

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

SPECIAL MEETING : TRANSCRIPT OF RECORDED
: PROCEEDINGS
:
:

City Hall
3715 Palisade Avenue
Union City, New Jersey

Thursday, November 30, 2017
Commencing at 6:12 p.m.

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

VICTOR M. GRULLON
MARGARITA GUTIERREZ
DAVID W. PRESSEY
JOSEPH D. BONACCI, Vice Chairman
LIBERO MAROTTA, Chairman

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

JOHN MEDINA
MIGUEL ORTIZ
PETER C. DOUMAS, Alternate No. 4

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:

MICHAEL B. KATES, ESQ.,
Attorney for Applicant, Home Away, LLC

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

3 Please take notice that on Thursday,
4 November 30, 2017 a Special Meeting is called and
5 is scheduled for the City of Union City Zoning
6 Board of Adjustment, to be held in the Municipal
7 Chamber, located on the Second Floor, 3715
8 Palisade Avenue, Union City, New Jersey.

9 Everybody kindly rise to salute the flag,
10 please?

11

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

14

15 THE SECRETARY: Thank you.

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

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

25

1 **ROLL CALL:**

2

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

5 Chairman Marotta?

6 CHAIRMAN MAROTTA: Here.

7 THE SECRETARY: Vice Chairman Bonacci?

8 VICE CHAIRMAN BONACCI: Yes.

9 THE SECRETARY: Mr. Grullon?

10 MR. GRULLON: Here.

11 THE SECRETARY: Ms. Gutierrez?

12 MS. GUTIERREZ: Here.

13 THE SECRETARY: Mr. Ortiz is absent.

14 Mr. Pressey?

15 MR. PRESSEY: Present.

16 THE SECRETARY: Mr. Medina is absent.

17 Mr. Doumas is absent.

18 Let the record indicate we have five
19 present.

20 Those absent tonight are Mr. Ortiz, Mr.
21 Medina and Mr. Doumas.

22 So, we have a Board made up of five
23 members. We have a full quorum.

24 We have no -- no resolution on tonight's
25 agenda.

1 **Home Away, LLC - 100 Manhattan Avenue:**

2

3 THE SECRETARY: We have only one hearing.
4 Home Away, LLC, 100 Manhattan Avenue.

5 Mr. Kates, please?

6 MR. KATES: Thank you, Mr. Chairman.

7 Good evening.

8 I understand you have five members tonight
9 and we need five votes. We're going to proceed,
10 create a record, see how you feel about it, and
11 if necessary, carry it for a vote next time. But
12 hopefully, we can convince all of you that this
13 is a worthwhile project.

14 I'm going to present --

15 MR. PANEQUE: If I may, Mr. Kates?

16 MR. KATES: Yes.

17 MR. PANEQUE: Excuse me. I just need to
18 establish jurisdiction.

19 Let the record reflect that I've been
20 presented with the following documentation from
21 Mr. Kates' office:

22 I have in my possession an Affidavit of
23 Proof of Service, executed by a Rita Kennedy
24 (phonetic), indicating that notice of tonight's
25 meeting was served by certified mail, return

1 receipt requested, on all property owners within
2 the 200 foot radius of the property in question.

3 I've also been provided with a tax list,
4 which was prepared by the Union City Tax
5 Assessor, with a date of November 17 indicating
6 all property owners within the 200 foot radius of
7 100 Manhattan Avenue, Block 181.02, Lots 1, 2, 3,
8 and 4.

9 I've also been provided with the certified
10 mail receipts that have come back to date, as
11 well as a copy of the notice that went out to all
12 property owners within the 200 foot radius.

13 Also have -- the final documentation is an
14 Affidavit of Publication from The Jersey Journal,
15 with a copy of the article attached, which
16 indicates that notice of tonight's hearing was
17 published in The Jersey Journal on the 18th of
18 November of this year.

19 Based on the documentation that's been
20 provided, this Board has the jurisdiction to
21 proceed and hear this matter.

22 Thank you, sir.

23 MR. KATES: Thank you.

24 Michael Kates, K-A-T-E-S, Kates, Nussman,
25 Rapone, Ellis and Farhi in Hackensack, formerly

1 of Union City, the old Platoff office. We were
2 the first tenants in the Dispatch Building when
3 it was built. And I cut my teeth there as a
4 young attorney, and this is a coming home.

5 I -- I grew up with Lee and I'm happy to be
6 back. It's very comfortable. I love to see the
7 way the city has developed. It really is
8 attractive, particularly this building.

9 In any event, we have two witnesses
10 tonight. Cathy Marcos is the proprietor of the
11 daycare center. I'm going to introduce her.
12 She's going to talk to you about her needs, why
13 she's doing it here, why she's chosen that
14 location, and what her daycare is all about.

15 And Orestes Valella is our architect and he
16 is going to walk you through the plan and
17 hopefully, answer any questions you might have
18 concerning it.

19 So, let's start, if we can, with Cathy, and
20 I would ask her to be sworn.

21 MR. DILLON: Please raise your right hand.

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

24 MS. MARCOS: Yes, I do.

25 MR. DILLON: State your name and spell it

1 for the record.

2 MS. MARCOS: Catherine, C-A-T-H-E-R-I-N-E,
3 Marcos, M-A-R-C-O-S.

4 MR. DILLON: Thank you.

5 MR. KATES: Ms. Marcos, tell us about day
6 -- the daycare facility that you intend to put
7 into The Doric, and your experience in running
8 daycare facilities.

9 MS. MARCOS: Okay.

10 Well, I have -- my first daycare center, I
11 opened up 12 years ago. It's on 25th Street in
12 Union City. And I expanded about six months ago
13 across the street, with two classrooms,
14 specializing in infants and toddlers. So there
15 is a demand, so I was looking to go downtown
16 Union City, because there aren't any daycare
17 centers that really specialize in infants and the
18 young toddlers.

