that
20 | this Board finds that reasonable.

21 | We're still undersize -- no, we're not. We
22 | would be in compliance with the density
23 | requirement. Four hundred would be required, and
24 | we're at 435.

25 | In which case, we would remove that

1 variance request from this Board, alleviate that.
2 And I think it's a completely reasonable thing.
3 And we're not destroying her budget and hurting
4 her so much by demolishing that wall. It's --
5 it's a nonstructural, nonbearing wall, and I
6 think we could definitely do that.

7 VICE CHAIRMAN BONACCI: So, in order to do
8 that, you'd have to speak with your client, and
9 have a revised plan made.

10 MR. PEREIRAS: I -- I think it -- it's
11 clear that -- that this Board is inclined not to
12 approve this, if this was a one bedroom. So, I
13 think it's fair to say that my client, and I will
14 make this decision for her, we would like to
15 amend our application from being a one bedroom to
16 a studio apartment in the basement.

17 Hopefully, that we could take care of this
18 now and she could get her son -- if this Board
19 finds it favorable, she could get her son moved
20 in there, sooner the better, because the Building
21 Department's going to take a little bit -- a few
22 months of process, as well.

23 VICE CHAIRMAN BONACCI: You guys have any
24 questions?

25 MR. GRULLON: Mr. Pereiras, will that

1 | change the parking requirement, making it from
2 | one bedroom to -- to a studio?

3 | MR. PEREIRAS: No, because it depends on
4 | how you interpret our Ordinance. Studios could
5 | either be zero parking or one bedroom. This
6 | Board has historically interpreted it as it being
7 | the same count as a one bedroom, so it doesn't
8 | change the parking requirement.

9 | VICE CHAIRMAN BONACCI: Open to the public.

10 | MR. PRICE: Still Larry Price, still under
11 | oath.

12 | Okay. And this time, I'm going to give a
13 | little testimony.

14 | First of all, let's address the third unit,
15 | which is supposedly legalized. It's not.

16 | In 2014 -- I'm having to recall from
17 | memory, but in 2014, the City adopted an
18 | Ordinance, which permitted the Construction Code
19 | Official to legalize existing apartments.

20 | I challenged that Ordinance, and it was
21 | invalidated by Judge Rodriguez in the Law
22 | Division.

23 | The only problem was that I think, if I
24 | remember, the Ordinance was adopted in November.
25 | Judge Rodriguez's decision came down in July of

1 the following year. Some 19 units had been
2 approved by the Construction Code Official in the
3 interim, and she'd allowed those to stand, but
4 she knocked out the Ordinance for any future use.

5 As I remember, 424 8th Street was one of
6 those 19 units. That aspect of her decision was
7 appealed to the Appellate Decision. And in a
8 decision, about a year and a half later, they
9 said -- you know, ultra vires. It was no good
10 from day one. So, the 19 got knocked out.

11 So, that third unit -- again, you know, I
12 don't have records in front of me, but I'll
13 provide them to you over the -- whatever. But --
14 but the third unit is not legal. This is a two
15 unit building. And so, you have to accept that
16 application.

17 Okay.

18 The other aspect is the one that the
19 Chairman has, which is you'll -- yeah. There's a
20 saying in the law profession, I'm told, that hard
21 cases make bad law. And it's sort of true. I
22 mean, we have -- this is a sympathy application.
23 We need to get the son in to help the mother
24 who's old, whatever, and so on.

25 But the problem is you -- you approve this

1 and now, it's a four unit building, which is not
2 a permitted use, so on.

3 The Board has the right to grant variances
4 with sun -- with sunset provisions. In other
5 words, not good forever, but rather as long as
6 the son lives there, it's a legal unit. And
7 after that, forget it.

8 By the way, back to Judge Rodriguez's
9 decision. The reason she tossed that -- that
10 Ordinance was that there's only one group that
11 can approve legalizations, and that's you. You
12 know, Construction Code Official can't act on
13 your behalf.

14 And so -- and they never -- they, for the
15 third unit, they never came before the Board.
16 So, it's -- you know, it's a two unit building
17 right now, legally. When they send you that
18 memo, that's what it is. It's a two unit
19 building.

20 Anyway, if you're going to approve this,
21 because the son has to move in, you should say,
22 and when the son moves out, that's the end of the
23 variance. You can do that, and I think it should
24 be done in this case. You don't want a permitted
25 four unit building on -- on this site.

1 This states a --

2 Question? By the way, you want me to
3 provide orders, resolutions, whatever --
4 Ordinance?

5 MR. PANEQUE: If you have those, Mr. Price
6 --

7 MR. PRICE: Not with me. No, no.

8 MR. PANEQUE: If you could send them to me,
9 I will then receive them, and I will share them
10 with Ms. Pereiras, and see if she has anything to
11 the contrary.

12 What she presented to us tonight was the --
13 as I indicated on the record, were the cards that
14 indicated that all inspections were passed.

15 Now, Mr. Spatz raised an interesting point,
16 which I neglected to ask, and that was, has a CO
17 been issued? Because if a CO has been issued,
18 then that would have kind of been an indication
19 that the unit was legal, except that now you're
20 bringing up this legal argument that we were
21 unaware of.

22 MR. PRICE: He --

23 MR. PANEQUE: Yeah. And I don't know --

24 MR. PRICE: -- had no authority to act.

25 MR. PANEQUE: Yeah. And if -- if there is

1 a court order, which would -- have invalidated
2 this third unit, then --

3 MR. PRICE: Well, it --

4 MR. PANEQUE: -- yes, share it with us.

5 MR. PRICE: What -- what Judge Rodriguez's
6 decision and order invalidated was the Ordinance
7 that permitted the Construction Code Official to
8 legalize units, and just said it's out.

9 And then, but as I say, permitted 19 of
10 them to continue, because they were between the
11 adoption of the Ordinance and her decision. And
12 those 19 units were then knocked out by the
13 Appellate Division.

14 So, there are no units approved by the --
15 and --

16 MR. PEREIRAS: Mr. Price, she -- she turned
17 down the Construction Official's authority to do
18 so. But -- and -- and I believe there's case
19 law, and I'll look at counsel to kind of help me
20 with this, but I believe there's case law saying
21 that if a Building Department issues permits, and
22 the applicant acts in good faith, and acts on the
23 authority of the Building Department to move
24 forward, and construct, and follow all the proper
25 procedure, regardless of whether they acted

1 correctly, the applicant acted in good faith and
2 correctly, they're -- what they did stands.

3 And I believe that's -- and I can't quote
4 the --

5 MR. PRICE: That's not really the case.
6 That's --

7 MR. PEREIRAS: Is there --

8 MS. PEREIRAS: I don't have the particulars
9 --

10 MR. PEREIRAS: Yeah.

11 MS. PEREIRAS: -- of that Ordinance and --

12 MR. PEREIRAS: Yeah.

13 MS. PEREIRAS: -- what went before the
14 judge.

15 MR. PRICE: Yeah.

16 MS. DILLON: I'm sorry. Can you speak up?

17 MS. PEREIRAS: I apologize.

18 I don't know the particulars of the matter
19 that Mr. Price is mentioning, and I don't know
20 the specifics, because I was not involved with my
21 client prior to this application.

22 MR. PANEQUE: All right. Based on
23 everything that's being presented to this Board,
24 Ms. Pereiras, Mr. Pereiras, Mr. Price, it's
25 obvious that this Board will have to make a very

1 | different decision whether we're going from a two
2 | to a four, or a three to a four.

3 | It -- there's -- it's a whole different set
4 | of criterias that the Board has to weigh here.

5 | And also, I think, for purposes of this
6 | Board making the correct decision, I'm going to
7 | request that -- and as a suggestion, that the
8 | matter be adjourned this evening, so that Mr.
9 | Price can present to me, and I'll share it with
10 | you, the information that he has.

11 | And then, once we know what we're dealing
12 | with, if we're dealing apples or oranges, then we
13 | can address the matter accordingly.

14 | VICE CHAIRMAN BONACCI: Counsel, is it okay
15 | if we suggest that -- you know, to adjourn this
16 | until the CO is presented for the rear apartment,
17 | possibly do a little bit of homework in regards
18 | to that sunset provision that Mr. Price had
19 | mentioned earlier, and also, give Mr. Pereiras a
20 | chance to revise the basement plans, which he had
21 | suggested.

22 | MR. PANEQUE: Yes, all those issues can be,
23 | when -- when the matter comes back, addressed at
24 | that time.

25 | But Mr. Price has raised certain legal

1 | issues that will now put into question even if a
2 | CO was presented. Okay? Because there might
3 | have been a CO issued.

4 | MR. PRICE: Probably was.

5 | MR. PANEQUE: Okay. And if Mr. Price's
6 | argument is correct, and I'm not saying that it
7 | isn't, but I don't have -- I don't have it in
8 | front of me in writing, the judge's ruling may
9 | have trumped that CO. And in effect, cancel any
10 | approval of that third unit.

11 | And then, Ms. Pereiras, you'd be given the
12 | opportunity to, if you want to, present your side
13 | of the argument --

14 | MS. PEREIRAS: Um hum.

15 | MR. PANEQUE: -- if that's the case.

16 | But I don't think we have enough
17 | information to proceed tonight.

18 | MS. PEREIRAS: I understand. And I think
19 | --

20 | VICE CHAIRMAN BONACCI: I agree.

21 | MS. PEREIRAS: -- that's fair.

22 | MR. PANEQUE: Okay? So is there --

23 | VICE CHAIRMAN BONACCI: So, closed to the
24 | public.

25 | MR. PANEQUE: Well, anybody else from the

1 public?

2 Anything else you want to say, Mr. Price?

3 MR. PRICE: No.

4 VICE CHAIRMAN BONACCI: Thanks, Mr. --

5 MS. PAGAN: Sir?

6 MR. PANEQUE: Any other members of the
7 public?

8 MS. PAGAN: Can I please say something?

9 VICE CHAIRMAN BONACCI: Sure.

10 MR. PANEQUE: Yes.

11 MS. DILLON: Hello, ma'am.

12 MS. PAGAN: Sorry.

13 MS. DILLON: Just --

14 MS. PAGAN: I forgot my cane home.

15 MS. DILLON: Just right there.

16 Could you please state your name for me?

17 MS. PAGAN: My name is Aida Pagan.

18 MS. DILLON: I'm sorry?

19 MS. PAGAN: Aida Pagan, P-A-G-A-N.

20 MS. DILLON: First name, Aida, I-D --

21 MS. PAGAN: A-I-D-A. A-I-D-A.

22 MS. DILLON: A-I-D.

23 MS. PAGAN: Sorry, I gave you my Spanish
24 translation of my name.

25 VICE CHAIRMAN BONACCI: A-I-D-A.

1 MS. PAGAN: Yeah.

2 MS. DILLON: Okay.

3 MS. PAGAN: Aida.

4 MS. DILLON: And last name?

5 MS. PAGAN: Pagan, P-A-G-A-N.

6 MS. DILLON: Okay. Please raise your right
7 hand.

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

10 MS. PAGAN: Yes.

11 MS. DILLON: Okay.

12 MS. PAGAN: I'm not here for this case.

13 Okay? But I live in Union City for over thirty-
14 something years, and I have been here for the
15 cases in my street. Okay? And one of the things
16 that I have to say is that we work very hard to
17 take away illegal apartments in this city,
18 because they create all kind of problems.

19 I understand her issue, because her son,
20 okay? But if my son needed an apartment in
21 basement, okay, and I have a basement, my son
22 will be sleeping in that basement already, with
23 or without your permission.

24 So, again, it's an illegal apartment. The
25 measurements of the rooms are already making it

1 | illegal. Okay?

2 | So, please, we work very hard to change the
3 | look of Union City. Don't bring it back to the
4 | way it was. Okay?

5 | That's all I have to say.

6 | VICE CHAIRMAN BONACCI: Thank you.

7 | Anybody else, members of the public that
8 | would like to ask any questions on this
9 | application?

10 | No? Okay.

11 | Close -- closed to the public.

12 | Okay. So, given the set of circumstances
13 | that have arisen, do I have to make a motion to
14 | adjourn?

15 | MR. PANEQUE: Yes.

16 | VICE CHAIRMAN BONACCI: Okay.

17 | I'm going to make a motion to adjourn this
18 | application until --

19 | THE SECRETARY: December 14, 2017.

20 | VICE CHAIRMAN BONACCI: -- given the new
21 | set of circumstances and information that have
22 | come up in regards to the questions and so on and
23 | so forth.

24 | MR. PEREIRAS: Understood.

25 | THE SECRETARY: Motion to adjourn this

1 application for December 14, 2017 by Mr. Bonacci.

2 MR. GRULLON: Second.

3 THE SECRETARY: Second the motion by Mr.
4 Grullon.

5 Roll call -- roll call on the motion to
6 adjourn this application.

7 Mr. Bonacci?

8 VICE CHAIRMAN BONACCI: Yes.

9 THE SECRETARY: Mr. Grullon?

10 MR. GRULLON: Yes.

11 THE SECRETARY: Mr. Pressey?

12 MR. PRESSEY: Yes.

13 THE SECRETARY: Mr. Medina?

14 MR. MEDINA: Yes.

15 THE SECRETARY: Mr. Ortiz?

16 MR. ORTIZ: Yes.

17 THE SECRETARY: Five in favor, motion
18 carries.

19 No new notice required.

20 Thank you.

21 MS. PEREIRAS: Thank you.

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

24 * * *

25

1 **Dee Ferra - 614 Kennedy Boulevard:**

2

3 THE SECRETARY: Next application on
4 tonight's agenda, Dee Ferra, 614 Kennedy
5 Boulevard.

6 Mrs. Pereiras, please?

7 MR. PANEQUE: For the record, I've been
8 provided by Ms. Pereiras with the following
9 documentation:

10 I have a certification as to publication
11 and service, indicating that notice of tonight's
12 hearing, with respect to the property at 614
13 Kennedy Boulevard was sent out to all property
14 owners within the 200 foot radius on September
15 29, 2017.

16 I've also been provided with an Affidavit
17 of Publication from The Jersey Journal,
18 indicating that notice of tonight's hearing was
19 published on September 29th, 2017.

20 I've also been provided with the certified
21 mail receipts, which show a postmark date of
22 September 29, 2017, as well as the tax list from
23 the Union City Tax Assessor's Office, which was
24 done on September 25th, 2017.

25 I also have been provided with a copy of

1 the tax list from the North Bergen Tax Assessor's
2 Office, with a date of September 22nd, 2017, as
3 this property has a 200 foot radius within the
4 borders of North Bergen.

5 Also been provided with the certified
6 receipts that have come back, as well as the
7 unclaimed mail.

8 Based on the documentation that's been
9 provided, this Board has jurisdiction to hear
10 this case.

11 MS. PEREIRAS: Thank you very much.

12 Again, Bianca Pereiras, on behalf of the
13 applicant.

14 We have an existing multi-family home
15 located at 614 Kennedy Boulevard, also known as
16 Block 31, Lot 13. Currently, on-site, we have
17 six residential units.

18 The application before the Board this
19 evening is to legalize a basement apartment,
20 therefore making the building a seven unit multi-
21 family building.

22 We have one expert to testify before the
23 Board, and that is our architect, Mr. Manuel
24 Pereiras.

25 MR. PEREIRAS: I recognize I am still under

1 oath.

2 MS. PEREIRAS: Mr. Pereiras, are you
3 familiar with the site in question?

4 MR. PEREIRAS: I am.

5 MS. PEREIRAS: And did you prepare the
6 drawings before the Board?

7 MR. PEREIRAS: I have.

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

10 MR. PEREIRAS: Be very happy to.

11 We have a three story, six unit existing
12 building. The applicant purchased the building,
13 discovered that the basement unit is illegal, and
14 therefore, he wants to do the right thing; come
15 before this Board and legalize it, and bring it
16 to all current standards.

17 This, again -- it creates a good
18 opportunity to make this building into a building
19 that conforms with today's building codes and
20 fire codes -- issues.

21 That said, let me talk a little bit about
22 the site. We're an existing site of 25 by 80.
23 The building sits on -- on the property line on
24 both side yards. So, there's a zero foot setback
25 on both side yards.

1 And all the other conditions are existing
2 to remain as far as site, and they're all
3 existing nonconformities for minimum lot area,
4 minimum lot depth.

5 Front yard, we're at 4.75 feet. Rear yard,
6 we're at 18.5 feet, whereas 25 is required.

7 The stories, we're okay. The building
8 height we're okay. Lot coverage, we're at 66.92
9 percent, where 60 percent is required.

10 And maximum lot coverage, we're at 78
11 percent, whereas 75 percent is -- is required.
12 We're almost there.

13 And then, with the additional unit, we're
14 required 1.8 more parking spaces, which we cannot
15 provide because of the restrictions of the site.

