

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, February 8, 2018
Commencing at 6:18 p.m.

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

VICTOR M. GRULLON
MARGARITA GUTIERREZ
JOHN MEDINA
MIGUEL ORTIZ
JOSEPH D. BONACCI, Vice Chairman
LIBERO MAROTTA, Chairman

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

DAVID W. PRESSEY
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
WILFREDO J. ORTIZ, II, ESQ., Board Attorney for
Miyoko Idrissi Application and
Mirta Sosa Application, (Left at 7:08 p.m.)

DAVID SPATZ, Consultant
Community Housing and Planning Associates

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

BIANCA P. PEREIRAS, ESQ.,
Attorney for Applicant, Miyoko Idrissi

ADOLFO L. LOPEZ, ESQ.,
Attorney for Applicant, Mirta Sosa

ADOLFO L. LOPEZ, ESQ.,
Attorney for Applicant, 1404 S. Avenue, LLC

ALAIN MULKAY, ESQ.,
Attorney for Applicants,
Jose R. Cabrera & Rosa Cabrera

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

BIANCA P. PEREIRAS, ESQ.,
Attorney for Applicant, 134 35th Street, LLC

BIANCA P. PEREIRAS, ESQ.,
Attorney for Applicant, 407 37th Street, LLC

BIANCA P. PEREIRAS, ESQ.,
Attorney for Applicant, 613 39th Street, LLC

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

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

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

5 THE SECRETARY: Please take notice that on
6 Thursday, February 8, 2018, at six p.m., a
7 Regular Meeting is scheduled for the Union City
8 Zoning Board of Adjustment, to be held in the
9 Municipal Chamber, located on the Second Floor,
10 3715 Palisade Avenue, Union City, New Jersey.

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

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

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

22

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

25

1 THE SECRETARY: Thank you.

2

3 **ROLL CALL:**

4

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

7 Mr. Marotta?

8 CHAIRMAN MAROTTA: Present.

9 THE SECRETARY: Mr. Bonacci?

10 VICE CHAIRMAN BONACCI: Here.

11 THE SECRETARY: Mr. Grullon?

12 MR. GRULLON: Here.

13 THE SECRETARY: Ms. Gutierrez?

14 MS. GUTIERREZ: Here.

15 THE SECRETARY: Mr. Ortiz?

16 MR. ORTIZ: Present.

17 THE SECRETARY: Mr. Pressey is absent.

18 Mr. Medina?

19 MR. MEDINA: Here.

20 THE SECRETARY: Mr. Doumas is absent.

21 Let the record indicate there are seven
22 (sic) present. We have a full quorum for
23 tonight's agenda.

24 MR. PANEQUE: Six present.

25 MS. DILLON: Six.

1 THE SECRETARY: Six. Six.
2 I'm sorry.
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1 **APPROVAL OF PREVIOUS MEETING MINUTES:**

2

3 (1) Regular Meetings (sic) held on January
4 11, 2018)

5

6 THE SECRETARY: Approval of previous
7 meeting minutes from January 11, 2018.

8 Can I have a motion to -- to adopt the
9 minutes?

10 By Mr. -- motion by Mr. Ortiz.

11 Any second?

12 MS. GUTIERREZ: Second.

13 THE SECRETARY: By Margarita Gutierrez.

14 Roll call on the motion.

15 Mr. Marotta?

16 CHAIRMAN MAROTTA: Yes.

17 THE SECRETARY: Mr. Bonacci?

18 VICE CHAIRMAN BONACCI: I wasn't here at
19 the last meeting.

20 I wasn't here at the last meeting.

21 MS. DILLON: So abstain.

22 THE SECRETARY: Abstain.

23 MS. GUTIERREZ: He wasn't here.

24 MS. DILLON: Abstain.

25 Say it.

1 VICE CHAIRMAN BONACCI: Abstain, Carlos.

2 THE SECRETARY: Ms. Gutierrez?

3 MS. GUTIERREZ: Yes.

4 THE SECRETARY: Mr. Grullon?

5 MR. GRULLON: Yes.

6 THE SECRETARY: Mr. Medina?

7 MR. MEDINA: Yes.

8 THE SECRETARY: Mr. Ortiz?

9 MR. ORTIZ: Yes.

10 THE SECRETARY: Five in favor.

11 Motion carries.

12 * * *

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1 **Miyoko Idrissi - 317 33rd Street:**

2

3 THE SECRETARY: First application on
4 tonight's agenda, Miyoko Idrissi, 317 33rd Street.

5 Ms. Pereiras, please?

6 MS. PEREIRAS: Thank you.

7 MR. PANEQUE: Mr. Vallejo, before we
8 proceed on this application, Mr. Chairman, ladies
9 and gentlemen of the Board, I have a conflict, as
10 I've represented the applicant in the past in my
11 private practice.

12 We've arranged for Mr. Ortiz to cover for
13 me.

14

15 (Whereupon, Tomas R. Paneque, Esquire was
16 recused and stepped down from the dais.)

17

18 CHAIRMAN MAROTTA: Fine. Very good.

19 MS. GUTIERREZ: All right.

20 CHAIRMAN MAROTTA: Thank you.

21 MR. W. ORTIZ: Mr. Chairman --

22 CHAIRMAN MAROTTA: Thank you, Mr. Ortiz.

23 MR. W. ORTIZ: You're more than welcome,
24 Mr. Chairman.

25 Mr. Chairman, I'd also ask that Mr. Ortiz

1 -- the other Mr. Ortiz --

2 CHAIRMAN MAROTTA: Yes.

3 MR. W. ORTIZ: -- recuse himself for the --

4 CHAIRMAN MAROTTA: I -- I spoke to him
5 about that already. Yes.

6 MR. W. ORTIZ: Okay. He needs -- he should
7 step down from the dais.

8 CHAIRMAN MAROTTA: You got to step outside.

9

10 (Whereupon, Miguel Ortiz was recused and
11 stepped down from the dais.)

12

13 MR. W. ORTIZ: Mr. Chairman, I've had an
14 opportunity to review the submissions, in the way
15 of notices, to this Board. Everything seems to
16 be in order, giving jurisdiction to the Board.

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

19 Good evening, Mr. Chairman, members of the
20 Board.

21 May it please the Board, Bianca Pereiras,
22 on behalf of Miyoko Idrissi for property located
23 at 315-317 33rd Street. This is also known as
24 Block 195, Lot 20. This property is located in
25 the CC zone.

1 What we have currently are two buildings on
2 the site. What we are hoping to do this evening
3 is to convert the back building into two
4 apartments, as well as operate a dog grooming
5 business on the basement floor of the front
6 building.

7 Just to give you a little history of the
8 property, Ms. Idrissi and her husband were
9 renters here for a long time. And then they were
10 able to acquire the property because they were
11 hoping to make this their permanent home.

12 Ms. Idrissi would like to operate this dog
13 grooming business herself. She would be the only
14 employee of the dog grooming business, and all
15 dog grooming services would be done by
16 appointment only, and only one dog at a time.

17 Ms. Idrissi is here in case the Board has
18 any questions of her, but I'd like to begin
19 tonight's presentation with our architect, Mr.
20 Manuel Pereiras.

21 MS. DILLON: Please raise your right hand.

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

24 MR. PEREIRAS: I do.

25 Manny Pereiras, P-E-R-E-I-R-A-S, with

1 | Pereiras Architects Ubiquitous, 1116 Summit
2 | Avenue, Union City.

3 | MS. DILLON: Thank you.

4 | MS. PEREIRAS: And for purposes of the
5 | record, I'd like to confirm that Mr. Pereiras is
6 | accepted as an expert in the field of
7 | architecture.

8 | CHAIRMAN MAROTTA: Yes.

9 | MS. PEREIRAS: Thank you very much.

10 | MR. PEREIRAS: Thank you, Board.

11 | MS. PEREIRAS: Mr. Pereiras, are you
12 | familiar with the property located at 315-317 33rd
13 | Street?

14 | MR. PEREIRAS: I am.

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

17 | MR. PEREIRAS: I have.

18 | MS. PEREIRAS: And would you kindly walk us
19 | through the application?

20 | MR. PEREIRAS: I'd be happy to.

21 | For purposes of the presentation, I took
22 | the same drawings that were submitted to the
23 | Board and put them on the easel that's to my
24 | right.

25 | I will begin the presentation with talking

1 about sheet Z01. And sheet Z01, we could see the
2 photograph of the existing house that's there.
3 It's a quaint little house. Very nice house that
4 we propose no real changes to the exterior face
5 of it. We have one small addition in the rear,
6 that I'll go into more detail later.

7 There is a house -- this is on 33rd Street,
8 which is the cul-de-sac where it was ended with
9 the construction of Duarte Park.

10 The house sits along the front of the
11 property, with a zero setback. And then, there's
12 a second portion, a rear structure to the
13 property, that sits along the rear.

14 The side of the house has an existing
15 driveway that houses -- that sits four vehicles
16 now.

17 What we propose to do is to conform and
18 make the rear structure into two residential
19 units, two studios that I will talk to in more
20 detail.

21 And then, the one family house in the
22 front, we're going to legalize the basement as
23 counsel said for the same owner, the people who
24 live there, for their own use as a dog grooming
25 business.

1 There are a series of existing
2 nonconformities to the site.

3 First and foremost, since we are
4 technically in the CC zone, even though this is
5 character -- this property is characteristic of
6 this -- this one street, we are in the CC zone,
7 and therefore, we aren't seeking a use variance.

8 If this -- and -- and the planner could go
9 into more detail, but if this had more units in
10 it, more residential units on that first
11 structure, it would actually be in conformance
12 and not go before this Board, and go before the
13 Planning Board.

14 So, because we're being modest and we're
15 not asking for more, we're actually before this
16 Board. And the planner could go into a lot more
17 detail on that.

18 But the lot area requirement is 10,000
19 square feet. This is a lot more modest. We're
20 at 3,140 square feet.

21 The depth is required to be a hundred.
22 We're actually at 75 in an irregular lot that it
23 has here.

24 There is an existing nonconformity for rear
25 yard, since that property is -- that rear

1 structure is preexisting and it's in the rear
2 yard, and we're not looking to change that.

3 And there is a lot coverage issue. We're
4 at 93 percent of lot coverage. Again, this is an
5 existing condition. They have a driveway on the
6 side of the house, and there's pavement to get to
7 the rear structure.

8 With parking, we're technically expanding
9 on the parking because we're legalizing these
10 units. But this house does have four parking
11 spaces within it, available to it.

12 I'm turning now to sheet Z02. In sheet
13 Z02, you see the front structure and a rear
14 structure on each of the levels.

15 The lower level, which is the basement,
16 which we're accessing through the rear in a
17 vestibule that we're creating. As you enter that
18 vestibule, you have a small receiving area for
19 people who come with their dogs and it's
20 basically by appointment only. A dog owner will
21 come with their dog, drop them off. And the
22 grooming happens in this space here. So, it's a
23 big open space with a bathing area for the dogs
24 and a bathroom for the commercial space. And
25 that's located in the basement, no changes to the

1 exterior, other than what I mentioned there.

2 And then, the house remains the same. And
3 it's a one family house with the existing
4 bedrooms, living room, dining room, everything's
5 -- nothing changes. It's exactly as is.

6 The rear structure, we're bringing it up to
7 Code fully, and we're making it into two separate
8 studios.

9 You walk into the first studio, into a
10 large open area and that's a 422 square foot
11 studio, so it's in compliance with the density
12 requirements of the City.

13 And then, you could take the stairs up, as
14 you lead from the ground floor to the second
15 floor, and it's another open beautiful spacious
16 design, where everything's one big open space,
17 and it's 478 square feet there, as well.

18 We're doing a lot to make this into
19 conformance with Code standards, so it makes the
20 building significantly safer for not only the
21 occupants there, but in the -- the surrounding
22 neighborhood.

23 It's going to come to -- to Code
24 requirements of today's date, meaning fire
25 safety. There's partitions that are going to be

1 brought up to the proper ratings, smoke alarms,
2 and everything else that goes into Code compliant
3 construction.

4 I think I could talk more but I think that
5 gives a good picture of what it is and I'm open
6 for your questions.

7 CHAIRMAN MAROTTA: Any members of the Board
8 have any questions?

9 Any members of the audience have a
10 question?

11 Mr. Price?

12 MR. PRICE: Larry --

13 MS. DILLON: Please raise your right hand.

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

16 MR. PRICE: I do.

17 MS. DILLON: Name and address for the
18 record, please.

19 MR. PRICE: Larry Price, 1006 Palisade
20 Avenue.

21 MS. DILLON: Thank you.

22 MR. PRICE: What is the rear building used
23 for now?

24 MR. PEREIRAS: So --

25 CHAIRMAN MAROTTA: Can you speak up, Larry?

1 MR. PRICE: I'm sorry.

2 What is the rear building used for now?

3 MR. PEREIRAS: Currently, it's vacant
4 because the property owners removed an apartment
5 that was there.

6 So, they are fully -- you know, they --
7 they do everything correctly, and when they
8 purchased the property, they removed the unit
9 that was there.

10 They want to restore that unit. I think
11 originally, it was -- it was all living space and
12 they want to restore that.

13 MR. PRICE: This must be a very small
14 building.

15 MR. PEREIRAS: It's a small structure.

16 MR. PRICE: Twenty -- 20 feet by 20 feet.

17 MR. PEREIRAS: So, it varies. It's
18 irregular shape, so the rear of the property is
19 25 feet. It's actually 24 feet six inches.

20 The front of the property is 33 feet eight
21 inches. And the full depth of it is 20 feet.

22 MR. PRICE: No. I'm just talking about the
23 rear building.

24 MR. PEREIRAS: Right. That's the rear
25 building.

1 So, it's basically 20 by 25 in the rear and
2 20 by 38 in the -- 33 in the front. It's this
3 small irregular shape, which gives you 422 square
4 feet inside.

5 MR. PRICE: Okay.

6 MR. PEREIRAS: Removing the thickness of
7 the walls.

8 MR. PRICE: Okay.

9 Question?

10 We normally get a memo from the Building
11 Department, describing what they have in their
12 records as being on the property.

13 Have we received a memo from --

14 MR. PEREIRAS: So, the Building Department
15 believes it's a one family house. The Tax
16 Department has it as a two family house.

17 CHAIRMAN MAROTTA: You want the memo?

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

20 MR. PRICE: Was originally a one unit
21 structure.

22 Okay. So, okay. Okay.

23 Thank you.

24 MS. PEREIRAS: Are there any more questions
25 for Mr. Pereiras?

1 CHAIRMAN MAROTTA: Any other questions?

2 VICE CHAIRMAN BONACCI: Okay. So, the rear
3 structure, we have the square footage here. So,
4 first floor you have 422.

5 MR. PEREIRAS: Correct.

6 VICE CHAIRMAN BONACCI: And 478.

7 MR. PEREIRAS: Correct, which are very nice
8 because they're big open spaces. So, they're
9 nice size studios.

10 VICE CHAIRMAN BONACCI: How about the front
11 structure? Basement, first floor and second
12 floor?

13 MR. PEREIRAS: Square footage-wise?

14 VICE CHAIRMAN BONACCI: Yeah.

15 MR. PEREIRAS: Sure.

16 VICE CHAIRMAN BONACCI: Are they all the
17 same?

18 MR. PEREIRAS: Yes. The house goes up all
19 the way, except the attic. The attic shrinks
20 because of the attic -- the roof.

21 VICE CHAIRMAN BONACCI: Okay. Yeah.

22 MR. PEREIRAS: The sloping roof. Since
23 we're not making any changes to it, I actually
24 didn't put the square footage of the existing
25 house. It doesn't change at all.

1 The commercial space, it's really just the
2 19 by 13 area, plus the bath area. So, you're
3 talking about 350 square feet, 400 square feet,
4 roughly, but it's the entire basement footprint
5 of --

6 VICE CHAIRMAN BONACCI: So, it's roughly
7 between 350 and 400.

8 MR. PEREIRAS: Yeah.

9 VICE CHAIRMAN BONACCI: Mr. Spatz?

10 MR. SPATZ: Yes.

11 VICE CHAIRMAN BONACCI: Those measurements,
12 350, 400 square feet, that's -- that complies?

13 MR. SPATZ: Well, the -- for the basement,
14 it's a commercial space. There's no --

15 VICE CHAIRMAN BONACCI: Okay.

16 MR. SPATZ: -- standard for commercial
17 space. It could be at any size. And the --for
18 apartments, that's not triggered until there's
19 four units on the property. So, they -- although
20 they do meet the standard, they're not required
21 to meet the standard.

22 VICE CHAIRMAN BONACCI: Okay.

23 MR. PEREIRAS: And we understand we didn't
24 have to meet the standard, but if Union City has
25 a standard that they want to work with, we -- we

1 try to meet it so that the Board feels
2 comfortable approving these.

3 VICE CHAIRMAN BONACCI: Thank you.

4 MS. PEREIRAS: We also have a planner to
5 testify before the Board.

6 CHAIRMAN MAROTTA: You're providing parking
7 for -- for how many cars?

8 MR. PEREIRAS: There's four cars on the
9 property.

10 CHAIRMAN MAROTTA: Four?

11 MR. PEREIRAS: Yes.

12 CHAIRMAN MAROTTA: Any other questions?

13 Do you have any other witnesses?

14 MS. PEREIRAS: Yes. We do have a planner.

15 CHAIRMAN MAROTTA: Okay.

16 MS. PEREIRAS: Mr. Kauker?

17 MS. DILLON: You can stay right there, Mr.
18 Kauker.

19 MR. KAUKER: Okay.

20 MS. DILLON: Please raise your right hand.

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

23 MR. KAUKER: I do.

24 MS. DILLON: Please state your name and
25 spell it for the record.

1 MR. KAUKER: Michael D. Kauker. Last name
2 is spelled K-A-U-K-E-R.

3 MS. DILLON: Thank you.

4 MS. PEREIRAS: Mr. Kauker has also
5 testified before this Board in the past, and I
6 ask that he be accepted as an expert in the field
7 of --

8 CHAIRMAN MAROTTA: Yeah.

9 MS. PEREIRAS: -- planning.

10 CHAIRMAN MAROTTA: I -- I never -- could
11 you -- I'd like to hear his qualifications.

12 MS. PEREIRAS: Oh, absolutely.

13 Mr. Kauker, if you wouldn't mind giving
14 your qualifications?

15 MR. KAUKER: Certainly.

16 I'm a licensed professional planner in the
17 State of New Jersey. I'm a member of the
18 American Institute of Certified Planners. I've
19 been employed in the field of planning for about
20 20 years. I'm a principal in the firm of Kauker
21 and Kauker.

22 I serve various planning and zoning boards
23 as a consultant, throughout New Jersey, as well
24 as New York State.

25 I've been involved in the preparation of

1 master plan, zoning ordinances, and I've also
2 testified before numerous boards throughout the
3 State, including both the Zoning Board and the
4 Planning Board of Union City as an expert
5 witness.

6 CHAIRMAN MAROTTA: Okay.

7 MS. PEREIRAS: Is he accepted, Mr. --

8 CHAIRMAN MAROTTA: Thank you.

9 MS. PEREIRAS: Thank you very much.

10 CHAIRMAN MAROTTA: The reason I -- the
11 reason I asked --

12 MS. PEREIRAS: Um hum.

13 CHAIRMAN MAROTTA: -- because I read a
14 transcript of an earlier case, where Mr. Kauker
15 was the expert, and there were many errors in his
16 testimony.

17 I wasn't present at the hearing, but I read
18 the transcript.

19 One example is that he stated that in Union
20 City, we have an industrial zone. We don't have
21 an industrial zone. So, where he dug that out
22 from, I don't know. That's why I asked you to --

23 MS. PEREIRAS: I understand.

24 CHAIRMAN MAROTTA: -- have him qualified.

25 And many other errors in that -- in that

1 testimony.

2 MR. KAUKER: I don't -- I don't recall.

3 CHAIRMAN MAROTTA: I'll sit down with you
4 and go over the -- the testimony --

5 MR. KAUKER: Was it --

6 CHAIRMAN MAROTTA: -- with you.

7 MR. KAUKER: Was it Michael D. or Michael
8 F. Kauker?

9 CHAIRMAN MAROTTA: Huh?

10 MS. PEREIRAS: Blame your dad.

11 MR. KAUKER: I don't know.

12 CHAIRMAN MAROTTA: It really was bad
13 reading, tell you that.

14 MS. PEREIRAS: Mr. Kauker, are you familiar
15 with the property located at 315-317 33rd Street?

16 MR. KAUKER: I am. Yes.

17 MS. PEREIRAS: And can you please describe
18 the project from a planning perspective?

19 MR. KAUKER: Certainly.

20 Briefly, the subject property is located on
21 33rd Street. The property is somewhat unique
22 because it's located at the end of a cul-de-sac.
23 It's located immediately adjacent to a park.
24 There are other structures along 33rd Street that
25 are similar to this in nature, in terms of

1 residential type uses.

2 Interestingly enough, it's located in the
3 CC zone, but there are a number of residential
4 structures that do exist. There is an existing
5 doctor's office. It's located a couple
6 properties to the east.

7 The property has a total lot area of 3,140
8 square feet and it's currently occupied by an
9 existing two and a half story dwelling in the
10 front, and an existing two story structure that's
11 located to the rear of the property, as
12 previously described by Mr. Pereiras.

13 With respect to the proposed development,
14 as Mr. Pereiras had testified to, the applicant
15 is seeking to convert the rear structure into
16 two dwelling units, where it was formerly one,
17 and also add a dog grooming business to the front
18 structure that will be located in the basement of
19 the structure.

20 Just one thing I wanted to point out, the
21 remainder of the front structure is going to
22 remain the same.

23 The application itself requires a couple
24 variances from the Zoning Board, which is the
25 reason why we're here.

1 As I mentioned before, the property is
2 located in the CC district of the city. The CC
3 district permits a number of uses, but in order
4 to have a residential use on the property,
5 residential uses are permitted above ground floor
6 retail uses.

7 Now, although the property, as it currently
8 exists, only has residential uses, and we are
9 bringing it closer to conforming with the Zoning
10 Ordinance, by adding the commercial component to
11 the front building, the rear building will only
12 have two residential units, and technically, does
13 not have that commercial component.

14 In preparation for my testimony, I had an
15 opportunity, in addition to reviewing the Zoning
16 Ordinance, to also review the Master Plan of the
17 community.

18 The Master Plan was last adopted in 2009.
19 It was prepared by Heyer Gruel and Associates.

20 Reviewing the document, it's my opinion
21 that the application does not conflict with any
22 of the goals and objectives in that plan. And,
23 in fact, promotes the following purposes:

24 Firstly, to provide a balance mix of land
25 uses and balanced development patterns in

1 appropriate locations; to protect and preserve
2 established residential character within Union
3 City; and also to provide a broad range of
4 housing choices.

5 As I mentioned before, there are a few
6 variances that are required with respect to the
7 application itself.

8 Technically, because there is no commercial
9 component in the rear structure, a variance -- a
10 use variance would be required. I'm sure this
11 Board is familiar with the criteria, but
12 essentially, the applicant must either show that
13 the site is particularly suited for the proposed
14 use, therefore, promoting the general purposes of
15 zoning, or that the site is particularly suited.

16 Thirdly, it can also be shown that there is
17 a hardship related to the subject property, as
18 well.

19 With respect to this application, I do feel
20 that this site is suited for the proposed
21 development. I do feel that it is a good fit for
22 the following reasons:

23 It presents an adaptive reuse of an
24 existing structure, an existing space in the
25 community. It's my opinion that the site can

1 adequately accommodate the proposed use. In my
2 opinion, there's sufficient parking on-site to
3 accommodate both the two residential units in the
4 rear, the one residential unit in the front, as
5 well as the commercial component, the dog
6 grooming business, as well.

7 As mentioned by Mr. Pereiras, the dog
8 grooming business operates by appointment only.
9 The customers will come and drop off the dogs,
10 leave, and then come back and pick them up later.