19 So, I looked into that location and there
20 is about -- there's 420 units there, a hundred of
21 them are with families with young kids. So, we
22 thought it would be a good fit. The building
23 said that they would help me with the
24 advertisement, and it was a plus for them to
25 actually have that for their tenants.

1 MR. KATES: Is the business of daycare New
2 Jersey licensed, and are you licensed for that
3 location?

4 MS. MARCOS: Yes, I am.

5 MR. KATES: Tell us about it. How many
6 children does the license allow you to put in
7 there?

8 MS. MARCOS: For the new location, it will
9 -- I would be licensed for 107 kids, but I would
10 only want to put 80 children in there.

11 MR. KATES: And what provisions --

12 Well, we'll deal with the architectural
13 plan.

14 Do you have them mounted, Orestes?

15 MR. VALELLA: No. I'll walk them through
16 it.

17 MR. KATES: All right.

18 MS. MARCOS: Okay.

19 MR. KATES: After -- after Orestes walks
20 the Board through it, I'll -- I'll call you back,
21 because I really want you to address issues of
22 drop off --

23 MS. MARCOS: Okay.

24 MR. KATES: -- and parking, and outdoor
25 recreation, and safety.

1 MS. MARCOS: Okay.

2 MR. KATES: So, if the Board has any
3 questions of you now, otherwise, she's coming
4 back to answer those questions.

5 CHAIRMAN MAROTTA: We'll wait until she
6 comes back.

7 MR. KATES: Okay.

8 MS. MARCOS: Okay.

9 MR. KATES: Would you be sworn, Mr.
10 Valella?

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

13 MR. DILLON: Please raise your right hand.

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

16 MR. VALELLA: I do.

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

19 MR. VALELLA: Sure.

20 My name is Orestes Valella, V-A-L-E-L-L-A.

21 I'm a registered architect in the State of
22 New York, and in the State of New Jersey. And my
23 professional offices are at 5809 Madison Street
24 in West New York, New Jersey.

25 MR. KATES: Have you appeared before this

1 Board previously?

2 MR. VALELLA: I am honored to say I've been
3 here many times.

4 MR. KATES: I submit his qualifications on
5 the basis of that history.

6 CHAIRMAN MAROTTA: We accept him.

7 MR. KATES: Thank you.

8 MR. VALELLA: Thank you.

9 MR. KATES: So, I'd like you to walk the
10 Board through the plan.

11 Let me start by asking you, is there any
12 change in terms of the footprint of the building?

13 MR. VALELLA: No. This is -- well, you're
14 all familiar with The Doric. It's a beautiful
15 apartment building on Paterson-Plank Road.

16 At the ground level is a one story space
17 that is the one that is being offered for the
18 daycare facility. And it's about 4,000 and
19 change square feet at ground level. And then,
20 above is the tower with the -- with the
21 apartments.

22 So that is where we are locating the -- the
23 daycare.

24 MR. KATES: What was in that space, or is
25 in that space now?

1 MR. VALELLA: I think it's vacant at the
2 moment.

3 MR. KATES: Okay. What was it --

4 MR. VALELLA: Yeah.

5 MR. KATES: -- previously, if you know?

6 MR. VALELLA: I don't.

7 MR. KATES: Okay. We'll get that from Ms.
8 Marcos.

9 MR. VALELLA: So, what we're doing -- and
10 you can see it on the second page. This is a
11 very --

12 MR. KATES: Want me to hold that up?

13 MR. VALELLA: No, no. It's okay.

14 This is particularly suited for a daycare.
15 It's one story; it's at ground level. You have
16 access directly from the street. It's 4,341
17 square feet.

18 And it's a very interesting irregular
19 shape. It's semi-circular, with lots of windows
20 looking out. It also has a terrace behind it,
21 which we intend to use as the playground area for
22 the children. And also has access to the parking
23 which surrounds it on two sides.

24 Part of the agreement is that the building
25 will designate eight parking spaces for the use

1 of the daycare. And in addition to that, the
2 entrance to the daycare is right by the driveway,
3 so it's very easy to -- for the parents to,
4 whoever is not basically living at the building,
5 to just drive and -- and let the kids out.

6 There will be four rooms, and you can see
7 them on our layout. There will be a new
8 bathroom. There will be a kitchen for the staff.
9 Within both bathroom -- bathroom for the infants
10 and children.

11 There will be room number one, which is for
12 toddlers. It's 794 square feet. Room number
13 two, for toddlers, again, 930 square feet. Then
14 there is two rooms -- an open room, 658, and an
15 infant's room of 792.

16 There will be 15 infants, potentially 22
17 toddlers in one and 26 in the other, and 18 of
18 mixed age.

19 You can see the -- the totals here next to
20 it. Fifteen infants, 22 toddlers, 26 toddlers,
21 and an open room, 18, for a total of 81.

22 The daycare will also have access directly
23 on the left side out to the play area, which will
24 also have a canopy. You can see the picture on
25 the upper left hand corner, which is a fabric

1 canopy that we intend to cover, so that the
2 children are covered from any -- you know, from
3 the sun, and it also creates a more pleasant
4 environment.

5 The play area is 5,611 square feet. It has
6 a protected fencing around it, so that there are
7 no security issues.

8 I mean, I've done daycares in every kind of
9 structure. I've done them in two family houses.
10 I've done them on the second -- this is as ideal
11 as it gets. This is windows all around. It's
12 like a picture of what a daycare should be --
13 should be like.

14 They're -- I think they have views of the
15 city. It doesn't get any better.

16 MR. KATES: At drop-off and pickup, how is
17 that going to work on this plan?

18 MR. VALELLA: Well, the driveway is here,
19 and the parents can --

20 MR. KATES: When you say here, they can't
21 see your finger. Only I can.

22 MR. VALELLA: All right.

23 MR. KATES: So now I have to hold it up.

24 MR. VALELLA: Okay.

25 MR. KATES: All right?

1 MR. VALELLA: This is the -- the building
2 here. This is the main entrance. This is the
3 driveway here. And this is the daycare itself.