16 That said, we are creating a, first and
17 foremost, since this is a more than four units,
18 this building has to provide handicap
19 accessibility for a unit. So, this unit will
20 provide handicap accessibility, even though it's
21 below grade. Yes, there are steps leading into
22 that unit, but there are a lot of disabilities
23 out there and -- that are beyond just a
24 wheelchair, and this building provides for that
25 need. This unit, this additional unit will

1 provide for that need.

2 So, we have an ADA accessible bathroom,
3 which means it has -- it's a larger size than
4 normal bathrooms. It's eight foot eight by six
5 foot eight, with the possibility of making it
6 adaptable, meaning we could put guardrails at the
7 toilet and the bathtub, so that someone with a
8 disability can use this bathroom.

9 The same thing with the kitchen. It has
10 work areas that are greater than 30 inches. The
11 sink can be dropped, in order to provide
12 accessible work space.

13 So, I think that's a very positive aspect
14 of this application.

15 The other very positive aspect is that
16 we're taking a condition, an illegality, and
17 we're making it into a legal unit, with all those
18 Code compliance.

19 There will be a two hour fire separation
20 between this unit and the units above. There
21 will be a fire suppression system added to this
22 unit. And there will be emergency access created
23 through the rear yard, and through the front yard
24 that has to meet current standards, which means
25 seven inch risers, 11 inch treads. It also will

1 have a fire alarm system that's going to be low
2 voltage and interconnected with the building,
3 with a central monitoring station.

4 All of these conditions, I feel, make the
5 application favorable, and definitely improve in
6 the welfare of the adjoining properties, despite
7 the increased density of going from six to seven.

8 I'm open for your comments.

9 VICE CHAIRMAN BONACCI: Okay. Mr.
10 Pereiras, I don't mean to sound redundant, but if
11 you can clarify for me the square footage of the
12 basement.

13 MR. PEREIRAS: Be happy to.

14 It's an apartment -- not the whole
15 basement, because some parts of the basement are
16 for mechanical systems, such as this. But the
17 apartment itself is 904 square feet.

18 VICE CHAIRMAN BONACCI: Okay.

19 And as it currently stands, the basement
20 apartment, which is not legalized at the moment,
21 has a bedroom?

22 MR. PEREIRAS: It actually has two
23 bedrooms.

24 VICE CHAIRMAN BONACCI: Has two bedrooms.
25 Do you have the square footage of each of those

1 bedrooms?

2 MR. PEREIRAS: I could give it to you.

3 It is 11.3 by 13. So, that comes out to be
4 145 plus.

5 VICE CHAIRMAN BONACCI: Mr. Spatz?

6 MR. SPATZ: Yes, sir?

7 VICE CHAIRMAN BONACCI: Mr. Pereira just
8 testified that the square footage of the basement
9 apartment that currently is not legalized, but in
10 use, has square footage of 904.

11 MR. SPATZ: Yes.

12 VICE CHAIRMAN BONACCI: Does that meet
13 requirement?

14 MR. SPATZ: It -- it does. A one bedroom
15 unit would require 550 square feet.

16 VICE CHAIRMAN BONACCI: However, it's being
17 used as a two bedroom apartment.

18 MR. SPATZ: Well, that's existing. They're
19 proposing the one bedroom. As a two bedroom, it
20 conforms, which -- because that requires 750
21 square feet. So, cutting it back to a one
22 bedroom would -- would certainly conform.

23 VICE CHAIRMAN BONACCI: Okay. Checking
24 down one bedroom.

25 Mr. Pereira, can you testify that the

1 | basement apartment that you're proposing would be
2 | safe exit, entryway, in the event of an emergency
3 | or a fire?

4 | MR. PEREIRAS: Absolutely. I could testify
5 | to that, as well as, and I've said this before,
6 | and pardon me for being a little redundant, we
7 | have an excellent Building Department that's
8 | extremely cautious and is going to review this
9 | very carefully.

10 | We go through a two step review process;
11 | one is on plan review, where I get interviewed
12 | very precisely about all the details of this --
13 | of this apartment.

14 | And then, the second during inspections.
15 | And then, there's rough inspections, final
16 | inspections, and special inspections, as well.
17 | And this would be in full compliance with all
18 | safety, fire regulations, including fire
19 | separation ratings, alarm systems, fire
20 | suppression system, all that will be included in
21 | this unit.

22 | And that, I must say for the record, is
23 | significantly an improvement for the inhabitants
24 | of that building, and the adjacent buildings,
25 | because without this, there's nothing to --

1 | there's no sort of review process for that unit.
2 | So, by doing this, we go through electrical
3 | inspections, plumbing inspections, fire
4 | inspections, to make sure it's up to standards
5 | and correct.

6 | VICE CHAIRMAN BONACCI: So, currently,
7 | there's a -- it's a six unit dwelling.

8 | Right?

9 | MR. PEREIRAS: Right. With one -- yes.

10 | VICE CHAIRMAN BONACCI: And this would be
11 | taking it to a seven unit dwelling.

12 | MR. PEREIRAS: Correct, sir.

13 | VICE CHAIRMAN BONACCI: And you testified
14 | that your client recently purchased the building.

15 | MR. PEREIRAS: Yes.

16 | VICE CHAIRMAN BONACCI: He purchased it as
17 | a six unit. Noticed that there's a basement
18 | apartment being used illegally.

19 | MR. PEREIRAS: Yes.

20 | VICE CHAIRMAN BONACCI: Okay.

21 | Do you know if the -- the Tax Assessors
22 | have it down as a six or a seven?

23 | MS. PEREIRAS: I'm not sure. And I don't
24 | know if I have that information.

25 | It has it as a -- I believe a six.

1 VICE CHAIRMAN BONACCI: Okay.

2 Mr. Pereiras, the other units, are they all
3 one bedroom units?

4 MR. PEREIRAS: Yes.

5 VICE CHAIRMAN BONACCI: And by legalizing
6 the basement apartment, we would again, like the
7 other application, be expanding on a
8 nonconforming variance, with a -- with regards to
9 the parking spaces?

10 MR. PEREIRAS: Correct. It would be, first
11 and foremost, a D-2, expansion of an existing
12 nonconforming use. And then, we would have an
13 expansion on the parking. We would be adding --
14 1.8 parking spaces as a requirement, that we do
15 not comply with.

16 And then, all the other -- all the other
17 conditions are existing nonconformities.

18 VICE CHAIRMAN BONACCI: Thank you.

19 I don't have any more questions.

20 MR. GRULLON: Mr. Pereiras, the -- the
21 construction, you're going to be doing it inside
22 only?

23 MR. PEREIRAS: Correct. There's --

24 MR. GRULLON: Demolishing. Are you going
25 to demolish the entire basement?

1 MR. PEREIRAS: Pretty much, yes, because we
2 need to provide an ADA accessible bathroom. So,
3 the existing bathroom does not meet those
4 standards at all. So, that's going to be
5 completely redone.

6 The kitchen doesn't meet those standards at
7 all. It has to be completely redone. So, yes.

8 And -- and also, the utility rooms, the way
9 they are set aren't in compliance with Code
10 regulations, so that's going to be redone.

11 So, we're really going to be almost
12 reconstructing this -- this apartment.

13 MR. GRULLON: Are you proposing to do
14 anything with the façade of the building?

15 MR. PEREIRAS: We weren't proposing
16 anything. We -- if this Board has any
17 recommendations, this applicant -- actually, the
18 applicant's a very good patron of mine. We've
19 had other applications before this Board, and
20 every time we've asked him to do some type of
21 façade work, they've been very happy to do so.

22 This would be no exception. They'd be
23 happy to do whatever this Board suggests. We
24 have no objections to that.

25 MR. GRULLON: And the height of the

1 ceiling, do you know the height of the ceiling
2 which is --

3 MR. PEREIRAS: The requirement is seven
4 feet. So, that means that -- I don't bring
5 projects before the Board that aren't seven feet.
6 So, I know it's definitely higher than seven
7 feet. I don't know exactly what it is. I don't
8 know if I marked it here.

9 The only thing I could tell you for sure is
10 that it's definitely more than seven feet.

11 MR. GRULLON: I don't have any more
12 questions.

13 VICE CHAIRMAN BONACCI: Okay.

14 If there's any members of the public that
15 would like to ask any questions on this
16 application? We are open to the public.

17 Okay. Closed to the public.

18 And is there anything you want to add?

19 MR. PANEQUE: I don't. Mr. Spatz -- I
20 don't know.

21 VICE CHAIRMAN BONACCI: Okay.

22 Mr. Spatz, do you have any recommendations
23 or anything you want to add?

24 MR. SPATZ: Nothing further. I mean, the
25 condition is -- I guess the question that was

1 asked earlier, was this purchased as a seven unit
2 building, and found out that the basement was
3 illegal, or was it purchased as a six and --

4 MR. PEREIRAS: I think in the process of
5 purchasing, he discovered that it was only a six.

6 VICE CHAIRMAN BONACCI: Okay.

7 MR. SPATZ: And he still went ahead with
8 the purchase, just --

9 MS. PEREIRAS: He -- he did.

10 MR. SPATZ: Okay.

11 VICE CHAIRMAN BONACCI: If you guys have
12 taken note, with anything that we've approved
13 tonight, we had to come up with some sort of --
14 not that we had to -- reason on why we would
15 approve it. And I think that's important for the
16 record, because we're supposed to, if we grant an
17 application, provide, in a case like this, a
18 special reason for granting the application.

19 So, for example, with the last application,
20 there was a disabled person involved, so that's
21 something that was going into our thought
22 process.

23 I wanted to ask the question if your client
24 had purchased it as a seven or a six, because
25 then that would alleviate something that -- you

1 know, in a situation like this, I really don't
2 see any special reason for granting the
3 application, especially if your client purchased
4 it as a six and it's a six.

5 MS. PEREIRAS: And just to clarify that
6 issue.

7 VICE CHAIRMAN BONACCI: Um hum.

8 MS. PEREIRAS: He went under contract
9 believing it to be a seven unit building. During
10 his due diligence, he discovered that there was
11 an issue, but proceeded with the application
12 because he didn't want to displace any kind of --
13 he didn't want to displace the tenants.

14 VICE CHAIRMAN BONACCI: Right.

15 MS. PEREIRAS: And wasn't going to back
16 down, really, at the 11th hour, which is when it
17 was discovered.

18 VICE CHAIRMAN BONACCI: I understand that,
19 and I also -- you know, have to take into
20 consideration that by legalizing this basement
21 apartment -- you know, we're adding to an
22 existing hardship, which is now we're going to
23 add another 1.8 parking spaces, to boot.

24 So, with all that being said, I'm going to
25 make a motion to deny this application.

1 THE SECRETARY: Motion to deny the
2 application by Mr. Bonacci.

3 Any second on the motion?

4 Second by Mr. Ortiz.

5 Roll call on the motion to deny this
6 application.

7 Mr. Bonacci?

8 VICE CHAIRMAN BONACCI: Yes.

9 THE SECRETARY: Mr. Grullon?

10 MR. GRULLON: Yes.

11 THE SECRETARY: Mr. Pressey?

12 MR. PRESSEY: No.

13 THE SECRETARY: Mr. Medina?

14 MR. MEDINA: Yes.

15 THE SECRETARY: Mr. Ortiz?

16 MR. ORTIZ: Yes.

17 THE SECRETARY: Four in favor, one against,
18 motion carries.

19 Thank you, Mrs. Pereiras.

20 MS. PEREIRAS: Good night. I'll see you
21 next month.

22 MR. PEREIRAS: Good night, everyone.

23 MR. PRESSEY: Good night.

24 MR. PEREIRAS: Thank you very much.

25 VICE CHAIRMAN BONACCI: You're welcome.

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

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1 **New J., LLC - 1613-15 Summit Avenue:**

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3 THE SECRETARY: Next application, next
4 hearing on tonight's agenda, New J, LLC, 1613-15
5 Summit Avenue.

6 Mr. --

7 MR. PANEQUE: Bianco.

8 THE SECRETARY: -- Bianco?

9 MR. BIANCO: Bianco, B-I-A-N-C-O, for the
10 record.

11 Good evening, Mr. Chairman, members of the
12 Board.

13 For the record, Anthony Bianco, appearing
14 on behalf of New J, LLC.

15 This was a previous application that was
16 granted by way of Resolution dated December 10th,
17 2015. And there are minor changes to the
18 project. My understanding is that new plans were
19 submitted to the Board.

20 The Building Department of Union City had
21 requested that the Board be aware of those
22 changes.

23 A letter dated September 29th, 2017, was
24 submitted by the architect to Mr. Spatz
25 describing what those changes are.

1 Essentially, the changes are in design by
2 nature, changing the total bedroom count of this
3 project from six bedrooms, reducing it to four.

4 And the reason for the reduction was
5 collaborative. Based on the Board's
6 recommendation, as well as with the
7 architecture's input as well, and being that the
8 -- the Board essentially wanted this to be
9 presented to you this evening.

10 VICE CHAIRMAN BONACCI: Okay, 1613 to 1615
11 Summit Ave.

12 So, originally approved on December 10th,
13 2015.

14 MR. BIANCO: Correct.

15 VICE CHAIRMAN BONACCI: You mind if you
16 just give us a minute to take a look at the
17 paperwork and stuff?

18 MR. BIANCO: Sure. And if it would help, I
19 think that the September 29th letter to Mr. Spatz
20 is also very helpful. To the extent that you'd
21 like a copy, I could provide that to you. It
22 essentially does --

23 VICE CHAIRMAN BONACCI: I'm -- I'm just
24 going to go with Mr. Spatz's recommendation.

25 Mr. Spatz?

1 MR. SPATZ: Yes?

2 VICE CHAIRMAN BONACCI: Do the changes to
3 the variance drawings meet the qualifications?

4 MR. SPATZ: Yes. Typically, a change like
5 this, after an approval, communities that have a
6 board engineer, often they'll go out to the site,
7 there will be some changes that need to be made
8 based on conditions. And -- and they'll
9 authorize a field change.

10 We don't have a board engineer, and the
11 Building Department is not comfortable in doing
12 that themselves, so they ask this Board to -- I
13 don't even think it's quite an amendment of -- of
14 the site plan, since none of the variances are
15 effected, although actually parking is reduced,
16 in the demand for parking, but -- because the
17 number of bedrooms changes from six to four, but
18 there's no change in the number of units.

19 The building itself is totally the same
20 size as it was before, so there really is no
21 physical change that effects any of the variances
22 or the site plan approval. It's purely within
23 the building itself.

24 VICE CHAIRMAN BONACCI: Okay.

25 MR. SPATZ: So, I think the Building

1 Department was just more comfortable, and rather
2 than signing off on it themselves, is have it
3 come back before the Board. The Board discuss
4 it, and then, I'm not even sure what -- whether
5 it's to be done by Resolution or -- or what the
6 procedure would be to --

7 VICE CHAIRMAN BONACCI: Yeah, that was
8 going to -- that was --

9 MR. SPATZ: -- to authorize that, but --

10 VICE CHAIRMAN BONACCI: That was my next
11 question --

12 MR. SPATZ: Right.

13 VICE CHAIRMAN BONACCI: -- is if counselor
14 is looking for us approve the proposed changes to
15 the drawings?

16 MR. BIANCO: That's correct. That is what
17 we're looking for, and that's at the
18 recommendation of the -- the Building Department.

19 VICE CHAIRMAN BONACCI: Okay.

20 Well, if everything checks out with Mr.
21 Spatz, unless the members of the Board have any
22 questions, I'll just go ahead and open it to the
23 public, unless you guys have something that you
24 want to add?

25 Is there any members of the public that

1 would like --

2 Thank you.

3 MR. PRICE: Question. I have the --

4 MS. DILLON: Name for the record, please.

5 MR. PRICE: Oh, sorry. Yes.

6 Larry Price, 1006 Palisade Avenue.

7 Sorry.

8 I have the agenda for December 10th, 2015.

9 And Resolution was adopted that evening by the
10 Board for New J, LLC at this -- the only
11 description was renovation of an existing store
12 and the addition of two residential floors, three
13 dwelling units.

14 After all those renova -- what do we have
15 there?

16 MR. BIANCO: There are still three
17 residential units.

18 MR. PRICE: There are three. Okay. And
19 the store.

20 MR. BIANCO: Correct.

21 MR. PRICE: Okay. So --

22 MR. BIANCO: That's the commercial space
23 that was already existing.

24 MR. PRICE: Okay.

25 And you added two floors that put three

1 units upstairs, and you're cutting from two
2 bedrooms to one bedroom per unit. That's the
3 change.

4 MR. BIANCO: It's a little bit more
5 detailed than that. Originally, the plan was
6 approved for two one bedroom apartments. That
7 was the second floor. And then, on the third
8 floor supposed to be a four bedroom, one
9 apartment. That four bedroom apartment just
10 proved to be too big. So, what is the new plan
11 is for a one, one bedroom apartment on the second
12 floor, and then a two bedroom duplex, which is
13 going to be on the second and third floors, and
14 then a one bedroom apartment on the third floor.
15 That's still three residential units.