11 What's unique about this property, as I
12 mentioned before, it's located on a cul-de-sac.
13 So you don't have to deal with a lot of through
14 traffic. It's very easy for individuals to come
15 in, drop their dog off, and then leave. So, it's
16 not going to create any issues on the street, in
17 my opinion.

18 The use itself is consistent with other
19 uses in the area. It's consistent with other
20 residential uses, also consistent with the
21 doctor's office, in terms of having that
22 commercial component.

23 And again, it's my opinion that by adding
24 that commercial component, we're going to be
25 bringing this property closer into conformance

1 with the Zoning Ordinance, as it does require
2 that component to be associated with a
3 residential type use.

4 One of the other things that I did want to
5 point out, really the intent of the Ordinance,
6 with respect to having that commercial component,
7 or nonresidential use on the ground floor, is so
8 that it's visible to the street and can provide a
9 better relationship to the street.

10 Now, I would say that this area, as I
11 mentioned before, in terms of a commercial
12 location, is somewhat different than other areas.
13 And I do also feel that having the two
14 residential units to the rear of the subject
15 property, as opposed to the front where the
16 commercial use is going, does meet the intent of
17 your Zoning Ordinance.

18 As I also men --

19 MS. DILLON: Mr. Kauker, could you please
20 speak up for the audience?

21 MR. KAUKER: Certainly.

22 MS. DILLON: Thank you.

23 A CITIZEN: Thank you.

24 MR. KAUKER: As I also mentioned before, we
25 do meet the need of providing additional housing

1 units within Union City, as well.

2 Your Master Plan did identify a need for
3 additional housing opportunities within Union
4 City.

5 According to the U.S. -- 2010 U.S. Census,
6 83 -- approximately 83 percent of the housing
7 units were constructed prior to 1989; 32 percent
8 of those units were constructed prior to 1939.

9 So, it's going to provide additional
10 housing that's going to be built in accordance
11 with modern building design and modern building
12 standards, as well.

13 So, for those reasons, I do feel that the
14 purposes of zoning would be advanced with this
15 application.

16 With respect to the parking, technically,
17 the applicant does require a parking variance,
18 because they are increasing the number of units
19 on the property.

20 There are four spaces that are located on
21 the property, and there are four that will be
22 provided. It's my opinion that those four spaces
23 are appropriate for this use. They're
24 appropriate for the -- or for the residential
25 component that's located in the front. That's

1 | only a one family dwelling. And -- and the two
2 | additional units that are being created are
3 | studio apartments. I think that those four
4 | spaces can adequately accommodate those uses.

5 | And again, there's space on there for
6 | anyone dropping off their dog, for the dog
7 | grooming business, and as well, there's also on-
8 | street parking that's located there in the cul-
9 | de-sac, as well.

10 | With respect to the parking, there's also a
11 | hardship with -- with respect to providing
12 | additional parking, as we're dealing with an
13 | existing site that's got existing buildings
14 | located on the property, so it would be difficult
15 | to provide additional parking on the property.

16 | Finally, the applicant must make a showing
17 | of the negative criteria.

18 | The first part, the applicant must show
19 | there'll be no substantial detriment to the
20 | public good. It's my opinion that because we're
21 | proposing adaptive reuse of this property,
22 | because of the location on the cul-de-sac, there
23 | will be no substantial impairment or no
24 | substantial detriment to the surrounding area.

25 | In addition, the second part, the applicant

1 must show there'll be no substantial impairment
2 to the intent and purpose of both the Master Plan
3 and the Zoning Ordinance.

4 It is my opinion that what we're proposing
5 here is consistent with your Master Plan, as I
6 identified a number of goals and objectives.

7 And again, I do believe that we're bringing
8 it closer to complying with the Plan, because we
9 are adding the residential component to this
10 property.

11 In closing, it's my opinion that the
12 applicant meets the burden of proof, and I do
13 feel confident that the Board could grant the
14 variances being requested.

15 Thank you.

16 CHAIRMAN MAROTTA: Any members of the Board
17 have any questions?

18 Any members of the public have any
19 questions, or want to be heard on this
20 application?

21 That's it. That's your case?

22 MS. PEREIRAS: Yes, it is.

23 CHAIRMAN MAROTTA: I make a motion to
24 approve this application.

25 THE SECRETARY: Motion to approve the

1 application by Chairman Marotta.

2 VICE CHAIRMAN BONACCI: I'll second it.

3 THE SECRETARY: Second by Mr. Bonacci.

4 Roll call on the motion to approve this
5 application.

6 Mr. Marotta?

7 CHAIRMAN MAROTTA: Yes.

8 THE SECRETARY: Mr. Bonacci?

9 VICE CHAIRMAN BONACCI: Yes.

10 THE SECRETARY: Ms. Gutierrez?

11 MS. GUTIERREZ: Yes.

12 THE SECRETARY: Mr. Grullon?

13 MR. GRULLON: Yes.

14 THE SECRETARY: Mr. Medina?

15 MR. MEDINA: Yes.

16 THE SECRETARY: Mr. Ortiz?

17 MS. GUTIERREZ: Oh, no.

18 MR. GRULLON: No, no.

19 MS. GUTIERREZ: He abstain.

20 THE SECRETARY: He abstain?

21 MR. W. ORTIZ: He recused himself.

22 MR. SPATZ: He recused himself.

23 THE SECRETARY: Oh, I'm sorry.

24 Five in favor.

25 Motion carries.

1 MS. PEREIRAS: Thank you all very much.

2 THE SECRETARY: Thank you.

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1 **Mirta Sosa - 3609 New York Avenue:**

2

3 THE SECRETARY: Next application on
4 tonight's agenda, Mirta Sosa, 3609 New York
5 Avenue.

6 Mr. Lopez, please?

7 MR. PANEQUE: Mr. Chairman, on the
8 following application, I also have a conflict, as
9 I've represented the --

10 CHAIRMAN MAROTTA: Right.

11 MR. PANEQUE: -- applicant.

12 I'm asking that the Board accept Mr. Ortiz
13 --

14 CHAIRMAN MAROTTA: Absolutely.

15 MR. PANEQUE: -- in my place.

16 CHAIRMAN MAROTTA: Thank you.

17 MR. PANEQUE: Thank you.

18 MR. W. ORTIZ: And just so the record's
19 clear, Mr. Miguel Ortiz has also recused himself
20 for the same reasons as the previous, Mr.
21 Chairman.

22

23 (Whereupon, Tomas R. Paneque, Esquire was
24 recused and stepped down from the dais.)

25

1 Whereupon, Miguel Ortiz was recused and
2 stepped down from the dais.)

3

4 MR. LOPEZ: Mr. Ortiz, jurisdictional
5 documents for your consideration.

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

8 MR. W. ORTIZ: Mr. Chairman, I've had an
9 opportunity to review the documents submitted by
10 counsel. Everything seems to be in order, giving
11 jurisdiction for the Board.

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

14 MR. LOPEZ: Mr. Chairman, should I proceed?

15 CHAIRMAN MAROTTA: I'm sorry?

16 MR. LOPEZ: Should I proceed, Mr. Chairman?

17 CHAIRMAN MAROTTA: Yes. Sure.

18 MR. LOPEZ: Thank you.

19 Mr. Chairman, --

20 CHAIRMAN MAROTTA: I'm sorry.

21 MR. LOPEZ: -- members of the Board, good
22 evening.

23 The project that's being posed to you is a
24 property at 3609 New York Avenue. It is my
25 client's attempt to cleanup what will be

1 described, generally, as a mess by Mr. Izquierdo.

2 We are reducing substantially the number of
3 units, but to bring it to one commercial and four
4 residential units.

5 My expert this evening is Mr. Izquierdo,
6 who has been admitted numerous times as an expert
7 before the Board, and I would offer him, Mr.
8 Chairman.

9 CHAIRMAN MAROTTA: Accepted.

10 MR. IZQUIERDO: As an architect and as a
11 planner.

12 MR. LOPEZ: As a -- both as an architect
13 and as a planner.

14 CHAIRMAN MAROTTA: Right.

15 MR. LOPEZ: Thank you.

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

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

20 MR. IZQUIERDO: Yes, I do.

21 MS. DILLON: Please state your name for the
22 record.

23 MR. IZQUIERDO: My name is Jose Izquierdo,
24 New Jersey architect 09143, New Jersey planner
25 03385.

1 Offices at 207 60th Street, in West New
2 York, New Jersey.

3 MR. LOPEZ: Mr. Izquierdo, you're familiar
4 with this property.

5 Is that correct?

6 MR. IZQUIERDO: Yes, I am.

7 MR. LOPEZ: And in preparation for this
8 hearing, and for this application, you've
9 prepared the plans that have been submitted to
10 the Board.

11 MR. IZQUIERDO: Correct.

12 MR. LOPEZ: Is that correct?

13 Could you describe what the project
14 entails, first from an architectural perspective?

15 MR. IZQUIERDO: Yes. Good evening.

16 This Board gains jurisdiction of this
17 application because this is a D-1 variance, where
18 the applicant is seeking to have an apartment on
19 the ground floor of a mixed use building, whereas
20 a ground floor apartment is not allowed by the
21 Ordinance, in the CN zone.

22 There were two exhibits, two drawings
23 submitted in conjunction with the application, in
24 addition to the zone diagram that shows all the
25 uses and the surroundings to this property.

1 Drawing A-1 shows the existing ground floor
2 plan and the existing second floor plan. This
3 was -- this was constructed by the previous
4 owner, and presently on the second floor, we have
5 four apartments and one bedroom, which is
6 accessible through the rear. The bedroom is just
7 by itself.

8 On the ground floor, we have the bakery.
9 We also have a rear ground floor apartment, and
10 we have an area that is used, but it has a
11 kitchen.

12 So, in reality, right now, we have five
13 apartments, one bedroom, one bakery, and one
14 cooking area.

15 Observing the new square footage standards
16 adopted by the Union City Zoning Ordinance of
17 2012, we are going to turn the -- the space
18 within this building, without adding any square
19 footage, into three apartments upstairs, one
20 apartment downstairs, and one bakery.

21 So, we're converting this five unit, plus
22 bedroom, plus cooking area, plus bakery, into
23 four one bedrooms and one bakery.

24 The purpose of the CN zone is to encourage
25 the commercial nature of New York Avenue. As

1 part of our proposal, the bakery is increasing
2 from 698 square feet to 859 square feet.
3 Actually 150 square feet more.

4 We are also taking the four apartments and
5 the bedrooms upstairs, and we're turning them
6 into only three one bedrooms.

7 Apartment L2 will be increased from 327
8 square feet, which is a one bedroom, but we're --
9 we're bringing it to 453 square feet, just shy of
10 the -- well, 97 square feet shy of the 550 square
11 feet required for a one bedroom.

12 And that generates the other variance,
13 which is a D-5, dwelling unit density variance,
14 because with specificity, for that apartment, L2,
15 we cannot meet the 550 square feet ordained by
16 our Ordinance. But we're still increasing it
17 from 327 to 453.

18 Apartment M2, which is 436 square feet
19 right now, we're bringing it into conformity to
20 561 square feet.

21 Apartment R2, which is a studio at 314
22 square feet, which does not meet the Ordinance,
23 we're bringing it as a one bedroom to 533 square
24 feet.

25 So, essentially, right now, we have five

1 apartments that don't meet the standard, and
2 we're able to take -- turn them into four
3 apartments, three of which meet and exceed the
4 standard.

5 There is one D-5 dwelling unit density
6 variance for apartment L2, whereas 550 square
7 feet would be required, and we can only generate
8 453 square feet.

9 We cannot make it bigger because we're not
10 trying to extend the building, because the
11 building, by itself, it's actually a nice size
12 building, and it has a very nice rear yard.

13 Going into the list of -- of variances, in
14 the CN zone, we're required to have 2500 square
15 feet and we have 3,180 square feet, which meets
16 and exceeds.

17 The lot width required is 25 feet, we have
18 31.7, which complies and exceeds. And the lot
19 depth is a hundred feet, which complies.

20 The front yard is zero, and zero feet is
21 existing and zero feet is proposed. No -- no
22 relief requested.

23 The side yard is zero feet. We have, on
24 the right zero feet, left zero feet, which meets
25 the Ordinance, so no relief is requested.

1 The rear yard required is 20 feet, and
2 right now, we have over 32 feet. So, we have --
3 we have a building that has a very nice rear
4 yard, not at the present time, because it has
5 some debris and what not. But it's 32 feet and
6 we don't want to encroach on that, because it's a
7 -- they actually have like a nice garden, with
8 fruits and -- and fruiting trees and whatever.

9 The building height allowed is four stories
10 or 50 feet, and this building is two stories.
11 It's less than 30 feet. But it's exactly the
12 same size as the other buildings in the street.

13 The building coverage allowed is 80 percent
14 and we have 52 percent.

15 The lot coverage allowed is a hundred
16 percent, and we have 62 percent.

17 So, essentially, for -- for all the -- for
18 all the bulk requirements, this building is well
19 in conformity because it has a very nice rear
20 yard, it's not encroaching on the side yard, and
21 it's in conformity with the rest of the -- of the
22 neighborhood.

23 For the parking requirements --

24 MR. LOPEZ: Tell us what the current
25 requirement is, based on the present usage.

1 MR. IZQUIERDO: For the current
2 requirements, we would need to have, just for the
3 apartments, 12 spaces.

4 I -- I stand corrected; 12 spaces,
5 including the commercial.

6 With the proposed, we're going to have four
7 one bedrooms at 1.8, that's 7.2 spaces.

8 The commercial space would be exempt from
9 -- from having any parking requirements because
10 the Ordinance states that any lot having 2500
11 square feet or less does not have to provide
12 parking for the commercial space.

13 MR. LOPEZ: In the CN zone.

14 MR. IZQUIERDO: In the -- throughout --
15 throughout --

16 MR. LOPEZ: Throughout?

17 MR. IZQUIERDO: Throughout the City. But
18 what happens is, our lot area is 3180 square
19 feet. So, then, by Ordinance, we would have to
20 provide parking for the bakery. So, that would
21 bring -- the bakery would require 2.8 spaces and
22 the apartments would require 7.2 spaces. That
23 would be ten spaces.

24 There's no possibility of providing parking
25 in this lot, preserving New York Avenue. New

1 York Avenue, right there, it's on 36th Street.
2 It's right between 37th and -- and 36, right
3 there. It's a one lane street.

4 If we have, say, for instance, a driveway,
5 creating a parking space in the back, a parking
6 lot in the back, we get rid of all the -- all the
7 nice rear yard, and all of those situations.
8 That was actually one of the design options that
9 we explored, and we decided that it was against
10 the -- the Master Plan to -- to disturb the
11 frontage of -- of New York Avenue.

12 In terms of the parking schedule, like I
13 said, there's one space required for every 300
14 square feet, and that is only triggered because
15 this property is wider and bigger than the 2500
16 square feet allowed.

17 We meet the signage requirements, which is
18 less than 32 square feet, which is allowed, and
19 we're at 31.87 square feet. We actually have a
20 detail of the lighting for the new bakery. And
21 --

22 MR. LOPEZ: Mr. Izquierdo?

23 MR. IZQUIERDO: Yes.

24 MR. LOPEZ: I'm going to call your
25 attention to the proposed --

1 MR. IZQUIERDO: Elevation.

2 MR. LOPEZ: -- elevation drawing that you
3 did.

4 Is that what is being proposed for the
5 front of the building, as part of the renovation?

6 MR. IZQUIERDO: Yes.

7 MR. LOPEZ: And I'm going to show you this,
8 and I'm going to pass it to the Board.

9 Could you tell the Board what is
10 represented in that photograph?

11 MR. IZQUIERDO: Yes. Yes.

12 The photograph was taken in October, 2017.
13 And it shows exactly --

14 MR. W. ORTIZ: Counsel?

15 MR. IZQUIERDO: -- what the --

16 MR. W. ORTIZ: Counsel, do you want this
17 marked as an exhibit --

18 MR. LOPEZ: I may, yes.

19 MR. W. ORTIZ: Well, do you want to mark it
20 for identification and then --

21 MR. LOPEZ: Mark it for identification.

22 MR. W. ORTIZ: Okay.

23

24 (Whereupon, Photograph was received and
25 marked as Exhibit A-1.)

1
2 MR. IZQUIERDO: And it shows exactly what
3 the --

4 MR. LOPEZ: What do you --

5 MR. W. ORTIZ: A-1.

6 MR. LOPEZ: A-1?

7 MR. IZQUIERDO: It shows exactly what the
8 building looks like. It also shows what the
9 streetscape looks like.

10 The City has renovated the sidewalk. The
11 City has planted the Callery Pear trees, and
12 they're all growing, and they're all blooming.
13 There's -- there's really no need to -- to
14 disturb the streetscape that the -- that the
15 municipality has done.

16 However, the awning for the bakery and the
17 -- the entire thing, with the cornice is in
18 disrepair. And --

19 MR. LOPEZ: Mr. Izquierdo, you were
20 mentioning the awning.

21 On the left side of the property, what is
22 behind that awning currently?

23 MR. IZQUIERDO: What happens is, there used
24 to be some sort of a garage. And it has a fold
25 up door.

1 But what happens with that garage is that
2 it's seven feet nine inches wide. So, trying to
3 get a car in there, the owner would love it, but
4 it will disturb the streetscape and it would just
5 damage the whole thing.

6 So what we're doing is, we're reducing --
7 we're eliminating that garage door. We're
8 turning it into just a regular nice door, to be
9 the entrance to the residential part of the
10 building. And that is shown on drawing A-2.

11 We're going to have one door that leads to
12 all four units. When you open that door, you go
13 into the stairs to go to the upper three units,
14 or you go to the back, and you get to the owner
15 occupied apartment that's going to be on the
16 ground floor.

17 Because this building is only two stories,
18 it does not need to have a second means of
19 egress, because it is allowed by Code.

20 So, we're not going to have a fire escape
21 in the front or anything like that. It's not
22 going to be required by the Building Department.

23 So, we're renovating the cornice. We're
24 going to have new trim around the windows. We're
25 going to have new signage, new back lit canopy

1 and a new storefront.

2 The bakery is actually very excited about
3 being able to have more frontage. And right now,
4 the frontage that they have is very limited,
5 because there is two storefronts, with a door to
6 the bakery. And then, there's another door that
7 leads to the stair. And then, there's the garage
8 door.

9 So, we're getting rid of all that, and
10 we're just going to have the nice bakery
11 entrance, with the two storefronts at either
12 side, so that they can exhibit their Cuban cakes.

13 And then, on the left hand side, they're
14 going to have one door to enter the -- to enter
15 the --

16 MR. LOPEZ: Mexican, not Cuban.

17 MR. IZQUIERDO: -- to enter the -- the
18 apartments upstairs.

19 The purpose of the CN zone, to encourage
20 the commercial nature of the business, is being
21 promoted in this application, because we're
22 extending the bakery.

23 Also, we meet a federal standard that we
24 need to provide a handicapped apartment on the
25 ground floor. That apartment on the ground

1 floor, which presently exists, is not allowed by
2 Ordinance, and that is the nature of the D-1
3 variance.

4 According to Medici, in particu -- in
5 special cases and for particular reasons, a
6 variance may be granted.

7 So, in this specific case, that ground
8 floor apartment is going to be made accessible to
9 the handicap, because the handicap criteria
10 starts when we have four units.

11 We still require to have parking for the --
12 for the four units, but as I indicated, it
13 doesn't -- it would violate the intent of the
14 Master Plan.

15 The negative criteria for the -- for the
16 project is essentially the parking. But we are
17 reducing the nonconformity of the building by
18 having so many units, five, six units, bringing
19 it down to four.

20 There is a municipal parking on 37th
21 Street, between -- between 39th and 38th Street.
22 I always park there. There's a number of parking
23 -- municipal parking garages along Bergenline
24 Avenue.

25 So, I don't see parking as a -- as a big

1 | problem. It's actually an impossibility for this
2 | situation, so I believe that the -- the project,
3 | as presented, meets the intent of the -- of the
4 | Master Plan, and it furthers the Zoning
5 | Ordinance.

6 | Yes?

7 | MR. LOPEZ: Just one more issue, Mr.
8 | Izquierdo.

9 | Are you familiar with the accessibility to
10 | public transportation on New York Avenue and
11 | Bergenline Avenue?

12 | MR. IZQUIERDO: Yes, I do, because I don't
13 | drive.

14 | MR. LOPEZ: Is this property located on a
15 | thoroughfare which has much public transportation
16 | available? And buses and jitney buses?

17 | MR. IZQUIERDO: Yes. Actually, every --
18 | every bus that leaves the -- the Port Authority
19 | takes New York Avenue, the ones that don't take
20 | Park Avenue, and they go all the way up Cresskill
21 | and they go all the way to Hillsdale, Englewood
22 | Cliffs and what not.

23 | There are a number of jitney buses.
24 | Actually, the jitney buses use New York Avenue.
25 | So, the jitney buses are right in front of this

1 -- of this property, as well as the New Jersey
2 Transit buses.

3 MR. LOPEZ: And --

4 MR. IZQUIERDO: If you walk -- if you walk
5 to, what is it, 48th Street, where you have the
6 Path Station, I take the Path Station to go to
7 the World Trade Center, to go everywhere.

8 Union City has been blessed with having a
9 lot of transportation alternatives. I,
10 personally, do not own a car. I do not want to
11 own a car, and I -- I enjoy public
12 transportation.

13 MR. LOPEZ: Anything else, Mr. Izquierdo?

14 MR. IZQUIERDO: No. I -- I believe that
15 the positive criteria here, in a -- in a
16 balancing test, with the negative criteria, meets
17 -- meets what the Ordinance wants. It's going to
18 be a building brought up to Code, with
19 accessibility standards. We're going to get rid
20 of all that mess that is upstairs. And -- and we
21 preserve the rear yard and the fruit trees.

22 MR. LOPEZ: I have nothing further.

23 CHAIRMAN MAROTTA: Are you finished?

24 MR. LOPEZ: Yes, Mr. Chairman.

25 CHAIRMAN MAROTTA: Any members of the Board

1 have questions?

2 VICE CHAIRMAN BONACCI: Just -- just for
3 clarification.

4 So, you would be taking one commercial and
5 six apartments. That's how it currently stands.

6 Right?

7 MR. LOPEZ: Correct.

8 VICE CHAIRMAN BONACCI: That's got seven
9 units.

10 MR. LOPEZ: Six apartments, with that
11 additional space.

12 MR. IZQUIERDO: Seven units. You're
13 correct.

14 VICE CHAIRMAN BONACCI: Seven --

15 MR. IZQUIERDO: Seven units.

16 VICE CHAIRMAN BONACCI: -- to five.

17 MR. IZQUIERDO: To five.

18 VICE CHAIRMAN BONACCI: Okay.

19 MR. IZQUIERDO: It's owner occupied. The
20 -- the mother own -- the mother occupies one of
21 the apartment, and the son occupies another of
22 the apartments.

23 So, from the four units, they're only going
24 to be two rentals.

25 VICE CHAIRMAN BONACCI: Now, the D variance

1 --

2 MR. IZQUIERDO: There are two D variances.

3 VICE CHAIRMAN BONACCI: Okay.

4 But you guys, with the unit sizes, you're
5 making the bed -- so, most of the bedrooms are
6 actually going to be bigger.

7 MR. LOPEZ: Yes. Most of the apartments,
8 overall, three out of the four will be bigger.

9 VICE CHAIRMAN BONACCI: Okay. And for the
10 C variance --

11 MR. IZQUIERDO: The C variance is the
12 parking.

13 VICE CHAIRMAN BONACCI: For the parking.
14 Right.

15 But because you're going from seven to
16 five, you're having -- would it be fair to say
17 that you have less occupancy?