4 So, basically, a parent can come here, pull
5 in the space in front of the door, they can stop,
6 they can let children off and go out again. So
7 --

8 MR. KATES: So, that entrance is not on --

9 MR. VALELLA: So, it's -- they're not on a
10 -- it's a private --

11 MR. KATES: That -- that entry is separate
12 from The Doric's main entrance.

13 Correct?

14 MR. VALELLA: Right. Right. So, there is
15 no contamination of the population, the people
16 who live in the building and this. It's -- it's
17 ideal. It really is.

18 MR. KATES: I have no further -- no further
19 questions of the architect.

20 CHAIRMAN MAROTTA: I have a question.

21 You say the play area is approximately
22 5,000 square feet.

23 MR. VALELLA: Yes.

24 CHAIRMAN MAROTTA: That's a fenced in area.

25 MR. VALELLA: Yes.

1 CHAIRMAN MAROTTA: How high is the fence?

2 MR. VALELLA: The fence is going to be
3 about six feet.

4 CHAIRMAN MAROTTA: How many?

5 MR. VALELLA: Six feet.

6 CHAIRMAN MAROTTA: Six feet.

7 And there's one gate for entrance and --
8 egress and --

9 MR. VALELLA: Yes. There's only one
10 controlled access point to it, and that access
11 point is visible from the daycare. The security
12 -- there's only two -- two ways to get into the
13 daycare, from the main office, and we have a
14 receptionist with a window, so you -- you can't
15 get through the front door without being checked.
16 And then, there is the second exit that leads --
17 in case of an emergency or fire, we do need two
18 means of egress. And that gives you access to
19 the --to the play area. So --

20 CHAIRMAN MAROTTA: I notice -- I notice
21 with the papers that were submitted, you show
22 pictures of Washington Park.

23 MR. VALELLA: Um hum.

24 CHAIRMAN MAROTTA: Why?

25 MR. VALELLA: Just to give the Board a

1 feeling for the -- for the -- you know, the
2 surrounding areas.

3 MR. KATES: Yeah. The application requires
4 context photographs --

5 CHAIRMAN MAROTTA: Are you going to --

6 MR. KATES: -- of the surrounding area.

7 CHAIRMAN MAROTTA: Are you going to use
8 Washington Park?

9 MR. VALELLA: I don't think so. Maybe -- I
10 mean, this is more for our --

11 Why don't you come up?

12 CHAIRMAN MAROTTA: You said, I don't think
13 so. That means maybe you will.

14 MR. KATES: No, no.

15 MR. VALELLA: No, no.

16 MR. KATES: You have to hear it from her.

17 MR. VALELLA: I don't know, so let me --
18 let me have the -- the owner.

19 MR. DILLON: Excuse me. Can you stand at
20 the microphone?

21 MS. MARCOS: Oh, I'm sorry. Okay. Let me
22 just go back.

23 The wall for the fence -- right now, there
24 is wall that is four feet high, and on top of
25 that, there is an additional fence at six feet.

1 So, we're talking about ten feet of a barrier
2 where that playground is going to be.

3 The playground -- by State, you have to
4 have a park next to where your daycare center is
5 so that children could use it.

6 So, if I was not going to be building a
7 playground, that would be the park that I would
8 have to report to the State that my children
9 would be going to.

10 CHAIRMAN MAROTTA: My question is, will
11 Washington Park be utilized?

12 MS. MARCOS: No. It will not be utilized
13 but --

14 CHAIRMAN MAROTTA: You're sure?

15 MS. MARCOS: Definitely. Yeah.

16 But Doric does have a -- a catwalk that
17 they own. I'm not sure the terminology, but it's
18 like a catwalk from their building that if you
19 want to cross over, you could go to that park,
20 but we will not be using that.

21 MR. KATES: If I may ask a question?

22 The plan doesn't show any signage. Are you
23 contemplating any kind of an identification sign
24 for the daycare center?

25 MR. VALELLA: Yes. There is -- the daycare

1 will have signage. It's -- it's called out. It
2 will comply with the Union City Ordinance not to
3 exceed 32 square feet.

4 MR. KATES: So, that will be a monument
5 sign or on the building?

6 MR. VALELLA: On the wall.

7 MR. KATES: On the wall.

8 MR. VALELLA: On the wall. Yeah.

9 MR. KATES: Okay.

10 MS. MARCOS: And --

11 CHAIRMAN MAROTTA: I have no further
12 questions for the architect.

13 MR. VALELLA: Okay.

14 MS. MARCOS: You also had asked what was
15 previously there.

16 MR. KATES: Yes.

17 MS. MARCOS: Right now, the building does
18 have a small -- where the toddler one room is
19 right now, they do have -- which was their gym
20 room, they're going to vacate it.

21 MR. VALELLA: This is over here.

22 MS. MARCOS: Oh, sorry. Their existing
23 gym. Yeah.

24 And then, the rest was just an office
25 building. They had a European food distributor

1 | there that relocated to Hackensack.

2 | CHAIRMAN MAROTTA: Let me ask you this.

3 | You mentioned something or Mr. Kates
4 | mentioned that you presently own and operate
5 | other daycare centers.

6 | MS. MARCOS: Yes.

7 | CHAIRMAN MAROTTA: And you're licensed by
8 | the State.

9 | MS. MARCOS: Yes.

10 | CHAIRMAN MAROTTA: What about this one?
11 | Have you inquired of the State?

12 | MS. MARCOS: Yes. I do have a courtesy
13 | inspection --

14 | CHAIRMAN MAROTTA: Have you inquired of the
15 | Department of Human Service?

16 | MS. MARCOS: Yes. I do have it, if you
17 | want to see it. They did -- came out and did a
18 | courtesy report and that's where they measured
19 | out all the rooms and let me know that my
20 | capacity would be at 107.