16 MR. PRICE: With a total of four bedrooms
17 instead of six.

18 MR. BIANCO: Correct.

19 MR. PRICE: Oh, no -- yeah. Six. It's
20 still six. Okay.

21 Did you -- did you provide a notice for
22 this evening's hearing?

23 MR. BIANCO: That I couldn't answer, and I
24 don't believe so. But I -- I would defer to the
25 Board to the extent that they would know the

1 answer to that question.

2 MR. PANEQUE: There was no notice required
3 for tonight's meeting, Mr. Price. As Mr. Spatz
4 indicated, there are no variances being triggered
5 here.

6 Most municipalities have an engineer that
7 would address this on-site. Basically, what the
8 applicant is doing is changing the configuration
9 of the units and the bedroom count.

10 Since we don't have an engineer on-site, to
11 address these, our Building Department sent it
12 back to us, so that we would have -- indicate
13 that the Board has no objection to reconfiguring
14 the plans, as they were submitted.

15 Now, that reconfiguration of the -- the
16 interior of those units triggers no variances.

17 That's correct, Mr. --

18 MR. SPATZ: That's correct.

19 MR. PANEQUE: So, there's no variances
20 being triggered. In fact, there's actually a
21 downsizing of the bedroom count, which would
22 downsize the parking requirement.

23 MR. PRICE: Correct. Which is why I'm not
24 bothered. If there were an increase from four
25 bedrooms to six --

1 MR. PANEQUE: That would have been a
2 different application.

3 MR. SPATZ: Correct.

4 MR. PRICE: Different. Okay.

5 MR. SPATZ: Right.

6 MR. PANEQUE: Yeah.

7 But, basically, what we have here, and it's
8 the Building Department being extra cautious in
9 not signing off on a different plan than what
10 this Board saw.

11 So, in front of me right now I have the
12 plan from 20 -- from November, 2015, which was
13 signed by, at the time, Vice Chairman Grullon.

14 And then, I'm looking at the differences
15 between that plan and the new plan, and what we
16 have is an internal change of the bedroom count,
17 and the way the -- the inside is distributed.

18 So, when the applicant went to the Building
19 Department and said, you know, this layout does
20 not work for us, the Building Department said,
21 well, we can't authorize you to change the layout
22 because the Board approved this one. Go back to
23 the Board and see if they're okay with the
24 downsizing of the bedroom count.

25 MR. PRICE: Okay.

1 The only thing I would say -- I mean, I'm
2 acquainted with other areas with -- you know,
3 engineers making --

4 MR. PANEQUE: Executive --

5 MR. PRICE: -- these changes but then they
6 go on all the time, particularly with parking
7 area, the columns go in and suddenly they've got
8 to move a parking spot.

9 MR. SPATZ: Right.

10 MR. PRICE: But this is actually -- and
11 because it's not adverse, I don't have any --

12 MR. SPATZ: Right.

13 MR. PRICE: -- whatever, but they're
14 changing from a four bedroom apartment, which
15 didn't work, didn't work economically, to a
16 different configuration, which they think is more
17 attractive.

18 That starts to press the envelope of what
19 an engineer could approve or not approve, and I
20 think we're very close to that.

21 MR. SPATZ: Correct, but it didn't go over
22 that line. And that's why --

23 MR. PRICE: It didn't go over that line.

24 MR. SPATZ: And that's why we're doing the
25 process this way.

1 MR. PRICE: But we're getting very close.

2 MR. SPATZ: I --

3 MR. PRICE: But --

4 MR. SPATZ: -- don't disagree.

5 MR. PRICE: And -- and clearly, if we went
6 from four to six that would be.

7 MR. SPATZ: Absolutely.

8 MR. PRICE: Okay.

9 Thank you.

10 MR. PANEQUE: Any other members of the
11 public?

12 VICE CHAIRMAN BONACCI: Okay. Closed to
13 the public.

14 I think we have everything we need here.

15 Right?

16 All right. I'm going to make a motion to
17 approve the application --

18 THE SECRETARY: Is --

19 VICE CHAIRMAN BONACCI: -- with the --

20 THE SECRETARY: It won't be an application.

21 VICE CHAIRMAN BONACCI: -- proposed changes
22 to the variance drawings, which were originally
23 approved.

24 And I think that the proposal advances the
25 goals and the objectives of the Master Plan and

1 all that. And I don't think that there's any
2 issues as far as variances or any of that going
3 forward.

4 So, I'm going to make a motion to approve
5 this application.

6 THE SECRETARY: Mr. Bonacci, may I have to
7 say that the Board can approve the proposed
8 changes to the drawings, or -- you know, the
9 approval November 12, 2015. A Resolution dated
10 --

11 VICE CHAIRMAN BONACCI: Okay. I have the
12 Resolution --

13 THE SECRETARY: -- December 10, 2015.

14 VICE CHAIRMAN BONACCI: I have the
15 Resolution date here as December 10th, 2015.

16 Is that right?

17 THE SECRETARY: Yes.

18 VICE CHAIRMAN BONACCI: Okay.

19 MR. PRICE: That is, in fact, correct.

20 VICE CHAIRMAN BONACCI: Okay.

21 THE SECRETARY: Thank you, Mr. Bonacci.

22 Motion to approve the proposed changes by
23 Mr. Bonacci.

24 Second by Mr. Pressey.

25 Roll call on the motion.

1 Mr. Bonacci?

2 VICE CHAIRMAN BONACCI: Yes.

3 THE SECRETARY: Mr. Gullon?

4 MR. GRULLON: Yes.

5 THE SECRETARY: Mr. Pressey?

6 MR. PRESSEY: Yes.

7 THE SECRETARY: Mr. Medina?

8 MR. MEDINA: Yes.

9 THE SECRETARY: Mr. Ortiz?

10 MR. ORTIZ: Yes.

11 THE SECRETARY: Five in favor, motion
12 carries.

13 Thank you.

14 MR. BIANCO: Thank you.

15 Have a good night.

16 VICE CHAIRMAN BONACCI: You, too.

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

19 * * *

20

21

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1 **T-Mobile Northeast, LLC - 711-715 Sip Street:**

2

3 THE SECRETARY: Are you ready, Mr. Ferraro?

4 MR. FERRARO: Yes.

5 Thank you.

6 THE SECRETARY: Next application on
7 tonight's agenda, T-Mobile Northeast, LLC, 711-
8 715 Sip Street.

9 MR. FERRARO: Good evening, Mr. Chairman,
10 members of the Board.

11 VICE CHAIRMAN BONACCI: Evening.

12 MR. FERRARO: Frank Ferraro, attorney on
13 behalf of the applicant, T-Mobile Northeast, LLC.

14 We are here tonight seeking to install a
15 new cell rooftop wireless telecommunication
16 facility -- I'll stand next to the microphone --
17 on top of the building at 711-715 Sip Street, in
18 the CG, gateway commercial district.

19 This is a first priority location under the
20 Ordinance.

21 The applicant is seeking some relief --

22 MR. PANEQUE: Counselor, excuse me a
23 second.

24 MR. FERRARO: Yes.

25 MR. PANEQUE: Before --

1 MR. FERRARO: Oh, I'm sorry.

2 MR. PANEQUE: -- we proceed, we do have to
3 establish jurisdiction.

4 MR. FERRARO: Yes.

5 MR. PANEQUE: So, just give me one second,
6 please.

7 I've just been handed over some
8 documentation.

9 MR. FERRARO: It's been awhile since I was
10 here, so --

11 MR. PANEQUE: That's okay.

12 MS. DILLON: Mr. Ferraro, do you have a
13 card?

14 MR. FERRARO: I should.

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

17 MS. DILLON: Thank you.

18 Thank you very much.

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

21 MR. PANEQUE: Mr. Ferraro?

22 MR. FERRARO: Yes?

23 MR. PANEQUE: Do you have the tax list from
24 the Tax Assessor's Office? I don't see it as
25 part of the documentation that's been provided.

1 MR. FERRARO: It should have been in there.

2 Let me check.

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

5 MR. FERRARO: It was sent to Carlos on
6 September 18th. You should have a copy of it.

7 MR. PANEQUE: That's -- see what it --

8 MR. FERRARO: I believe this is a copy of
9 it.

10 MR. PANEQUE: Let me just see.

11 MR. FERRARO: 9/8. There might have been a
12 newer one.

13 MR. PANEQUE: So, no, this is the payment
14 report, that the taxes are current. I actually
15 need the 200 foot list.

16 MR. FERRARO: Oh.

17 MR. PANEQUE: Do you have it?

18 THE SECRETARY: You have everything?

19 MR. PANEQUE: No, I don't have it.

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

22 MR. PANEQUE: You know what? It's part of
23 the exhibit that's got the green card, so you
24 have it there. Yeah. I have it here, then.

25 MR. FERRARO: You have it there.

1 MR. PANEQUE: Yeah.

2 MR. FERRARO: Okay. I have this, too.

3 MR. PANEQUE: That's fine. I have it,
4 Carlos. It was -- it was kind of hidden between
5 the certified slips, because they put it
6 together.

7 All right. For the record, I've been
8 provided with the following documentation by Mr.
9 Ferraro:

10 Been provided with an Affidavit of Mailing,
11 signed by Mr. Ferraro, indicating that on
12 September 20th, he sent out notices to all
13 property owners within the 200 foot list of the
14 property located at 711-715 Sip Street.

15 I've also been provided with the actual
16 certified mail receipts, with a postmark date of
17 September 20th, 2017, as well as the 200 foot list
18 that was provided by the Union City Tax Assessor,
19 with a date of August 30th, 2017.

20 I've also been provided with a copy --
21 actually, the actual Affidavit of Publication
22 from The Jersey Journal, indicating that notice
23 was published on September 25th, 2017, giving
24 notice of the application with the -- with the
25 property at 711-715 Sip Street, and the notice

1 | does indicate that a public hearing will be held
2 | on October 12th, 2017, at six p.m., which is the
3 | proper notice.

4 | Based on the information that has been
5 | provided, this Board has the jurisdiction to
6 | proceed and hear this matter.

7 | Thank you, Mr. Ferraro.

8 | MR. FERRARO: Thank you.

9 | So, as I mentioned, this application is for
10 | a conditional use variance approval. This
11 | particular facility, on an existing rooftop, is a
12 | conditionally permitted use in this particular
13 | zone.

14 | We are asking for D-3 variance relief, with
15 | respect to the fact that the antennas themselves
16 | will be located on the rooftop and screened with
17 | a material that will match the building façade,
18 | rather than flush mounted. As our engineer will
19 | indicate, we cannot flush mount to this building,
20 | because at a couple of locations, you'd be over
21 | the property line.

22 | Your Ordinance indicates that wireless
23 | antennas, when mounted on the rooftop, can't
24 | exceed the permitted height in the zone. CG zone
25 | has a maximum height of 50 feet. This building

1 is already nonconforming with a height of 75 and
2 a half feet to the penthouse.

3 The antennas that we would proposing and
4 the screening would reach a height of 80 and a
5 half feet.

6 There is a provision in the Wireless Code
7 which limits equipment height to 12 feet.
8 Technically, we need a variance. The screening
9 around the equipment will reach a height of 13
10 and a half feet above the roof. However, that
11 screen will only reach a height of nine feet nine
12 inches above the parapet. So, the visible part
13 of the screening will be approximately nine feet
14 nine inches high.

15 We are required to meet all setback
16 requirements in the zone. We've indicated a
17 variance for that, even though none of the
18 antennas are going to exacerbate any of the
19 existing nonconforming setbacks that the building
20 currently has.

21 Once again I mentioned, the height variance
22 and also there's a setback requirement of a
23 hundred feet from a one, two, or three family --
24 on a single or a two family or three family
25 homes. There is actually once across the street

1 from our facility.

2 So, those are the variances being
3 requested.

4 T-Mobile is here because -- I know this
5 Board has heard of -- certain members of this
6 Board I know have heard a number of these
7 applications, they are having capacity issues in
8 the City due to the usage, the amount of usage by
9 their customers, that they're seeking to address
10 with this site and the application after it.

11 We have four witnesses to present, so
12 unless there is any initial questions or comments
13 from the Board, or its professionals, we call our
14 first witness.

15 Thank you.

16 We'd like to Adam Feehan, who's our radio
17 frequency engineer.

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

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

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

24 MR. FEEHAN: Yes, I do.

25 MS. DILLON: Please state your name and

1 spell it for the record.

2 MR. FEEHAN: Adam Feehan, last name
3 F-E-E-H-A-N.

4 MS. DILLON: Thank you.

5 MR. FEEHAN: You're welcome.

6 MR. FERRARO: Mr. Feehan, could you please
7 review your background and qualifications for the
8 Board?

9 MR. FEEHAN: Yes.

10 I have a bachelor of science of electrical
11 engineering, from the New Jersey Institute of
12 Technology.

13 For the past four years, I've been employed
14 by PierCon Solutions, my current employer, as a
15 radio frequency engineer.

16 Testified before many boards throughout New
17 Jersey, as a radio frequency expert, for zoning
18 boards, planning boards, historic commissions and
19 lots of other things.

20 MR. FERRARO: And have you ever been
21 accepted as an expert in the field of radio
22 frequency design, by those boards?

23 MR. FEEHAN: Yes.

24 MR. FERRARO: Any objections from the
25 Board?

1 VICE CHAIRMAN BONACCI: We'll accept his
2 qualifications.

3 MR. FEEHAN: Thank you.

4 MR. FERRARO: Thank you, Mr. Chairman.

5 VICE CHAIRMAN BONACCI: Thank you.

6 MR. FERRARO: Mr. Feehan, T-Mobile is a FCC
7 licensed provider of telecommunication services.

8 Is that correct?

9 MR. FEEHAN: That's correct. Yes.

10 MR. FERRARO: And could you just explain
11 the certain frequency bands that T-Mobile holds a
12 license to?

13 MR. FEEHAN: Yes.

14 T-Mobile holds three different frequency
15 band licenses. One, the 2100 megahertz frequency
16 band, one in 1900 and one in 700. In these
17 various frequencies, they deploy different
18 technologies, primarily, now, the high quality
19 signal which is provided is the 4G LTE, which is
20 primarily for data, but it's also used for voice
21 transmissions, as well.

22 And that's what we're here to talk about
23 tonight is the amount of data which T-Mobile
24 customers are using is just increasing
25 dramatically. And all -- and it happens to all

1 the carriers. It's not just at T-Mobile. So,
2 that's what we're here to address, the capacity
3 issue.

4 MR. FERRARO: And will the services that
5 will be provided from this site be public
6 wireless services, as well as emergency
7 communications?

8 MR. FEEHAN: Yes. As I said, you can use
9 voice communications on the LTE channels, as
10 well. So, if somebody is in that vicinity of
11 this site, and dials 9-1-1, and their carrier is
12 not able to serve them, then the T-Mobile site
13 would also be able to serve them.

14 MR. FERRARO: And have you done a radio
15 frequency analysis of the existing network in and
16 around the proposed site?

17 MR. FEEHAN: Yes.

18 MR. FERRARO: You have some exhibits that
19 you're going to be reviewing with the Board.

20 Is that correct?

21 MR. FEEHAN: Yes, that's correct.

22 These are the same exhibits which were in
23 the report. They just have been blown up to a
24 larger C size.

25 MR. FERRARO: Let me mark this.

1 MR. PANEQUE: Mr. Ferraro?

2 MR. FERRARO: Yes?

3 MR. PANEQUE: Are they part of the
4 application packet? Because if they are, then we
5 just make --

6 MR. FERRARO: Does the Board have the
7 report?

8 MR. PANEQUE: -- reference to them.

9 MR. GRULLON: No. I don't see the report.

10 MR. FERRARO: You don't see the report?

11 MR. PANEQUE: No?

12 Okay.

13 MR. FERRARO: Then I'm going to mark it,
14 just to be --

15 MR. PANEQUE: In that case, let's mark it.

16 MR. FERRARO: Okay.

17 MR. PANEQUE: And mark it as an exhibit.
18 You would just have to leave -- leave it with us
19 when you're finished.

20 MR. FERRARO: No problem.

21 MS. DILLON: All right. So, what is A-1?

22 MR. FERRARO: A-1 is Site Map, Detailed
23 Site Map, Existing and Proposed Sites.

24 MS. DILLON: Is it dated?

25 MR. FERRARO: And it is dated 5/1/17.

1 MS. DILLON: Thank you.

2 MR. FERRARO: You're welcome.

3 Well, might as well mark all of them, Adam,
4 now so it's easier.

5

6 (Whereupon, Detailed Site Map, Existing and
7 Proposed Sites, dated 5/1/17 was received and
8 marked as Exhibit A-1.)