18 MR. IZQUIERDO: A lot less --

19 VICE CHAIRMAN BONACCI: So, there's --

20 MR. IZQUIERDO: -- occupancy.

21 VICE CHAIRMAN BONACCI: -- a little bit
22 less need for the --

23 MR. LOPEZ: Correct.

24 VICE CHAIRMAN BONACCI: Okay.

25 MR. LOPEZ: Correct.

1 MR. IZQUIERDO: Some of the apartments,
2 right now, are two bedrooms. We're turning them
3 all into four one bedrooms.

4 And I -- I'd like to bring attention to the
5 Board that the reason that we're requiring three
6 spaces for the bakery is not because the bakery
7 is very big, it's because the lot is bigger.
8 It's 3100 square feet. Otherwise, we wouldn't
9 need that parking --

10 VICE CHAIRMAN BONACCI: Variance.

11 MR. IZQUIERDO: -- variance.

12 CHAIRMAN MAROTTA: Any members of the
13 public have questions?

14 I have a question.

15 The ground floor apartment is not allowed.

16 Is that correct?

17 MR. IZQUIERDO: It's not allowed by
18 Ordinance in the CN zone. But the CN zone
19 specifically says, this is an apartment building.
20 It's not a four family. It -- defined in the
21 Union City Zoning Ordinance, this is an apartment
22 building.

23 In an apartment building, in the CN zone,
24 which is an allowed use, you can only have ground
25 floor commercial.

1 Residential uses are not allowed on the
2 ground floor.

3 CHAIRMAN MAROTTA: So, therefore, this
4 apartment on the ground floor, is not allowed.

5 MR. IZQUIERDO: It's not allowed, and that
6 is the D-1 variance. But even though it's
7 existing, I'm not calling it a D-2, extension of
8 nothing, it just generated a new --

9 CHAIRMAN MAROTTA: Well, since it's not
10 allowed, then -- then it's not consistent with
11 our Code, is it?

12 MR. IZQUIERDO: It's not consistent with
13 the Zoning Ordinance. But the federal code
14 requires that when you have a four family house,
15 you need to provide accessibility to the
16 apartment that occurs at the first floor.

17 If you have a 15 story building, and you
18 have your first residential floor on the 12th
19 floor, that 12th floor has to be accessible to the
20 handicapped.

21 So, if we're going to have a two story
22 building, you would need to -- with four units,
23 you would need to have an elevator going up to
24 the fourth floor, because that's the only way
25 that you'd meet accessibility.

1 Right now, the building has that apartment
2 on the ground floor, and we're making it
3 accessible to the handicapped.

4 CHAIRMAN MAROTTA: Which is not a legal
5 apartment. It's not permitted by our Code. A
6 ground floor apartment is not permitted.

7 MR. IZQUIERDO: It's not permitted --

8 MR. LOPEZ: It's --

9 MR. IZQUIERDO: -- in the Zoning Ordinance.

10 MR. LOPEZ: Mr. Marotta, it's not
11 permitted, if it were to be constructed now. If
12 it's a preexisting, nonconforming use, it
13 continues to --

14 CHAIRMAN MAROTTA: Well, isn't it --

15 MR. LOPEZ: -- be permitted.

16 CHAIRMAN MAROTTA: -- preexisting
17 nonconforming?

18 MR. LOPEZ: It is --

19 MR. IZQUIERDO: It is --

20 MR. LOPEZ: -- preexisting.

21 MR. IZQUIERDO: It is existing there. That
22 apartment exists there. That apartment is --

23 MR. LOPEZ: Right. It just could not be
24 built in the present -- at the present time.
25 What we are proposing is to maintain it, but to

1 | reduce, in essence, the impact by creating it and
2 | making it into a handicap accessible apartment.

3 | CHAIRMAN MAROTTA: Now, my question is
4 | this.

5 | Are you saying that that ground floor
6 | apartment is presently rented?

7 | MR. IZQUIERDO: Yes. It's presently
8 | occupied. Yes. And it is 402 --

9 | CHAIRMAN MAROTTA: Excuse me?

10 | MR. IZQUIERDO: -- square feet.

11 | CHAIRMAN MAROTTA: Is it presently rented?

12 | MR. LOPEZ: No. It's not rented. It's
13 | occupied by the owner.

14 | MR. IZQUIERDO: It's occupied by the owner.

15 | CHAIRMAN MAROTTA: Is it going to continue
16 | to be occupied by the --

17 | MR. LOPEZ: Yes.

18 | MR. IZQUIERDO: Yes.

19 | MR. LOPEZ: Correct.

20 | MR. IZQUIERDO: Yes. The owner's son lives
21 | downstairs in that apartment, which is now 402
22 | square feet. But because of the new
23 | configuration, we're making it bigger for
24 | handicapped, and what not.

25 | The son is going to live downstairs, and

1 the mother lives upstairs.

2 CHAIRMAN MAROTTA: And the owner's going to
3 continue to occupy that apartment.

4 MR. LOPEZ: That's correct.

5 MR. IZQUIERDO: Yes. Yes.

6 CHAIRMAN MAROTTA: Has been occupying it.

7 MR. LOPEZ: Yes.

8 MR. IZQUIERDO: Yes.

9 CHAIRMAN MAROTTA: Okay.

10 MR. IZQUIERDO: He's here.

11 MR. LOPEZ: Yes.

12 CHAIRMAN MAROTTA: I would -- I would make
13 a motion to approve this application, but I would
14 say that the Resolution contain the statement
15 that the ground floor apartment must be occupied
16 by the owner.

17 MR. IZQUIERDO: No problem.

18 CHAIRMAN MAROTTA: And once it's not
19 occupied by the owner, exit the apartment.

20 MR. LOPEZ: We have no problem with that.

21 THE SECRETARY: Motion to approve --

22 CHAIRMAN MAROTTA: Okay.

23 THE SECRETARY: -- the application with the
24 condition by Chairman Marotta.

25 Any second?

1 Margarita Gutierrez.

2 Roll call on the motion.

3 Mr. Marotta?

4 CHAIRMAN MAROTTA: Yes.

5 THE SECRETARY: Mr. Bonacci?

6 VICE CHAIRMAN BONACCI: Yes.

7 THE SECRETARY: Ms. Gutierrez?

8 MS. GUTIERREZ: Yes.

9 THE SECRETARY: Mr. Grullon?

10 MR. GRULLON: Yes.

11 THE SECRETARY: Mr. Medina?

12 MR. MEDINA: Yes.

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

15 MR. IZQUIERDO: Thank you, Mr. Marotta.

16 THE SECRETARY: Thank you.

17 MR. W. ORTIZ: Good night, folks.

18 MS. GUTIERREZ: Thank you.

19

20 (Whereupon, Wilfredo J. Ortiz II, Esquire
21 left the meeting at 7:08 p.m.)

22

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

25

* * *

1 **1404 S. Avenue, LLC - 1404 Summit Avenue:**

2

3 (Whereupon, Tomas Paneque, Esquire returned
4 to the dais at 7:08 p.m.)

5

6 (Whereupon, Miguel Ortiz returned to the
7 dais at 7:08 p.m.)

8

9 THE SECRETARY: Next application on
10 tonight's agenda, 1404 S. Avenue, LLC, 1404
11 Summit Avenue.

12 Mr. Lopez?

13 MR. SPATZ: No, I think -- yes. Yes.

14 THE SECRETARY: Yes.

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

17 THE SECRETARY: Let the record indicate
18 that seven -- six members now.

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

21 MR. PANEQUE: For the record, I've been
22 provided with the following documentation by Mr.
23 Lopez:

24 I have been provided with a copy of the
25 Affidavit of Publication that was published in

1 The Jersey Journal on January 27, 2018,
2 indicating that notice of tonight's hearing, with
3 respect to the property located at 1404 Summit
4 Avenue, Union City, New Jersey was published in
5 the paper on January 27, 2018.

6 I've also been provided with an Affidavit
7 of Service, signed by Mr. Lopez, and notarized by
8 Anna Noris, an attorney in his office, indicating
9 that notices went out to all property owners
10 within the 200 foot radius.

11 I've also been provided with copies of the
12 notices that went out, as well as a list from the
13 Tax Assessor's Office, which was dated January
14 23rd, 2018.

15 I've also received the certified mail
16 receipts that have come back to date, as well as
17 the certified mail that has been unclaimed.

18 The applicant has provided the necessary
19 proof. This Board has jurisdiction to hear this
20 matter.

21 CHAIRMAN MAROTTA: All right. Begin.

22 MR. LOPEZ: Mr. Chairman, once again, good
23 evening, members of the Board.

24 I would offer Orestes Valella, who has been
25 previously admitted before this Board, as -- as

1 an expert witness, as an architect.

2 CHAIRMAN MAROTTA: No problem.

3 MR. LOPEZ: Thank you, Mr. Marotta.

4 Mr. Valella, you are familiar with this
5 project.

6 MS. DILLON: Mr. Valella?

7 Let me --

8 MR. LOPEZ: I'm sorry.

9 MS. DILLON: -- swear him in.

10 MR. LOPEZ: I'm sorry.

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. VALELLA: I do.

15 MS. DILLON: Please just state your name
16 again for the record.

17 MR. VALELLA: Sure. Be happy to.

18 Good evening.

19 My name is Orestes --

20 MS. DILLON: Thank you.

21 MR. VALELLA: -- Valella, V-A-L-E-L-L-A.

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

1 MR. LOPEZ: Thank you.

2 Mr. Valella, you prepared the drawings that
3 were submitted to this Board, in conjunction with
4 this variance application.

5 MR. VALELLA: Yes.

6 MR. LOPEZ: Is that correct?

7 MR. VALELLA: Yes.

8 MR. LOPEZ: And as such, you're familiar
9 with this property.

10 MR. VALELLA: Right.

11 MR. LOPEZ: Could you please describe the
12 project, the property location and --

13 MR. VALELLA: Sure.

14 MR. LOPEZ: -- what happened at this
15 property recently that impacted it, and why we
16 are here seeking this project today?

17 MR. VALELLA: Sure. Be happy to.

18 Well, the project is located on Summit
19 Avenue, between 14th and 15th Street. It is
20 technically Block 70 and our property is Lot 21.

21 I'm sure you're all familiar. These are
22 two lots that there was a fire and they were
23 demolished, the structures. This is one of those
24 lots; ours is 21.

25 And it is a very typical location. It's 25

1 foot wide. It's a little deeper than your
2 average lot. It's 112, 113 feet in length. The
3 typical is 25 by 100. This is slightly larger,
4 but a very -- very normal. And it is on the east
5 side of the street.

6 It's a -- you know, it's a very nice
7 location. The -- Summit I enjoy quite a bit on
8 that -- in that area, has good character.

9 And we would like to fill in that tooth
10 that's missing and build a new structure.

11 We are proposing a mixed use structure,
12 with retail on the ground floor, and then
13 residential above.

14 Now, analyzing the property. As you all
15 know, on Summit Avenue, between 5th and 18th
16 Street, if -- if a building has six or fewer
17 dwelling units, it does not require parking. So,
18 that was a starting point for our conversation.

19 We obviously chose to propose retail on the
20 ground, which is what the Ordinance also
21 requires, and then the residential above. And
22 that's what we're proposing. We're proposing a
23 nice new building with retail on the ground and
24 residential above.

25 Now, life isn't that easy. There is also a

1 federal law, not state, not municipal, but
2 federal, it's country -- nationwide, which is the
3 ADA compliance, which is the -- the Disability
4 Act. And that must be adhered to, no matter
5 what.

6 And how does that impact us? We have a
7 property that's 25 by 100. It's not very large.
8 If a project -- if a building has more than three
9 dwelling units, it must meet ADA. And for our
10 purposes, there's only two ways to satisfy that.
11 We either introduce an elevator, which has to
12 have a certain size. In fact, they've gotten
13 bigger over time, with stretchers, et cetera.

14 Or we can, as Mr. Izquierdo presented on
15 his testimony in the previous application,
16 propose a dwelling unit on the ground floor,
17 which would satisfy the demands of the Disability
18 Act.

19 MR. LOPEZ: Mr. Valella, let stop you, just
20 for one second.

21 You mentioned an elevator. Would an
22 elevator be feasible on this property, and also
23 allow the property to comply with the requirement
24 of commercial on the ground floor?

25 MR. VALELLA: No. That -- that was the

1 whole thing. We tried -- the width of the
2 property, the size of the project just won't make
3 the retail viable and an elevator to coexist.

4 Now, if the building were 50 -- if the
5 property were 50 foot wide, which we have done,
6 then at that point, yes, we can make an elevator
7 work, and that's what I would have recommended.

8 But here, we have conflicting --
9 conflicting requirements. We have -- and I
10 recognize the City's requirement for retail on
11 the ground floor, and I support that. And, in
12 fact, we're maximizing the amount of retail that
13 is possible on the ground floor, but I also have
14 to satisfy the federal government mandates with
15 regards to ADA.

16 So that's why that. But let's leave that
17 as a detail for further on. Let me get into the
18 specifics of the location -- of the project, and
19 then we can discuss that.

20 On the ground floor, we have a retail space
21 which fronts the street. The building fronts the
22 street. It hugs the street like every other
23 developed property along Summit. They're all at
24 the street line, which I think is a very sound
25 planning principle.

1 The building has 934 square feet of retail.
2 It has then the stairs going up to the
3 apartments. On the second and third floors,
4 there are two dwelling units per floor. They are
5 two bedroom apartments. They are 900 square
6 feet, which is very good.

7 Your Ordinance, for a two bedroom -- for
8 example --

9 MS. GUTIERREZ: Bless you.

10 MR. VALELLA: -- has a minimize size square
11 footage requirement of 750 square feet. We have
12 900 square feet, and we're providing two of
13 those, state-of-the-art, two means of egress, et
14 cetera, et cetera.

15 So, that's very -- I'm very pleased about
16 that.

17 On the fourth floor, we have one dwelling
18 unit and that is a three bedroom apartment, and
19 that's 1484 square feet, and with a terrace
20 towards the front, whereas the Zoning Ordinance
21 requires 900 square feet as a minimum for a one
22 -- for a three bedroom apartment.

23 In order to satisfy ADA, I proposed the one
24 bedroom in the rear of the ground floor at 626
25 square feet, which is still bigger than the 550

1 | which is the minimum for a one bedroom.

2 | Now, can I make that smaller? I -- I can
3 | go to 550 and maximize the -- give the additional
4 | square footage to retail. But it's a -- it's a
5 | federal -- we do need to take the -- the handicap
6 | into consideration.

7 | The building hugs the property line and it
8 | goes back. It provides a five foot rear yard.
9 | It will be -- it would be built out of brick.
10 | You can see the facades at the -- on the first
11 | page.

12 | The building is four stories and 44 feet in
13 | height. And again, that's respectful of the bulk
14 | -- the bulk requirements for the zone. Four
15 | stories are permitted, four stories are proposed.
16 | The maximum height that is permitted is 50 feet,
17 | we're at 44 feet.

18 | We do not require parking for the dwelling
19 | units, for the first six dwelling units, and we
20 | do not have it.

21 | We are -- now, the retail is another
22 | matter; 934 square feet would require three
23 | parking spaces, or one per 300.

24 | The property is too small. It just cannot
25 | accommodate parking and retail.

1 This isn't Walmart. This is under a
2 thousand square foot mom and pop, I would assume,
3 and it's walk -- you know, walk up customers.
4 These -- nobody's driving from another location
5 to go to a small store, so I felt comfortable not
6 -- not -- proposing it without the retail
7 parking.

8 MR. LOPEZ: And Mr. Valella, the building
9 that burnt down and, in essence, is being
10 replaced by this one, that building did not
11 provide for a secondary means of egress.

12 MR. VALELLA: No.

13 MR. LOPEZ: Is that correct?

14 MR. VALELLA: No.

15 MR. LOPEZ: And this one does provide
16 secondary means of egress incorporated into your
17 design.

18 Is that correct?

19 MR. VALELLA: Yeah. Well, this solves a
20 lot -- I mean, these -- some of these structures
21 that burned down are not up to Code any longer.
22 They were up to Code when they were built, but
23 unfortunately, they're not any longer. This
24 would require -- this will be required to be
25 sprinklered, be noncombustible construction, to

1 provide two means of egress, emergency lights,
2 all the bells and whistles that our modern -- you
3 know, society requires for safety, as it should.

4 So, that would alleviate another potential
5 problem.

6 MR. LOPEZ: Thank you, Mr. Valella.

7 MR. VALELLA: Okay.

8 MR. LOPEZ: I have nothing further of this
9 witness.

10 CHAIRMAN MAROTTA: Any members of the Board
11 have questions?

12 Any members of the audience have questions?

13 Let me ask you this, Mr. Valella.

14 I noticed -- is there an apartment on the
15 ground floor?

16 MR. VALELLA: Yes. You heard my reasoning,
17 though.

18 CHAIRMAN MAROTTA: All right.

19 Let me ask you this.

20 I see that there's a -- a rear yard of only
21 five feet, when there's a requirement of 20 feet.

22 MR. VALELLA: Yes.

23 CHAIRMAN MAROTTA: And the maximum lot
24 coverage is 80 percent and you're looking for 90
25 percent.

1 MR. VALELLA: Yes.

2 CHAIRMAN MAROTTA: Could you reasonably
3 design a building in accordance with the Code?

4 MR. VALELLA: No.

5 CHAIRMAN MAROTTA: Why not?

6 MR. VALELLA: Because under the Code, I
7 couldn't have residential on the ground floor,
8 and then I can't make this economically feasible
9 because I would have to introduce an elevator.
10 There's no room for an elevator. It's all -- it
11 just doesn't work.

12 CHAIRMAN MAROTTA: Economically feasible?

13 MR. VALELLA: Well, physically. I'm not
14 going to go into money. It --

15 CHAIRMAN MAROTTA: Okay. Then, you
16 withdraw that.

17 MR. VALELLA: I withdraw that statement.

18 CHAIRMAN MAROTTA: You withdraw that.

19 MR. VALELLA: But architecturally, it's not
20 feasible.

21 CHAIRMAN MAROTTA: But you say that you
22 can't do it because then you can't put an
23 apartment on the ground floor. But the Code does
24 not permit an apartment --

25 MR. VALELLA: But I -- I'm required one by

1 federal law.

2 CHAIRMAN MAROTTA: You're required by --
3 give me the federal law.

4 MR. VALELLA: ADA, the Disabilities Act.

5 MR. LOPEZ: Mr. Marotta --

6 MR. VALELLA: It's a federal --

7 CHAIRMAN MAROTTA: Requires what?

8 MR. VALELLA: Requires that any structure
9 with over three dwelling units satisfy the
10 requirements for the handicapped.

11 MR. LOPEZ: Mr. Marotta, part of the
12 testimony was that the other alternative to
13 satisfy ADA would be to place an elevator. But
14 if we place an elevator, then we can't satisfy
15 the zoning requirement that we put commercial on
16 the ground floor.

17 So, it's -- it's a balancing test to try to
18 fit -- to comply with all requirements, the
19 Zoning Ordinance, as well as federal law.

20 MR. VALELLA: The reason -- and I'm not
21 here to lecture you, but the reason when you come
22 before a Board is because you must have a
23 hardship. Otherwise, why come before the Board?

24 The hardship here is the property size
25 doesn't allow me to satisfy contradictory

1 regulations. That's why we're here.

2 CHAIRMAN MAROTTA: The size of the property
3 doesn't permit you what?

4 MR. VALELLA: To satisfy -- to design my
5 way and satisfy all of the ordinance and federal
6 and code requirements. That's why we're here.
7 Otherwise we wouldn't be here.

8 CHAIRMAN MAROTTA: You're saying, then,
9 that the ADA is what requires an apartment on the
10 ground floor.

11 Is that what --

12 MR. VALELLA: No.

13 CHAIRMAN MAROTTA: -- you're saying?

14 MR. VALELLA: The ADA requires that this
15 building be accessible to the handicap, yes.

16 CHAIRMAN MAROTTA: I'm sorry. I can't
17 accept that.

18 MR. VALELLA: Why?

19 CHAIRMAN MAROTTA: My question to you was,
20 are you saying the ADA requires an apartment on
21 the ground floor?

22 MR. VALELLA: No.

23 CHAIRMAN MAROTTA: Yes or no?

24 MR. VALELLA: No. That's -- that's not
25 what -- it doesn't require an apartment on the

1 ground floor. It requires that the building be
2 ADA accessible and adaptable. And for this
3 location, I have a hardship in terms of lot size,
4 where I cannot satisfy with an elevator. That's
5 why I'm proposing an apartment on the ground
6 floor.

7 CHAIRMAN MAROTTA: Tell me, how do you get
8 to the second and third floor?

9 MR. VALELLA: Staircase.

10 CHAIRMAN MAROTTA: Staircase?

11 MR. VALELLA: Right.

12 CHAIRMAN MAROTTA: And if you had no
13 apartment on the ground floor, you still would
14 use the staircase.

15 Right?

16 MR. VALELLA: Yeah, but I could not do it
17 because above three dwelling units, then you have
18 to meet ADA requirements.

19 CHAIRMAN MAROTTA: Mr. Spatz?

20 VICE CHAIRMAN BONACCI: Let me --

21 CHAIRMAN MAROTTA: Yeah. Go ahead.

22 VICE CHAIRMAN BONACCI: Just to clear it
23 up, so that we understand.

24 You have these ADA requirements that you
25 need to meet.

1 MR. VALELLA: Yes.

2 VICE CHAIRMAN BONACCI: Which means that if
3 you didn't have an apartment on the ground floor,
4 somebody who was handicapped wouldn't be able to
5 live in the building.

6 MR. VALELLA: Exactly.

7 VICE CHAIRMAN BONACCI: You'd be shunning
8 --

9 MR. LOPEZ: Well, you wouldn't be able to
10 construct the building.

11 VICE CHAIRMAN BONACCI: You'd be --

12 MR. LOPEZ: Correct.

13 VICE CHAIRMAN BONACCI: -- shunning them
14 away.

15 MR. LOPEZ: Correct.

16 VICE CHAIRMAN BONACCI: They'd have no
17 place to live in the building.

18 MR. LOPEZ: The only other alternative, as
19 Mr. Valella indicated, would be to place an
20 elevator. But then, that doesn't allow us to
21 comply with the requirement of commercial on the
22 ground floor.

23 VICE CHAIRMAN BONACCI: So, without having
24 the apartment on the ground floor, it would be
25 almost as if you were saying, we're building a

1 new construction, but you can't come here if
2 you're handicapped, because you won't be able to
3 live here.

4 MR. LOPEZ: That's correct.

5 MR. VALELLA: We wouldn't be allowed --

6 VICE CHAIRMAN BONACCI: Due to the ADA
7 requirement.

8 MR. LOPEZ: We wouldn't be allowed to
9 build.

10 MR. VALELLA: We wouldn't be allowed to
11 build it, because the Building Department would
12 not issue a building permit, because yes, your
13 Ordinance requires one thing and we're providing
14 it, but in order to satisfy both, I have to
15 compromise as an architect. I can't give --

16 VICE CHAIRMAN BONACCI: Would you guys be
17 able to give me when this ADA requirement was
18 established?

19 MR. IZQUIERDO: 1986.

20 VICE CHAIRMAN BONACCI: Okay.

21 So, is it possible -- I'm just going to
22 throw this out there for the members of the Board
23 -- is it possible that we might have to go back
24 and review our Ordinance, to make sure that it
25 complies with this ADA requirement, since it's

1 federal? Maybe our thing is not caught up to --
2 to that.

3 MR. IZQUIERDO: I am the planner for this
4 application.

5 MR. LOPEZ: Mr. -- Mr. Izquierdo will be
6 addressing that as part of his --

7 VICE CHAIRMAN BONACCI: Okay.

8 MR. LOPEZ: -- as part of --
9 Wait.

10 Are you done, Mr. Valella?

11 MR. VALELLA: I am. I think my testimony
12 can continue --

13 CHAIRMAN MAROTTA: I want to --

14 MR. VALELLA: -- but --

15 CHAIRMAN MAROTTA: Mr. Spatz?

16 MR. SPATZ: Yes, sir.

17 CHAIRMAN MAROTTA: Do you confirm what the
18 testimony was, that they -- they're required to
19 put an apartment on the ground floor?