21 | MR. VALELLA: So, in effect, our -- our
22 | client has been licensed for more children than
23 | she's actually going to --

24 | MS. MARCOS: Have.

25 | MR. VALELLA: -- which is a very good

1 | situation, because the State is saying that she
2 | could do more, but she's not.

3 | CHAIRMAN MAROTTA: Let me ask you this.

4 | Did you do a survey of the residents of The
5 | Doric to determine if they have children --

6 | MS. MARCOS: Yes. That was --

7 | CHAIRMAN MAROTTA: -- of preschool age?

8 | MS. MARCOS: Yes. We did that with the
9 | real --

10 | CHAIRMAN MAROTTA: What's the result --

11 | MS. MARCOS: -- estate --

12 | CHAIRMAN MAROTTA: -- of that survey?

13 | MS. MARCOS: There is 420 units there, a
14 | hundred of the families have --

15 | CHAIRMAN MAROTTA: Are they willing to go
16 | to the daycare center?

17 | MS. MARCOS: Yes. That was --

18 | CHAIRMAN MAROTTA: I don't see any of them
19 | here tonight.

20 | MS. MARCOS: What?

21 | CHAIRMAN MAROTTA: I don't see any of those
22 | residents here tonight.

23 | MS. MARCOS: I thought they would be here
24 | if they opposed it.

25 | They are wanting -- that was one of the

1 contingencies on the lease that they wanted me to
2 discount my tuition rate for the actual
3 residents, and they are very eager and are ready
4 -- the listing agents are advertising, letting
5 them know that we are having --

6 CHAIRMAN MAROTTA: Are you going to --

7 MS. MARCOS: -- a daycare there.

8 CHAIRMAN MAROTTA: Are you going to limit
9 it to children who resident in The Doric, or you
10 will be taking children who reside in other
11 areas?

12 MS. MARCOS: Other areas.

13 CHAIRMAN MAROTTA: Well, --

14 MS. MARCOS: Yeah.

15 CHAIRMAN MAROTTA: -- that creates a
16 problem for me.

17 MS. MARCOS: Okay.

18 CHAIRMAN MAROTTA: That's a pretty
19 dangerous area.

20 MS. MARCOS: Um hum.

21 CHAIRMAN MAROTTA: Okay? I'm very, very
22 familiar with that area.

23 MS. MARCOS: Um hum.

24 CHAIRMAN MAROTTA: Because I remember when
25 The Doric was constructed.

1 MS. MARCOS: Um hum.

2 CHAIRMAN MAROTTA: And the people coming
3 from Union City, they would have to come from
4 Palisade Avenue is the closest one.

5 MS. MARCOS: Um hum.

6 CHAIRMAN MAROTTA: And then have to cross a
7 pretty busy intersection.

8 Have you considered that?

9 MS. MARCOS: I know, but then I'm running
10 into the fear of you're kind of discriminating,
11 and it's only open to Doric. I'm not working
12 under Doric, so I can't just say I am not
13 accepting anybody other than Doric.

14 CHAIRMAN MAROTTA: Well, have you plans for
15 security to be there for the children who come in
16 the morning?

17 MS. MARCOS: Doric does have their own
18 crossing guard, and on the sidewalk, they have
19 their own crossing guard for their building and
20 to cross people.

21 CHAIRMAN MAROTTA: Who has their own
22 crossing guard?

23 MS. MARCOS: Doric. I'm not sure if
24 there's a picture there, but they do have.

25 CHAIRMAN MAROTTA: I'm -- I'm not -- I'm

1 not satisfied with that.

2 MR. KATES: What --

3 CHAIRMAN MAROTTA: I'm -- I'm in that area
4 every day.

5 MS. MARCOS: I'm --

6 CHAIRMAN MAROTTA: I see the traffic coming
7 --

8 MS. MARCOS: Okay.

9 CHAIRMAN MAROTTA: -- east, coming north,
10 going south.

11 MR. PANEQUE: Bless you.

12 MS. MARCOS: Um hum.

13 CHAIRMAN MAROTTA: Making that turn going
14 down Paterson-Plank Road. It's a nightmare.

15 MS. MARCOS: Um hum.

16 CHAIRMAN MAROTTA: All right?

17 And -- and the crossing guard you're
18 talking about is not in that area. The crossing
19 guard is right near where the -- where the -- the
20 catwalk is.

21 MS. MARCOS: Um hum.

22 CHAIRMAN MAROTTA: So, he's not going to be
23 up there to assist children from crossing the
24 street.

25 MS. MARCOS: Okay.

1 VICE CHAIRMAN BONACCI: I just have --

2 CHAIRMAN MAROTTA: It's a pretty dangerous
3 area.

4 VICE CHAIRMAN BONACCI: I just have a
5 question for you guys that maybe can help Mr.
6 Marotta with his concern.

7 Would you guys be able to provide any --
8 anybody in the morning that can receive the
9 students, that can help out with the -- you know,
10 when the kids come in, in the morning? The
11 families come to drop the kids off.

12 MS. MARCOS: I'm not --

13 VICE CHAIRMAN BONACCI: Would you be able
14 to have any employees that would be able to go
15 out and help the kids come into the building?