9

10 MR. FEEHAN: Sure. It's on the back of
11 here.

12 MS. DILLON: Okay. So, now, A-2?

13 MR. FERRARO: A-2 is an exhibit entitled,
14 Exhibit C, L -- forget that.

15 A-2 is a --

16 MS. DILLON: Capacity Chart?

17 MR. FERRARO: -- LTE 2100 Capacity Chart.

18 MS. DILLON: Okay.

19 MR. FERRARO: For NJ05604B.

20 MS. DILLON: I need to see that.

21 MR. FERRARO: No problem.

22 MS. DILLON: Thank you.

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

25 MS. DILLON: It's a zero?

1 MR. FERRARO: Yeah.

2 MS. DILLON: Thank you.

3 MR. FERRARO: And it's dated 5/1/17.

4 MS. DILLON: Okay.

5 Thank you.

6

7 (Whereupon, LTE 2100 Capacity Chart
8 NJ05604B Beta, dated 5/1/17, was received and
9 marked as Exhibit A-2.)

10

11 MR. FERRARO: Yup. That's A-2.

12 And we have one more, I believe.

13 MR. FEEHAN: Two more.

14 MR. FERRARO: Two more.

15 A-3 is LTE 2100 Capacity Chart for --

16 MS. DILLON: Um hum.

17 MR. FERRARO: -- NJ05136E, Beta.

18 MS. DILLON: Okay.

19 MR. FERRARO: 5/1/17.

20

21 (Whereupon, LTE 2100 Capacity Chart
22 NJ05136E Beta, dated 5/1/17, was received and
23 marked as Exhibit A-3.)

24

25 MR. FERRARO: And then the final, marking

1 as A-4, is LTE 2100 Capacity Chart for NJ05461D
2 Gamma.

3 MS. DILLON: Okay.

4 MR. FERRARO: And that is dated 5/1/2017.

5

6 (Whereupon, LTE 2100 Capacity Chart
7 NJ05461D Gamma, dated 5/1/17, was received and
8 marked as Exhibit A-4.)

9

10 MR. FERRARO: Mr. Feehan, the exhibits we
11 just marked in, A-1 through A-4, were either
12 prepared by you or under your supervision?

13 MR. FEEHAN: Yes. I prepared all of them.

14 MR. FERRARO: Okay.

15 And if you can please just describe,
16 starting with A-1, where the proposed site is in
17 relation to the existing T-Mobile sites?

18 MR. FEEHAN: Yes. Exhibit A-1, which is
19 the Detailed Site Map, gives an overview of the
20 area. It shows the streets, it shows the
21 surrounding sites represented by red triangles
22 and some are actually highlighted in yellow, as
23 well. There's the pink outline, which represents
24 our target area/search area. And then, there's
25 the pink dot in the center, which is our proposed

1 site location.

2 And just so we can orient the Board to
3 where we're look -- what we're looking at here,
4 I'll briefly describe the exhibit.

5 Route 9, you can see in the top left of the
6 exhibit. You can see 40th Street in the top right
7 of the exhibit. You can see Peter Street in the
8 bottom right of the exhibit. And you can see 21st
9 Street in the bottom left of the exhibit.

10 Our proposed site is located on Sip Street,
11 which runs right here, going from top left down
12 to bottom right, through the center, Exhibit A-1.
13 And our proposed site is over by the pink dot, as
14 I've said, and is labeled NJ09819A.

15 Surrounding, you have a couple of different
16 sites. And I'll just focus on the ones which
17 have a yellow highlighted sector.

18 So, there's the site to the north, which is
19 NJ05136E, that's located at 3196 John F. Kennedy
20 Boulevard; that is a rooftop installation.

21 Site to the northeast of our proposed
22 location is NJ05604B. That's located at 3711
23 Bergenline Avenue. It's also a rooftop
24 installation.

25 And you continue clockwise, you just go

1 south, you see the site labeled NJ05461D; that's
2 located at 3100 Bergenline Avenue.

3 The reason that these sectors are
4 highlighted in yellow is because they're going to
5 reflect the next three exhibits. They are the
6 sectors which are currently experiencing a
7 capacity issue.

8 In 4G LTE technology, when a capacity issue
9 occurs, there's a couple different things that
10 can happen to the user. And when I say user, I
11 mean, somebody who's using their phone or a
12 tablet, whatever type of device that can be
13 connected to the T-Mobile network.

14 The three things that can happen is, one,
15 it can slow down your connection, kind of like it
16 will throttle you, bringing you back down to 3G
17 speeds, which is a lot slower.

18 The second thing it can do is it can
19 actually kick you off 4G, kick you back down to
20 3G technology, which is ten years old, and ten
21 times as slow.

22 The third thing that can happen is it can
23 cut your connection off completely.

24 When any of these three things happen,
25 you'll notice on your phone, say you have good

1 signal, but you have your little spinning loading
2 bar still telling you that something -- you know,
3 you're waiting for whatever you're waiting for
4 and it's not coming very quickly, like you're
5 used to.

6 So, those are the type of problems we're
7 trying to get rid of with this site.

8 The things which you would first want to do
9 is you want to increase the number of LTE
10 channels at existing sites. That's already been
11 done at the existing sites.

12 Upgrade the antenna technology to the
13 latest. That's already been done.

14 So, there's nothing else we can do at the
15 existing sites in order to remedy the problem.
16 We've already taken all the necessary steps.

17 And before we -- before I keep talking
18 about it, why don't I show you what the chart
19 actually looks like?

20 MR. FERRARO: And just based upon A-1,
21 before we move off of this --

22 MR. FEEHAN: Sure.

23 MR. FERRARO: -- the proposed site is
24 relatively centrally located between the three
25 sites you're trying to offload.

1 Is that correct?

2 MR. FEEHAN: Yes. Because we're trying to
3 offload three different sites, the highlighted
4 ones, you want to be located in an area that's
5 quasi-central to where they're covering. And as
6 you can see, they're pointing in this direction.
7 And so, we're in the middle of where those
8 antennas are providing coverage to.

9 MR. FERRARO: And by doing that, does that
10 minimize the number of sites that T-Mobile needs
11 to build?

12 MR. FEEHAN: Yes.

13 MR. FERRARO: Okay.

14 Does the Board have a copy of the inventory
15 in the packet, by any chance?

16 All right. I'm going to mark this as A-5,
17 and we'll pass it around.

18

19 (Whereupon, Inventory Map of Existing and
20 Approved Sites, dated 4/19/17, was received and
21 marked as Exhibit A-5.)

22

23 MR. FERRARO: But Mr. Feehan, A-5, this is
24 a map entitled Inventory of Existing and Approved
25 Sites.

1 MR. FEEHAN: Yes.

2 MR. FERRARO: Within the city.

3 MR. FEEHAN: Yes.

4 MR. FERRARO: Okay.

5 MR. FEEHAN: And within, I think --

6 MR. FERRARO: One mile of the --

7 MR. FEEHAN: One mile of the border of the
8 city.

9 MR. FERRARO: Of the city.

10 MR. FEEHAN: Yes.

11 MR. FERRARO: Okay. So, this exhibit, A-5,
12 was prepared by you as well?

13 MR. FEEHAN: Yes.

14 MR. FERRARO: Okay.

15 This exhibit was just to show the Board all
16 the sites that T-Mobile has in the city.

17 So, does it necessarily relate or have any
18 additional pertinent information above and beyond
19 what's shown on A-1?

20 MR. FEEHAN: No. What's shown on A-1 is
21 going to be much more relevant to what we're
22 talking about tonight.

23 MR. FERRARO: Okay.

24 But if the Board was curious, this is --
25 this is the current location of all the existing

1 T-Mobile sites in the city, as shown in the
2 orange area.

3 MR. FEEHAN: Yes.

4 MR. FERRARO: Now, Mr. Feehan, with respect
5 to A-2, the next slides you're going through, or
6 exhibits, are going to be capacity exhibits.

7 Is that correct?

8 MR. FEEHAN: Yes, that's correct.

9 So, if we look at Exhibit A-2 --

10 Make sure I have the right one. Yes.

11 MR. FERRARO: And just out of curiosity,
12 has the Board seen the capacity graph exhibits
13 before?

14 MR. GRULLON: Yes.

15 MR. FERRARO: Okay.

16 MR. GRULLON: Yes.

17 MR. FEEHAN: Okay.

18 I'll -- I'll very quickly go over what
19 we're looking at here, then.

20 So, Exhibit A-2 is just specifically
21 relating to one of those yellow highlighted
22 sectors on the Exhibit A-1. It's 5604B, the Beta
23 sector, which is the yellow one, which points in
24 our direction.

25 The red line, which goes across from left

1 to right, represents the 65 percent utilization.

2 And at the top, you have 100 percent.

3 The reason the red line is at 65 percent is
4 because it takes a certain amount of time to be
5 able to find a location, to be able to find a
6 landlord that's willing to go through the process
7 of zoning or planning or historic, and then,
8 actually building the site.

9 So, after all this time, you want to try to
10 have the site on air before you get up to 100
11 percent. As you could see, as the -- if you look
12 at A-2, we're at 100 percent already.

13 I'm not sure what happened in this time
14 period, where it dropped down to 75, 80 percent.
15 But it is -- from the time of the chart, of
16 April, it was back up to the normal almost 100
17 percent, 95 to 100 percent.

18 And that's the percentage where those three
19 problems, which I described earlier, will happen.

20 MR. FERRARO: And just to -- with respect
21 to the -- the yellow line that's shown on this
22 exhibit, does that represent the empirical
23 through -- throughput data?

24 MR. FEEHAN: That's the actual usage on the
25 -- the y-axis here is the percent utilization.

1 And so, a site can only handle so much, and 100
2 percent is the most it can handle, and that's
3 essentially where we're at, between 95 to 100
4 percent.

5 MR. FERRARO: Okay.

6 And when the site or sector gets to 100
7 percent, what needs to be done?

8 MR. FEEHAN: We need to be able to take
9 that usage and put it onto a different site,
10 which is what we're proposing to do, by placing
11 another site centrally located between the 3-1s
12 which you're experiencing a problem, and take
13 that data usage off and -- and put it on the
14 proposed site and split it.

15 MR. FERRARO: Okay.

16 MR. FEEHAN: If we look at the next two
17 exhibits, they're essentially the same thing.
18 The -- the only real difference is that the
19 actual usage is a little bit different. Because
20 you can look at Exhibit A-3 here, this is for
21 5136E Beta. Again, it's another yellow triangle
22 on Exhibit A-1.

23 The actual usage is consistently up high,
24 near 100 percent, where you'd start to experience
25 that problem.

1 And Exhibit A-4 shows the same story. So,
2 all three sectors have shown that they're
3 overloaded and no growth can occur, and those
4 three problems, which I described earlier, are
5 happening at those three sectors.

6 MR. FERRARO: And just briefly, A-4 is for
7 what site?

8 MR. FEEHAN: A-4 is for 5461D Gamma,
9 abbreviate to the last four numbers.

10 MR. FERRARO: And what's the percentage
11 utilization on this particular throughput chart?

12 MR. FEEHAN: It's up as well, in the 95 to
13 100 percent range.

14 MR. FERRARO: Okay.

15 Based upon your review of the capacity
16 issues, do you believe that T-Mobile has an area
17 deficient capacity in and around the proposed
18 site?

19 MR. FEEHAN: Yes.

20 MR. FERRARO: So, as you mentioned before,
21 is the issue coverage or is it --

22 MR. FEEHAN: No, the issue -- it's not a
23 coverage issue. So, a lot of times when -- when
24 we -- when we say that there is a coverage gap,
25 we're saying that if you were to look at your

1 phone, for example, you'd see you have no signal,
2 give you the little no signal symbol, or you'd
3 have one or two bars. That's not the issue
4 that's occurring here.

5 As I said earlier, you'll have a good
6 signal, but you won't be able to do anything
7 because you're kind of waiting in line for
8 everybody else who's trying to do the same thing.
9 It's kind of if you had an opening right here,
10 and you had a hundred people trying to rush into
11 it all at once.

12 MR. FERRARO: Okay.

13 So, in your professional opinion, is this
14 additional site necessary in order to address
15 this capacity issue?

16 MR. FEEHAN: Yes, it is.

17 MR. FERRARO: And the proposed antennas on
18 the building rooftop, are they being proposed at
19 the minimum height necessary?

20 MR. FEEHAN: Yes. They're proposed at the
21 height, just to clear the -- the tallest section
22 of the roof, which would be the parapet.

23 MR. FERRARO: And did you investigate the
24 possibility of flush mounting the antennas to the
25 building?

1 MR. FEEHAN: Yes. Flush mounting, from an
2 RF perspective, would work in some sections of
3 the building. But as was said earlier, it would
4 cause the antennas to go over the property line.

5 MR. FERRARO: So, in order to -- those
6 locations to not be over the property line, we
7 would locate them on the building rooftop.

8 Is that correct?

9 MR. FEEHAN: That's correct.

10 MR. FERRARO: Okay.

11 With respect to this facility, will it
12 cause any interference with any other
13 communications equipment?

14 MR. FEEHAN: No. It won't cause any
15 interference with any other wireless carriers or
16 with any public safety, fire department, police
17 department. And if it -- if T-Mobile did, it
18 would be on their responsibility to remedy the
19 problem.

20 MR. FERRARO: And there are dish antennas
21 proposed in this application.

22 Correct?

23 MR. FEEHAN: Yes.

24 MR. FERRARO: Can you explain why?

25 MR. FEEHAN: Dish antennas are proposed in

1 order to bring this site on-air, or active, as
2 soon as possible, because normally, what a site
3 needs to function needs to have some sort of back
4 haul to the rest of the network, or to the
5 internet and that's provided by fiber.

6 If fiber is not available right away, then
7 a dish is able to bring the site online as
8 quickly as possible. As you can see by the
9 charts, we need to bring this site on-air as
10 quickly as possible to remedy the problem.

11 Once that fiber line is complete, and it's
12 there, the dish does not have to be there.

13 MR. FERRARO: Okay.

14 So, it's temporary in nature.

15 MR. FEEHAN: Yes.

16 MR. FERRARO: And regardless, in this
17 application, the dish would be located behind the
18 screening.

19 Is that correct?

20 MR. FEEHAN: Yes.

21 MR. FERRARO: So, it would not be visible.

22 MR. FEEHAN: Correct. It would not be
23 visible.

24 MR. FERRARO: Okay.

25 Mr. Chairman, are there questions of Mr.

1 | Feehan or his exhibits?

2 | VICE CHAIRMAN BONACCI: I have a question.
3 | How many witnesses did you say that you
4 | had?

5 | MR. FERRARO: Four.

6 | VICE CHAIRMAN BONACCI: You have four.

7 | MR. FERRARO: Yes.

8 | VICE CHAIRMAN BONACCI: Okay. I'm going to
9 | save the questions until the end so that you can
10 | get through the witnesses.

11 | MR. FERRARO: Okay. However you --

12 | VICE CHAIRMAN BONACCI: Yeah.

13 | MR. FERRARO: -- prefer.

14 | VICE CHAIRMAN BONACCI: Let's get the
15 | witnesses first, and then we'll ask the
16 | questions.

17 | MR. FERRARO: Okay.

18 | And do we open up to the public at the end
19 | of all the witnesses?

20 | VICE CHAIRMAN BONACCI: Yeah. We'll do
21 | that.

22 | MR. FERRARO: Okay. So, if there's no
23 | additional questions, we'll call our next
24 | witness.

25 | VICE CHAIRMAN BONACCI: Um hum.

1 MR. FERRARO: Okay. Mr. Collins, who's our
2 radio frequency emissions expert.

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

5 MS. DILLON: Please raise your right hand.

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

8 MR. COLLINS: I do.

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

11 MR. COLLINS: David Collins, C-O-L-L-I-N-S.

12 MS. DILLON: Thank you.

13 MR. FERRARO: And Mr. Collins, could you
14 please review your background and qualifications
15 for the Board?

16 MR. COLLINS: Yes. Seventeen years
17 experience in assessing RF compliance rulings for
18 the FCC and the State of New Jersey.

19 Graduate of City College of New York, with
20 a BS in industrial technology.

21 I've testified thousands of times in the
22 State of New Jersey, including, and it's been a
23 number of years, but at least three times in
24 front of this Board on this area of expertise.

25 VICE CHAIRMAN BONACCI: We accept your

1 qualifications.

2 Thank you.

3 MR. FERRARO: Thank you.

4 Mr. Collins, did you perform a radio
5 frequency emissions analysis of the proposed
6 site?

7 MR. COLLINS: Yes, we did.

8 MR. FERRARO: Okay.

9 And is that embodied in your report
10 entitled, Antenna Site FCC RF Compliance
11 Assessment and Report, dated April 11, 2017?

12 MR. COLLINS: That is correct.

13 MR. FERRARO: And was this report prepared
14 by you or under your supervision?

15 MR. COLLINS: Under my supervision.

16 MR. FERRARO: Does the Board have this
17 report? If not, I'll mark it.

18 I'll mark this as -- I'm sorry, is it A-6?

19 MS. DILLON: Do you have it?

20 MR. PANEQUE: It's not part of the
21 exhibits.

22 THE SECRETARY: Whatever is on the -- on
23 the complete application.

24 VICE CHAIRMAN BONACCI: What's he up to?
25 A-5, A-6?

1 MR. FERRARO: I think A-6.

2 MS. DILLON: A-6.

3 VICE CHAIRMAN BONACCI: Okay.

4 MR. FERRARO: Right?

5

6 (Whereupon, Pinnacle Telecom Group Report,
7 dated 4/11/17, was received and marked as Exhibit
8 A-6.)