20 MR. SPATZ: They're required to provide at
21 least one handicapped accessible unit in the
22 building. And the only -- the only two ways to
23 provide that is to have it on the ground floor,
24 or to put an elevator in the building, in order
25 to get to the upper floors. And because of the

1 size of the lot, the narrowness of the lot, you
2 can't have a commer --

3 CHAIRMAN MAROTTA: Okay.

4 MR. SPATZ: -- a viable commercial space
5 and an elevator and the lobby on the ground
6 floor. You -- you lose that space.

7 So, this is the only way, really, you can
8 build it on a -- on a lot of this size.

9 CHAIRMAN MAROTTA: Okay.

10 MR. VALELLA: Now --

11 CHAIRMAN MAROTTA: Thank you.

12 MR. LOPEZ: Wait.

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

14 I have done 25 by 100's, where I have
15 introduced -- in Union City, where I have had the
16 elevator to satisfy ADA. But I haven't had the
17 retail requirement that I had to satisfy.

18 So, this is a particular situation. It's
19 not --

20 CHAIRMAN MAROTTA: Okay.

21 MR. LOPEZ: Thank you, Mr. Marotta.

22 I would offer, as the next witness, Mr.
23 Izquierdo, as a planner.

24 MS. DILLON: Mr. Izquierdo --

25 MR. IZQUIERDO: Good evening, members of

1 the --

2 MS. DILLON: -- was previously sworn.

3 MR. IZQUIERDO: Yes, I was.

4 MR. LOPEZ: Mr. Izquierdo, are you familiar
5 with this proposed project, which is before the
6 Board?

7 MR. IZQUIERDO: Yes, I am.

8 MR. LOPEZ: And --

9 MR. IZQUIERDO: And I have been retained as
10 the planner for the project.

11 MR. LOPEZ: And you are -- I know you're
12 familiar with this particular neighborhood,
13 because you've done studies previously for other
14 applications before this Board.

15 Is that correct?

16 MR. IZQUIERDO: Yes, sir.

17 MR. LOPEZ: And could you describe the
18 planning requirements that require a variance
19 being sought before the Board?

20 MR. IZQUIERDO: Specifically, for this
21 project, this Board has jurisdiction of this
22 application, solely because of that ground floor
23 apartment.

24 All other variances in this application are
25 -- would be C -- C variances. The rear yard

1 required of 20 feet, the five feet, that's a
2 Planning Board issue.

3 The -- in the Ordinance of Union City of
4 2012, any building that has four or more units is
5 called an apartment building. It's not a four
6 family, it's not a five family. It's a -- it's
7 an apartment building and it's defined with the
8 definitions.

9 And in every single zone, in Union City,
10 wherever they say apartments, they always have
11 apartments, upper floors only. Apartments, upper
12 floors only.

13 So, specifically, the drafters of the
14 Ordinance of Union City disallowed apartments on
15 the ground floor, which is a D-1 variance and
16 gives jurisdiction to this Board for this
17 application.

18 What Mr. Valella was describing, and what
19 Mr. Spatz conferred with him, was that the
20 present day standards for ANSI and ADA compliance
21 does not allow the applicant to say -- have a
22 stair with wheelchair access. It would have to
23 be either a ground floor apartment, which is the
24 proposed project, or an elevator.

25 If you have an elevator in the building,

1 | you become an elevator building, and everything
2 | has to be handicapped.

3 | The elevator's not just going to go to the
4 | second floor. The elevator is required to serve
5 | all floors.

6 | This building was destroyed by fire, and as
7 | such all previous uses have been abandoned. They
8 | have been abandoned because of destruction, and
9 | that's what Municipal Land Use Law describes the
10 | abandonment of the use. It was destroyed by
11 | fire.

12 | The previous building had a store on the
13 | ground floor, with a three bedroom apartment in
14 | the back. And it had two apartments on the
15 | second floor, two apartments on the third floor,
16 | identical to what we're doing.

17 | The only departure, albeit the -- the
18 | doctrine of abandonment and destruction and all
19 | that, is that we're adding a sixth apartment on
20 | the fourth floor, which does not require a
21 | variance, because the CN zone specifically allows
22 | us to be four stories or 50 feet, and we would be
23 | four stories or 44 feet.

24 | The issue here, and the main issue that was
25 | actually brought about by -- by the previous

1 application, is that this application requires to
2 have a ground floor apartment, or to be
3 accessible and to be able to comply with the ANSI
4 standard, with the -- with the ADA federal law of
5 1986.

6 MR. LOPEZ: Mr. Izquierdo, could you go
7 into some of the positive and negative criteria
8 associated with this project?

9 MR. IZQUIERDO: Yes.

10 The lot area required in the CN zone is
11 2500 square feet, and this property has 2822
12 square feet, which complies and exceeds.

13 We comply with the width, which is 25 feet.
14 It's de minimis. We have 24.99 feet.

15 And the lot depth allowed -- required is a
16 hundred feet and we have 112.55 feet. So, this
17 property is longer than required.

18 And because this property is 2822 square
19 feet, and not 2500 square feet, we would be
20 required to have three parking spaces for the 934
21 square feet of commercial store on the ground
22 floor.

23 Otherwise, we would have no need for
24 parking because the Ordinance is clear that the
25 first six units on Summit Avenue, between, I

1 believe, 3rd and 15th -- 3rd and 18th, they're free.

2 We don't need to provide parking for them.

3 And it's -- it's an encouragement to
4 develop the CN zone as a vibrant commercial
5 artery, was one of the require -- was one of the
6 -- of the purposes of the drafters of the
7 Ordinance, that they not only establish
8 Bergenline Avenue, but they wanted New York
9 Avenue, as well, to be a commercial zone.

10 The side yards required are zero feet, five
11 feet if provided. And we have zero feet on the
12 upper floors, but on the lower floor, we have
13 five feet, because that is the second means of
14 egress going on the outside, if I am not
15 mistaken.

16 The rear yard required is 20 feet and the
17 applicant is proposing five feet, in order to
18 have a larger apartment and more space on the
19 ground floor.

20 The lot coverage allowed is a hundred
21 percent, and the applicant is proposing 92
22 percent.

23 In terms of the parking, we're required to
24 have three spaces only for the commercial, not
25 for the residential.

1 And the minimum unit sizes, we have a one
2 bedroom at 626 square feet, which exceeds the 550
3 as a minimum. We have four two bedrooms at 900
4 square feet, which exceeds the 750 which is the
5 minimum. And we have a three bedroom at 1484
6 that exceeds the 950 requirement for a three
7 bedroom.

8 So, we have variances.

9 The rear yard and the building coverage,
10 which I would describe as being C-2 variances,
11 where the purposes of zoning are advanced by a
12 deviation thereof, and the -- the parking
13 variance for the commercial space, because the
14 lot is larger than the 2500 square feet allowed
15 by zoning to be the cap on commercial properties.

16 And the big one, which is the ground floor
17 apartment. And that is a D-1 variance.

18 I cannot call it a D-2 variance. It's not
19 an extension of a nonconforming use, because the
20 use was destroyed. And as such, by definition,
21 was abandoned.

22 CHAIRMAN MAROTTA: Is he finished with his
23 testimony?

24 MR. LOPEZ: That concludes our presentation
25 from a planning perspective.

1 MR. IZQUIERDO: No, I -- I --

2 MR. LOPEZ: You have more?

3 CHAIRMAN MAROTTA: Any questions?

4 Any questions from the audience?

5 Larry?

6 MR. PRICE: Chairs get a little hard after
7 awhile.

8 Larry Price, 1006 Palisade. Still under
9 oath.

10 The D-1 variance, okay, it's been suggested
11 that there are only two alternatives, an elevator
12 or an apartment in a ground floor. That will
13 provide ADA accessibility.

14 Okay. Hypothetical question. If you
15 eliminated three of the apartments --

16 MR. IZQUIERDO: I'd have a three family.

17 MR. PRICE: -- and have -- you know --

18 MR. IZQUIERDO: Not an apartment building.

19 MR. PRICE: -- a complete -- you know,
20 let's say a three story building, complete
21 commercial on the ground floor, which would
22 comply, two apartments on the second floor, one
23 apartment on the third floor.

24 Would that apartment -- or, sorry -- would
25 that building, with three units, require ADA

1 accessibility?

2 MR. IZQUIERDO: No.

3 MR. PRICE: So, there are really three ways
4 you could do it on this --

5 MR. IZQUIERDO: Oh, yeah. You could -- oh,
6 yeah. You change the project. You can present a
7 different project. That was not one of the alter
8 -- the alternatives that were presented is based
9 on the project that is being presented, what --
10 what are the alternatives for compliance?

11 And one is requiring a D-1 variance from
12 this Board, not D-2 because the building --

13 MR. PRICE: I agree --

14 MR. IZQUIERDO: -- was destroyed.

15 MR. PRICE: I agree, --

16 MR. IZQUIERDO: And the elevator. And the
17 elevator.

18 MR. PRICE: Yeah.

19 MR. IZQUIERDO: But what you're proposing
20 is a different structure. I mean, I could also
21 be proposing an elevator building with 15
22 stories. That is a different project and that is
23 a different --

24 MR. PRICE: Well, that would --

25 MR. IZQUIERDO: -- way of complying.

1 MR. PRICE: That wouldn't be permitted, but
2 we're just talking about a -- how do we deal with
3 ADA accessibility? One is elevator. Two is D-1
4 use variance. Three is --

5 MR. IZQUIERDO: Max -- max three --

6 MR. PRICE: Three.

7 MR. IZQUIERDO: -- apartments. Any time
8 any project comes here with more than three
9 apartments, you have the same issue.

10 MR. PRICE: Okay.

11 MR. LOPEZ: But Mr. Price, wouldn't the
12 proper question be, how do we achieve ADA
13 compliance within the context of our Zoning
14 Ordinance? Because the CN zone really encourages
15 up to six apartments on the top floors.

16 MR. IZQUIERDO: Yes.

17 MR. LOPEZ: Because it -- it specifically
18 excludes --

19 MR. IZQUIERDO: Exception.

20 MR. LOPEZ: -- any parking requirement for
21 up to six units. So, I think our -- our elders
22 are saying, we're looking for up -- six or more
23 units above.

24 MR. PRICE: By the way, yes. You're --
25 you're correct.

1 Let me put a commercial in.

2 You know, next Wednesday we have -- we have
3 a reexamination of the Master Plan and the --
4 maybe even the Zoning Ordinance. And the big
5 building disaster in -- in present Zoning
6 Ordinance -- this is a City with a major parking
7 problem. And yet, we build into -- if it's a 25
8 by a hundred lot, in the CN zone, there is no
9 requirement for the commercial --

10 MR. IZQUIERDO: For nonresidential.

11 MR. PRICE: -- and as long as it -- as --

12 MR. IZQUIERDO: For the nonresidential
13 uses.

14 MR. PRICE: For the nonresiden -- well --

15 MR. IZQUIERDO: Yes.

16 MR. PRICE: Nonresidential. Commercial use
17 on the ground, no parking requirement, and
18 upstairs, as long as you --

19 MR. IZQUIERDO: Have six.

20 MR. PRICE: -- don't have more than six
21 apartments --

22 MR. IZQUIERDO: They're free.

23 MR. PRICE: -- there's no parking
24 requirement for that.

25 MR. IZQUIERDO: Correct.

1 MR. PRICE: So, we could have,
2 theoretically, a parking requirement --
3 theoretically, of like 12 cars, but it's not
4 required --

5 MR. LOPEZ: But only in some zones.

6 MR. PRICE: -- in zones.

7 MR. IZQUIERDO: No.

8 MR. LOPEZ: Only in some --

9 MR. PRICE: Only in the CN --

10 MS. DILLON: Gentlemen?

11 MR. PRICE: -- CN --

12 MS. DILLON: Gentlemen?

13 MR. LOPEZ: I'm sorry.

14 MS. DILLON: One at a time, please.

15 MR. IZQUIERDO: It would be 14 -- 14.

16 MR. PRICE: Fourteen. I stand corrected.

17 MR. IZQUIERDO: No. Fourteen.

18 MR. PRICE: It would be --

19 MR. IZQUIERDO: That is exactly what I'm
20 pointing out because at 2500 square feet, for the
21 commercial use, it's at 300, I have 8.33 for the
22 commercial ground.

23 MR. PRICE: Okay.

24 MR. IZQUIERDO: And then the six apartments
25 up on top are free. If I have six three bedrooms

1 --

2 MR. PRICE: Well --

3 MR. IZQUIERDO: -- they're 12.6, plus the
4 eight, I'm up to 20. How's that?

5 That's what it is. That's what the
6 Ordinance describes. And the only -- this
7 project is before this Board, specifically
8 because of the ground floor apartment and nothing
9 else.

10 MR. PRICE: Anyway, so I have -- one of the
11 items on the reexamination next Wednesday is this
12 whole subject of the -- you know, -- we shouldn't
13 be doing this in the CN zone where -- in a city
14 where parking is so critical.

15 VICE CHAIRMAN BONACCI: Mr. Price?

16 MR. PRICE: That's -- that's off topic. I
17 realize.

18 Yes?

19 VICE CHAIRMAN BONACCI: So, would you say
20 that you're reiterating the point that I made
21 that we need to reexamine some of these zoning
22 ordinances that we have to catch up to some of
23 these --

24 MR. PRICE: Absolutely.

25 VICE CHAIRMAN BONACCI: Okay.

1 MR. PRICE: Absolutely. Hope to see you
2 next Wednesday.

3 MR. IZQUIERDO: Twelve point 66, plus 8.33
4 --

5 MR. PRICE: Yeah.

6 MR. IZQUIERDO: -- is 21.

7 MR. PRICE: It's --

8 MR. IZQUIERDO: No, it's the maximum.

9 MR. PRICE: Very -- it's a very large --

10 MR. IZQUIERDO: It's 21.

11 MR. PRICE: -- requirement.

12 MR. IZQUIERDO: It is.

13 MR. PRICE: And need not be met.

14 MR. IZQUIERDO: It is.

15 MR. PRICE: Okay.

16 Thank you.

17 CHAIRMAN MAROTTA: Anybody else with
18 questions?

19 Mr. Izquierdo, in the presentation, you
20 addressed the issue of a five foot rear yard,
21 rather than a 20 foot rear yard.

22 MR. IZQUIERDO: I was --

23 CHAIRMAN MAROTTA: And you said -- and you
24 said the reason for that is so that we could have
25 larger apartments.

1 MR. IZQUIERDO: I was -- I am not --

2 CHAIRMAN MAROTTA: You -- you said that.

3 MR. IZQUIERDO: Yes.

4 CHAIRMAN MAROTTA: The reason --

5 MR. IZQUIERDO: That was -- I was repeating
6 the reason given by the architect --

7 CHAIRMAN MAROTTA: Okay.

8 MR. IZQUIERDO: -- in saying why he left
9 five feet in the back, and not 20 feet as
10 required.

11 CHAIRMAN MAROTTA: So you have larger
12 apartments.

13 MR. IZQUIERDO: That's what the architect
14 said.

15 CHAIRMAN MAROTTA: Larger apartments means
16 you get more income. More rental.

17 MR. IZQUIERDO: Yes.

18 CHAIRMAN MAROTTA: That's not a reason for
19 granting a variance, is it?

20 MR. LOPEZ: Mr. Marotta, but it's -- we're
21 not increasing the size in the bedrooms.

22 CHAIRMAN MAROTTA: That's not a reason for
23 granting the variance.

24 MR. IZQUIERDO: No, it's not. You're
25 absolutely correct. You're absolutely correct.

1 The 20 feet in the back could be met if -- if the
2 architect redesigns the project and leaves the 20
3 feet in the back, we could still have the
4 handicapped apartment on the ground floor, meet
5 the Ordinance, meet the federal standards, meet
6 everybody's that, and still have a 20 foot rear
7 yard.

8 MR. LOPEZ: Mr. Marotta, if I may just
9 point out, the only increase in size to that
10 apartment is by 76 square feet more than the
11 required minimums. And it's -- based on the
12 architect's presentation, I -- he gave a very
13 good explanation.

14 I don't think there's a vast difference in
15 rental value from 550, which is what's required
16 for a one bedroom, to 626. It's -- it's not only
17 economic in nature. We're trying to provide some
18 comfort in the size of the unit.

19 CHAIRMAN MAROTTA: I'm disturbed with the
20 application.

21 Okay?

22 I don't -- I don't believe we have proof as
23 to the positive or negative criteria.

24 I'm going to make a motion to deny the
25 application.

1 THE SECRETARY: Motion to deny the
2 application by Chairman Marotta.

3 Any second on the motion?

4 Motion on the table to deny this
5 application by Chairman Marotta.

6 Any second on the motion?

7 See no second on the motion, motion fails.

8 Is any -- is any other motion?

9 VICE CHAIRMAN BONACCI: I'm going to make a
10 motion to approve the application and grant the
11 variance.

12 THE SECRETARY: Motion to approve the
13 application by Mr. Bonacci.

14 MR. GRULLON: Second.

15 THE SECRETARY: Second by?

16 Second by Mr. Grullon.

17 Roll call on the motion to approve this
18 application.

19 Mr. Marotta?

20 CHAIRMAN MAROTTA: No.

21 THE SECRETARY: Mr. Bonacci?

22 VICE CHAIRMAN BONACCI: Yes.

23 THE SECRETARY: Ms. Gutierrez?

24 MS. GUTIERREZ: Yes.

25 THE SECRETARY: Mr. Grullon?

1 MR. GRULLON: Yes.

2 THE SECRETARY: Mr. Medina?

3 MR. MEDINA: Yes.

4 THE SECRETARY: Mr. Ortiz?

5 MR. ORTIZ: Yes.

6 THE SECRETARY: Five in favor, one against,
7 motion carries.

8 MR. VALELLA: Thank you.

9 MR. LOPEZ: Thank you very much.

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

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1 **Jose R. Cabrera & Rosa Cabrera -**

2 **411 Palisade Avenue:**

3

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

6 Next application on tonight's agenda, Jose
7 R. Cabrera and Rosa Cabrera, 411 Palisade Avenue.

8 Mr. Mulkay, please?

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

11 MR. PANEQUE: Mr. Mulkay, you have your
12 jurisdictional proofs?

13 MR. MULKAY: We actually submitted it on
14 January 11th.

15 MR. PANEQUE: Okay.

16 MS. DILLON: Yes. They were --

17 THE SECRETARY: Yes.

18 MR. PANEQUE: This is coming back?

19 MR. MULKAY: This is coming back.

20 THE SECRETARY: Yes.

21 MR. MULKAY: Yeah.

22 THE SECRETARY: Yes. Coming back from the

23 --

24 MR. PANEQUE: All right.

25 MR. MULKAY: Mr. Chairman, -- Mr. Chairman,

1 members of the Board, Alain Mulkey, M --

2 Are you ready?

3 MS. DILLON: Yes. Yes.

4 MR. MULKAY: Okay.

5 Alain Mulkey, M-U-L-K-A-Y, on behalf of the
6 applicant.

7 Mr. Chairman, by way of background, this
8 matter was before the Board on January 11th. We
9 submitted our proofs. We requested an
10 adjournment to today's hearing.

11 I believe the Board acquired jurisdiction
12 and we're here today to make the presentation.

13 CHAIRMAN MAROTTA: Okay.

14 MR. MULKAY: Our first witness today is our
15 architect. I believe he's been certified before.

16 MS. DILLON: He's been --

17 MR. MULKAY: And recognized tonight.

18 MS. DILLON: He's been sworn.

19 CHAIRMAN MAROTTA: Yes.

20 MR. MULKAY: And he's been sworn.

21 Okay.

22 Mr. Valella, did you have an opportunity to
23 prepare the plans and visit this site?

24 MR. VALELLA: Yes.

25 MR. MULKAY: Can you explain to the Board

1 | what the proposed project entails, what exists
2 | there and what we're requesting?

3 | MR. VALELLA: Sure.

4 | Good evening once again.

5 | This is an existing two family home that is
6 | being used as a three family. It's on Palisade
7 | Avenue, between 4th Street and 5th Street. It's
8 | Block 14, Lot 6. It's a very traditional 25 by
9 | 100 foot property, with a three story dwelling
10 | unit. It's got -- the ground floor has the
11 | garage and an existing apartment, existing one
12 | bedroom apartment, which we call apartment number
13 | three.

14 | Upstairs is a very traditional apartment,
15 | which is apartment number one. It's a three
16 | bedroom apartment.

17 | And on the third floor is apartment number
18 | two, again a three bedroom apartment, one -- very
19 | traditional, very well maintained. I believe our
20 | clients are here. They're good solid citizens.
21 | It's a beautiful house. You know, it's your
22 | prototypical house that was built more recently,
23 | not the prewar era, but -- you know, '50s, '60s,
24 | that kind of thing.

25 | It's a nice two family. There is an

1 existing apartment in the rear of the ground
2 floor, behind the garage. It has a -- it's safe.
3 It's in well -- well maintained. It has access
4 from the side yard. The property is in excellent
5 condition.

6 I'll just go into a few details. I'm going
7 to go -- work my way down.

8 The third floor has apartment number two.
9 It's 1,156 square feet. It's the classic three
10 bedrooms. Two in the back, one in the side, the
11 kitchen, the bathroom, living room, dining room.

12 The second floor has the identical
13 apartment. It's 1,145. It has the balcony on
14 the front, and the stairs going up to the second
15 floor. Two bedrooms and -- and the children's
16 bedroom. Very nice.

17 The ground floor has a two car garage. It
18 has the stair. It has the existing apartment
19 number three. That is 652 square feet. It has
20 access to the rear yard. It is in very good
21 condition and it also has a mechanical plant that
22 is accessible from the garage.

23 It's all in very good condition, and I -- I
24 know I repeated myself a couple times, but it
25 bears mentioning.

1 With respect to the sizes, the three
2 bedroom in the Ordinance -- although this is only
3 a three family, so -- but in order for -- in
4 order to have something to judge by, a three
5 bedroom would require 900 and this is 1,145. The
6 other one, 900, it's 1,156. And the one bedroom
7 in question, the minimum is 550, and we are at
8 652.

9 There's nothing really I can say. This is
10 -- apartment has been there. This was not built
11 under the cover of night, and it's been there for
12 a good long time. I'm not even sure how long
13 it's been there.

14 The client is not asking to expand. He's
15 not asking to -- to go higher or wider or longer.
16 It's not increasing the density. The density's
17 been like this for decades. They're trying to
18 legalize a pre -- you know, an existing condition
19 that has occurred. I really -- I'm not --
20 usually, when I go into one of these, I say, oh,
21 there's a lot of work to be done. This is in
22 mint condition.

23 The Building Department would require
24 certain improvements for life safety in order to
25 meet. We're going to be having to sprinkler the

1 ground floor apartment, fire rate the ceilings,
2 over -- check out the wiring and electrical, but
3 there's very little to do here. This is in good
4 condition. This is -- you know, it's -- it's got
5 good ownership.

6 MR. MULKAY: I think it's implied, but just
7 to be clear, there's no work that needs to be
8 done on the outside of the building.

9 MR. VALELLA: No. It's in very good
10 condition. It's a nice red brick house -- you
11 know, with pride of ownership.

12 MR. MULKAY: Okay.

13 I have nothing further from the architect.

14 CHAIRMAN MAROTTA: Any questions?

15 VICE CHAIRMAN BONACCI: Yeah.

16 Okay, the apartment that you want to
17 legalize is the one that's graphed as apartment
18 number three?

19 MR. VALELLA: Yes, sir.

20 VICE CHAIRMAN BONACCI: And that one's
21 currently an apartment right now.

22 MR. VALELLA: Yes.

23 MR. MULKAY: Correct.

24 MR. VALELLA: Yes.

25 VICE CHAIRMAN BONACCI: It's being

1 occupied?