16 MS. MARCOS: Oh, yes. We definitely are
17 going to have that.

18 VICE CHAIRMAN BONACCI: Okay.

19 MS. MARCOS: Sorry. That's part of like
20 the loading, like at the --

21 VICE CHAIRMAN BONACCI: Right.

22 MS. MARCOS: -- front entrance. The
23 teachers of the classrooms will greet the kids.

24 VICE CHAIRMAN BONACCI: Okay.

25 MS. GUTIERREZ: Okay.

1 MS. MARCOS: Yeah.

2 MS. GUTIERREZ: Ms. Marcos, you said you're
3 going to have 82 kids, right, in the facility?

4 MS. MARCOS: Yeah.

5 MS. GUTIERREZ: How many employees you
6 going to have in the facility for 82 kids?

7 MS. MARCOS: Depends on the ratio. We're
8 probably looking in to like one teacher for every
9 six, one to eight.

10 MR. KATES: You talk on a plan of eight --
11 eight peak hour employees on-site.

12 MS. MARCOS: Um hum.

13 VICE CHAIRMAN BONACCI: So, if you had 80
14 kids and you had ten --

15 MS. GUTIERREZ: Eighty kids.

16 VICE CHAIRMAN BONACCI: -- and you had ten
17 employees, --

18 MS. MARCOS: Um hum.

19 VICE CHAIRMAN BONACCI: -- you basically
20 have one employee for every ten kids.

21 MS. GUTIERREZ: Um hum.

22 VICE CHAIRMAN BONACCI: Right?

23 Is that --

24 MR. KATES: Yeah.

25 VICE CHAIRMAN BONACCI: -- a rough

1 estimate?

2 MR. KATES: Yes.

3 MS. GUTIERREZ: Um hum.

4 CHAIRMAN MAROTTA: Any other questions from
5 Board members?

6 MR. PRESSEY: Since -- since that is such a
7 busy area, and it has a lot of people, were you
8 thinking about having some sort of security?

9 MS. MARCOS: As far as for outside or
10 inside?

11 MR. PRESSEY: As far as your location
12 itself?

13 MS. MARCOS: Okay.

14 MR. PRESSEY: A security guard is what I'm
15 saying. Of hiring a security guard.

16 MS. MARCOS: For inside the daycare center
17 or --

18 MR. VALELLA: No. Outside.

19 MR. PRESSEY: Well --

20 MS. MARCOS: Outside?

21 MR. PRESSEY: Yeah. Kids are outside, or
22 playing, or something like that. Just --

23 MS. MARCOS: Oh, okay.

24 MR. PRESSEY: On a normal basis, on a
25 normal day basis, a security guard.

1 MS. MARCOS: Okay.

2 I did not consider that, but if that's
3 what's needed.

4 MR. PRESSEY: All right.

5 MS. MARCOS: Okay.

6 MR. PRESSEY: Any place --

7 MR. KATES: Mr. Valella mentioned a secure
8 door with a guard.

9 MR. VALELLA: Yeah.

10 MR. KATES: How does that work?

11 MS. MARCOS: -- fingerprinted.

12 MR. VALELLA: Yeah. The -- nobody can get
13 into the daycare without being let in. The
14 teachers will be outside the door in the morning,
15 as normal protocol. The parents come with the
16 children. The children aren't coming here alone.
17 These are toddlers and infants. They're not
18 crossing the street by themselves. These are
19 parents that are --

20 Eighty, 90 percent of it, I would venture
21 to say, live in The Doric, and they'll take the
22 elevator down, and the parent will walk them into
23 the daycare and that's it.

24 MS. MARCOS: Um hum.

25 MR. VALELLA: Now, if somebody from the

1 neighborhood wants to come in, these are infants
2 and children. They're not going there by
3 themselves. A parent or a babysitter will bring
4 them to the facility. There will be teachers
5 outside on the door in the morning. They let
6 them in and once they're inside, they're in a
7 controlled environment.

8 If they're going to the playground, they
9 have their own private playground. They're not
10 going to a park or anywhere remote. And there is
11 a door that the teachers will open. The children
12 go into the playground. The doors close.

13 So, at all times, these children are under
14 personal supervision of the teachers, and they
15 are, at all times, behind closed doors.

16 They're outside in a beautiful playground,
17 but it's got a fence, ten feet total, and it's
18 got a gate. These children are not exposed to
19 the outside.

20 MR. PRESSEY: So -- so is there a security
21 guard?

22 MR. VALELLA: It's -- there's not a, quote,
23 a security guard, it's the personnel that works
24 at the daycare.

25 MR. PRESSEY: I mean, The Doric itself.

1 MR. VALELLA: The Doric has security
2 guards.

3 MS. MARCOS: Yeah.

4 MR. VALELLA: Of course.

5 MR. PRESSEY: They have a security guard.

6 MS. MARCOS: Yeah.

7 MR. VALELLA: Yes.

8 MR. PRESSEY: Okay.

9 And it's right by your area?

10 MS. MARCOS: Yes.

11 MR. GRULLON: Mr. Valella, I have --

12 MR. VALELLA: It's all cameras.

13 MR. GRULLON: -- I have a question.

14 You mentioned that the playground is
15 visible from the office, but I don't see the
16 office here on this.

17 MR. VALELLA: The office is right here.
18 And these are all windows. The whole thing is --
19 is going to have windows.

20 MS. MARCOS: The whole area here -- the
21 whole circle is all windows.

22 MR. VALELLA: This is all windows.

23 MS. MARCOS: Windows.

24 MR. VALELLA: So you can see from --

25 MS. MARCOS: The windows are like five feet

1 high.

2 MR. VALELLA: -- from one side to the other
3 --

4 MS. MARCOS: Yeah.

5 MR. VALELLA: -- you'll be able to see.

6 It's really -- I've never worked in a
7 facility that is this suited for a play -- for a
8 daycare.

9 MR. KATES: If I may be responsive to Mr.
10 Marotta?

11 One of the virtues of this application is
12 that the main core of children will be Doric
13 located. I mean, that was what attracted the
14 client to this building, the fact that it would
15 lessen traffic to have them there.

16 And -- and they did the survey, and they do
17 have a potential of a hundred children.

18 MS. MARCOS: Um hum.

19 MR. KATES: With -- with a goal of 80. So,
20 I mean, that's very realistic. And that was --
21 you know, in zoning, site specific justification
22 is important here. That's what makes this site
23 prime, in terms of not just it's attractiveness
24 and visibility and location, but the -- the
25 population its serving.

1 And -- and that really, I think, goes to
2 Mr. Marotta's concern. I hope it does. It was
3 carefully chosen on the basis of that population.