9

10 MR. FERRARO: Mr. Collins, could you please
11 review the analysis and conclusions contained in
12 this report?

13 MR. COLLINS: Yes.

14 The federal government sets a standard for
15 maximum permissible exposure levels for radio
16 frequency and antenna sites. They also provide
17 mathematical documentation for you to determine
18 that level, which you would then compare to the
19 standard and to see whether or not you do,
20 indeed, comply, or does the site require
21 mitigation.

22 The standard itself is very conservative.
23 It allows only very low levels of radio frequency
24 energy. And the mathematical program is skewed
25 intentionally conservative, so that the results

1 are worst case.

2 Simplest way to describe the results is to
3 describe them in terms of a percentage of what's
4 permitted; 100 percent would be the maximum
5 amount allowed, anything less than that would
6 comply with the rules and regulations.

7 Having said that, we received from T-Mobile
8 the operating parameters for this site, and we
9 injected all those formula parameters into --
10 into the document, and the computerized -- we
11 have computerized this so you can perform it
12 rather rapidly, because it's lengthy.

13 We perform it out to a distance of 500
14 feet, which is the FCC recommended distance.
15 Beyond that, the level inevitably gets lower and
16 lower and lower, so there's no net -- FCC's
17 determined there's no -- no requirement to do it
18 any further.

19 So, within that thousand foot circle, the
20 maximum calculated level was 4.0683 percent of
21 the -- of the limit, which puts us, in terms of
22 how many times below the limit are we, we are
23 more than 25 times below -- 24, I'm sorry, be
24 more accurate -- 24 times below the federal
25 limit.

1 The State of New Jersey also has its own
2 Radiation Protection Act. It is less stringent,
3 by a factor of five. That is -- it's still amply
4 protective, but nonetheless, it is not as
5 powerfully strong as the federal limit.

6 So, it's just a simple of multiplying by
7 five, to get the times below factor. We're 120
8 times below the New Jersey State Protection
9 limit.

10 This site will also have dish antennas, in
11 order so it can communicate with the network.
12 Dish antennas, by FCC dictum, are categorically
13 excluded from having to demonstrate compliance
14 because of their very low power input, which is
15 typically in the tenths of a watt. Laws of
16 physics being you can't get more out than you got
17 in. If you're only putting a couple of tenths
18 in, you're only going to get a few tenths out.
19 And the FCC has determined that the levels are so
20 low as a result of that, that there's no need to
21 go through the compliance demonstration.

22 MR. FERRARO: So, in your opinion, if this
23 site were approved, would it be fully compliant
24 with all FCC and State emissions requirements?

25 MR. COLLINS: Absolutely.

1 MR. FERRARO: Mr. Chairman, no further
2 questions of Mr. Collins.

3 VICE CHAIRMAN BONACCI: Thank you.

4 MR. FERRARO: That would bring us to our
5 next witness, who's our professional engineer, to
6 review the site plan.

7 Thanks.

8 MR. COLLINS: All right.

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

11 MS. DILLON: Please raise your right hand.

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

14 MR. IANNELLI: Yes.

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

17 MR. IANNELLI: My name is Mario Iannelli,
18 I-A-N-N-E-L-L-I.

19 I am a professional engineer in the State
20 of New Jersey. I'm the Manager of Land
21 Development Services at Dewberry.

22 Want to go to credentials?

23 MR. FERRARO: Yes, please.

24 MR. IANNELLI: I have graduated from NJIT
25 in 1993, with a bachelors in civil engineering.

1 In 2001, with a masters in civil engineering.

2 I've been licensed professional engineer,
3 State of New Jersey, since 1997. I have been
4 managing and working on land development projects
5 for roughly 23 years.

6 VICE CHAIRMAN BONACCI: We accept your
7 credentials.

8 MR. IANNELLI: Thank you.

9 MR. FERRARO: Thank you.

10 Mr. Iannelli, the plans that were submitted
11 to the Board, last revised 5/23/17, were either
12 prepared by you or under your supervision.

13 Is that correct?

14 MR. IANNELLI: I reviewed them. Yes, that
15 is correct.

16 MR. FERRARO: Okay.

17 And if you can just refer to the sheet
18 number, as you move through the package. Just,
19 please, describe the existing conditions of the
20 property and the proposed improvements.

21 MR. IANNELLI: Yes.

22 I got to get different glasses. I need
23 these when I look close, so please excuse the
24 back and forth.

25 The project address is 711-715 Sip Street.

1 It's also known as Block 171, Lot 10. It's
2 roughly 5900 square feet or 5983 square feet in
3 area. Rough dimensions are 59 by 100. It's in
4 the CG gateway commercial district.

5 It is a conforming lot. It does have a
6 number of existing nonconformities. Most
7 notably, the front yard and side yard on the
8 north and east side, and the north being the
9 front on Sip, is zero setback. The side on the
10 west and the rear is also undersized, roughly six
11 feet and two feet to the south.

12 So, the site itself is -- hold on --
13 located more on the southeast side of Sip Street,
14 near Central Avenue. And mostly, the lot -- the
15 building is about the same size as the lot, for
16 the most part. So, that's the existing
17 conditions.

18 The proposal that's in front of you is to
19 basically install the antennas that were referred
20 to in the equipment on the roof, in three
21 corners. I'm referring to Sheet Z-1, which is in
22 your packet.

23 Basically, this highlighting on the upper
24 portion of the page, or the north, is Sip Street.
25 That is the front of the building; west would be

1 the side yard, which has roughly a six foot
2 setback. The east has a zero foot setback, and
3 the rear has roughly a -- I believe, a two foot
4 setback.

5 So, the proposal is to construct these
6 antennas at the corners, on the northwest corner,
7 southwest corner and the southeast corner.

8 Basically, the layout of these --
9 Get another figure, please -- yup.

10 So, basically, the breakdown of the
11 antennas are roughly three antennas at each -- in
12 the northwest corner, and one dish, microwave
13 dish in the southwest corner. There was three
14 antennas and one microwave -- microwave dish in
15 that -- in the southeast corner. It actually has
16 the same configuration, just one -- it's three
17 antennas and a dish on this side, highlighting on
18 the southeast corner, and then along the south
19 face here.

20 So, again, I'm referring to sheet Z-1.

21 The proposal also includes a installation
22 of an equipment area that will be placed on a
23 proposed equipment platform that will be above
24 the -- roughly anywhere from a foot to 18 inches
25 above the roof.

1 That platform is a steel platform, and the
2 equipment is placed on top of it.

3 The equipment includes cabinets for the GPS
4 antenna, things like that, a light that is there.
5 It only turns on with a timer, when people are
6 working on it, for safety. And all of that
7 equipment falls behind the screening.

8 MR. FERRARO: And there's a total of 12
9 panel antennas.

10 Is that correct?

11 MR. IANNELLI: That is correct.

12 MR. FERRARO: Okay.

13 MR. IANNELLI: So, when you're looking at -
14 - again, the -- there's also equipment that runs
15 along the roof. I'm highlighting Z-1 again. It
16 looks like dashed lines. Those are basically
17 cases of conduit that run along the roof, not
18 visible from the street at all.

19 And then, you will have some -- a conduit
20 that runs down the side of the building, which
21 there are already some there that get down to the
22 electrical room, where some equipment will be
23 tied in, down at the lower level, in the
24 basement.

25 The -- there's a couple things that should

1 | be noted. The height -- there's some
2 | nonconformities associated with the wireless.
3 | The height of the equipment is permitted to be 12
4 | foot above the roof. What we're proposing here
5 | will be 13.5 feet above the roof, or nine foot
6 | above the parapet. So, still falling behind the
7 | screening, but still above what is allowed.

8 | It is also important to note that the roof
9 | is allowed to be covered with 25 percent
10 | equipment. We're at 16.5 percent. So, we would
11 | still comply.

12 | MR. FERRARO: And will the antennas or any
13 | of the improvements impact the existing
14 | nonconforming setbacks of the property?

15 | MR. IANNELLI: No, they will not. Because
16 | they're actually mounted on the inside of the
17 | parapet. So, they will be on the inside face.
18 | And then, the screen walls built up from the
19 | parapet.

20 | MR. FERRARO: Okay.

21 | And as they RF engineer testified, at
22 | certain locations, could the antennas be flush
23 | mounted without going over the property line?

24 | MR. IANNELLI: Well, I had mentioned before
25 | that the front here, along Sip, I'm referring to

1 Z-1, and the east is basically zero setback. So,
2 if we mounted it on the face, we would be in
3 violation of the setback.

4 MR. FERRARO: Okay.

5 MR. IANNELLI: Actually, we'd be crossing
6 the property line, not the setback.

7 MR. FERRARO: And now, with respect to the
8 elevation drawing, could you just refer to the
9 screening there?

10 MR. IANNELLI: Sure. I'll move it over.

11 I'm referring to sheet Z-5 in your packet.
12 There will be renderings that the planner will
13 show you that are a lot more easy on the eyes
14 than what you're looking at.

15 This is a 2D picture of the elevation.
16 This is the west elevation. Basically, what
17 you're seeing here is a -- an elevation of what
18 the building currently looks like on the west.
19 And what you're seeing here in the upper left
20 hand corner and upper right hand corner is the
21 screen wall. And then, the equipment is dashed
22 behind it.

23 The same thing that -- on the south
24 elevation, that holds true here. I'm showing the
25 two areas.

1 And I believe there was one more elevation.

2 And again, I would really -- when you see
3 the renderings, with the color and how these --
4 the screen walls actually match the color of the
5 buildings, it will give you a little better
6 flavor what's going on.

7 But looking at the north elevation, you
8 could see that the screening will be located
9 here. Again, all the equipment will be located
10 behind it, antennas, anything to do with this
11 installation will be screened by this equipment.
12 I mean, by the screen wall.

13 MR. FERRARO: Okay.

14 And the existing parapet height of the
15 building as shown on this elevation is?

16 MR. IANNELLI: Well, the existing parapet
17 height -- the existing parapet or from the
18 parapet?

19 MR. FERRARO: The parapet height.

20 MR. IANNELLI: This one is the one that
21 varies.

22 Correct?

23 Hold on a second.

24 MR. FERRARO: No, doesn't vary.

25 MR. IANNELLI: No, this one's the one that

1 -- sorry.

2 Give me a second.

3 The parapet is roughly three feet, three
4 foot nine inches. From the existing roof to the
5 existing parapet is three foot nine inches.

6 MR. FERRARO: But above grade, how high is
7 it?

8 MR. IANNELLI: It's roughly 70 foot nine
9 inches above grade.

10 MR. FERRARO: Okay.

11 And what would be the top of the screening?

12 MR. IANNELLI: Top of the screening will be
13 76 feet above grade.

14 MR. FERRARO: The screening?

15 MR. IANNELLI: I'm sorry.

16 Eighty feet six inches above grade.

17 I apologize.

18 MR. FERRARO: Okay.

19 MR. IANNELLI: Told you, the glasses.

20 MR. FERRARO: So, the screening will be
21 nine feet, nine inches above the parapet.

22 MR. IANNELLI: That is correct.

23 MR. FERRARO: Is that correct?

24 Okay.

25 And as you mentioned, the screening will be

1 treated to match the building.

2 MR. IANNELLI: That is correct.

3 MR. FERRARO: Okay.

4 Have you or your firm prepared a structural
5 analysis of the proposed facility?

6 MR. IANNELLI: Yes, we did.

7 MR. FERRARO: Does the Board have the
8 structural report in its package, by any chance?

9 I'm going to mark this as A-7.

10

11 (Whereupon, Structural Analysis Report and
12 Design Calculations, Dewberry, dated 4/26/17, was
13 received and marked as Exhibit A-7.)

14

15 MR. FERRARO: Mr. Iannelli, this report was
16 either prepared by you, or under your
17 supervision.

18 Is that correct?

19 MR. IANNELLI: It was prepared, yes.

20 MR. FERRARO: Okay. So, under your super

21 --

22 MR. IANNELLI: Yes.

23 MR. FERRARO: Did you have a chance to
24 review it?

25 MR. IANNELLI: You didn't give me a chance

1 to finish.

2 It was prepared under --

3 MR. FERRARO: I'm sorry.

4 MR. IANNELLI: -- our supervision.

5 MR. FERRARO: Sorry. Try to move it.

6 Okay, according to this report, which is
7 entitled Structural Analysis Report and Design
8 Calculations, dated April 26, 2017, marked as
9 A-7, according to this report, will the facility
10 comply with all applicable Building Codes?

11 MR. IANNELLI: Yes.

12 MR. FERRARO: Okay.

13 And will a copy of this report be submitted
14 to the Union City Building Department, if
15 approved?

16 MR. IANNELLI: If approved, as required by
17 the Building Department, the structural
18 calculations will have to demonstrate that the
19 installation of the equipment and all supporting
20 -- the parapet wall, modifications, have to meet
21 all applicable Codes.

22 MR. FERRARO: Okay.

23 Now, operational -- operationally, with
24 respect to the facility, are there adequate
25 utilities on-site?

1 MR. IANNELLI: Yes.

2 MR. FERRARO: Is there any need for
3 additional parking?

4 MR. IANNELLI: No.

5 MR. FERRARO: This is an unmanned facility?

6 MR. IANNELLI: Yes. There will be an
7 occasional visit of, like once a month, or the --
8 the equipment actually signals there's a problem,
9 for a maintenance person to come out and they
10 handle it. But it's very -- it's very
11 infrequent.

12 MR. FERRARO: Okay.

13 Will there be any ground disturbance as a
14 result of this installation?

15 MR. IANNELLI: No, there will not.

16 MR. FERRARO: Will there be any need for
17 water or sewer service?

18 MR. IANNELLI: No.

19 MR. FERRARO: Any need for additional
20 municipal services?

21 MR. IANNELLI: No.

22 MR. FERRARO: Approximately how -- any
23 generator associated with this site?

24 MR. IANNELLI: No. It actually has a
25 battery backup -- pack. It's a -- it's a pack

1 | that charges and provides power when the power
2 | goes out.

3 | MR. FERRARO: Okay.

4 | So, will -- will it comply with all
5 | applicable noise regulations?

6 | MR. IANNELLI: Yes.

7 | MR. FERRARO: Will it result in any odor,
8 | smoke, glare, noise, dust, or other nuisance?

9 | MR. IANNELLI: No.

10 | MR. FERRARO: And in your opinion, does
11 | this site pose any safety hazard to the general
12 | public?

13 | MR. IANNELLI: No.

14 | MR. FERRARO: And in your opinion, do you
15 | think this site can -- this property can
16 | accommodate this additional use?

17 | MR. IANNELLI: Yes.

18 | MR. FERRARO: Okay. All right.

19 | Mr. Chairman, no further questions of Mr.
20 | Iannelli.

21 | VICE CHAIRMAN BONACCI: Thank you. Thank
22 | you for your testimony.

23 | MR. IANNELLI: Thank you.

24 | MR. FERRARO: That brings us to our final
25 | witness, who's our professional planner.

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

3 MS. DILLON: Please raise your right hand.

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

6 MR. KARLEBACH: I do.

7 MS. DILLON: Please state your name and
8 spell it for the record.

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

11 MS. DILLON: Thank you.

12 MR. FERRARO: Mr. Karlebach, please review
13 your background, qualifications.

14 MR. KARLEBACH: Yes. I have an
15 undergraduate degree in landscape architecture
16 from Rutgers University. I also have a masters
17 degree in city and regional planning, also from
18 Rutgers University.

19 I'm a licensed professional planner in New
20 Jersey, and I have been for 24 years. I have
21 experience before this Board.

22 VICE CHAIRMAN BONACCI: Yup. We accept
23 your credentials.

24 Thank you.

25 MR. KARLEBACH: Thank you.

1 MR. FERRARO: Thank you.

2 Mr. Karlebach, could you please identify
3 some of the materials you reviewed in preparation
4 for your testimony?

5 MR. KARLEBACH: Well, I've reviewed all of
6 the application materials, including the site
7 plan drawings.

8 I have reviewed the City Zoning Ordinance
9 and 2009 Master Plan.

10 I have visited the site and the surrounding
11 areas. I've photographed the site, and prepared
12 computer photo simulations of what this
13 installation will look like, if it were approved
14 and constructed.