2 MR. MULKAY: It's not being occupied. The
3 property -- the apartment is vacant.

4 VICE CHAIRMAN BONACCI: Okay.

5 MR. MULKAY: My clients have owned the
6 property since the '80s, early '80s. And it's
7 always been an apartment. It was occupied
8 throughout. The clients went in to renovate it
9 and when they went in to renovate it, they
10 discovered that it wasn't legal. But it's not
11 currently rented.

12 VICE CHAIRMAN BONACCI: Okay.

13 Do you guys know if the tax records
14 indicate that it's listed as a two family or --
15 or three?

16 MR. MULKAY: I'm not sure.

17 My clients indicated they believe it's a
18 two.

19 VICE CHAIRMAN BONACCI: And they're -- so
20 they're aware that it's going to have to be taxed
21 as three?

22 MR. MULKAY: Correct. Obviously. Yeah.
23 They're aware of that.

24 VICE CHAIRMAN BONACCI: Okay.

25 Thank you.

1 CHAIRMAN MAROTTA: Anybody from the
2 audience have questions?

3 Any other questions from the members of the
4 Board?

5 MR. GRULLON: Mr. Valella?

6 MR. VALELLA: Um hum.

7 MR. GRULLON: Were you inside the building?

8 MR. VALELLA: Yeah.

9 MR. GRULLON: Could you testify whether the
10 units are -- what's there? The ground unit?

11 MR. VALELLA: Yes. The units are -- you
12 know, very well maintained. The building is --
13 I'm proud to have -- to be able to live there.
14 Very well maintained. It's been there for
15 decades. Makes sense, if you could say, maybe it
16 was built in the '60s or '70s, somewhere around
17 there. But it wasn't built yesterday. No.

18 But it is in very good condition.

19 MR. GRULLON: And when they purchased the
20 build -- the -- the property, there was that
21 apartment currently occupied?

22 MR. MULKAY: Yeah. My -- my clients are
23 here. They can testify, if you want to hear from
24 them.

25 But yes, from 1980 -- they purchased the

1 building in '81. And from '81 forward, that
2 apartment was always occupied. So yes.

3 And -- and they did not build it. They --
4 they've maintained it, but they did not build it.

5 MR. GRULLON: But they own the property
6 since 1981.

7 MR. MULKAY: Correct. Yes.

8 CHAIRMAN MAROTTA: Any other questions?
9 Move to approve the application.

10 THE SECRETARY: Motion to approve the
11 application by --

12 MR. PANEQUE: Mr. Marotta?

13 THE SECRETARY: One second.

14 MR. PANEQUE: Wait. Before we proceed.
15 Mr. Marotta?

16 CHAIRMAN MAROTTA: Yes?

17 MR. PANEQUE: I -- I think Mr. Mulkay's not
18 done with his application.

19 CHAIRMAN MAROTTA: I'm sorry. I didn't
20 hear you.

21 MR. PANEQUE: Mr. Mulkay is not done with
22 his application.

23 CHAIRMAN MAROTTA: Oh.

24 MR. PRICE: Yes, he is.

25 MR. SPATZ: Yeah. He should.

1 MR. MULKAY: What?

2 CHAIRMAN MAROTTA: I thought he had
3 finished.

4 MR. MULKAY: No.

5 MR. PANEQUE: Well, he just indicated to me
6 but --

7 CHAIRMAN MAROTTA: Oh, okay.

8 I'm sorry.

9 MS. HARTMANN: That's okay. That's right.

10 MR. VALELLA: No pressure. No pressure.

11 VICE CHAIRMAN BONACCI: It's a slam dunk.

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

14 MS. HARTMANN: Okay.

15 MS. DILLON: Okay.

16 MS. HARTMANN: Am I good?

17 MS. DILLON: You're good.

18 MS. HARTMANN: All right.

19 MS. DILLON: Please raise your right hand.

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

22 MS. HARTMANN: Yes.

23 MS. DILLON: Please state your name and
24 spell it for the record.

25 MS. HARTMANN: Jill Hartmann. It's

1 H-A-R-T-M-A-N-N.

2 MS. DILLON: Thank you.

3 MR. MULKAY: Ms. Hartmann, you've had an
4 opportunity to review the plans and visit the
5 site.

6 Correct?

7 MS. HARTMANN: Yes.

8 MR. MULKAY: Could you give your opinion to
9 the Board as -- from a planning perspective, as
10 to the variances that we require and why the
11 Board should grant the variances?

12 MS. HARTMANN: The R district permits a
13 three family house. So, what we really require
14 is a one space parking variance for the existing
15 unit.

16 If you'd like, I was out today and I took
17 -- I just took a Google, if you'd like to see
18 what -- not only the building itself, but the
19 surrounding uses.

20 CHAIRMAN MAROTTA: Thank you.

21 MS. HARTMANN: And as you'll see, it's --
22 it's really eclectic -- it's a really nice
23 neighborhood, actually.

24 It's got some narrow streets, with well
25 maintained buildings. It's a typical vibrant,

1 | urban community, with mixed residential and some
2 | commercial.

3 | And as you can see here, to the north of
4 | the subject site is a two story building with
5 | commercial and residential. To the south of the
6 | site is a -- I think it's a two family. I saw
7 | the meters. It did seem to be two meters.

8 | And then, further south from the site is --
9 | I thought it was a church. It's not, it's a
10 | school. A school with -- that converted an
11 | existing church some time ago, with a playground.
12 | And I guess what used to be the rectory and now
13 | it's part of the school.

14 | As you go down 4th Avenue, or 4th and
15 | Palisades, on the next corner is a larger four
16 | story apartment building.

17 | Across the street, I believe you might have
18 | had some industrial buildings at some point that
19 | had been torn down. They're very large vacant
20 | lots.

21 | And then, to the north is a four or five
22 | story apartment building. And then, further
23 | north is a vacant lot which is just grass. And
24 | then, there's that very large industrial building
25 | that's kind of a -- a artist space. There's a

1 variety of small business that are in there. And
2 then, of course, you have the view of -- now you
3 can see the skyline because there are no
4 buildings there.

5 So, it's a very different -- eclectic
6 mixed, generally residential development,
7 neighborhood.

8 So, we're looking for a parking variance
9 because the Residential Site Improvement
10 Standards requires, as I see it, one and a half
11 spaces for a -- a one bedroom unit and two spaces
12 for a three bedroom unit. And we have two spaces
13 in the garage and there are two spaces outside on
14 the -- the concrete driveway, so it can provide
15 two spaces for each three bedroom unit. So, the
16 one bedroom unit is without a space.

17 From a planning perspective, from a use
18 perspective, not only does there appear to be
19 some parking on the street when I was there, but
20 also when school is out, once it's over, all the
21 -- the cars that do park on the street from the
22 use of the -- the school are available, as well
23 as on the weekends.

24 Also, down the block, I believe it's on 9th
25 Street, across from the pool, there's permit

1 parking from the Union City Community Development
2 Agency.

3 So, there is availability for not only
4 parking on the street after hours, for people
5 coming back from work, there's also availability
6 for permit parking. And it also has a
7 significant mass transit route for people going
8 into the city. And based upon the requirements
9 of the RSIS, you can -- the Board has the ability
10 to not require that parking space because of the
11 availability of mass transit.

12 It's -- it's very consistent with the
13 neighborhood. Most of the -- actually, many of
14 the buildings and many of the homes do not have
15 garages, let alone driveways. So, they're --
16 it's -- it's kind of a mixed bag. So it -- it
17 appears that the granting of this variance will
18 not have a negative impact, both on your zone
19 plan or your Master Plan.

20 CHAIRMAN MAROTTA: Any questions from
21 members of the Board?

22 MR. PANEQUE: Mr. Marotta, just --

23 CHAIRMAN MAROTTA: And members of the
24 public?

25 MR. PANEQUE: -- one second.

1 Mr. Mulkay, are you requesting that Ms.
2 Hartmann's testimony be as an expert witness?

3 MR. MULKAY: Yes. I apologize. I'm sorry.

4 MS. HARTMANN: I'm so sorry. I'm -- I'm a
5 planner.

6 MR. MULKAY: Yeah, and she be recognized as
7 an expert. I think she's appeared before this
8 Board --

9 MS. HARTMANN: I apologize.

10 MR. MULKAY: -- many times.

11 MS. HARTMANN: I was here two months ago.
12 I apologize.

13 MR. PANEQUE: Mr. Marotta, as Chairman, you
14 recognize Ms. Hartmann as an expert witness?

15 CHAIRMAN MAROTTA: Oh, yes.

16 MR. PANEQUE: She's appeared before.

17 CHAIRMAN MAROTTA: Yeah. I met her before.

18 MR. PANEQUE: Yeah. We just needed it for
19 the record.

20 All right.

21 Thank you.

22 MR. MULKAY: Thank you.

23 MS. HARTMANN: I apologize.

24 MR. MULKAY: Thank you.

25 MR. PANEQUE: That's quite all right.

1 CHAIRMAN MAROTTA: No questions?

2 Motion to approve.

3 THE SECRETARY: Motion to approve the
4 application by Chairman Marotta.

5 Second by Mr. Bonacci.

6 Roll call on the motion to approve this
7 application.

8 Mr. Marotta?

9 CHAIRMAN MAROTTA: Yes.

10 THE SECRETARY: Mr. Bonacci?

11 VICE CHAIRMAN BONACCI: Yes.

12 THE SECRETARY: Ms. Gutierrez?

13 MS. GUTIERREZ: Yes.

14 THE SECRETARY: Mr. Gullon?

15 MR. GRULLON: Yes.

16 THE SECRETARY: Mr. Medina?

17 MR. MEDINA: Yes.

18 THE SECRETARY: Mr. Ortiz?

19 MR. ORTIZ: Yes.

20 THE SECRETARY: Six in favor, motion
21 carries.

22 MR. VALELLA: Good night.

23 THE SECRETARY: Thank you.

24 MR. MULKAY: Thank you.

25 MR. VALELLA: Thank you.

1 MR. MULKAY: Good night, everybody.

2 Thank you.

3 MS. GUTIERREZ: Good night. Good night.

4 MR. MULKAY: Okay.

5 Thank you.

6 CHAIRMAN MAROTTA: We're going to take a
7 ten minute break now.

8 THE SECRETARY: Ten minute break by
9 Chairman Marotta.

10 Thank you.

11

12 (Whereupon, the Board recessed from 8:00
13 p.m. to 8:12 p.m.)

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

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

5 Next application on tonight's agenda, Lidia
6 Sevillano, 424 8th Street.

7 Ms. Pereiras, please?

8 MS. PEREIRAS: Thank you, Mr. Vallejo.

9 Again, Bianca Pereiras, on behalf of Lidia
10 Sevillano.

11 The Board may recall we had started our
12 presentation at the last meeting, also at the
13 meeting before. There were some comments from
14 the public at that time.

15 We're trying to address those comments and
16 revisit the drawings, so if this Board would be
17 so kind as to carry this matter until the next
18 month's agenda.

19 I apologize.

20 CHAIRMAN MAROTTA: Is that number five?

21 MS. GUTIERREZ: Yes.

22 MR. PANEQUE: Yes.

23 MS. GUTIERREZ: Yes.

24 CHAIRMAN MAROTTA: Okay.

25 MR. PANEQUE: Yes.

1 CHAIRMAN MAROTTA: We'll carry it.

2 MS. PEREIRAS: Thank you very much.

3 THE SECRETARY: Motion by Mr. Marotta.

4 MS. GUTIERREZ: Second.

5 THE SECRETARY: Second by Ms. Gutierrez.

6 Roll call on the motion to adjourn this

7 application for March 8th, 2018.

8 Mr. Marotta?

9 CHAIRMAN MAROTTA: Yes.

10 THE SECRETARY: Mr. Bonacci?

11 VICE CHAIRMAN BONACCI: Yes.

12 THE SECRETARY: Ms. Gutierrez?

13 MS. GUTIERREZ: Yes.

14 THE SECRETARY: Mr. Grullon?

15 MR. GRULLON: Yes.

16 THE SECRETARY: Mr. Medina?

17 MR. MEDINA: Yes.

18 THE SECRETARY: Mr. Ortiz?

19 MR. ORTIZ: Yes.

20 THE SECRETARY: Six in favor, motion

21 carries.

22 MS. PEREIRAS: Thank you very much.

23 CHAIRMAN MAROTTA: Before we start, please.

24 MS. PEREIRAS: Sure.

25 CHAIRMAN MAROTTA: I just want to remind

1 everyone we will be adjourning at ten o'clock.

2 THE SECRETARY: We will be adjourn at ten
3 p.m.

4 Next application --

5 MR. PANEQUE: Mr. --

6 THE SECRETARY: -- tonight's agenda --

7 MR. PANEQUE: Mr. Vallejo, on the matter
8 that was just adjourned to the next meeting,
9 there's not going to be any notice requirement.

10 MS. PEREIRAS: Thank you very much,
11 counselor.

12 MR. PANEQUE: Okay, Ms. Pereiras?

13 Thank you.

14 THE SECRETARY: Thank you, Mr. Paneque.

15 * * *

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1 **134 35th Street, LLC - 134-136 35th Street:**

2

3 THE SECRETARY: Next application on
4 tonight's agenda, 134 35th Street, LLC, 134-136
5 35th Street.

6 Mrs. Pereiras, please?

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

10 I have an Affidavit of Publication from The
11 Jersey Journal, indicating that notice of
12 tonight's --

13 This is the wrong --

14 MS. PEREIRAS: Did I give you the wrong
15 one?

16 MR. PANEQUE: Yes.

17 MS. PEREIRAS: I -- hold on.

18 MR. PANEQUE: This is on Miyoko Idrissi.

19 MS. PEREIRAS: Oh.

20 MR. PANEQUE: Which was already heard.

21 MS. PEREIRAS: Did I give you then the --
22 maybe I gave Miyoko's --

23 MR. PANEQUE: Yeah.

24 Mr. Vallejo, I believe they might have
25 given the proof of publication on the Miyoko

1 Idrissi case for this case.

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

4 MS. PEREIRAS: I have a copy.

5 MR. PANEQUE: Hold on. Let's see. You're
6 now on 134 --

7 MS. PEREIRAS: One thirty -- 134 35th
8 Street.

9 MR. PANEQUE: That's -- you have the right
10 -- but we have the wrong --

11 MS. PEREIRAS: Certification?

12 MR. PANEQUE: -- certification.

13 This is for 315. And I think the one --
14 the other one, also -- let me take a look at that
15 one. Let me take a look at that certification.

16 MS. PEREIRAS: I apologize.

17 MR. PANEQUE: That's okay.

18 Thank you, sir.

19 THE SECRETARY: You're welcome.

20 MR. PANEQUE: This goes with this one, and
21 this goes with this one.

22 MS. PEREIRAS: Thank you, counselor.

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

25 MR. PANEQUE: Let the record reflect the

1 following:

2 I've been provided with the following
3 documentation by Ms. Pereiras:

4 I have an Affidavit of Publication from The
5 Jersey Journal, indicating that notice of
6 tonight's hearing was published on January 27th,
7 2018 for the property located at 134-136 35th
8 Street, giving notice of tonight's hearing on
9 February 8th, 2016 (sic).

10 I've also been provided with a
11 certification as to publication and service,
12 which has been signed by Ms. Pereiras, indicating
13 that notice of tonight's hearing, with respect to
14 the property in question was sent out to all
15 property owners within the 200 foot radius on
16 January 29, 2018.

17 I've also been provided with copies of the
18 certified mail receipts with a postmark stamp of
19 January 29th.

20 I've also been provided with a Tax
21 Assessor's list of all property owners within the
22 200 foot radius of the property.

23 Wrong property.

24 MS. PEREIRAS: My apologies, counsel.

25 MR. PANEQUE: That's okay.

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

3 MR. PANEQUE: Now we have the correct tax
4 list for property at 134 35th Street. That tax
5 list was given by the Union City Tax Assessor's
6 Office, with a date of January 24th, 2018.

7 I've also been provided with the certified
8 mail receipts that have come back to date.

9 Based on the documentation that's been
10 provided, this Board has jurisdiction to proceed
11 and hear this matter.

12 MS. PEREIRAS: Thank you very much.

13 THE SECRETARY: Thank you.

14 MS. PEREIRAS: Again, Bianca Pereiras on
15 behalf of the applicant, 134 35th Street, LLC.

16 This is for property located at 134-136
17 35th Street.

18 The applicant's proposing to demolish an
19 existing building and construct a new four story
20 residential building, consisting of three floors
21 of residential units, above one floor of parking.

22 We are located in the R low density
23 residential zone.

24 We have two experts to testify before the
25 Board this evening. I'd like to begin the

1 presentation with our architect, Mr. Manuel
2 Pereiras.

3 MR. PEREIRAS: Manny Pereiras. I recognize
4 I am still under oath.

5 MS. PEREIRAS: Mr. Pereiras, are you
6 familiar with the property at 134-136 35th Street?

7 MR. PEREIRAS: I am.

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

10 MR. PEREIRAS: I have.

11 MS. PEREIRAS: And would you kindly walk us
12 through the application?

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

14 For purposes of this presentation, I did
15 two things. First and foremost, the same
16 drawings that you have before you --

17 MS. DILLON: Excuse me, Manny.

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

20 MS. DILLON: I need a new battery. Keep
21 going.

22 MR. PEREIRAS: Okay.

23 So, the same drawings that were submitted
24 to the Board are on the easel to my right. It
25 starts with sheet Z01 and continues to sheet Z03.

1 And on the left hand side of the room, we
2 have a artistic rendering, an interpretation of
3 what this building will look like.

4 Counsel, would you like me to mark that?

5 MR. PANEQUE: Yes, please, Mr. Pereiras.

6 MR. PEREIRAS: I'm happy to.

7 MR. PANEQUE: Mark that as A-1.

8 MR. PEREIRAS: For purposes of the record,
9 I'm marking the back of the rendering as A-1,
10 with today's date.

11

12 (Whereupon, Rendering was received and
13 marked as Exhibit A-1.)

14

15 MR. PEREIRAS: I think every -- can
16 everyone back there see it from there?

17 A CITIZEN: Yes.

18 MR. PEREIRAS: Okay. Okay. Fantastic.

19 We have a 50 by 100 lot. Okay. So, we've
20 been listening, since we're here every single
21 month, and we understand that the City has an
22 inclination not to go -- and with less density.
23 We don't want as many units in -- into our
24 neighborhood. We want a different type of
25 housing type, of housing stock. And we listened

1 to everything you -- you've been suggesting.

2 And what we're looking to do is we look at
3 what the City wants, which is basically we're --
4 our Ordinance says clearly three families on a 25
5 by 100. So, we have a 50 by 100, so we thought,
6 very clearly, simply, we'll provide six units.
7 Absolutely nothing more than that.

8 But however, the difference of what we're
9 doing here is by joining two lots, we have a
10 significantly better application than if this was
11 two three family houses.

12 And I'm going to walk you through the
13 entire process of how we came to that.

14 First and foremost, and I think it's very
15 important to understand, parking is the biggest
16 issue. With a three family house, the most we
17 could do is four cars or tandem, which means only
18 two units get cars.

19 In this application, we have nine parking
20 spaces provided. And I'll show you and I'll walk
21 you through how we get to those nine parking
22 spaces.

23 So we have six units, with nine full
24 parking spaces, and one of those spaces is a
25 handicap accessible space, which is another very

1 | important aspect that makes this distinctively
2 | different than a three family house, because
3 | we're providing ADA compliance. And we're doing
4 | that at no additional impediment to the
5 | neighborhood.

6 | So, now, we have six units that are fully
7 | ADA compatible, which is a huge need in our
8 | community. There aren't -- there -- we have some
9 | apartments, but to find an apartment that
10 | somebody in a wheelchair could access is
11 | difficult. And this will provide six apartments
12 | that have that ability.

13 | It also provides a desperately needed
14 | housing stock. You see a lot of developers going
15 | for one bedrooms and two bedroom units all over
16 | the City. We heard you and we understand that
17 | that's not what the City wants. The City wants
18 | families. It wants Union City people. And
19 | therefore, we're providing three bedroom units.

20 | So, we have, very modestly, six three
21 | bedroom units on this property. And the way we
22 | accomplish that is -- is with this project here.

23 | Now, additionally, when you have a three
24 | family house, you have a side yard setback that
25 | one side is two feet and the other side is three

1 feet.

2 By combining this together, we're providing
3 additional setbacks at the yard. So, we're
4 creating a greater space to our neighbors.

5 So, we have three foot eight on one side
6 and three foot eight on the other side. So, much
7 better than the three family house where you only
8 have two feet. It's three foot eight. And every
9 foot counts, every inch counts when you're coming
10 to small neighborhoods like this.

11 So, we have a greater side yard setback
12 than if we were to provide a project as two three
13 families.

14 What else?

15 Okay. Our front yard. A ten foot front
16 yard is required. What we are looking to do is
17 to add a little bit of attractive appeal to this,
18 and we're providing our buildings to line up with
19 the adjacent structures for the most part. And
20 then, we're creating this, dressing it up with
21 the front, creating that elevator and vertical
22 core along the front of the building, that breaks
23 it up and comes to the zero foot setback.

24 Additionally, the height of the structure.
25 We are very respectful, we understand the

1 neighbors don't want a big massive structure next
2 to them, so we did exactly what's permitted in
3 the district, as far as building height.

4 So, we could build a three family house
5 there, that's 40 feet tall. That's typically
6 what would be -- we would -- what would be done.
7 And what we're providing is a three story -- four
8 story building that's 40 feet tall. So, we're
9 keeping the same height as far as feet as another
10 -- as if this was a three family.

11 So, if a neighbor was concerned that they
12 have a monster structure next to them, that's not
13 the case here, because we're providing something
14 that is the same height as a three family, as far
15 as the height in feet, except one much better
16 thing, which is that we have a little bit more
17 space between us and the neighbors. So, instead
18 of having two feet and three feet on one side, we
19 have a full three foot eight on both sides.

20 So, it makes the application a lot better,
21 and it makes it relatively better to the
22 neighbors, rather than this large structure.

23 So, we have a lot of things going for us.
24 We have more parking. We have the same height,
25 which is equal, a greater step back on the side.

1 Okay.

2 Now, let's talk about some of the variances
3 that we do have.

4 In our rear yard, we're required to have 25
5 percent of the -- of the lot depth. We have, and
6 we're proposing eight foot nine on one side, and
7 nine foot -- almost ten feet on the other. It's
8 a slightly irregular lot. But there are very
9 specific reasons why we do that.

10 Why? Because parking is so important to
11 us.

12 Number one, we want to be able to have the
13 nine parking spaces that we are providing on this
14 lot. So, as you drive through this lot, you have
15 six parking spaces head on along here, and three
16 along the side. I'm not proposing any tandem
17 spaces. I'm not proposing any undersized spaces.
18 We have full nine by 18 spaces allowable here,
19 and everyone could go into their own physical
20 spot, including the handicap accessible spot.
21 And the way we accomplish that is by doubling the
22 aisle for a handicap with the aisle for the drive
23 aisle. And that's permitted by Code, and we're
24 able to do that here.

25 Additionally, there's a second reason why

1 we have that rear yard setback variance that
2 we're -- we're requesting. And that's because of
3 the apartment size.

4 As we said before, we don't want ones and
5 two bedrooms, and having different -- we want
6 Union City families. We want the ability to
7 provide for this family size, and that's why we
8 have the additional rear yard, so that we could
9 have full three bedrooms in this building.

10 And let me walk you through all the
11 particulars of the building.

12 You enter the building on the right hand
13 side and oh, and this is a big factor, too. If
14 you have -- and let me compare it to the three
15 families, because it makes a big difference.

16 If you have a three family house, you have
17 a driveway and you have a stair. There's
18 absolutely no room for landscaping.

19 By having just one curb cut along here, and
20 having a small entryway, we created these big
21 pockets where we could have landscaping.

22 So that makes a huge difference to the
23 aesthetics of our town, really significantly
24 improves the neighborhood and makes it a lot more
25 attractive by being able to introduce some --

1 | some shrubbery and some flowers into the
2 | neighborhood.

3 | So that's a big aspect of what makes this a
4 | beneficial project.