4 CHAIRMAN MAROTTA: Any other questions from
5 members of the Board?

6 VICE CHAIRMAN BONACCI: Yeah. Just one
7 quick question.

8 So, you -- you guys conducted a survey that
9 there's a need in the building for the daycare
10 center --

11 MS. MARCOS: Um hum.

12 VICE CHAIRMAN BONACCI: -- because there's a
13 number of families that have children that are
14 not of elementary school age.

15 MS. MARCOS: Um hum.

16 VICE CHAIRMAN BONACCI: And that --

17 MS. MARCOS: Yes.

18 VICE CHAIRMAN BONACCI: -- number was a lot
19 higher than 80.

20 MS. MARCOS: Um hum.

21 VICE CHAIRMAN BONACCI: So most likely --
22 you're saying that you don't want to
23 discriminate, so you would accept children that
24 don't live in The Doric, but however,
25 realistically, your capacity of children are

1 going to most likely be in the building already.

2 MR. KATES: Correct.

3 VICE CHAIRMAN BONACCI: And probably so
4 many that you'll probably have like a waiting
5 list.

6 MS. MARCOS: Um hum.

7 VICE CHAIRMAN BONACCI: So that if a kid
8 leaves, for whatever reason, or a family moves,
9 it's going to be replaced with another family
10 from The Doric.

11 MS. MARCOS: Yes.

12 VICE CHAIRMAN BONACCI: So, you're not
13 going to exclude anybody who wants to come to the
14 daycare.

15 MS. MARCOS: Exactly.

16 VICE CHAIRMAN BONACCI: But in reality,
17 your children are going to be from The Doric.

18 MS. MARCOS: Yes.

19 MR. VALELLA: That's --

20 MS. MARCOS: Exactly.

21 VICE CHAIRMAN BONACCI: So, that's the
22 idea.

23 MR. VALELLA: That's -- that's exactly it.

24 VICE CHAIRMAN BONACCI: Okay.

25 CHAIRMAN MAROTTA: Any other Board members?

1 Larry, any -- you have a question?

2 MR. DILLON: Please raise your right hand.

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

5 MR. PRICE: Yeah. Larry Price, 10-0 -- oh,
6 yes.

7 Larry Price, 1006 Palisade.

8 MR. DILLON: Thank you.

9 MR. PRICE: I had just one question.

10 There was testimony capacity of 107, and
11 other times, capacity of 81. I couldn't quite
12 reconcile.

13 MR. VALELLA: No. The State has -- you
14 know, they code the facility. When a client is
15 looking to rent a space, or purchase a space,
16 they will call the State and ask for a potential,
17 a number of -- how many children will the State
18 allow me to have here? That's this document.

19 Okay?

20 And the State will do their own tabulation.
21 And so, they come up with 107 potential children
22 the State will accept in this area.

23 MR. PRICE: Okay.

24 But the State also has other rules that say
25 you can have 12 kids in this room and --

1 MR. VALELLA: Yes.

2 MR. PRICE: -- based on the size and all --

3 MR. VALELLA: Yes. Right.

4 MR. PRICE: Okay.

5 MR. VALELLA: Based on all of that, it adds
6 up to 107. However, we're not going to 107. The
7 business plan is to cap off at 81.

8 MR. PRICE: Okay. So that's a -- the 81 --
9 the 107 is the legal limit.

10 MR. VALELLA: Potential.

11 MR. PRICE: The 81 is --

12 MR. VALELLA: Is the actual.

13 MR. PRICE: -- a self-imposed --

14 MR. VALELLA: Potential, yes.

15 MR. PRICE: -- capacity.

16 MR. VALELLA: Yes.

17 MR. PRICE: That going to be part of the
18 approval by the Board that the capacity will be
19 limited to 81?

20 MR. KATES: If the -- if the client is
21 willing to accept that limit, I think so.

22 She -- are you willing to accept a cap of
23 81?

24 MS. MARCOS: Yeah.

25 MR. KATES: Yes.

1 MR. PRESSEY: Why?

2 CHAIRMAN MAROTTA: Larry's not a member of
3 the Board to make that offer.

4 MR. PRESSEY: Yeah. Why? Why?

5 MR. KATES: Well --

6 CHAIRMAN MAROTTA: So, he's not a member of
7 the Board.

8 MR. KATES: I know. I understand that.

9 CHAIRMAN MAROTTA: Just remember that.

10 MR. KATES: If the Board wants a cap --

11 CHAIRMAN MAROTTA: Well --

12 MR. KATES: -- she's willing to make --

13 CHAIRMAN MAROTTA: The Board hasn't spoken
14 yet.

15 MR. PRESSEY: Not about that.

16 MR. KATES: I understand.

17 I do want to mark as our Exhibit A-1, this
18 Courtesy Life Safety Checklist, which deals with
19 that calculation, if I can?

20 MR. PANEQUE: Yes. We'll have this marked
21 as A-1.

22

23 (Whereupon, Courtesy Life Safety Checklist
24 was received and marked as Exhibit A-1.)

25

1 CHAIRMAN MAROTTA: If there are no more
2 questions, I have some comment.

3 MR. PANEQUE: Mr. Kates?

4 MR. KATES: Yes.

5 MR. PANEQUE: This has to be left with us.
6 Is this the only copy you have or --

7 MS. MARCOS: Yeah. I do. Can I --

8 MR. KATES: Do I have a copy?

9 MS. MARCOS: No, no.

10 MR. PANEQUE: Okay. Because if you're
11 going to --

12 MS. MARCOS: I could come back and --

13 MR. PANEQUE: -- introduce it, we need to
14 keep it for the file.

15 MR. KATES: Well, we can come back with --
16 and make a copy from your file tomorrow or --

17 MR. PANEQUE: That's -- that's --

18 THE SECRETARY: Want me to make --

19 MR. PANEQUE: You can make a --

20 THE SECRETARY: We can make a copy.

21 MR. PANEQUE: All right.

22 Mr. Vallejo is kind enough to make us a
23 copy.

24 MR. KATES: Oh, that's good.

25 MR. PANEQUE: Thank you, sir.

1 THE SECRETARY: You're welcome.

2 CHAIRMAN MAROTTA: I have some comments and
3 I'm a little disturbed.

4 The reason I say I'm disturbed is because
5 generally, I like daycare centers. They're very
6 helpful.

7 Under the Municipal Land Use Law of New
8 Jersey, child daycare centers are permitted in
9 nonresidential districts as a matter of right.
10 This happens to be a residential district.