15 MR. FERRARO: Okay.

16 And just preliminarily, does the Board have
17 the photo simulations?

18 MR. PRESSEY: Yes.

19 MR. FERRARO: Okay. So, no need to mark
20 this, counselor, or should we mark it?

21 VICE CHAIRMAN BONACCI: We have that one.

22 MR. FERRARO: It's the photo simul -- photo
23 simulation report.

24 MR. PANEQUE: Yeah, we have it.

25 MR. FERRARO: Dated April 22nd, 2017.

1 MR. PANEQUE: It was part of your
2 application packet.

3 MR. FERRARO: Yes. Okay.

4 So, Mr. Karlebach, have you performed a
5 planning analysis of the application before the
6 Board?

7 MR. KARLEBACH: Yes, I have.

8 MR. FERRARO: Okay. Could you please share
9 that analysis?

10 MR. KARLEBACH: Certainly.

11 I'd just like to talk a little bit about
12 the site and the surrounding area.

13 This is an interior lot. It's rectangular,
14 approximately 72 feet by 100 feet. It does
15 contain a 70 foot nine inch tall apartment
16 building. And it is one of the tallest buildings
17 in the area.

18 On-street parking is available at this
19 location.

20 This is kind of an isolated neighborhood.
21 I say that because you have a lot of major
22 roadways here. You have 495 and Kennedy
23 Boulevard, both that have barriers on them. So,
24 you really can't freely walk into this
25 neighborhood, over the top of those two roadways.

1 And then, of course, you have Bergen
2 Turnpike, which is another busy roadway.

3 So, it's kind of encircled or encapsulated
4 by these major road arteries.

5 In terms of the surrounding land uses, you
6 have mixed land uses in this neighborhood. Mid-
7 rise residential buildings, low density
8 residential development, and commercial and
9 industrial uses all coexist in this neighborhood.

10 And as I said, it's about 200 feet north of
11 Route 495, which is the Lincoln Tunnel approach,
12 and it's about 700 feet southeast of Kennedy
13 Boulevard.

14 You heard the engineer describe exactly
15 what's being proposed. And you also heard the --
16 the attorney tell you that this property is in
17 the CG gateway commercial zone. Wireless telecom
18 facilities are conditionally permitted in this
19 particular zone. And this is a first priority
20 location.

21 Now, because this is a conditional use
22 variance, there's a lessened burden of proof on
23 the applicant, compared to applicant seeking a
24 D-1 use variance.

25 So, the Board doesn't have to wrestle with

1 the notion of whether or not this use should be
2 permitted at this location. The governing body
3 has already told us that it is appropriate,
4 subject to conditions.

5 So, the real test is that the Board's to
6 examine the site, and whether or not the site
7 possesses characteristics that make it
8 appropriate for the use, notwithstanding those
9 deviations from the conditional use criteria.
10 Does it remain appropriate? That's the test.

11 And I believe this site does remain
12 appropriate for several reasons.

13 This site is centrally located within a
14 service gap area that exists for T-Mobile. And
15 it represents one of the few opportunities to
16 remedy that service deficiency, utilizing an
17 existing building.

18 And certainly, that's a far greater
19 alternative than constructing a new freestanding
20 structure in this neighborhood.

21 This site possesses all of the requisites
22 for the successful deployment of a wireless
23 telecommunications facility. It has adequate
24 access, it has a tall structure, sufficient space
25 for rooftop antennas and equipment, and the site

1 requires minimal modification. There's no
2 additional building area or impervious area
3 proposed, no regrading or site clearing. All of
4 the work is contained on the rooftop. It's an
5 extremely efficient operation.

6 This building easily accommodates all of
7 the antennas and equipment, without effecting the
8 functionality of the site, and without negatively
9 impacting the visual quality of the site.

10 And of the conditional use criteria that
11 are violated, I would mention that two of them
12 relate to the height of the antennas above the
13 rooftop, and one relates to the height of the
14 equipment screen.

15 So, I think I'd like to address those
16 first, because I think this application
17 substantially complies with those sections.

18 There's no opportunity to flush mount the
19 antennas at two locations on the building,
20 because they would encroach onto the right-of-way
21 or onto the adjacent property. So, flush
22 mounting just isn't an alternative at this
23 location. The building is -- is built up right
24 up to the property line and the right-of-way
25 line.

1 The height of the antennas above the
2 rooftop does not frustrate the intent of the
3 height regulation, because number one, they're
4 suitably screened, and number two, they're
5 minimally higher than the height of the highest
6 rooftop structure that exceeds the penthouse by
7 five feet.

8 The height of the equipment screen also
9 substantially complies, because it exceeds the
10 height of the parapet by nine feet nine inches,
11 where 12 feet is permitted.

12 So, visually, the height of the screen is
13 lower than 12 feet. And thus, it meets the
14 Ordinance objective.

15 And although microwave dish antennas are
16 not permitted, they are located behind the screen
17 walls and they're invisible to the public.

18 Now, let's talk about the height variance
19 because the -- the antenna height is not allowed
20 to exceed the height requirement of the zone,
21 when they're not flush mounted.

22 It's well settled that when height is
23 necessary to effectuate a use, that fact, in and
24 of itself, becomes a special reason warranting
25 height variance relief. And now I'm, of course,

1 referring to Smart SMR versus the Fair Lawn Board
2 of Adjustment.

3 And the height of the antennas, at this
4 location, is necessary to effectuate the use,
5 that the antenna height cannot be achieved and
6 the system doesn't function as planned, and T-
7 Mobile cannot fulfill its federal mandate of
8 providing seamless reliable coverage to the area.

9 The antennas must be of sufficient height
10 to communicate with the contiguous sites.

11 And this additional height that's being
12 sought does not interfere with the penetration of
13 light or air onto adjoining properties. It does
14 not disrupt any important views.

15 In the case of Grasso versus the Borough of
16 Spring Lake Heights, the court opined, as is the
17 case with D-3 and D-4 variances, plaintiffs, or
18 in this case, the applicant, can prove special
19 reasons for a height variance if they can
20 persuade the Board that a taller structure than
21 permitted by Ordinance would nonetheless be
22 consistent with the surrounding neighborhood.

23 And as I said, the height of the
24 architectural screening is only minimally higher
25 than the existing penthouse.

1 Residents and passers-by are already
2 acclimated to the presence of a 70 foot high
3 building at this location. And the addition of
4 the screen walls will not change their perception
5 of the site.

6 Regarding the conditional use variance that
7 relates to the setback encroachments, these are
8 just existing nonconforming conditions that are
9 proposed to be continued. The applicant is
10 powerless to do anything about those setback
11 deviations.

12 I don't believe there's any substantial
13 detriment to the public good. The courts have
14 found that generally the negative criteria
15 pertaining to telecommunications facilities
16 implicates aesthetics.

17 And here, there are no substantial visual
18 impacts, as evidenced by the photo simulations.
19 I'd like to present them to the Board.

20 The first one you have in your packet,
21 which I'm going to call slides 1 and 1A,
22 represent a view from 32nd Street, approximately
23 380 feet northeast of the site.

24 And you can see slide 1A has been modified
25 to show that stealth enclosure, on the right side

1 of the building, which represents, I guess, it's
2 reminiscent of or represents an elevator
3 penthouse, or a stairwell penthouse. So, that's
4 photographs 1 and 1A.

5 Then, we're going to photograph 2, which is
6 a view from Central Avenue, approximately 300
7 feet south of the site. And there, again, in
8 slide 2A, you can see the photograph has been
9 modified to show those stealth enclosures.

10 And finally, photograph 3 is a view from
11 Summit Avenue, approximately 390 feet west of the
12 site. And they all represent the same thing.

13 All of the antennas, the equipment, the
14 microwave dish, cables, conduits, supporting
15 structures, all concealed by the -- by the
16 screening.

17 So, it's completely invisible to the
18 public. It's not immediately recognizable as a
19 telecommunications facility.

20 And the concealment devices are treated to
21 match the color and the texture of the brick in
22 the building.

23 These concealments help to visually
24 harmonize the building with the neighborhood, and
25 the proposal does not change the visual quality

1 of the site, nor does it cause damage to the
2 character of the neighborhood.

3 Additionally, this facility is unmanned.
4 Therefore, there's no increase in population or
5 employment at the site. Requires very little in
6 the way of municipal services. Certainly doesn't
7 require any water supply or sewer service, only
8 electric service and telephone service, similar
9 to a single family home.

10 There's virtually no traffic impact
11 associated with this use, only infrequent
12 maintenance visits.

13 This facility will not generate any noise,
14 vibration, odors, glare, dust, fumes, or any
15 other objectionable influences. It's a
16 completely benign use.

17 I don't believe there's any substantial
18 impairment of the zone plan. This is a
19 conditionally permitted use. It is a first
20 priority location. And although it's not fully
21 compliant with the Ordinance, it nonetheless
22 advances some important Ordinance objectives.

23 The antennas are camouflaged so as to blend
24 in with the background and minimize their visual
25 impact. That's right out of the Ordinance.

1 And the proposed wireless
2 telecommunications technology is located to avoid
3 being visually prominent when viewed from
4 residential areas.

5 So, that's being complied with.

6 I'll just conclude by saying I did review
7 the 2009 Master Plan. There's no specific
8 reference to wireless telecommunications. And I
9 find that this application does not conflict with
10 any of the recommendations in that plan.

11 I think the Board should feel very
12 comfortable in granting the D-3 conditional use
13 variance.

14 MR. FERRARO: Mr. Karlebach, I don't
15 remember if I asked you, but the photo simulation
16 report, dated April 22nd, 2017, this was prepared
17 by you or under your supervision?

18 MR. KARLEBACH: I prepared it personally.

19 MR. FERRARO: Okay.

20 Mr. Chairman, no additional questions of
21 Mr. Karlebach.

22 VICE CHAIRMAN BONACCI: Thank you.

23 MR. PANEQUE: Mr. Ferraro, just for the
24 record --

25 MR. FERRARO: Yes.

1 MR. PANEQUE: -- so that we have it, I've
2 had the --

3 MS. DILLON: We marked it A-8.

4 MR. PANEQUE: Mark it as A-8.

5 MR. FERRARO: Oh, A-8 is the Photo
6 Simulation Report.

7 MS. DILLON: Right.

8 MR. FERRARO: Perfect.

9 Thank you.

10

11 (Whereupon, Photographic Simulations (7)
12 pages, dated 4/22/17, was received and marked as
13 Exhibit A-8.)

14

15 VICE CHAIRMAN BONACCI: Do you have any
16 more witnesses to testify?

17 MR. FERRARO: That's enough, I think.

18 So, our witnesses are open to questions
19 from the Board or the public.

20 VICE CHAIRMAN BONACCI: Okay. Seems like
21 you guys covered a lot of the aspects and
22 answered a lot of the questions that we may have
23 already -- you know, that we were going to ask.

24 Some of my concerns were how frequently,
25 was there going to be traffic, as far as access

1 to the roof for maintenance, et cetera?

2 What effect would it have on the residents?

3 That seems to be minimal.

4 Whether or not you guys saw any safety
5 issues, as a result of placing the dish antenna
6 on top of the roof? That seems as though you
7 guys have testified that there really isn't going
8 to be an impact on the residents.

9 Is that correct?

10 MR. FERRARO: Correct. Mr. Collins
11 testified that they're actually exempt from the
12 FCC Emissions Compliance requirements, because
13 they're so low powered.

14 And our professional engineer testified
15 that the site will comply with all Building
16 Codes. So, structurally, they'll cause no -- no
17 reason for alarm.

18 VICE CHAIRMAN BONACCI: Okay.

19 The only thing is that we've got, in the
20 memorandum here, that the dish antennas are
21 proposed, but they're not permitted. So, that's
22 something that -- you know, makes it a difficult
23 -- it's not a slam dunk, necessarily.

24 However, the dishes are going to be
25 installed behind the screening. Okay.

1 MR. FERRARO: That's correct. So, they
2 will not be visible.

3 VICE CHAIRMAN BONACCI: How about testimony
4 that maybe you guys can provide with regards to
5 the roof's ability to support all of the
6 equipment that you're going to have up there?

7 MR. FERRARO: Sure.

8 We didn't go into depth regarding the
9 structural analysis that we marked into evidence.
10 But a full structural was done by our
11 professional engineer, signed and sealed,
12 submitted to the Board, demonstrating that, if
13 approved, this facility, as designed, as we
14 showed you, will meet all applicable Building
15 Codes. So --

16 Mr. -- Mr. Iannelli can come up and -- and
17 reiterate that, if -- if you would like. But
18 that -- that was the purpose of the structural
19 analysis.

20 VICE CHAIRMAN BONACCI: Okay.

21 MR. FERRARO: And one other thing, if I
22 may, with respect to the dish antennas. If you
23 recall, Mr. Feehan testified that they are
24 temporary. So, once the fiber is brought to the
25 site, those antennas could be taken down.

1 VICE CHAIRMAN BONACCI: Okay.

2 MR. FERRARO: They're -- they're a
3 temporary means of getting back haul to the site,
4 until the fiber is available.

5 VICE CHAIRMAN BONACCI: A quick question.

6 The relationship between, for example,
7 whoever owns the building and T-Mobile putting
8 stuff on the roof, how does that work out?

9 MR. FERRARO: It's a -- it's a lease
10 agreement.

11 VICE CHAIRMAN BONACCI: Okay.

12 MR. FERRARO: Yes.

13 VICE CHAIRMAN BONACCI: So, if that lease
14 were to come to an end, you guys would have to go
15 up there and take everything down.

16 MR. FERRARO: That is the term of the
17 lease, yes. And we'd have to return -- you know,
18 any damage done to the roof would have to be --
19 have to be remedied.

20 VICE CHAIRMAN BONACCI: Could you testify
21 as to whether or not around that area, the CG
22 zone, there's any other, if not T-Mobile
23 equipment on top of a roof, maybe some other sort
24 of mobile company, cellular company, whatever?

25 MR. FERRARO: I can ask my radio frequency

1 engineer to come back up.

2 MR. FEEHAN: The question was if there's a
3 nearby building that's used for wireless --

4 VICE CHAIRMAN BONACCI: Yeah. My --

5 MR. FERRARO: Yeah.

6 VICE CHAIRMAN BONACCI: My question, if I
7 can rephrase it is, is this sort of operation
8 comparable to anything else, or does it resemble
9 anything else that's currently in our area --

10 MS. DILLON: Just stand over there.

11 VICE CHAIRMAN BONACCI: -- or in this CG
12 zone?

13 MR. FEEHAN: Yes. There is an existing
14 wireless facility. I don't remember the exact
15 address. I believe it is about -- if I look at a
16 map, it will make more sense. Hang on.

17 VICE CHAIRMAN BONACCI: Okay.

18 MR. FEEHAN: Where are my exhibits?

19 So, if we're looking at Exhibit A-1, the
20 wireless facility exists -- it's actually the
21 block to the left. There's a whole bunch of
22 antennas up on a building, rooftop there.

23 I can point it out to you.

24 VICE CHAIRMAN BONACCI: So, all those
25 pinwheels.

1 MR. FEEHAN: All ours.

2 VICE CHAIRMAN BONACCI: Those are already
3 existing?

4 MR. FEEHAN: These -- these triangles,
5 these are T-Mobile existing facilities. The site
6 I'm referring to is not shown on this map.

7 VICE CHAIRMAN BONACCI: Okay.

8 MR. FEEHAN: Because T-Mobile is not
9 located there. It's approximately at the
10 intersection of -- don't have this street
11 labeled.

12 MR. PANEQUE: It's Summit.

13 MR. FEEHAN: Summit. Yeah. Summit, of
14 course, and --

15 MR. PANEQUE: 30th.

16 MR. FEEHAN: -- 30th Street. It's
17 approximately the location of the existing
18 facility. And there's so many antennas on that
19 roof that there's actually no more locations
20 available, and that roof is actually much smaller
21 and would not serve the purposes that our
22 proposed site is trying to do. But --

23 MR. FERRARO: I'm sorry. Go ahead.

24 VICE CHAIRMAN BONACCI: Do you guys already
25 have lease agreements like this with other

1 buildings in Union City?

2 MR. FERRARO: Yes. There's -- don't hold
3 me to the exact number, but according to the
4 inventory we submitted, there's about 22 T-Mobile
5 sites in the City.

6 VICE CHAIRMAN BONACCI: Okay.

7 Were those applications, did they have to
8 come before the Zoning Board as well?

9 MR. FERRARO: I handled a number of them,
10 yes.

11 VICE CHAIRMAN BONACCI: That came here?

12 MR. FERRARO: Yes.

13 VICE CHAIRMAN BONACCI: Okay.

14 MR. FERRARO: It's been a -- it's been
15 awhile since I've seen everybody, probably a
16 couple years.

17 But just antidotally, about what's going on
18 here, is when we came in back then, it was all to
19 provide coverage to the City. There were areas
20 where there just weren't any antennas.

21 What you're seeing now, because this is not
22 the only application we have with you guys, is
23 that now there's coverage, but those sites are
24 drowning in all the usage. They can't keep up
25 with the data.