5 | So, as you walk into the building, you have
6 | a -- you have basically ten feet on your property
7 | that you're walking through to the pavers,
8 | because that door is set back ten feet. And you
9 | walk into an entry level, roll on, so you could
10 | -- it's at level and fully ADA compliant, and you
11 | have the choice of going up stairs, which are
12 | attractive to promote health of -- of its
13 | occupants.

14 | You have glass from top to bottom on the
15 | stair, so that it's naturally lit, or the
16 | elevator, and you have your machine room, your
17 | mailroom and a trash room along the edge of the
18 | building.

19 | So, we're providing a trash room with
20 | access through the outside, on the side yard, in
21 | order to get the garbage in and out, and store it
22 | within the building, within sealed walls, so that
23 | neighbors have no issues with garbage being piled
24 | up, or smells. It's totally contained within the
25 | building. So, we were able to accomplish that

1 here.

2 We divided the building's emergency egress
3 into two stairwells in the front and in the rear.
4 And we kept that stairwell within the -- the
5 footprint of the building.

6 If you go up the elevator, you have a
7 simple vestibule and you're entering into
8 apartments on each side. You enter on the -- and
9 they're perfect mirrors of each other, except for
10 the rear where there's a stairwell.

11 You enter into a large living room, dining
12 room, kitchen space, open floor plan. So, very
13 contemporary, very simple, very open, with nice
14 large windows along the front that you could see
15 on the elevation. A dinette area along the side,
16 and then three bedrooms are a comfortable size.
17 They're 16 in length by ten feet wide. So,
18 they're comfortable bedrooms.

19 And then, the master, which is 14.6 with
20 14.2 and the master has its -- its master bath
21 and -- and walk-in closet.

22 And it's the same thing on the other side,
23 except it gets a little bit smaller. The master
24 bath and the walk-in closet get a little bit
25 smaller, and the master bedroom gets a little bit

1 smaller because we have the -- the stairwell
2 along the rear of the property.

3 The elevation.

4 We wanted to fit into the neighborhood in
5 the sense of scale. Okay? And the rendering --
6 and take this as an artistic rendering. It's not
7 perfectly accurate in every way.

8 For example, there's another small house
9 here, between this building and our house, but we
10 wanted to match the -- the span that's less than
11 25 feet wide. It's about 20 feet wide. It's
12 that rhythm that -- that is created in the Union
13 City streets. We didn't want a big block or a
14 big mass, so we were able to accomplish that by
15 breaking this into three vertical elements.
16 Keeps the same scale, that same repetition.
17 Makes an attractive look.

18 And what we're doing is providing a brick
19 building. And -- and I think brick is part of
20 the fabric of what Union City is. We really
21 promote using brick in -- as much as we can in
22 our buildings. And keeps that character that --
23 that we love so much in Union City.

24 And then, it's very simple details. We
25 have a simple metal cornice along the top to --

1 to really define the edge of the building, and a
2 small canopy by the doors in the front.

3 We have some simple lighting, based on
4 sconces along the front of the building, to light
5 up the -- the sidewalk, but not disturb the
6 neighbors with some extra -- with -- with
7 lighting pollution.

8 And I think what we have before you is a
9 great small building that works very well for
10 Union City and provides some important housing
11 stock that we need for handicap compliance and in
12 general.

13 I'm ready for your questions.

14 CHAIRMAN MAROTTA: Any questions?

15 MR. GRULLON: Mr. Pereiras, I have a
16 question.

17 The set -- the setback of the parking -- in
18 the entrance for the parking garage, --

19 MR. PEREIRAS: So --

20 MR. GRULLON: -- the driveway, the setback
21 to the sidewalk.

22 MR. PEREIRAS: So, it's about ten -- almost
23 ten feet where it is. I think it's nine foot
24 eight. Something like that. Let me tell you
25 precisely. Bear with me.

1 So, and I'm turning to my site plan. So,
2 the parking garage is nine foot six inches. The
3 doors for the parking garage from the property
4 line.

5 So, it -- it's perfect because before you
6 get to the sidewalk, your car is nine foot six
7 feet into visibility. You're out of the parking
8 garage, you have very perfect visibility, so you
9 could see people -- pedestrians walking, you can
10 see cars coming.

11 That nine foot six makes a big difference.
12 There's a lot of buildings in Union City that
13 literally have zero. So, your car comes out, you
14 could hit somebody. This is very different from
15 that. It's set back nine foot six, so that you
16 have that full visibility of the entire
17 pedestrian way and the -- and the vehicle way.

18 MR. GRULLON: And you only have one curb
19 cut?

20 MR. PEREIRAS: Correct. Just one curb cut,
21 which is a drastic difference between this and
22 what we would have if we had three family houses,
23 where you would have two large curb cuts, because
24 it's four cars going -- cutting straight in, two
25 and two.

1 MR. GRULLON: Okay.

2 No more questions.

3 CHAIRMAN MAROTTA: Any -- any other
4 questions?

5 The audience have questions?

6 Yes, sir.

7 MR. PEREIRAS: Oh, architect. How are you?

8 MS. DILLON: Right in front of the
9 microphone.

10 Sir, please raise your right hand.

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

13 MR. SANCHEZ: Yes, I do.

14 MS. DILLON: Would you please state your
15 name and spell it for me?

16 MR. SANCHEZ: My name is Pedro, P-E-D-R-O,
17 last name Sanchez.

18 I'm also an architect, and if possible, I'd
19 like to give professional comment.

20 MS. DILLON: And your address?

21 MR. SANCHEZ: 125 35th Street, Union City,
22 New Jersey.

23 MS. DILLON: 125?

24 MR. SANCHEZ: Yes, 35th Street.

25 MS. DILLON: Thank you.

1 MR. SANCHEZ: I'm -- I live right on this
2 block.

3 MS. DILLON: Yes.

4 MR. SANCHEZ: Three -- three houses away.

5 MS. DILLON: Okay.

6 MR. SANCHEZ: Do you need my credentials?

7 CHAIRMAN MAROTTA: No. It's okay. Go
8 ahead.

9 MR. SANCHEZ: Okay.

10 All right. I've been here before, so some
11 of you might find me familiar. I just have a
12 couple quick questions because I know everybody's
13 pressed for time.

14 You say it has nine parking spaces
15 provided, but there's six three bedroom units.

16 MR. PEREIRAS: Correct.

17 MR. SANCHEZ: Okay.

18 Out of curiosity, what would it be --
19 what's the zoning -- the actual zoning
20 requirement for parking, as far as --

21 MR. PEREIRAS: The --

22 MR. SANCHEZ: -- parking spaces?

23 MR. PEREIRAS: So, the total requirement
24 would be 14 spaces.

25 MR. SANCHEZ: So 14 --

1 MR. PEREIRAS: Mr. Spatz, do you agree with
2 that?

3 MR. SPATZ: We calculated it to 13.

4 MR. PEREIRAS: Thirteen spaces.

5 MR. SPATZ: Depends on how you round it.

6 MR. SANCHEZ: Right. So, 13, you're giving
7 nine. All right. Fair enough.

8 The existing two family structure next to
9 it, it's not on the rendering.

10 MR. PEREIRAS: It's not on the rendering.
11 It's my mistake, and I -- I hope I made that
12 clear --

13 MR. SANCHEZ: Yeah.

14 MR. PEREIRAS: -- to the Board.

15 MR. SANCHEZ: So, it's tough --

16 MR. PEREIRAS: There's -- there's a house.

17 MR. SANCHEZ: It's tough to see scale. You
18 know, if you saw the building, it'd be like half
19 the size. Okay.

20 MR. PEREIRAS: But we are not asking for
21 any additional height that we don't need as far
22 as feet. We're -- we're compliant in that.

23 MR. SANCHEZ: Okay.

24 As an architect -- I mean, I think the
25 building is -- is nice.

1 MR. PEREIRAS: Thank you.

2 MR. SANCHEZ: And I think you're making a
3 valid attempt. And even though the adjacent
4 building is -- is the largest building on the
5 block, and you're matching it, but as an
6 architect, my concern is that elevator.

7 MR. PEREIRAS: Um hum.

8 MR. SANCHEZ: If that's an elevator core.
9 What -- what is the height of the building again?

10 MR. PEREIRAS: So, the height of the
11 building is 40 feet.

12 MR. SANCHEZ: What about the elevator --

13 MR. PEREIRAS: Now --

14 MR. SANCHEZ: -- bulkhead?

15 MR. PEREIRAS: -- the elevator bulkhead is
16 permitted and it's not addressed within zoning.
17 So, your -- it's -- so, an elevator has an
18 override. So, the override to the elevator is
19 higher than the floor itself.

20 MR. SANCHEZ: Right.

21 MR. PEREIRAS: So it goes beyond it. And
22 the Ordinance -- not just Union City, but
23 everywhere across New Jersey, typically
24 recognizes that the elevator and stair bulkhead
25 does not count towards the height of the

1 building.

2 MR. SANCHEZ: So, what's the top of that
3 bulkhead?

4 MR. PEREIRAS: I'll tell you.

5 MR. SANCHEZ: Because it looks tall.

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

8 MR. PEREIRAS: It's six feet six inches
9 taller than the top of the building. So, it's 46
10 feet six inches in height.

11 MR. SANCHEZ: All right.

12 My only comment as -- as an architect is,
13 it's a tall building to begin with, but I
14 understand. But by putting that elevator
15 bulkhead in the -- in the front façade, it makes
16 it a lot bulkier.

17 MR. PEREIRAS: What we can do, and if it
18 satisfies the public, because we -- the applicant
19 wants to do this building, and if it helps you
20 and makes you feel comfortable, what we could is
21 we could not have that front stairwell going all
22 the way up to the roof, just have the rear
23 stairwell go all the way up to the roof. And
24 that's the front portion of it.

25 The elevator bulkhead that's stepped back a

1 good ten feet towards the building, and we'll
2 keep that at the same size so that we can match
3 that height.

4 MR. SANCHEZ: Right.

5 MR. PEREIRAS: But we'll be happy to drop
6 that -- the six -- it won't be a total six feet.
7 It will probably be another four feet that we're
8 going to drop down for the elevator.

9 But we're definitely willing to work with
10 the public, whatever you --

11 MR. SANCHEZ: Right.

12 MR. PEREIRAS: -- feel that's --

13 MR. SANCHEZ: My --

14 MR. PEREIRAS: -- necessary.

15 MR. SANCHEZ: My only comment, if that
16 bulkhead could be either relocated lower, or even
17 if the material changed a little bit, because you
18 have the --

19 MR. PEREIRAS: We could do that.

20 MR. SANCHEZ: You have a monolithic huge
21 column of brick going up.

22 MR. PEREIRAS: We would be happy to satisfy
23 that.

24 MR. SANCHEZ: Okay. That's my comment
25 there.

1 And how many variances total are we
2 applying for?

3 MR. PEREIRAS: Ah, Counsel?

4 And -- and we have a planner that's going
5 to go into detail about every variance.

6 MR. SANCHEZ: Okay.

7 And the rear yard, I'm sorry, is -- how
8 much rear yard is there?

9 MR. PEREIRAS: It varies because it's a --
10 it's a sloping -- it's an irregular lot, but it's
11 at nine foot something on one side.

12 Hold on.

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

15 MR. PEREIRAS: It's nine foot 11 and three
16 quarters on one point, and on the other point,
17 it's eight foot nine and three quarters.

18 MR. SANCHEZ: Okay.

19 And my last question, that railing on the
20 roof, that's just a guardrail?

21 MR. PEREIRAS: That's just a -- a
22 guardrail. It's just more for aesthetic.

23 MR. SANCHEZ: That's not going to be a
24 rooftop, is it?

25 MR. PEREIRAS: It's not a rooftop terrace.

1 MR. SANCHEZ: Okay. So then --

2 MR. PEREIRAS: We don't have that proposed.

3 MR. SANCHEZ: -- as an architect, I'm okay
4 with the building. I'm just concerned about the
5 -- the massiveness of that exposed front
6 bulkhead.

7 MR. PEREIRAS: And we -- and we could
8 address that for you.

9 MR. SANCHEZ: And that's pretty much it.
10 If that could be addressed, either with size,
11 relocation or scale, or even if a different
12 material articulation.

13 MR. PEREIRAS: We'd be happy to do that.

14 MR. SANCHEZ: Okay.

15 That's all I have for this comment.

16 Thank you very much.

17 MS. GUTIERREZ: Thank you.

18 MR. GRULLON: Thank you.

19 CHAIRMAN MAROTTA: Thank you.

20 Any other questions?

21 MS. DILLON: Right in front of the
22 microphone, sir.

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 MR. SOMMA: Yes.

2 MS. DILLON: I need you state your name,
3 spell it for me, and --

4 MR. SOMMA: My name is --

5 MS. DILLON: -- give your address.

6 MR. SOMMA: -- Michael Somma, S-O-M-M-A. I
7 live at 122 35th Street.

8 MS. DILLON: Thank you.

9 MR. SOMMA: My question is that you notice
10 there's no building in between. There is a house
11 in there that you know --

12 MR. PEREIRAS: I absolutely know that. I
13 recognize my mistake and --

14 MR. SOMMA: So --

15 MR. PEREIRAS: -- I hope I made that clear.

16 MR. SOMMA: -- it looks like everything in
17 the neighborhood is scale to that building. But
18 when you put that building next to the house
19 that's next to it, it's dwarfed. That dwarfs the
20 house that's next to it.

21 MR. PEREIRAS: Absolutely. And let me be
22 clear with that.

23 The height of this structure, roughly, is
24 about the same of what the structure would be
25 here. It's two stories with -- plus a --

1 MR. SOMMA: Right. I --

2 MR. PEREIRAS: -- the attic space. And
3 that's what it is.

4 But -- and referring to my testimony, the
5 height of a three family house would be 40 feet,
6 equal. And yet, we're going to be set back more
7 than what a three family house is.

8 So, it's not -- it doesn't dwarf it
9 compared to what's permitted in this Ordinance.
10 It actually makes it a better, because we have
11 greater distance to the house.

12 MR. SOMMA: That house is set ten feet back
13 from where that other house is, with a garage
14 opening there? That -- the new building you're
15 looking to plan is ten feet further back than
16 that doorway on the --

17 MR. PEREIRAS: It's --

18 MR. SOMMA: -- the building to the left?

19 MR. PEREIRAS: It is. It's ten feet back
20 from the property line. And I -- I'm not sure
21 what -- I don't have a survey for the building,
22 the adjacent building, but I believe it's step
23 back from it.

24 MR. SOMMA: It's right up -- it's right up
25 to the sidewalk.

1 MR. PEREIRAS: It's right on the sidewalk.
2 So yeah. So we -- we're ten feet -- we're nine
3 foot six back.

4 MR. SOMMA: But the elevator shaft is going
5 to be right up to the same --

6 A CITIZEN: The elevator shaft goes --

7 MR. PEREIRAS: The -- the stairwell and the
8 elevator shaft.

9 MR. SOMMA: Is going to be right up to the
10 sidewalk, anyway.

11 MR. PEREIRAS: It's at zero. Yeah. And
12 with the curb.

13 MR. SOMMA: So you're really not --

14 MR. PEREIRAS: So the tip of the curb.

15 MR. SOMMA: You're really not gaining
16 anything because when you're walking up the
17 street, it's still -- the elevator shaft is out
18 in the middle of the -- up to the sidewalk line
19 anyway.

20 MR. PEREIRAS: So, the elevator shaft --
21 the -- the stairwell has a zero setback.

22 MR. SOMMA: Right.

23 MR. PEREIRAS: So, it's like the -- the
24 building massing is behind, the elevator's
25 forward. And that was done for aesthetic

1 reasons.

2 MR. SOMMA: But you know, you're replacing
3 -- you got to remember, we live there -- all
4 these people here, we lived there our whole
5 lives.

6 MR. PEREIRAS: I understand, sir.

7 MR. SOMMA: There was a one family house,
8 and now you want to put six families in the same
9 place.

10 The house to the left of it, nobody in this
11 place likes the house. We can't stand it. How
12 it ever got built, we don't know. I don't know
13 how it ever came -- I never even got a letter
14 about that house being built.

15 MR. PEREIRAS: Um hum.

16 MR. SOMMA: Okay. Nobody likes that house.
17 I look out the back of my window of my
18 house now, I could see ten stories two blocks
19 away.

20 MR. PEREIRAS: Um hum.

21 MR. SOMMA: You know, it's like we have a
22 neighborhood, we've got 65,000 people living in
23 Union City. Everybody say, we need housing.

24 There's 65,000 people living in this town
25 already.

1 MR. PEREIRAS: Um hum.

2 MR. SOMMA: The last thing we need is more
3 people in the town.

4 MR. PEREIRAS: But there's -- there's very
5 -- I had very specific testimony.

6 MR. SOMMA: You know, everybody's saying we
7 need housing. We don't need housing.

8 MR. PEREIRAS: I'm saying the type of
9 housing we need. If -- sir, and if someone -- we
10 don't -- we can't predict who needs handicap
11 accessibility. And it's really unfortunate that
12 a lot of people in Union City, of the 65,000, not
13 bringing people outside from -- from any other
14 town or from New York or anything, no.

15 Of the 65,000 people, so many people need
16 handicap accessible housing. And this is
17 providing six units that do have that. And
18 that's the housing stock that we're specifically
19 talking about that's extremely necessary --

20 MR. SOMMA: Well, you're build --

21 MR. PEREIRAS: -- and completely missing --

22 MR. SOMMA: They're building 50 --

23 MR. PEREIRAS: -- in Union City.

24 MR. SOMMA: They're building 50 units two
25 blocks away.

1 MR. PEREIRAS: Yeah, but they're one and
2 two bedrooms. It's totally different housing
3 stock.

4 They're -- if you're a family, and you get
5 into a car accident, and you have a disability,
6 where are you going to go in Union City?

7 MR. SOMMA: What would you rather see? If
8 you were -- if you were a family and you wanted a
9 house, wouldn't you want a house --

10 Me? I want to tell you right now, I'd
11 rather see two, three families. I heard the
12 conversation before. I told Mr. Pete.

13 MR. PEREIRAS: Um hum.

14 MR. SOMMA: I told him, I said the same
15 thing.

16 The question was that you're going to have
17 to cut the curb across.

18 MR. PEREIRAS: Yeah. You lose a lot of
19 parking.

20 MR. SOMMA: I understand.

21 We're losing one spot.

22 MR. PEREIRAS: No. You lose a lot.

23 MR. SOMMA: No, we're --

24 MR. PEREIRAS: Because now you have --

25 MR. SOMMA: -- losing one spot.

1 MR. PEREIRAS: -- six families.

2 MR. SOMMA: Because I measured it already.

3 MS. DILLON: One at a time, please.

4 MR. PEREIRAS: Sorry.

5 CHAIRMAN MAROTTA: Let's not argue.

6 MR. PEREIRAS: You'll have six families
7 living there --

8 MR. SOMMA: Right.

9 MR. PEREIRAS: -- that only have --

10 MR. SOMMA: And has eight cars.

11 MR. PEREIRAS: -- eight cars.

12 MR. SOMMA: Right.

13 MR. PEREIRAS: But tandem cars. That means
14 that --

15 MR. SOMMA: Well, there's two --

16 MR. PEREIRAS: -- there's a car in front of
17 the other. So, every apartment, only four
18 apartments get cars. Only four. That means
19 there's two other apartments that will not have
20 cars.

21 MR. SOMMA: Well, there's --

22 MR. PEREIRAS: Plus, the parking space you
23 lose in the street.

24 So, you're losing three cars.

25 MR. SOMMA: You lose two spots on the

1 street. That's what you're going to lose with
2 two two family -- two three families.

3 MR. PEREIRAS: You lose three spots in the
4 street, whereas this --

5 MR. SOMMA: No. It's 50 --

6 MR. PEREIRAS: -- you lose nothing.

7 MR. SOMMA: It's -- it's 50 feet across the
8 lot. You're going to take that. There's going
9 to be one driveway, because the house next to it
10 now -- the building that's next to it now,
11 there's a driveway. There's only one spot.
12 After the driveway to the -- to the left of it,
13 going west, there's only one parking spot.

14 MR. PEREIRAS: I understand that, but you
15 have two apartments that will not have parking.

16 So, you're -- those two apartments are
17 going to be looking for parking on the street.
18 So, those are two cars that you lose in Union
19 City parking.

20 And then, on top of that, we're taking away
21 an additional parking spot from the street
22 because of the additional curb cut.

23 So it's a three car deficiency. And I -- I
24 mean, I'm making an argument for this case,
25 because I strongly believe in it.

1 For the neighborhood, as far as a parking
2 situation, this is not a little bit, signi --
3 three cars is a big deal. It's a significant
4 difference between this and two three family
5 houses for parking in -- in the neighborhood.

6 MR. SOMMA: Well, I don't --

7 MR. PEREIRAS: I'd rather -- you're going
8 to lose three spaces if it was two three family
9 houses.

10 MR. SOMMA: If it's two three family
11 houses, the apron -- it's going to be cut across
12 the whole lot.

13 MR. PEREIRAS: Yes. It is.

14 MR. SOMMA: Okay. You're going to take --
15 right now, you're taking a ten foot -- how wide
16 is the driveway?

17 MR. PEREIRAS: I think it's 12 feet.

18 MR. SOMMA: Twelve feet. So, the lot is 50
19 feet. So, you're going to lose -- if you were a
20 person, you're saying family, you want to bring
21 families in town, I'm all for it.

22 What would you rather have? Live in an
23 apartment or would you rather move into a three
24 family house, where you have your first floor is
25 your apartment.

1 MR. PEREIRAS: I'll tell you what.

2 MR. SOMMA: Now you have a small backyard
3 and you have a front. Now you have a feeling of
4 possession that you're in a house.

5 My -- my question is, wouldn't you -- if I
6 lived on a block, and we all do, we all had two
7 family houses, that's what the houses were built.

8 MR. PEREIRAS: Um hum.

9 MR. SOMMA: I would rather see something
10 that's in scale with the neighborhood. I don't
11 want to see what's going on on 37th Street. And
12 that building to the left, I -- I never -- nobody
13 ever -- I don't know how that ever got built. It
14 doesn't belong there.

15 MR. PEREIRAS: And you know -- you said --

16 MR. SOMMA: And we were just here a month
17 ago for another building, they wanted to put 12
18 units down the block by the bar.

19 Now, they just opened a bar and a
20 restaurant, two months ago, and now all the
21 people are crammiling (sic) (phonetic) for spaces
22 on the block because they opened the bar. And
23 now, we want to put 12 units, six units. I mean,
24 where we going to go?

25 You know, we paid the bulk of the taxes in

1 | this town for all these years. You know, now all
2 | of a sudden, everybody wants to come into the
3 | town because we're looking for space. Everybody
4 | wants to line their pockets.

5 | You know, what about the people that paid
6 | all their lives and lived there?

7 | If I added up what my family and I paid on
8 | that house, we could have bought that house and
9 | the one next to it.

10 | You know, it's -- we -- I'm not looking to
11 | lose my house.

12 | MR. PEREIRAS: I agree with --

13 | MR. SOMMA: That's my case.

14 | MR. PEREIRAS: -- so much of what you're
15 | saying. And I appreciate everything you said.

16 | MR. SOMMA: I still say two three family
17 | houses. If anybody thinks differently, that's
18 | it. But if I was buying a house and I wanted to
19 | move to that neighborhood --

20 | Also, you said you're providing nine
21 | parking spaces. They're three family -- they're
22 | three bedroom units. Do you really think that
23 | you're going to have enough parking there for
24 | three -- for six three bedroom units?

25 | MR. PEREIRAS: Yes. More than if it was

1 two three family houses. Yes.

2 MR. SOMMA: There's two -- a three family
3 house --

4 MR. PEREIRAS: Three more parking spaces.

5 MR. SOMMA: Well, there's ones right behind
6 it, as a matter of fact, and they've been there
7 for years. There's -- there's two cars and two
8 cars in the garage. That's eight cars.