11 MR. KATES: Just to --

12 CHAIRMAN MAROTTA: Okay? Which means you
13 require a use variance.

14 In addition to that, The Doric itself is a
15 nonconforming use.

16 MR. KATES: Understood.

17 CHAIRMAN MAROTTA: All right?

18 Now, I heard no testimony to tell this
19 Board the purposes that the Municipal Land Use
20 Law would be advanced by granting this variance.

21 I heard no testimony that the granting of
22 the variance would be consistent with the intent
23 and purpose of the Master Plan and the Zoning
24 Ordinance of the City.

25 Our -- our Zoning Code, Section 233.47D

1 | subparagraph 1, says a nonconforming use of any
2 | building shall not be increased, enlarged,
3 | extended, or changed in any manner whatsoever.

4 | I heard no testimony before this Board to
5 | -- to satisfy that section of our Code.

6 | So, because of the lack of -- I heard no
7 | testimony --

8 | MR. KATES: Well, I'm not finished, you
9 | know?

10 | CHAIRMAN MAROTTA: I had no testimony with
11 | respect to the positive criteria and no testimony
12 | with respect to the negative criteria.

13 | So, as much as I like daycare centers,
14 | there's no proofs whatsoever before this Board
15 | for this Board to grant this application.

16 | MR. KATES: Mr. Marotta?

17 | CHAIRMAN MAROTTA: So --

18 | MR. KATES: If I may?

19 | CHAIRMAN MAROTTA: If I may finish?

20 | MR. KATES: I wasn't finished presenting my
21 | case. We were just allowing questions of the
22 | witnesses thus far. I'm not finished with my
23 | case.

24 | We're going to get into that.

25 | CHAIRMAN MAROTTA: But who?

1 MR. KATES: With Mr. Valella.

2 CHAIRMAN MAROTTA: He's an architect.

3 MR. KATES: Yes, I know. But he can deal
4 with the reality of what exists here.

5 CHAIRMAN MAROTTA: Can he deal with --
6 I'm sorry.

7 You have no planner. He can't testify as
8 to those. He can't testify as to the planning.

9 MR. KATES: Let me -- let me put my case
10 in, and then we'll decide what we're going to do.

11 The point here is that the preexisting
12 nonconforming use, which is The Doric, and which
13 had, within the space we're talking about,
14 nonconforming uses, in terms of the accessory
15 fitness center, and a -- and a commercial office
16 building, were -- were -- are being replaced by a
17 more apt and fitting accessory use, and that is
18 daycare center, primarily for the people in the
19 building.

20 We are not introducing a new nonconformity
21 to the building. We're substituting
22 nonconforming space for nonconforming space.
23 It's an entirely different situation.

24 Look, the bar would be much higher --

25 CHAIRMAN MAROTTA: Mr. Kates, I appreciate

1 your -- your comments, as an attorney, but you're
2 not a planner.

3 MR. KATES: Well, there are --

4 CHAIRMAN MAROTTA: And you're not giving
5 any testimony to satisfy what is required to
6 grant this variance.

7 And it's not going to come from the
8 architect either, I'll tell you that right now.
9 And I'm very much disappointed. I thought he was
10 finished with his testimony before. You didn't
11 say he's coming back to testify.

12 MR. KATES: Well, if you're not going to
13 allow him to testify, I'm -- when I --

14 CHAIRMAN MAROTTA: He can testify. He's
15 not going to testify as to planning.

16 MR. KATES: Well, I don't -- I don't want
17 to pick a fight with you.

18 I really think that if you're dissatisfied
19 and you need planning testimony, I'm willing to
20 come back and -- and give you planning testimony.

21 I -- I --

22 CHAIRMAN MAROTTA: You want him to testify,
23 let him testify.

24 MR. KATES: No. No. I don't want him to
25 testify if he's not going to satisfy you. I need

1 your vote. And I -- and if it's not going to
2 satisfy --

3 CHAIRMAN MAROTTA: Mr. Kates, he's not a
4 planner, is he?

5 MR. KATES: No, he's not a planner.

6 CHAIRMAN MAROTTA: Then he can't testify as
7 to planning, could he?

8 MR. KATES: No, he can't, but he can --

9 CHAIRMAN MAROTTA: All right.

10 MR. KATES: -- testify to the reality, and
11 this Board can take notice of some realities here
12 and -- and deal with it. But they're not -- I'm
13 not going to get your vote. And so, if I'm going
14 to have to come back, I come back with a planner.

15 CHAIRMAN MAROTTA: What if I make a motion?

16 MR. KATES: I'm sorry?

17 CHAIRMAN MAROTTA: What if I make a motion?

18 MR. KATES: A motion to deny?

19 CHAIRMAN MAROTTA: To deny.

20 MR. KATES: I -- I would ask you not to
21 make a motion to deny, to give me the opportunity
22 to come back and bring -- and bring a planner.