1 So, now, that's what the purpose of this
2 next round of sites are.

3 VICE CHAIRMAN BONACCI: So, this is not --
4 this application is not something that's new to
5 this area.

6 MR. FERRARO: No.

7 In fact, I think coming in with the
8 application, we tried to design it in a way that
9 the Board has found palatable in the past, by
10 screening the antennas so you don't see any of
11 the bracing and antennas and everything behind
12 the wall.

13 VICE CHAIRMAN BONACCI: Okay. That's all I
14 got.

15 MR. PRESSEY: That's what I was going to
16 ask, is over there, when were they installed?

17 MR. FERRARO: That I don't know.

18 MR. FEEHAN: I don't have that information
19 on hand. But I mean, I was looking it up earlier
20 today, and I think it was -- some of them may
21 have been installed 20 -- 2012, some in 2009. It
22 varies. I mean, I don't have the exact date of
23 each one with me today.

24 MR. PRESSEY: Okay. But my --

25 MR. FERRARO: I was here in 2013 --

1 MR. PRESSEY: Where I was going was like,
2 how often do you have to have like new sites to
3 be put up, where I was -- where I was going with
4 that.

5 MR. FEEHAN: Well, this is more recently in
6 the past two or three years. And this is not
7 only with T-Mobile, as I said before --

8 MR. PRESSEY: Um hum.

9 MR. FEEHAN: -- it's with AT&T, it's with
10 Verizon. Just there's an explosion of data
11 usage, as we know. There's more and more
12 applications every day that's using more and more
13 data.

14 As you can see by all the plans, which the
15 wireless carriers are offering to people, are
16 centered around data usage.

17 MR. PRESSEY: Yeah.

18 MR. FEEHAN: And so, this -- this has
19 recently just exploded in the past couple of
20 years and all the different carriers are
21 exceeding. And so, they're just trying to catch
22 up, is what's going on right now.

23 MR. FERRARO: I definitely recall on some
24 of the older sites before this Board, not
25 everybody was walking around with a -- with an

1 | iPhone in their pocket. Now, it seems like
2 | everybody's got some kind of contraption that
3 | they're working off.

4 | VICE CHAIRMAN BONACCI: I have another
5 | question.

6 | When the fiber optics are delivered, the
7 | dishes can be removed.

8 | MR. FERRARO: That's my understanding.

9 | MR. FEEHAN: Yes.

10 | MR. FERRARO: Correct?

11 | VICE CHAIRMAN BONACCI: Do you guys have
12 | any sort of timeline on when the fiber optics
13 | will be delivered, so that the dishes which are
14 | not permitted can be removed? Because you know,
15 | then we have an idea and a timeframe of when the
16 | not permitted dishes don't need to be there
17 | anymore.

18 | MR. FERRARO: That's actually a problem,
19 | and that's why the dishes are proposed, because
20 | sometimes you can build these site, and it's up
21 | to the utility company to bring the fiber there.
22 | And you have no control over how long it takes
23 | them to get there.

24 | So, rather than let this site lay dormant,
25 | they propose these dish antennas. So, we would

1 | certainly accept a condition that they be removed
2 | as soon as the fiber service is established. We
3 | just can't really give you -- you know, it would
4 | just be a pure guess as to when they would show
5 | up to do it.

6 | It might be ready at day one, and the
7 | dishes are never installed.

8 | MR. PRESSEY: But are we saying like a
9 | year, two years, three years?

10 | MR. FERRARO: It could be -- I only know
11 | from what I'm told, but it can be significant
12 | amount of time, meaning -- you know, six months
13 | -- you know, on the --

14 | MR. PRESSEY: So --

15 | MR. FERRARO: On the far -- you know, --
16 | months.

17 | MR. PRESSEY: So, it's not like a year, two
18 | years?

19 | MR. FERRARO: Not that I've heard of, but I
20 | don't -- I'm not involved in the construction
21 | aspect of this, --

22 | MR. PRESSEY: Um hum.

23 | MR. FERRARO: -- thank God, after the
24 | Zoning, I'm done. But I've been told that it
25 | takes that long.

1 VICE CHAIRMAN BONACCI: Counsel, would it
2 be possible, if we were to approve, that we made
3 a condition that it was -- were it to last for
4 some duration, until the fiber optics are
5 delivered, and then the non-permitted dishes can
6 be removed?

7 MR. PANEQUE: Well, the Board definitely
8 has the authority to make it a conditional
9 approval, that the -- the dishes be removed upon
10 the installation of the fiber optic cables.

11 I don't think the Board, based on the
12 testimony that's been presented, as well as the
13 indication from counsel, can or should set a time
14 limit because the installation of the fiber
15 optics is really controlled by third parties,
16 which this applicant has no control over, which
17 are the utility companies.

18 So, the approval can be conditioned on once
19 fiber optic is placed at the location, or there's
20 a fiber optic connection, then there's no longer
21 a need for the dish antennas and the dish
22 antennas can be removed, or should be removed.

23 MR. FERRARO: We would appreciate that,
24 because the last thing we want to see is the site
25 get built and not to be performing any function

1 | because we're waiting on the utility company.

2 | MR. MEDINA: I have a question.

3 | When you say equipment on the roof, you
4 | talk about antenna, you talk about the panel.
5 | What is the weight of those antenna?

6 | MR. FERRARO: Mr. Iannelli can address
7 | that. I think it's referenced on the plan. I
8 | could be wrong.

9 | MS. DILLON: Just come to the microphone,
10 | Mr. Iannelli.

11 | MR. FERRARO: It's on Z-7. I mean, on Z-7
12 | it indicates 150 pounds.

13 | MR. MEDINA: Oh, this -- this says 20 -- I
14 | mean it's not a lot of weight on the roof.

15 | MR. FERRARO: No, it's not.

16 | VICE CHAIRMAN BONACCI: One fifty for each
17 | one of these things?

18 | MR. FERRARO: Correct.

19 | VICE CHAIRMAN BONACCI: So, 150 times four.

20 | MR. FERRARO: Each sector.

21 | MR. MEDINA: My -- my T-Mobile bill is not
22 | going to go up.

23 | Right?

24 | MR. FERRARO: It shouldn't go up as a
25 | result of this, but the people in the area will

1 have -- will have much better service. That's --
2 that's the goal.

3 Got to keep everyone happy.

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

6 VICE CHAIRMAN BONACCI: Do you guys have
7 any questions? I could open this up to the --

8 If there's anybody -- you have something?

9 MR. GRULLON: No.

10 VICE CHAIRMAN BONACCI: If there's any
11 members of the public that would like to ask a
12 question with regards to this application?

13 MS. DELLA GALA: Yes.

14 VICE CHAIRMAN BONACCI: Let's start over
15 here.

16 MR. PANEQUE: Actually, start with the
17 lady.

18 VICE CHAIRMAN BONACCI: Okay. I'm sorry.
19 We'll start over here.

20 MR. PANEQUE: Ladies first.

21 MS. DILLON: Right in front of that
22 microphone, ma'am.

23 Please raise your right hand.

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

1 MS. DELLA GALA: Yes.

2 MS. DILLON: Could you please state your
3 name and spell it for me?

4 MS. DELLA GALA: Maria Della Gala,
5 D-E-L-L-A, capital G-A-L-A.

6 MS. DILLON: I'm sorry. D-E-L-L --

7 MS. DELLA GALA: A. Capital G. They are
8 two words. Sorry about that.

9 MS. DILLON: G --

10 MS. DELLA GALA: A -- G-A-L-A.

11 MR. PANEQUE: Della Gala.

12 MS. DILLON: Okay.

13 And your address?

14 MS. DELLA GALA: 3104 Central Avenue, Union
15 City, 07 --

16 MS. DILLON: 3104?

17 MS. DELLA GALA: 3104.

18 MS. DILLON: Okay.

19 Thank you.

20 MS. DELLA GALA: 070 --

21 MS. DILLON: Just keep your voice up for
22 me.

23 MS. DELLA GALA: Pardon?

24 MS. DILLON: Keep your voice up.

25 MS. DELLA GALA: Sure. I'll try.

1 MS. DILLON: Thank you.

2 MS. DELLA GALA: First of all, I want to
3 present these letters, which I got, to the Board
4 and they are the wrong address.

5 MR. FERRARO: Do you want me to hand it?

6 MS. DELLA GALA: Thank you.

7 MR. FERRARO: Sure.

8 MR. PANEQUE: Thank you, Mr. Ferraro. If I
9 could just see that?

10 MS. DELLA GALA: That number does not
11 exist.

12 MR. PANEQUE: Which number do you mean, Ms.
13 Della Gala?

14 MS. DELLA GALA: Where I was supposed to
15 appear. To the end -- to the end of the page.

16 VICE CHAIRMAN BONACCI: He gave the wrong
17 City Hall address. That's what she's saying.

18 MS. DELLA GALA: Right.

19 MR. PANEQUE: Oh.

20 MS. DELLA GALA: So, probably, some people
21 didn't know where to go because it doesn't exist.

22 MR. PANEQUE: Mr. Ferraro, --

23 MR. FERRARO: What's the address on it?

24 MR. PANEQUE: -- did you see this?

25 MR. FERRARO: Yeah, I just saw it.

1 MR. PANEQUE: They have 2715 Palisade Ave.

2 VICE CHAIRMAN BONACCI: Bless you.

3 MR. PANEQUE: What is it, 2715?

4 MR. FERRARO: 2715.

5 MS. DELLA GALA: Does not exist. Trust me.

6 MR. PANEQUE: No. You're absolutely right,

7 Ms. Della Gala. I mean, I'm not questioning

8 that.

9 MR. FERRARO: That's true. Yes.

10 MR. PANEQUE: You have raised an issue

11 which actually presents a -- a real dilemma.

12 MS. DELLA GALA: Right.

13 MR. PANEQUE: Let me take a look at the

14 notice that was published in the newspaper.

15 MR. FERRARO: Sure.

16 MR. PANEQUE: Okay?

17 MS. DELLA GALA: Thank you. Because I

18 regard this as a legal paper.

19 MR. PANEQUE: You're absolutely right.

20 MS. DELLA GALA: Thank you.

21 MR. PANEQUE: And if the notice is

22 defective, we may have to void this entire --

23 MS. DELLA GALA: That's what I thought.

24 MR. PANEQUE: -- application, at this

25 point.

1 MS. DELLA GALA: But I will still make -- I
2 will still make some remarks.

3 MR. PANEQUE: Well --

4 MS. DELLA GALA: If I'm allowed.

5 MR. PANEQUE: Yes, but let's --

6 MS. DELLA GALA: Thank you.

7 MR. PANEQUE: You may not need to. Let me
8 just -- I just want to see something here.

9 MR. FERRARO: I guess --

10 MR. PANEQUE: On the notice of publication,
11 the address that's listed for the meeting is 2715
12 Palisades Avenue. It's a typo.

13 MR. FERRARO: Correct.

14 MR. PANEQUE: However, Mr. Ferraro, we kind
15 of live and die by the sword here.

16 MR. FERRARO: Understood.

17 MR. PANEQUE: Especially when you have an
18 objector.

19 MR. FERRARO: Sure.

20 MR. PANEQUE: Ms. -- Ms. Della Gala?

21 MS. DELLA GALA: Yes, sir.

22 MR. PANEQUE: You have raised an objection
23 which goes towards the merit of due process. The
24 applicant has an obligation to notify all
25 property owners within the 200 foot radius, as

1 well as publish in the newspaper.

2 As a result of a typo, which you have
3 brought to our attention, it's evident that the
4 notice was improperly sent. Okay?

5 For the Board, when we have this type of
6 situation, basically, we haven't met the
7 statutory jurisdictional grounds, and therefore,
8 the applicant's application is -- cannot proceed.

9 MS. DELLA GALA: I'm sorry.

10 MR. FERRARO: I would ask that it be held
11 over until the next hearing, so I can research
12 the issue --

13 MR. PANEQUE: Okay.

14 MR. FERRARO: -- a little more closely.
15 But we're going to be back.

16 MR. PANEQUE: I -- I understand, and I --
17 believe you me --

18 MR. FERRARO: Oh, sure.

19 MR. PANEQUE: I don't want to put my Board
20 through the entire application, especially since
21 you have had four witnesses testify for the last
22 hour.

23 MR. FERRARO: Um hum.

24 MR. PANEQUE: But we have an objector who
25 has raised a due process argument --

1 MR. FERRARO: Oh, sure.

2 MR. PANEQUE: -- here. And it's -- it's a
3 real legitimate issue.

4 MR. FERRARO: Sure.

5 MR. PANEQUE: Does anybody else in the
6 audience have anything to say on this?

7 MS. PAGAN: Yes.

8 MR. PANEQUE: Step up, ma'am.

9 I -- I don't want you playing (sic) --
10 placing any objections you may have to the
11 application, because at this point, we're dealing
12 with just the due process argument.

13 MS. DELLA GALA: Whatever you say.

14 MR. PANEQUE: Okay?

15 MS. DILLON: Just come forward.

16 MS. DELLA GALA: Should I sit down?

17 MR. PANEQUE: Stay right there. If you
18 don't --

19 MS. DELLA GALA: Thank you.

20 MR. PANEQUE: -- mind standing --

21 MS. DILLON: Just --

22 MR. PANEQUE: -- for a minute?

23 MS. DELLA GALA: No problem.

24 MS. DILLON: Just share the microphone.

25 MS. DELLA GALA: Sure. Sorry.

1 MS. DILLON: Just state your name again,
2 ma'am.

3 MS. PAGAN: My name is Aida, A-I-D-A,
4 Pagan, P-A-G-A-N.

5 MS. DILLON: Thank you.
6 And your address?

7 MS. PAGAN: 710-712 Sip Street. I own a
8 one family house right across the street.

9 MS. DILLON: Thank you.

10 MS. PAGAN: Okay. My point is this, I know
11 the internet block my tablet. My tablet was my
12 main witness today, and I cannot use it.

13 But I'm just a housewife. I don't have big
14 titles or anything like that. Okay? Just leave
15 it like that, right? We know each other. Okay.

16 So, what I want to say is this. When I got
17 this letter, okay, I have no idea about towers or
18 anything like that. I know a building that he
19 mentions is a building where your Board of
20 Education offices are on 30 -- on 30 Street,
21 something like that, on the roof. Okay. That's
22 -- that's the nearest tower to my address.

23 You guys know where the Board of Ed is, so
24 you know the building. Okay?

25 What I did is I just wanted to research

1 | this more, so I got into the internet. Okay?

2 | Good reasons to have the towers, not that many.

3 | Okay?

4 | Then I hit reasons for not having the
5 | towers in your area. You know, effects on
6 | humans. Okay?

7 | Then I hit one site -- I'm sorry -- I hit
8 | one site that it have over 8,000 results that I
9 | can go and research this thing.

10 | Then I got into investigating a little bit
11 | more. Cambridge University, Princeton
12 | University, Columbia University are go -- doing
13 | studies over this same thing. Okay?

14 | And finally, when I get tired of reading,
15 | because too much reading, okay, and I like
16 | reading, I found out that these towers, the --
17 | how you said, the emissions that they produce,
18 | they will effect people that live 400 meters
19 | around the towers.

20 | My house is right across the street.

21 | So that means if I go now and buy -- how
22 | you said -- radiation meter, okay, for my house,
23 | I will get low levels of radiation. Okay?

24 | But my point is this, okay, then -- oh, oh,
25 | my favorite one was this. By law, I have to tell

1 people that I have this kind of towers around my
2 house, if I want to sell my house. Okay? And
3 real estate -- the result said that the house --
4 the price of my house will go down 20 percent
5 effected by him constructing that -- that thing
6 right across the street from me.

7 But still -- you know, I can go with that.
8 Okay? I can sell my house probably even before
9 he builds the -- the towers. That's not the
10 problem. Okay?

11 The problem is this. I want to stay my
12 house. Okay? I don't want to be one person in
13 one of these studies, because cell phone towers
14 are a new thing. They haven't been around for
15 over 20 years. And all the studies said that
16 they need over 50 years to realize -- you know,
17 the effects on people. Okay?

18 I don't want to be the guinea pig later on,
19 okay, that one of my grandsons dies of leukemia.
20 Okay?

21 Or one of your city employees, because the
22 neighbor next to -- in the back is your clinic.
23 You have how many people working in that clinic
24 everyday? And he is going to have the biggest
25 section of his -- whatever, satellites, or

1 | whatever he calls them, okay, are going to be in
2 | the back of the building, which is hits right
3 | there, the -- the clinic that you have right
4 | behind it. Okay?

5 | How many people work in that clinic
6 | everyday? Are you going to subject them to that
7 | kind of radiation?

8 | Then I kept on reading. The thing now that
9 | these towers send, okay, they go around over 45
10 | miles. So you can make a cell -- cell phone to
11 | New York City, to anywhere you want, okay, and
12 | the signal connects to another tower to another
13 | tower to another tower. That's the way it works.
14 | Okay?

15 | That means -- how -- how big is Union City?
16 | And how many towers we have already. Why do we
17 | need another one? Okay?