9 A lot of times I go by there, there's maybe
10 one car outside, and two cars in the garage, and
11 that's it.

12 Same thing with the ones by Acme that you
13 said you built. And I -- I complimented you on
14 it. They were beautiful buildings. I say the
15 same thing.

16 I keep an eye on these things. I live
17 there. I think the two three families to the
18 town and to the block and to everybody there is a
19 better bet.

20 That's my saying.

21 CHAIRMAN MAROTTA: Excuse me, sir?

22 You said 65,000 people live here.

23 MR. SOMMA: Um hum.

24 CHAIRMAN MAROTTA: Actually, we're closer
25 to 80,000.

1 MR. SOMMA: I must be off.

2 CHAIRMAN MAROTTA: Okay?

3 MR. SOMMA: Yeah. I know.

4 CHAIRMAN MAROTTA: All right.

5 MR. SOMMA: And we're looking to bring more
6 people. But, see how it's working in Hoboken.

7 CHAIRMAN MAROTTA: Thank you very much.

8 MR. SOMMA: Thank you, sir.

9 CHAIRMAN MAROTTA: Anyone else want to
10 speak?

11 Let me ask you this.

12 The building that you intend to tear down,
13 what is it? Two family? One family? What is
14 it?

15 MR. PEREIRAS: I actually believe it's a
16 one family.

17 CHAIRMAN MAROTTA: One family.

18 MR. PEREIRAS: I'm not sure.

19 CHAIRMAN MAROTTA: It's a conforming use.

20 MR. PEREIRAS: Yes.

21 CHAIRMAN MAROTTA: What's there now.

22 MR. PEREIRAS: Yes.

23 CHAIRMAN MAROTTA: It's nonconforming?

24 MR. PEREIRAS: It's a conforming use.

25 CHAIRMAN MAROTTA: It's a -- you want to

1 replace a conforming use with a nonconforming
2 use.

3 MR. PEREIRAS: Because I feel it's a better
4 planning alternative.

5 CHAIRMAN MAROTTA: You know, I --

6 MR. PEREIRAS: I strongly feel that way.

7 CHAIRMAN MAROTTA: I understand why you
8 make your comparisons between two three family
9 houses and one six family. I don't agree with
10 it, but I understand why you make it.

11 But let me ask you this question. On this
12 lot, could you develop -- or could you draw and
13 design and develop it for two three family
14 houses?

15 MR. PEREIRAS: Of course I could draw it.
16 Yeah. Two three family houses.

17 CHAIRMAN MAROTTA: In other words --

18 MR. PEREIRAS: Not without a variance,
19 though.

20 CHAIRMAN MAROTTA: This could be developed
21 --

22 MR. PEREIRAS: Not without a variance.

23 CHAIRMAN MAROTTA: This could be developed
24 to a conforming use.

25 Right?

1 MR. PEREIRAS: Absolutely, sir.

2 CHAIRMAN MAROTTA: Okay.

3 Thank you.

4 I have no more questions.

5 MS. PEREIRAS: We have a planner to
6 testify, as well.

7 Mr. Kauker?

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

10 MS. DILLON: Mr. Kauker, you can just go
11 right in front of that mic.

12 MR. KAUKER: Okay.

13 MS. PEREIRAS: Mr. Kauker is still under
14 oath.

15 MS. DILLON: Mr. Kauker was previously
16 sworn. Yes.

17 MS. PEREIRAS: Thank you.

18 Mr. Kauker, are you familiar with the
19 property located at 134-136 35th Street?

20 MR. KAUKER: Yes, I am.

21 MS. PEREIRAS: And did you have an
22 opportunity to review the drawings prepared by
23 Mr. Pereiras?

24 MR. KAUKER: I did.

25 MS. PEREIRAS: And would you kindly

1 describe this project, from a planning
2 perspective?

3 MR. KAUKER: Certainly.

4 Just first with respect to the existing
5 conditions.

6 As Mr. Pereiras mentioned, the property is
7 located on 35th Street. It's located in between
8 Park Avenue to the east and Hudson Avenue to the
9 west.

10 The subject property has a total lot area
11 of 5,003 square feet. It's located in the R,
12 which is the low density residential district.
13 And currently, the lot is occupied by a two story
14 older residential dwelling.

15 With respect to the surrounding conditions,
16 there was some discussion previously as to the
17 uses that exist in the area, but there really --
18 there's a mix of land uses along this portion of
19 35th Street.

20 There are varying one and two family homes
21 of different sizes. There is an existing four
22 story apartment building that's located two
23 properties to the east of the subject property,
24 which is very -- I'm sorry. It's actually
25 located to the west, but very similar to what

1 we're proposing here in terms of the scale and
2 size.

3 On the opposite side of the street, there
4 are additional one and two family homes. And
5 then, it looks like there's a one story block
6 building that appears to be some sort of
7 warehouse, or maybe distribution type facility,
8 as they're box trucks that are parked, and then
9 there's also a garage located on the site, as
10 well.

11 What we're proposing to do is to -- to
12 demolish the existing structure to construct a
13 brand new four story building, containing six
14 dwelling units. The six units will all be three
15 bedroom, and they will all be ADA accessible
16 units, as well.

17 In reviewing the application, I had an
18 opportunity to review the Master Plan for Union
19 City. Again, it was last -- or it was prepared
20 in 2009.

21 I do feel that we meet a number of the
22 goals and objectives in the plan. Firstly, to
23 provide a balance mix of land uses and balance --
24 balanced development patterns in appropriate
25 locations.

1 Also, to provide a broad range of housing
2 choices. As I mentioned before, we're proposing
3 three bedroom homes and also, they're ADA
4 compliant, as well.

5 With respect to the Zoning Ordinance, it's
6 located in the R residential zone. Multiple
7 family is not a permitted use in the zone,
8 therefore we are requesting a D-1 use variance.

9 As Mr. Pereiras mentioned, three family
10 homes are permitted uses in the R zone. So,
11 theoretically, you could develop two three family
12 homes on this property. A three family home is
13 required to have a lot area of 2500 square feet.
14 We have a lot area of 5,000 square feet. So, the
15 property could be subdivided. You could
16 construct two three family homes on the property.

17 It's my opinion that what we're proposing
18 here is a better planning and zoning alternative.
19 Therefore, the general welfare is promoted by
20 constructing something on the site that, in my
21 opinion, is going to have less of an impact on
22 the neighborhood.

23 Mr. Pereiras spoke about the dimensional
24 requirements basically, and talked about a three
25 family home that could be constructed on the

1 site.

2 A three family home that's constructed
3 could be of a similar scale. It's allowed to
4 have a height of 40 feet. So, it could look very
5 similar to what is proposed here.

6 What we're proposing to do has some
7 benefits. He talked about curb cuts. You would
8 have multiple curb cuts with two three family
9 homes, as opposed to having one curb cut, one
10 means of ingress and egress to a building where
11 vehicles would come in and out.

12 That obviously is a benefit, in my opinion,
13 to what is being proposed here. Something that's
14 going to benefit the neighborhood.

15 You have a wide curb cut. You have
16 multiple vehicles that could be coming in and
17 out. There's no clear delineation of vehicle
18 ingress and egress to the site. That clear
19 delineation of ingress and egress to the site
20 fosters pedestrian safety, as well.

21 The site itself I think is -- is suited for
22 this application. It's similar to other
23 developments in the neighborhood, more
24 specifically, the existing four story multiple
25 family dwelling.

1 As I spoke about on the last application,
2 I'm just going to reiterate it. There's a need
3 for new housing in Union City. Your 2000 Master
4 -- 2009 Master Plan recognized that fact.

5 Again, I'm going to cite the statistics;
6 83 percent of the housing units were constructed
7 prior to 1989. And also, 32 percent of the units
8 were constructed prior to 1939.

9 This is going to provide newer housing,
10 that is going to address that specific need.

11 And in addition, I just want to reiterate
12 the fact that we are proposing three bedroom
13 units, as Mr. Pereiras testified to. Most of the
14 units being constructed in the City today are
15 one, two bedroom or studio units.

16 So, we're meeting a need for larger
17 bedrooms, as well. And again, they're also going
18 to be ADA compliant units.

19 We do require some C variances. There are
20 five C variances that we're requesting.

21 The first is for minimum front yard. Ten
22 feet or the prevailing setback is required, where
23 zero feet is proposed.

24 One thing I just wanted to point out, this
25 deviation for the front yard setback, is only

1 | limited to that small portion where the stairwell
2 | is in the front of the building. The remainder
3 | of the building is set back roughly nine and a
4 | half feet from the property line.

5 | So, again, that deviation is limited to
6 | only a small portion of the building.

7 | One of the other things, from an aesthetic
8 | point of view, it's going to provide some visual
9 | interest to the building, which is going to help
10 | with that scale and, basically, with -- with the
11 | sense of place with the street and the
12 | streetscape, as well.

13 | One other thing I would point out on the
14 | street, as well, is a number of other buildings,
15 | including the existing four story building are
16 | set back much closer to the street.

17 | There's a minimum rear yard setback that's
18 | required; 25 feet is required, where we propose,
19 | at minimum, eight feet nine inches.

20 | What this is really a product of is trying
21 | to create those larger three bedroom units. So,
22 | by having additional room in the rear, because
23 | what we're -- what we're doing is we're trying to
24 | comply with that front yard setback to reduce any
25 | visual impact on the street.

1 So, what we're doing is we're moving the
2 building a little bit further back on the site,
3 in order to provide those larger three bedroom
4 units.

5 In my opinion, I think that the larger
6 three bedroom units are benefits that would
7 outweigh any detriment.

8 Again, there are other homes on the block,
9 other buildings on the block that have rear yard
10 setbacks that are either similar or greater to
11 this. Again, if you look at the existing four
12 story structure that's located on the street.

13 Maximum building height.

14 We require a maximum building height
15 variance for the number of stories, not the
16 number of feet. Three stories are permitted,
17 we're proposing four stories.

18 Again, I want to point out that we meet the
19 40 foot height requirement.

20 The additional story is a result of
21 providing parking on the ground floor. In my
22 opinion, the benefit of providing that parking
23 outweighs any detriment of that additional story,
24 especially considering the fact that we comply
25 with the height, in terms of numerical feet.

1 The fourth variance is maximum building
2 coverage.

3 Ordinance permits a maximum coverage of 60
4 percent. The applicant proposes a building
5 coverage of 69.4 percent.

6 Again, that building coverage, similar to
7 the rear yard setback, is a product of trying to
8 provide those larger three bedroom units on the
9 property.

10 These are minor deviations, in my opinion,
11 would not have any significant impact on the
12 neighborhood.

13 A variance is also required for parking.
14 As Mr. Spatz mentioned before, he calculated
15 we're required 13 parking spaces, where nine
16 parking spaces are proposed.

17 One of the things I would point out is that
18 the number of parking spaces proposed for the six
19 units is quite generous, in terms of the
20 applications that I've testified to here in Union
21 City.

22 We provide one and a half parking spaces
23 per unit. Typically, the applications that I've
24 testified on previously, fall somewhere in the
25 range of 1.2 to 1.4.

1 The parking is also an RSIS requirement, so
2 we do need a de minimis exception from the RSIS
3 requirements.

4 RSIS, basically, when it looks at parking,
5 it looks at parking in the state, basically, the
6 same. If you're in an urban area, like Union
7 City, or if you're in the suburbs in northwestern
8 New Jersey. So, the parking requirements are the
9 same.

10 One of the things that we have here in
11 Union City, it's an urban location, as I
12 mentioned before. We're also in close proximity
13 to mass transit. There's a large availability of
14 mass transit in the area.

15 So, I believe that that mitigates that RSIS
16 de minimis exception and the minor deviation in
17 parking.

18 Finally, addressing the negative criteria.
19 As I mentioned before, it's my opinion that this
20 newer multiple family use, having limited curb
21 cuts, will actually be more of a benefit to the
22 neighborhood, and will not have a substantial
23 detriment.

24 In addition, with respect to the
25 impairment, to the intent and purpose of the

1 Master Plan or Zoning Ordinance, it's my opinion
2 that, as I mentioned before, we do meet a number
3 of the goals and objectives from your 2009 Master
4 Plan document.

5 And -- and in addition to that, I feel that
6 the proposed development is consistent with newer
7 development trends within Union City.

8 For those reasons, it's my opinion that the
9 applicant meets the burden of proof, the positive
10 criteria outweigh the negative criteria, and I
11 feel confident that the Board could grant the
12 variances requested this evening.

13 Thank you.

14 CHAIRMAN MAROTTA: Any questions from
15 members of the Board?

16 Any -- you have a question?

17 Any questions from the audience?

18 MR. PRICE: I have a comment that at the
19 close --

20 CHAIRMAN MAROTTA: Excuse me?

21 MR. PRICE: I have a comment but --

22 CHAIRMAN MAROTTA: Okay.

23 MR. PRICE: Now or --

24 CHAIRMAN MAROTTA: No. Wait awhile.

25 MR. PRICE: Okay.

1 CHAIRMAN MAROTTA: If it's comment, you can
2 wait. All right?

3 Excuse me. I think you testified that the
4 six unit building is more of a benefit to the
5 neighborhood.

6 Is that your testimony?

7 MR. KAUKER: The six unit -- the building,
8 as proposed, in this layout --

9 CHAIRMAN MAROTTA: Yeah.

10 MR. KAUKER: -- is -- is more of a benefit
11 than two three family homes.

12 CHAIRMAN MAROTTA: Well, you heard the
13 resident speak before --

14 MR. KAUKER: Right.

15 CHAIRMAN MAROTTA: -- that it's not a
16 benefit, didn't you?

17 MR. KAUKER: Well --

18 CHAIRMAN MAROTTA: He objected to it,
19 didn't he?

20 MR. KAUKER: Yeah. And obviously, he's
21 entitled to his opinion, but what I'm relying
22 upon are --

23 CHAIRMAN MAROTTA: Not only is he entitled
24 to his opinion, but he lives in the area, doesn't
25 he?

1 MR. KAUKER: That's true.

2 CHAIRMAN MAROTTA: You don't live there, do
3 you?

4 MR. KAUKER: I do not.

5 CHAIRMAN MAROTTA: Tell me, what do you
6 base your opinion on that this is more of a
7 benefit to the neighborhood?

8 MR. KAUKER: In my opinion, as I mentioned,
9 the general welfare is promoted, which is a
10 purpose of zoning, because this -- what we're
11 proposing is a better planning and zoning
12 alternative for the property, for the reasons
13 that I mentioned --

14 CHAIRMAN MAROTTA: What's --

15 MR. KAUKER: -- in my testimony.

16 CHAIRMAN MAROTTA: What's your citation for
17 that? What do you rely upon, that it's a benefit
18 to the neighborhood?

19 MR. KAUKER: As I mentioned before in my
20 testimony, there are going to be fewer curb cuts.
21 There's going to be a benefit in terms of
22 pedestrian safety. There's going to be a benefit
23 because you're going to have a delineated means
24 of ingress and egress from the property.

25 Again, we're looking at six units. You can

1 have six units --

2 CHAIRMAN MAROTTA: Let me --

3 MR. KAUKER: -- developed --

4 CHAIRMAN MAROTTA: -- ask you this
5 question.

6 MR. KAUKER: Okay.

7 CHAIRMAN MAROTTA: The building that's
8 there now is a conforming use.

9 MR. KAUKER: It is. It's a -- I believe
10 so.

11 CHAIRMAN MAROTTA: They want to --

12 MR. KAUKER: It's a one family home.

13 CHAIRMAN MAROTTA: They want to demolish a
14 conforming use and put a nonconforming use in.

15 Right?

16 MR. KAUKER: That's correct.

17 CHAIRMAN MAROTTA: Is that proper planning?

18 MR. KAUKER: In this case, I believe it is
19 for --

20 CHAIRMAN MAROTTA: Why?

21 MR. KAUKER: -- the reasons why I
22 mentioned.

23 Because we could construct a conforming two
24 -- two three family homes on the property, which
25 would also conform with your Ordinance.

1 And as I mentioned, the whole point of my
2 argument is that what we're proposing here makes
3 better sense, from a planning and zoning
4 standpoint, quite simply.

5 CHAIRMAN MAROTTA: Now, both the architect
6 and yourself --

7 MR. KAUKER: Um hum.

8 CHAIRMAN MAROTTA: -- agree that this
9 property can be developed pursuant to the Code.
10 Right?

11 MR. KAUKER: It could be developed --

12 CHAIRMAN MAROTTA: It can be developed.

13 MR. KAUKER: -- with two three family
14 homes. That is correct.

15 CHAIRMAN MAROTTA: So, if the property can
16 be developed according to the Code, then no
17 variance is granted.

18 Right?

19 MR. KAUKER: Well you --

20 CHAIRMAN MAROTTA: You're not entitled to a
21 variance then.

22 MR. KAUKER: There are many reasons that a
23 Board can grant a variance.

24 And what I'm -- what I'm saying is that
25 this is a better planning and zoning alternative,

1 | which furthers the purpose of zoning, more
2 | specifically Purpose A, which deals with the
3 | promotion of the general welfare.

4 | CHAIRMAN MAROTTA: Tell me what -- what's
5 | the unique characteristics of this site that make
6 | it appropriate for this property?

7 | MR. KAUKER: Well, I didn't argue that the
8 | site is particularly unique. I argued that the
9 | general welfare is promoted, again, because it's
10 | a better planning and zoning alternative.

11 | And I think what the Board really has to
12 | consider, with respect to this application -- I
13 | mean, theoretically, you can -- you know, look at
14 | it, envision two three family homes being
15 | constructed. And I'm sure the Board is familiar
16 | with three family homes within Union City.

17 | And then, you look at what the alternative,
18 | which the applicant is proposing an alternative
19 | development concept. You know, and as I
20 | testified to you before -- I mean, there are pros
21 | and cons for each of those types of developments.

22 | But what you're going to have here in terms
23 | of -- if you look at the scale of the building,
24 | what the building's going to look like, whether
25 | you build two three family homes or a building as

1 proposed in this alternative scheme, they're
2 going to be about -- they're going to have
3 basically the same scale. They're going to have
4 basically the same mass, they're following the
5 same basic footprint.

6 CHAIRMAN MAROTTA: Isn't it a fact that the
7 general welfare is served only because the use is
8 particularly fitted to the particular location?

9 MR. KAUKER: Well --

10 CHAIRMAN MAROTTA: Isn't that the reason?

11 MR. KAUKER: That is one of the most
12 commonly cited purposes, but again, any one of
13 the purposes of zoning could be -- could be a
14 special reason.

15 CHAIRMAN MAROTTA: Give me a purpose of
16 zoning.

17 MR. KAUKER: There are a number of purposes
18 of zoning.

19 CHAIRMAN MAROTTA: Well, give me one.

20 I remember reading --

21 MR. KAUKER: There's promotion --

22 CHAIRMAN MAROTTA: -- your testimony.

23 MR. KAUKER: -- of the general welfare.

24 There's promotion of -- of aesthetics. I mean,
25 there -- the promotion of the general welfare is

1 the most often cited purposes --

2 CHAIRMAN MAROTTA: I --

3 MR. KAUKER: -- of zoning.

4 CHAIRMAN MAROTTA: I have them here.

5 MR. KAUKER: You do.

6 CHAIRMAN MAROTTA: Find promotion of
7 general welfare.

8 MR. KAUKER: It's Purpose A. If you read
9 Purpose A, that -- that's promotion of the
10 general welfare.

11 CHAIRMAN MAROTTA: You want me to read them
12 to you?

13 MR. KAUKER: You can, yeah.

14 CHAIRMAN MAROTTA: It's not in here.

15 MR. KAUKER: It is.

16 CHAIRMAN MAROTTA: Find it.

17 MR. KAUKER: To encourage municipal action,
18 to guide the appropriate use or development of
19 all lands in the state in a manner which will
20 promote the public health, safety, morals, and
21 general welfare.

22 CHAIRMAN MAROTTA: And this is going to
23 promote the morals of the City?

24 MR. KAUKER: And it's going to promote the
25 general welfare.

1 CHAIRMAN MAROTTA: All right.

2 MR. KAUKER: It's also going to promote
3 public safety, as well.

4 CHAIRMAN MAROTTA: Anybody else --

5 MR. KAUKER: It will promote --

6 CHAIRMAN MAROTTA: -- have questions?

7 VICE CHAIRMAN BONACCI: Yeah.

8 CHAIRMAN MAROTTA: Go ahead.

9 VICE CHAIRMAN BONACCI: All right.

10 I don't want to make it awkward, so I'm
11 just going to cut to the chase with a couple of
12 the specifics from the memorandum that we have
13 here.

14 MR. KAUKER: Okay.

15 VICE CHAIRMAN BONACCI: So, six units is
16 not permitted in the R zone.

17 Correct?

18 MR. KAUKER: Yeah. Are you looking at
19 Spatz memorandum?

20 VICE CHAIRMAN BONACCI: Yes.

21 MR. KAUKER: Okay. Just so I can refer to
22 the same document.

23 That's correct. So we need a D-1 use
24 variance here.

25 VICE CHAIRMAN BONACCI: Okay.

1 MR. KAUKER: Yup.

2 VICE CHAIRMAN BONACCI: The 40 feet of the
3 building is compliant, but not that it's four
4 stories. It would have to be three.

5 MR. KAUKER: That is correct.

6 VICE CHAIRMAN BONACCI: Okay.

7 MR. KAUKER: Number of stories.

8 VICE CHAIRMAN BONACCI: I have two more.

9 MR. KAUKER: Um hum.

10 VICE CHAIRMAN BONACCI: Minimum lot area of
11 2,500 square feet is required. Your site has an
12 area of over 5,000, which is a little more than
13 double.

14 MR. KAUKER: That is correct.

15 VICE CHAIRMAN BONACCI: Okay.

16 Would you need any variances if it was
17 going to be a four unit, three story building, or
18 a four unit two story building? Would you need
19 any variances?

20 MR. KAUKER: If it's -- you -- you would
21 probably still need some of the same variances,
22 because again, a lot of the variances have to do
23 with the coverage and the setbacks, if you wanted
24 to construct the same --

25 VICE CHAIRMAN BONACCI: But you --

1 MR. KAUKER: -- bedroom.

2 VICE CHAIRMAN BONACCI: -- wouldn't need
3 the variance for number of units. You wouldn't
4 need the variance for stories.

5 MR. KAUKER: You -- you would not need a
6 variance for the number of stories. And I'm
7 sorry. The number of units, what -- what are you
8 referring to?

9 VICE CHAIRMAN BONACCI: And the number of
10 stories.

11 MR. KAUKER: The number of stories, but I
12 didn't follow you with the number of units.

13 VICE CHAIRMAN BONACCI: Four instead of
14 six. Four would be permitted in the R zone, six
15 isn't.

16 MR. KAUKER: No. Six -- there's no density
17 requirement. So, you're permitted to have two --
18 I mean, on a 2500 square foot lot, you could have
19 one three family home. So -- but there's no
20 distinction between four or six units.

21 VICE CHAIRMAN BONACCI: Okay.

22 MR. KAUKER: Yeah.

23 VICE CHAIRMAN BONACCI: Because I'm not
24 trying to like play this game of got you, with
25 the general welfare stuff, I'm just trying to go

1 by the numbers of what's permitted and what's not
2 permitted.

3 MR. KAUKER: Right. And you're looking at
4 -- basically, they're two different -- one -- the
5 first variance is the D variance.

6 VICE CHAIRMAN BONACCI: Right.

7 MR. KAUKER: Which is what we talk about,
8 the promotion of the general welfare.

9 VICE CHAIRMAN BONACCI: But it would be
10 possible to do a project where you needed less
11 variances to get the job done.

12 MR. KAUKER: Yeah. You could potentially
13 reduce the height of the building, which would
14 reduce the number of stories, but you'd probably
15 still have the same or similar coverage.