23 CHAIRMAN MAROTTA: And you -- and you have
24 a long association and my respect for you as an
25 attorney, as Chairman, I would grant that --

1 MR. PANEQUE: Request.

2 CHAIRMAN MAROTTA: -- grant you that
3 opportunity to come back with --

4 MR. KATES: We'll be happy to do that.

5 And that meeting would be when?

6 THE SECRETARY: All right. There's a
7 motion on the table to adjourn this application
8 to January? January.

9 VICE CHAIRMAN BONACCI: December 14?

10 MR. PANEQUE: Which date you want to bring
11 it on, Mr. Vallejo?

12 THE SECRETARY: January 11.

13 MR. PANEQUE: He has at least one witness
14 to bring, which would be the planner.

15 THE SECRETARY: Oh, what about -- you going
16 to -- we already booked for --

17 MR. PANEQUE: I know we're booked solid for
18 December.

19 THE SECRETARY: -- December 14.

20 MR. PANEQUE: The next meeting in January
21 is?

22 THE SECRETARY: The 11, right?

23 MR. PANEQUE: The 11th?

24 MR. SPATZ: Yes, the 11th.

25 MR. PANEQUE: Okay.

1 Mr. Kates, is that something that you're
2 available for?

3 MS. MARCOS: I can't get in front of the
4 meeting December 14th?

5 MR. PANEQUE: I'm sorry. It's just that
6 we've put in the -- like, 20 cases into the space
7 of half of that. And it's not just a question of
8 coming and getting a vote. Now, he's got to put
9 up a planner, and have the planner testify.

10 And the Board does have to meet a curfew,
11 which is like ten o'clock. And as it is --

12 MS. MARCOS: Okay.

13 MR. PANEQUE: -- we're stretching that
14 curfew already.

15 MR. KATES: That you're being realistic.

16 MS. MARCOS: Can I just ask --

17 CHAIRMAN MAROTTA: I would recommend that
18 when they come back, they be number one on the
19 list, because it will be a continuation of their
20 --

21 MR. PANEQUE: I --

22 CHAIRMAN MAROTTA: -- their case.

23 THE SECRETARY: Right, Mr. Chairman.

24 MR. PANEQUE: Yes.

25 CHAIRMAN MAROTTA: Okay, Carlos?

1 THE SECRETARY: Yeah, Mr. Chairman, number
2 one.

3 MS. MARCOS: Can I just ask you one thing?

4 MR. PANEQUE: Yes, ma'am.

5 MS. MARCOS: I just was under the
6 understanding that when we had a special meeting,
7 I didn't know that I was taking the risk of all
8 the Board members not appear -- coming. Like --

9 MR. PANEQUE: No, you -- that risk --

10 MS. MARCOS: -- or it's five?

11 MR. PANEQUE: -- is at every meeting.

12 MS. MARCOS: Oh, it is?

13 MR. PANEQUE: Yes.

14 MS. MARCOS: I didn't know that. Okay.

15 MR. PANEQUE: Yeah.

16 MS. MARCOS: All right.

17 MR. PANEQUE: The Board --

18 MR. KATES: These are volunteers.

19 MR. PANEQUE: The -- the Board members are
20 --

21 MS. MARCOS: Oh, okay.

22 MR. PANEQUE: -- volunteer.

23 MS. GUTIERREZ: Yeah.

24 MS. MARCOS: Okay.

25 MR. PANEQUE: And they have lives that --

1 MS. MARCOS: No, I know.

2 But I knew it was, like because I was going
3 to do, like the special meeting before, and it
4 was like let's see if we could get everybody
5 here. If not then, you don't do it. You know?
6 And then we would do a special meeting in
7 December. You know?

8 That's where we were.

9 MR. PANEQUE: Yeah.

10 MR. KATES: So, the date will be January --

11 VICE CHAIRMAN BONACCI: Eleven?

12 MR. PANEQUE: Eleven.

13 THE SECRETARY: January 11.

14 MR. SPATZ: January 11th.

15 THE SECRETARY: Right?

16 MR. SPATZ: That's the meeting.

17 MR. KATES: Okay. We have no choice.

18 MS. MARCOS: Yeah. That --

19 MR. KATES: All right?

20 THE SECRETARY: Motion on the table to
21 adjourn this application for January 11.

22 No new notice required.

23 Any second on the motion?

24 MS. GUTIERREZ: I'm second.

25 THE SECRETARY: Second by Mr. Pressey.

1 Roll call on the motion to adjourn this
2 application for January 11, 2018.

3 Mr. Marotta?

4 CHAIRMAN MAROTTA: Yes.

5 THE SECRETARY: Mr. Bonacci?

6 VICE CHAIRMAN BONACCI: Yes.

7 THE SECRETARY: Mr. Gullon?

8 MR. GRULLON: Yes.

9 THE SECRETARY: Ms. Gutierrez?

10 MS. GUTIERREZ: Yes.

11 THE SECRETARY: Mr. Pressey?

12 MR. PRESSEY: Yes.

13 THE SECRETARY: Five in favor, motion
14 carries.

15 MR. KATES: Thank you.

16 THE SECRETARY: No new notice required.

17 MS. GUTIERREZ: You're welcome.

18 * * *

19

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25

1 **ADJOURNMENT:**

2

3 THE SECRETARY: Okay.

4 There being no other application on

5 tonight's agenda, can I have a motion to close

6 tonight's meeting?

7 Motion by Margarita Gutierrez.

8 Second by?

9 Second by Mr. Chairman -- Mr. Chairman.

10 All in favor?

11

12 (Whereupon, there was a chorus of ayes.)

13

14 THE SECRETARY: The ayes have it.

15 Thank you.

16 Have a good night, everyone.

17 Let the record show up the meeting has

18 ended.

19

20 (Whereupon, the proceedings were concluded

21 at 6:48 p.m.)

22

23

24

25

1 STATE OF NEW JERSEY :

2 :

3 COUNTY OF ESSEX :

4

5 I, DEBRA A. KASZNIAK, assigned transcriber,
6 do hereby affirm that the foregoing is a true and
7 accurate transcript in the matter of the SPECIAL
8 MEETING of the UNION CITY ZONING BOARD OF
9 ADJUSTMENT heard on Thursday, November 30, 2017
10 and digitally recorded.

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24 Monitored by: Kevin Dillon, Jr.

25 Proofread by: Deborah Dillon