18 | Like I said, what bothers me is this, I
19 | don't want to sell my house. I want to stay in
20 | my house. Okay? But the issue for me will be
21 | too much. Okay? And I don't want to work -- you
22 | know, the numbers. Oh, it's maybe one person in
23 | a hundred thousand people that will get sick.

24 | Excuse me. I got sick with something that
25 | was one in 80 million people to get it, a flesh

1 eating bacteria, less than five years ago. One
2 in 80 million people will get that. Okay?

3 So, I don't like to play the numbers.
4 Okay? But what bothers me, you have the clinic
5 right behind that building. So, you expose --
6 exposing everybody that goes to that clinic,
7 everybody that works in that clinic. Okay?

8 I'm just one person. My house is a one
9 family house. You can dismiss me completely.
10 Eh, she just -- she just have a one family house.
11 That building have 24 apartments. That building
12 was just renovated less than a year ago. I just
13 saw, less than a year ago, it was 24 apartments
14 inside. Do you know how many people live in
15 there already?

16 Like she says, also, the address was wrong.
17 Do you know how many yuppies are running around
18 Union City looking for City Hall today?

19 MS. DELLA GALA: Exactly.

20 MS. PAGAN: Okay?

21 So, you know, my point is this, I know he
22 says he needs another tower. They have already
23 too many. Why don't invest a little bit more
24 money and buy better transistors, okay, for the
25 towers that they already have?

1 They won't do that because it will cost
2 them more money than put a new one on top of the
3 building next to my house. Okay? And that's not
4 fair.

5 MS. DELLA GALA: And they have a building
6 across that building, another -- that big
7 building.

8 MS. PAGAN: And that's not fair.

9 But like I said, let's put it in human
10 terms. I live across the street. Your clinic is
11 the neighbor behind it. It's two feet, exactly,
12 maybe less than two feet. Okay?

13 They said they're putting this in the
14 basement of that building. That building doesn't
15 have a basement. All it has is garage on the
16 first floor.

17 Okay?

18 So, anyway, thank you very much, but that
19 was my point.

20 MR. PANEQUE: Thank you, ma'am.

21 VICE CHAIRMAN BONACCI: Thank you. Thank
22 you.

23 MR. PANEQUE: Anybody else?

24 MS. DILLON: Sir, please raise your right
25 hand.

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

3 MR. PEROZO: Yes.

4 MS. DILLON: Okay. Could you please state
5 your name and spell it for me?

6 MR. PEROZO: Spelling, J-H-E-I-S-S-O-N,
7 Jason is how that's pronounced. Last name
8 Perozo, P-E-R-O-Z-O.

9 MS. DILLON: And your address?

10 MR. PEROZO: 1901 West Street.

11 MS. DILLON: Thank you.

12 MR. PEROZO: So, they covered pretty much
13 and very articulately pointed out, this is not
14 going to be obscene up top -- on top of the -- on
15 top of the -- the residential building, which
16 seems to be here an existing apartment building.

17 Correct?

18 It's perfectly covered on top. You guys
19 were more concerned about the weight distribution
20 and the building collapsing down.

21 I'm more concerned about the
22 infrastructure, because they mentioned, very
23 clearly, there's a -- there's generators, they're
24 backups, they're all these safety precautions --

25 MR. FERRARO: No generator.

1 MR. PEROZO: No generator?

2 MR. FERRARO: No generator.

3 MR. PEROZO: No generator? I -- I believe
4 I heard generator.

5 VICE CHAIRMAN BONACCI: I heard something
6 about backup.

7 Right?

8 MR. PEROZO: Backup.

9 MR. FERRARO: It was battery backup in the
10 cabinet, but there's no generator.

11 VICE CHAIRMAN BONACCI: Okay.

12 MR. FERRARO: Certain carriers do, not T-
13 Mobile.

14 MR. PEROZO: Okay.

15 Going back to my earlier point, where's the
16 power source coming from? The main power source.
17 Because you guys have generators and all these
18 safety precautions, where's the main power
19 source?

20 MR. FERRARO: That's coming from the
21 basement.

22 MR. PEROZO: Basement. Okay.

23 How many people are living in this
24 dwelling? Or are you using this dwelling for
25 multiple -- for multiple uses?

1 MR. FERRARO: I don't think we know the
2 population of the building.

3 VICE CHAIRMAN BONACCI: You guys don't know
4 how many apartments are in there, anything like
5 that?

6 MS. PAGAN: Twenty-four.

7 VICE CHAIRMAN BONACCI: Okay.

8 MR. PEROZO: Twenty-four?

9 MS. PAGAN: Yes.

10 MR. PEROZO: Twenty-four apartments?

11 VICE CHAIRMAN BONACCI: Twenty-four
12 apartments.

13 You might have about 48 people -- you know,
14 conservatively, living there.

15 MS. PAGAN: Some of the apartments have
16 three bedrooms.

17 MS. DILLON: You can't speak from there,
18 ma'am. You're not on the record over there.

19 MS. PAGAN: I'm sorry.

20 MS. DILLON: I need you to come forward and
21 come to the microphone and identify yourself so
22 that you're --

23 MS. PAGAN: This --

24 MS. DILLON: -- correctly in the record.

25 MS. PAGAN: I'm sorry.

1 This building is right across my house.

2 Okay? I think it was supposed to end up with 16
3 apartments at the beginning.

4 MR. FERRARO: How many units?

5 MS. PAGAN: But somehow down the line, he
6 managed to get more apartments than that. Don't
7 ask me how.

8 But he has, on some of the apartments are
9 one bedroom apartments, but some of the
10 apartments are two, and he have three bedrooms
11 apartments there, too. So, it's more than 48
12 people there.

13 MR. PANEQUE: Okay.

14 VICE CHAIRMAN BONACCI: Go ahead,
15 gentleman.

16 MR. PEROZO: My more concern is on the
17 inside. So, say if there was a manual override,
18 and they have to do the maintenance, the main
19 power source is coming from the basement, so what
20 the -- what would that entail?

21 So okay, you guys got your -- your antenna
22 working properly, but you're putting too much
23 energy into one building.

24 Am I wrong or am I right about my
25 speculations? Because I'm not an expert in -- in

1 the field of electricity, but I'm just more
2 concerned this is going to use a lot of power.
3 It's very -- it's -- it's saving energy. They
4 have their safety precautions for their idea, but
5 I'm more worried about the civilians that are
6 living inside the building.

7 She mentioned earlier radiation emissions
8 inside the building. So, that's -- that's all I
9 really have to say.

10 MR. PANEQUE: Thank you, sir.

11 VICE CHAIRMAN BONACCI: We appreciate it.

12 MS. PAGAN: Well, I actually mentioned them
13 outside the building. I'm across the street, and
14 I still can get major counter and have slow
15 emissions into my property.

16 And I was going to say --

17 VICE CHAIRMAN BONACCI: Just so you guys
18 know, I don't mean to -- to cut you guys off, or
19 anything like that, but for -- for purposes of
20 jurisdiction, we're not going to be able to grant
21 or deny the application tonight anyways. So,
22 this is something that they're going to have to
23 come back, I'm not sure if they're -- we're going
24 to have to listen to the whole testimony again,
25 but on December 14th is the earliest available

1 time for them to come back to discuss this
2 application.

3 So, rather than us -- I know you guys have
4 been waiting. We hear your concerns. We want to
5 listen to all your concerns.

6 MS. PAGAN: Thank you.

7 VICE CHAIRMAN BONACCI: We want to make
8 sure he gets the address correct and we want to
9 make sure that the other people who have
10 concerns, like you three do, have the opportunity
11 --

12 MS. DELLA GALA: To come.

13 VICE CHAIRMAN BONACCI: -- to come back and
14 be heard.

15 MS. DELLA GALA: Yes.

16 MS. PAGAN: So, we will be receiving new
17 notices then?

18 VICE CHAIRMAN BONACCI: Correct. That's
19 the way that the process --

20 MS. DELLA GALA: With the right number.

21 VICE CHAIRMAN BONACCI: Right.

22 MR. FERRARO: Hopefully.

23 VICE CHAIRMAN BONACCI: So, if -- if
24 there's more people from the neighborhood who
25 have similar concerns, we'd like to hear what

1 everybody has to say, when we make the decision
2 on December 14, because we're going to take it
3 all under consideration.

4 MS. PAGAN: Thank you very much.

5 VICE CHAIRMAN BONACCI: All right.

6 MS. DELLA GALA: Thank you so much for your

7 --

8 VICE CHAIRMAN BONACCI: You're -- you're
9 welcome.

10 MR. FERRARO: Mr. Chairman, does the Board
11 consider special meetings or not necessarily?

12 MR. PANEQUE: We do accommodate special
13 meetings, but there's no --

14 MR. FERRARO: That's fine.

15 MR. PANEQUE: -- available slots available
16 between now and December.

17 MR. FERRARO: Okay. Understand.

18 MR. PANEQUE: We have -- I'm sorry, Mr.
19 Ferraro.

20 Mr. Price, I see you stepping up to the
21 mic.

22 MR. PRICE: Yeah. Largely questions.

23 I heard that this wasn't a real address,
24 but what was the real address then?

25 MS. PAGAN: Thirty-seven.

1 MR. FERRARO: Thirty-seven.

2 MR. PANEQUE: The -- the address that was
3 published on notice was 2715 Palisade, which
4 would have put people at 27th Street somewhere,
5 instead of 3715.

6 I believe the City Hall address is 3715?

7 MR. SPATZ: 3715.

8 MR. PANEQUE: They're off by one digit.

9 MR. PRICE: 2715.

10 MR. PANEQUE: Yeah.

11 MR. FERRARO: Um hum.

12 MR. PANEQUE: So, if somebody got this
13 notice and they weren't familiar, as one of the
14 other witnesses indicated, they'd be walking
15 somewhere around 27th Street and Palisade, looking
16 for City Hall.

17 MR. PRICE: Okay. But -- but the 711-715
18 Sip Street --

19 MR. PANEQUE: No, it's not --

20 MR. PRICE: -- address is correct.

21 MR. PANEQUE: Yes.

22 VICE CHAIRMAN BONACCI: Yeah.

23 MR. PANEQUE: It's not the location --

24 MR. PRICE: And the --

25 MR. PANEQUE: -- it's --

1 VICE CHAIRMAN BONACCI: The address.

2 MR. PRICE: And the -- the list within 200
3 feet generated by the Tax Assessor --

4 MR. PANEQUE: It's correct.

5 MR. PRICE: -- is, in fact, correct.

6 MR. PANEQUE: Yeah.

7 MR. PRICE: We don't --

8 VICE CHAIRMAN BONACCI: Need to establish
9 --

10 MR. PRICE: We didn't leave anybody out.

11 MR. PANEQUE: No. That's not the issue.

12 MR. PRICE: It's just that they're all
13 stuck down at --

14 MR. FERRARO: They're ten blocks away.

15 MR. PRICE: -- the park.

16 Okay. Okay.

17 MR. PANEQUE: Yeah. Now, Mr. Ferraro --

18 VICE CHAIRMAN BONACCI: Closed to the
19 public?

20 MR. PANEQUE: Yeah, anything else, Mr.
21 Price?

22 MR. PRICE: No, no.

23 MR. PANEQUE: We don't want to cut you off.

24 MR. PRICE: I -- I take you -- you know --

25 VICE CHAIRMAN BONACCI: Okay. Closed to

1 the public.

2 And now we can move on.

3 MR. PANEQUE: All right. Mr. Ferraro --

4 MS. PAGAN: Thank you.

5 MR. PANEQUE: Okay.

6 VICE CHAIRMAN BONACCI: Thank you.

7 MR. PANEQUE: Thank you for coming.

8 VICE CHAIRMAN BONACCI: Have a good night.

9 MR. FERRARO: The next one has the same --

10 MR. PANEQUE: It --

11 MR. FERRARO: -- issue.

12 MR. PANEQUE: That was just brought to my
13 attention.

14 MR. FERRARO: Yeah. So, I just looked at
15 it.

16 MR. PANEQUE: Yeah.

17 MR. FERRARO: Because I figured it would.

18 I want to personally apologize for wasting
19 this Board's time. I feel really bad about that,
20 so --

21 MR. PANEQUE: There's no need, Mr. Ferraro.

22 These things happen. It's a typo.

23 However, it's not the kind of typo, based on the
24 fact that we have --

25 VICE CHAIRMAN BONACCI: An objector.

1 MR. PANEQUE: -- an objector here --

2 MR. FERRARO: Oh, yeah.

3 MR. PANEQUE: -- indicating that she thinks
4 that there might be --

5 VICE CHAIRMAN BONACCI: More people.

6 MR. PANEQUE: -- people, especially since
7 they moved into that building --

8 MR. FERRARO: I would agree.

9 MR. PANEQUE: -- just recently. They're not
10 familiar with the Union City City Hall and where
11 we are. They might have received this letter and
12 gone to another site.

13 Also, in the past, we've had meetings off-
14 site at the local public schools and so forth, to
15 accommodate large crowds.

16 MR. FERRARO: Um hum.

17 MR. PANEQUE: And that might also have
18 caused people to go to the site that you noticed.
19 And as such, it's -- it's a --

20 MR. FERRARO: It is what it is.

21 MR. PANEQUE: -- defect.

22 MR. FERRARO: Yes. It's a -- I -- I have
23 to agree.

24 VICE CHAIRMAN BONACCI: Okay.

25 MR. PANEQUE: Yes, Mr. Pressey?

1 MR. PRESSEY: I ask that if they could
2 bring in the exhibits that were --

3 MR. PANEQUE: Yeah. Well, I -- I believe
4 what's going to have to happen is that notices
5 will have to go out again, and we will have to
6 hear the entire application because it's -- it
7 has to be done.

8 MR. PRESSEY: Yeah.

9 MR. PANEQUE: Yeah.

10 MR. PRESSEY: But if they do come back, if
11 they could actually bring the exhibits.

12 MR. PANEQUE: Oh, yeah. No, they'll have
13 to come back with everything.

14 MR. FERRARO: Yeah. I will take all this
15 with us.

16 MR. PANEQUE: Yeah. They'll --

17 MR. PRESSEY: I mean, for all us. For all
18 of us.

19 MR. PANEQUE: Oh, exhibits for everybody?

20 MR. PRESSEY: Yes.

21 MR. PANEQUE: Okay. Maybe you can bring
22 like the photo shoot that Mr. Karlebach prepared
23 with the rest of the exhibits, so we can keep
24 them up here?

25 MR. FERRARO: Yeah. Sure.

1 MR. PANEQUE: I think the Board is having
2 trouble seeing them from afar.

3 MR. FERRARO: Okay.

4 MR. PANEQUE: Just small, eight and a half
5 by 11 -- you know?

6 MR. FERRARO: Okay.

7 MR. PANEQUE: Thank you.

8 MR. FERRARO: Sure.

9 VICE CHAIRMAN BONACCI: So, we're going to
10 adjourn this?

11 MR. PANEQUE: Well, no, it's --

12 VICE CHAIRMAN BONACCI: We can't even?

13 MR. PANEQUE: It's not going to be now --
14 you'll have to re-notice on both and -- and then
15 --

16 MR. FERRARO: Correct.

17 MR. PANEQUE: Come back for --

18 MR. FERRARO: So, I'll --

19 MR. PANEQUE: -- the December 14th meeting.

20 MR. FERRARO: -- re-notice for that new
21 date.

22 MR. PANEQUE: Yeah.

23 MR. FERRARO: Okay.

24 THE SECRETARY: May I have --

25 MR. FERRARO: My apologizes again.

1 MR. PANEQUE: No need to.

2 Thank you, anyway.

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1 T-Mobile Northeast, LLC - 2017-19 Summit Avenue:

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6 (Improper notice; case not heard.)

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1 **ADJOURNMENT:**

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3 MR. SPATZ: You don't adjourn it because it
4 never actually took place.

5 THE SECRETARY: That's right.

6 MR. SPATZ: At this point, just closing the
7 meeting.

8 THE SECRETARY: There being no other
9 application on tonight's agenda, can I have a
10 motion to end tonight's meeting?

11 Motion by Mr. Pressey.

12 Second by Mr. Ortiz.

13 All in favor?

14

15 (Whereupon, there was a chorus of ayes.)

16

17 THE SECRETARY: The ayes have it.

18 Thank you.

19 Have a good night.

20 Let the record show that the meeting has
21 ended.

22

23 (Whereupon, the proceedings were concluded
24 at 9:39 p.m.)

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1 STATE OF NEW JERSEY :

2 :

3 COUNTY OF ESSEX :

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6 I, DEBRA A. KASZNIAK, assigned transcriber,
7 do hereby affirm that the foregoing is a true and
8 accurate transcript in the matter of the REGULAR
9 MEETING of the UNION CITY ZONING BOARD OF
10 ADJUSTMENT heard on Thursday, October 12, 2017
11 and digitally recorded.

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25 Monitored and proofread by: Deborah Dillon