16 And again, what we're trying to do here --

17 VICE CHAIRMAN BONACCI: You would just have
18 to sacrifice the number of units.

19 MR. KAUKER: You could -- you could --
20 you'd probably have to reduce the bedrooms.

21 MR. PEREIRAS: I'm sorry. You do not have
22 to sacrifice the number of units.

23 We are proposing a six unit building. You
24 are permitted to do a three unit on 25 by 100 and
25 a three unit on 25 by 100.

1 It's six units. We would not have to
2 sacrifice on the number of units, and be as of
3 right.

4 I'm sorry.

5 So, your statement -- and I just wanted to
6 address it clearly.

7 VICE CHAIRMAN BONACCI: Yeah.

8 MR. PEREIRAS: That we could do an as-of-
9 right application and still be six units. And
10 that's my entire argument.

11 We would -- if we came before, and it
12 wouldn't be this Board, with two three family
13 houses, that would be an as-of-right application.
14 We could be 40 feet tall. That's the same as our
15 application. No variance there.

16 It would be three stories instead of four,
17 but it doesn't change the outside of the
18 building. It does not change the impact on the
19 neighborhood. It's the same exact thing, except
20 our building is better for several reasons.

21 We have a greater side yard setback. We
22 have more parking. We have less curb cuts.

23 So, we can -- it's exactly the same. Two,
24 three families, same number of variances, same
25 type of conditions, basically, for the bulk of

1 the building, except this application that we
2 have before you is better for all the reasons we
3 stated.

4 And I strongly believe this. It's not
5 something that I'm -- I'm here paid to do it. I
6 mean, this is a great planning alternative,
7 compared to having two three family houses.

8 I get paid the same for building two three
9 family houses than a six family building. But I
10 think this is genuinely better for Union City.
11 And I care about the welfare of Union City. This
12 is my town. This is where I grew up. I want
13 better planning there.

14 CHAIRMAN MAROTTA: Excuse me?

15 VICE CHAIRMAN BONACCI: I understand all
16 that.

17 CHAIRMAN MAROTTA: You know, you gave us
18 your argument before, and now you're repeating
19 your argument.

20 MS. PEREIRAS: I think he's --

21 MR. PEREIRAS: I'm responding to his
22 question.

23 MS. PEREIRAS: He's addressing a comment.

24 VICE CHAIRMAN BONACCI: Chairman, hold on
25 one second.

1 I -- I understand the planning alternative
2 that you're presenting.

3 MR. PEREIRAS: Um hum.

4 VICE CHAIRMAN BONACCI: It's just that, for
5 me or us to sit in this chair, we just can't be
6 granting variances, like it's Jolly Ranchers.

7 MR. PEREIRAS: I agree completely --

8 VICE CHAIRMAN BONACCI: That's the problem
9 that we're --

10 MR. PEREIRAS: -- a hundred percent.

11 VICE CHAIRMAN BONACCI: -- that I -- that
12 I'm having.

13 MR. PEREIRAS: But you need to balance and
14 let's say, you denied this. It would go before
15 the Planning Board with two three family houses,
16 and it would theoretically, and there's no -- we
17 don't know.

18 But, theoretically, it would be approved
19 and what you'll have as an approval is worse.

20 So, you have one resident that complained
21 about it. There might be more that will complain
22 about it.

23 But there are definitely residents that are
24 probably pro for it. We had an architect testify
25 here, he actually liked a lot of the concepts of

1 the building. He understands. He's a
2 professional who understands what this means.
3 And he made some great points. We could tweak
4 those things and make them happy.

5 So, you had two people testify. One that's
6 a professional from the audience, a neighbor,
7 that thinks this -- actually, hey, this makes
8 sense -- you know, and -- and you, as
9 professionals -- there's audience members that
10 they don't see this every day. They don't see
11 what's going on.

12 But you have a greater understanding than
13 the general public because you see applications.
14 You understand how to read architectural
15 drawings. And you could balance and say, hey,
16 either I'm going to do this, or it's going to be
17 that.

18 And this is going to be a lot better for
19 the neighborhood, for Union City, for everyone
20 there.

21 CHAIRMAN MAROTTA: Well, I'm going to stop
22 you now.

23 You keep repeating yourself and repeating
24 yourself. We've heard this from you.

25 MR. PEREIRAS: I'm sorry to upset you, Mr.

1 Marotta.

2 VICE CHAIRMAN BONACCI: That's okay,
3 Chairman. He was just answering my question.
4 That's -- that's cool.

5 Thank you for answering my question.

6 MR. PEREIRAS: Thank you.

7 VICE CHAIRMAN BONACCI: Thanks.

8 MR. PEREIRAS: And I'm sorry.

9 CHAIRMAN MAROTTA: Mr. Kauker?

10 MR. KAUKER: Yes?

11 CHAIRMAN MAROTTA: The rear yard is eight
12 feet nine inches, when it's required to have 25
13 feet.

14 That's a 65 percent deficiency.

15 MR. KAUKER: Yes. You are correct.

16 CHAIRMAN MAROTTA: Would you say that's
17 substantial, 65 percent?

18 MR. KAUKER: In this -- in this particular
19 instance, I would say it's not.

20 CHAIRMAN MAROTTA: It's not substantial.

21 MR. KAUKER: Right. I said -- basically,
22 my testimony was the benefits would outweigh any
23 detriment. Again, it's a rear yard, so it's not
24 really impacting anybody.

25 CHAIRMAN MAROTTA: In what instance is it

1 substantial?

2 MR. KAUKER: Well, if it -- if it had a
3 substantial -- by virtue of the deviation, if it
4 had a substantial impact on an adjoining property
5 owner.

6 Variances or -- or regulations are drawn up
7 for the benefit of adjoining property owners.

8 CHAIRMAN MAROTTA: Well, the majority of
9 this block, like -- aside from that building next
10 door, across the street, and on the same side of
11 the street are one and two family homes.

12 Right?

13 MR. KAUKER: Yes. You're correct. A
14 number of buildings are.

15 CHAIRMAN MAROTTA: Is there a setback on
16 this?

17 MR. KAUKER: If you look at a number of the
18 other -- I mean, if you look at the building
19 footprint --

20 CHAIRMAN MAROTTA: No. My question is, is
21 this building -- does this building have a
22 setback or is it built on the property line?

23 MR. KAUKER: It has a setback.

24 CHAIRMAN MAROTTA: How many feet?

25 MR. KAUKER: About nine feet and change.

1 MR. PEREIRAS: We're prevailing except for
2 the stairs.

3 MR. KAUKER: Except for the stairs. Other
4 than that, as I mentioned before --

5 CHAIRMAN MAROTTA: Except for what?

6 MR. KAUKER: Except for the stairwell, in
7 the middle -- it look -- if you look at the
8 exhibit --

9 CHAIRMAN MAROTTA: So, the stairwell's on
10 the --

11 MR. KAUKER: The stairwell is --

12 CHAIRMAN MAROTTA: Right on --

13 MR. KAUKER: -- on the street, which is
14 only a small --

15 CHAIRMAN MAROTTA: On the property line.

16 MR. KAUKER: -- portion of the building.

17 CHAIRMAN MAROTTA: So, there's no setback.

18 MR. KAUKER: But if you look at the
19 remainder -- the majority of the building is set
20 back.

21 CHAIRMAN MAROTTA: But really, the -- the
22 stairwell is part of the building, isn't it?

23 MR. KAUKER: It is, but when you look --

24 CHAIRMAN MAROTTA: So, therefore, there's
25 no setback.

1 Right?

2 MR. KAUKER: When you look at -- when you
3 assess a building to analyze an impact of a
4 building --

5 Just follow me.

6 If you have a straight wall --

7 CHAIRMAN MAROTTA: Yeah.

8 MR. KAUKER: -- just a straight wall that's
9 set on the property line, that has a different
10 impact than what's being proposed here, where you
11 have a small portion of a building that's set on
12 the property line, and then the remainder of the
13 building, probably three quarters of the building
14 that's set back nine to ten feet.

15 CHAIRMAN MAROTTA: Mr. Spatz?

16 MR. SPATZ: Yes, sir.

17 CHAIRMAN MAROTTA: Your memo says that a
18 minimum front yard setback of ten feet is
19 required. The building will be developed to the
20 front line.

21 MR. SPATZ: In terms of variances, when you
22 calculate the variance, you take the portion of
23 the building that's closest to the property line.
24 And so, that's where the variance comes in. And
25 the Board needs to consider the totality of the

1 building in terms of setback.

2 But for creating the variance, it's the
3 closest portion of the building.

4 CHAIRMAN MAROTTA: Thank you.

5 MR. SPATZ: The same goes for the rear
6 yard. If it was a stair tower or a deck, you
7 would do it from the deck rather than the
8 building itself.

9 CHAIRMAN MAROTTA: Okay.

10 Thank you.

11 MR. PEREIRAS: And Mr. Marotta, if that
12 concerns you, what we could do is we could push
13 that stairwell back and be flush with the
14 building.

15 If this Board says, as a condition of
16 approval, you know what? We don't like the --

17 CHAIRMAN MAROTTA: That's okay.

18 MR. PEREIRAS: -- zero setback, we'll push
19 it back. Why not?

20 CHAIRMAN MAROTTA: I have no more --

21 MR. PEREIRAS: What we did is we think that
22 this is better. This looks better. It breaks up
23 the façade. It breaks down the building, so it
24 doesn't look like a big mass.

25 We're proposing what we think is best, but

1 we love a dialogue with the Board. If you think
2 that a zero setback is --

3 CHAIRMAN MAROTTA: I have no more
4 questions.

5 MR. PEREIRAS: -- not acceptable, we'll set
6 it back.

7 CHAIRMAN MAROTTA: Thank you.

8 I think Larry said you have a comment.

9 I know what your comment is, but go ahead.

10 MR. PRICE: Yeah.

11 CHAIRMAN MAROTTA: Larry approves of this.

12 MR. PRICE: Meetings got to be shorter or
13 this chair softer. One or the other.

14 Larry Price, 1006, still under oath.

15 I'll make a comment about the building.

16 I hate -- everybody knows I hate three
17 family houses. And the reason I hate them is
18 because of the parking.

19 Okay. This is the perfect example here.
20 The parking requirement is 13. And it's 13,
21 whether it's this building or two three family
22 houses. That's the parking requirement of this
23 site.

24 This building will provide nine parking
25 spots inside, and because of the lack of curb

1 cut, it will provide two, not three but -- I have
2 to agree with Pedro on that, two parking spots --
3 you know, on the street.

4 So, 11 of the 13 will be met by this site.
5 Okay. They're short two. I mean, and anyway,
6 they're short two.

7 If you put two three families on there,
8 there will be eight cars, four of which are
9 pretty crummy parking, because they're tandem.
10 So, you'll have four -- four good spots and four
11 not so good spots, a total of eight of the 13,
12 you're going to be short five.

13 And that's why I don't think that three
14 family houses work very well on that 2500 lot.

15 And this is one solution. And you know,
16 either way, you get six three bedroom apartments.
17 I mean, and whether you have two three family
18 houses or this building. This way, you get
19 better quality parking and more of it.

20 And in this City, that counts for
21 something.

22 Thank you.

23 MS. GUTIERREZ: Thank you.

24 MR. ORTIZ: Thank you.

25 MR. PEREIRAS: Thank you, Mr. Price. So

1 | you're in support of it.

2 | MR. PRICE: I realize I am disagreeing with
3 | Mr. Somma, but beauty is in the eye of the
4 | beholder. It's just a practical thing.

5 | I can under -- you know, there are -- there
6 | are quality differences between three family
7 | houses and six family houses -- you know, in
8 | terms of ownership, dynamics, and so on. I'm
9 | just focusing on one thing. Parking works a lot
10 | better with this than two three family houses.

11 | CHAIRMAN MAROTTA: Thank you, Larry.

12 | The problem the applicant has is that the
13 | applicant has to prove its case by a positive
14 | criteria and a negative criteria.

15 | And in my opinion, there's no more proof,
16 | number one.

17 | Number two, both the architect and the
18 | planner agree that this property could be
19 | developed according to the conforming use. What
20 | they want to do is take a conforming use, take it
21 | away, and put a nonconforming use.

22 | We heard from the resident as to how the
23 | people in the neighborhood feel about it. They
24 | don't want the -- the -- they prefer --

25 | Larry, of course, he lives on Palisade

1 Avenue, he -- he's got a bug about three family
2 homes. I know that.

3 But the resident who spoke here said he
4 prefers the two three family homes.

5 I don't think they proved their case. I
6 make a motion to deny the application.

7 THE SECRETARY: Motion to deny the
8 application by Chairman Marotta.

9 Any -- any second on the motion?

10 VICE CHAIRMAN BONACCI: I'm going to second
11 the motion.

12 I just wanted to say that, for the record,
13 your planning alternative, it's a good
14 alternative. If there wasn't so many -- if there
15 wasn't so much relief that you guys were
16 requesting, it's very possible that we could make
17 it happen. But there's just too many variances
18 and too many things that are nonconforming, for
19 me, personally, to approve it.

20 If it was one or two minor things, but
21 there's just a lot of stuff here.

22 MS. PEREIRAS: And if I just may briefly --

23 THE SECRETARY: Motion --

24 MS. PEREIRAS: I know you're in the middle
25 of a motion, but if there is that dialogue, and

1 | there's something that we can improve, I'd rather
2 | the Board give us that opportunity --

3 | VICE CHAIRMAN BONACCI: Yeah.

4 | MR. MEDINA: Yeah.

5 | MS. PEREIRAS: -- to improve it, instead of
6 | kicking --

7 | VICE CHAIRMAN BONACCI: I don't know how we
8 | can do that.

9 | MS. PEREIRAS: -- us out and --

10 | MR. PEREIRAS: Yeah.

11 | VICE CHAIRMAN BONACCI: I just know that we
12 | get this agenda with so many things on it --

13 | MS. PEREIRAS: I understand.

14 | VICE CHAIRMAN BONACCI: -- and --

15 | MR. KAUKER: Can I address something?

16 | MR. PEREIRAS: We can remove that front
17 | yard setback.

18 | VICE CHAIRMAN BONACCI: Right.

19 | MS. PEREIRAS: Right.

20 | MR. PEREIRAS: We could increase the rear
21 | yard a little bit.

22 | MR. KAUKER: If I could just address --
23 | just --

24 | VICE CHAIRMAN BONACCI: I'm just going to
25 | make my --

1 MR. KAUKER: Oh.

2 VICE CHAIRMAN BONACCI: I'm just going to
3 second my motion.

4 THE SECRETARY: Okay.

5 Motion on the table to deny the application
6 by Chairman Marotta.

7 Second by Mr. Bonacci.

8 Roll call on the motion.

9 Mr. Marotta?

10 CHAIRMAN MAROTTA: Yes.

11 THE SECRETARY: Mr. Bonacci?

12 VICE CHAIRMAN BONACCI: Yes.

13 THE SECRETARY: Mr. (sic) Gutierrez?

14 MS. GUTIERREZ: Yes.

15 THE SECRETARY: Mr. Grullon?

16 MR. GRULLON: Yes.

17 THE SECRETARY: Mr. Medina?

18 MR. MEDINA: Yes.

19 THE SECRETARY: Mr. Ortiz?

20 MR. ORTIZ: Yes.

21 THE SECRETARY: Six in favor.

22 Motion carries.

23 Thank you.

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

1 **407 37th Street, LLC - 407 37th Street:**

2

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

5 Next application on tonight's agenda 407
6 37th Street, LLC, 407 37th Street.

7 Mrs. Pereiras, please?

8 MS. PEREIRAS: Thank you, Mr. Vallejo.

9 MR. PANEQUE: For the record, been provided
10 with the following documentation:

11 I've been provided by Ms. Pereiras with an
12 Affidavit of Publication, which was published on
13 January 27th, 2018, with respect to the property
14 known as 407 37th Street, giving notice of
15 tonight's hearing for February 8th -- 28th (sic),
16 at six p.m.

17 I've also been provided with a
18 certification as to publication and service
19 signed by Ms. Pereiras, as well as the certified
20 mail receipts which have a postmark date of
21 January 29th, and a list of all property owners
22 within the 200 foot radius of the property
23 located at 407 37th Street, with a date of January
24 24, 2018.

25 I also been provided with the certified

1 receipts that have come back to date, as well as
2 some envelopes that were returned unclaimed.

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

6 MS. PEREIRAS: Thank you, Mr. Paneque.

7 Again, Bianca Pereiras, on behalf of the
8 applicant, 407 37th Street, LLC, for property
9 located at 407 37th Street, also known as Block
10 214, Lot 19.

11 This is very similar to an application you
12 heard earlier this evening and approved, except
13 in that one you approved it with six residential
14 units, with one commercial, in this case, we are
15 proposing five residential units with one
16 commercial.

17 Currently, onsite, there is a mixed use
18 structure, consisting of commercial and
19 residential on the ground floor, with residential
20 above.

21 In this case, we are proposing a commercial
22 to the front of that, the apartment in the back
23 with apartments above.

24 We are located in the CN neighborhood
25 commercial zone, and I'd like to begin the

1 presentation by our architect, Mr. Manuel
2 Pereiras.

3 MR. PEREIRAS: Manny Pereiras. I recognize
4 that I am still under oath.

5 MS. PEREIRAS: Mr. Pereiras, are you
6 familiar with 407 37th Street?

7 MR. PEREIRAS: I am.

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

10 MR. PEREIRAS: I have.

11 MS. PEREIRAS: And would you kindly
12 describe the project for the Board?

13 MR. PEREIRAS: I'll be happy to. This one
14 should be easy.

15 You saw a very similar project. However,
16 there are many reasons why this one's actually
17 better than that one.

18 First and foremost, we're a lot smaller.
19 Instead of six residential units, we have five.
20 A lot of the other reasons are very similar,
21 however, I want to start by pointing to the
22 photograph on the -- on the easel.

23 This is a photograph of the existing
24 condition, and this is exactly what the Ordinance
25 does not want to happen. This is a nonconforming

1 use. Okay.

2 You have a tiny little shoe repair thing,
3 that's like five feet wide, tiny and ugly and
4 horrible. And then, the rest of the entire front
5 of this is a residential apartment, which looks
6 horrible in that streetscape that we want to
7 maintain commercial.

8 That's the intention of our Ordinance and
9 why it was written in a way to have apartments on
10 the ground floor, without the understanding that
11 there's two big major things. We need the
12 handicap accessibility.

13 However, by providing a unit in the back,
14 we still maintain this beautiful storefront, and
15 meet the intentions of the Code, and we're
16 creating a unit that actually has the ability of
17 being rented because as we all know, in -- on
18 Bergenline Avenue, Summit Avenue, all these areas
19 in the CN, there's a lot, a lot of vacancies.
20 Because why? Because small businesses can't
21 afford over a thousand square feet of space.

22 So, if we reduce that to something that's
23 affordable, now people could rent them, and we
24 won't have those vacancies, and the rest of the
25 space is used to comply with ADA compliance.

1 What we have on our site is a -- for the
2 most part, a compliant building, except for that
3 use variance because of the apartment on the
4 ground floor. We have a site that's actually
5 wider than what's required. Instead of 25, we
6 have 26.67 feet, and a depth that's slightly shy.
7 It's 91.5 feet in depth.

8 And what we're proposing is a building that
9 will be compliant in the front yard, it meets --
10 it goes to the property lines at the side. And
11 then, we have a 13 foot three setback in the
12 rear.

13 I'm just going to let the planner talk
14 about the particulars of the variances, and talk
15 a lot about the building design.

16 The commercial space occupies the entire
17 front of the building. And the residential
18 entrance is minimized to simply a door and what
19 the requirements are for ADA clearance.

20 There's a hallway that leads to the
21 apartment in the rear. And what we're only
22 proposing is simply a one bedroom apartment,
23 that's 550 square feet.

24 And if you take the stairs up, we do very
25 modest two bedroom apartments, that are at 763

1 and 750 square feet, front and back, with the
2 bedrooms facing the -- the exterior.

3 So, it's a very simple, very humble
4 building that works and meets all the intentions
5 of the Ordinance.

6 We have four units above, one unit in the
7 rear in the bottom, and the commercial space in
8 the front.

9 And so, for all the same reasons that you
10 approved that previous application, they apply
11 here, yet it's better. We have -- because we're
12 less dense. We only have five residential units,
13 rather than six. And aesthetically, it's
14 extremely pleasing.

15 So, that hodgepodge of horrible stuff
16 that's happening, that existing nonconforming
17 use, and Mr. Marotta, you were keen on mentioning
18 in the previous that it was conforming and now
19 it's not conforming, well guess what? This was
20 nonconforming and we're providing a building that
21 is conforming, except for the -- for having that
22 apartment in the back, which makes it comply with
23 ADA requirements that are federal.

24 So, this building actually takes away a
25 negative situation and provides something that is

1 | this, a beautiful brick building, with a
2 | beautiful storefront, nice awning, and nice
3 | residential component above.

4 | I would love to see this in Union City, as
5 | I go down the street, rather than the hodge --
6 | that hodgepodge of stuff that's there.

7 | I could speak at length, and I hope you ask
8 | me questions, if you have any -- any questions on
9 | that, but I'll conclude my testimony for now,
10 | because I know everyone's hungry and wants to get
11 | going.

12 | CHAIRMAN MAROTTA: Anybody have questions?

13 | MR. PEREIRAS: And I think another aspect
14 | that makes this project better than the previous
15 | one is the proximity to the parking -- our
16 | parking lots and a parking deck.

17 | It's literally less than a block away. We
18 | have our -- our municipal lots and our parking
19 | deck. I think that's a huge difference, when
20 | you're considering the -- the variance, the
21 | parking variance that we do have.

22 | CHAIRMAN MAROTTA: Any questions?

23 | Are you finished?

24 | Any questions from the members of the
25 | Board?

1 Members of the audience, any questions?

2 I have no questions.

3 MS. PEREIRAS: I'll proceed with our
4 planner, Mr. Kauker.

5 (Whereupon, Michael D. Kauker, previously
6 sworn, testified.)

7 MS. PEREIRAS: Mr. Kauker, are you familiar
8 with the property at 407 37th Street?

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

11 MR. KAUKER: Yes, I am.

12 MS. PEREIRAS: And you've had an
13 opportunity to review the drawings prepared by
14 Pereiras Architects.

15 Correct?

16 MR. KAUKER: I have. Yes.

17 MS. PEREIRAS: And can you please describe
18 this project from a planning perspective?

19 MR. KAUKER: Certainly. I'll try to be
20 briefer this time.

21 The subject property, from a planning
22 standpoint, is located on 37th Street, between New
23 York Avenue to the east and Bergenline Avenue to
24 the north. Or I'm sorry. Bergenline Avenue to
25 the -- New York to the east, Bergenline to the

1 west.

2 It's been a long night.

3 Located in the CN neighborhood commercial
4 district. The lots are currently occupied by a
5 two story mixed use building, with residential
6 use on the first and the second floor, and a
7 small retail use, Mr. Pereiras spoke about, on
8 the front of the building. The existing
9 residential use does front on the street.

10 The surrounding area is comprised of a mix
11 of land uses, including residential and
12 commercial. It's comprised of two and three
13 story buildings.

14 The applicant, as Mr. Pereiras testified
15 to, proposes to construct a three story building,
16 mixed use building, consisting of five
17 residential units and one commercial unit.

18 The reason why we're here before the Board
19 requesting a D-1 use variance is because
20 residential units are not permitted on the ground
21 floor. They're -- they're permitted on upper
22 floors.

23 One of the things I just wanted to point
24 out, obviously, we're dealing with an existing
25 condition here, where there's a residential use,

1 small retail.

2 What we're doing here is we're proposing,
3 in addition to the reasons Mr. Pereiras mentioned
4 before about ADA compliance and all that stuff,
5 what we're proposing here is consistent with the
6 intent and the purpose of your Zoning Ordinance.

7 The Zoning Ordinance wants to have the
8 commercial units that front on the street, from a
9 visual standpoint, from a visual perspective, to
10 try to create a sense of place in the community.
11 So you have that element of commercial use that
12 invites people into the buildings that's located
13 on the street.

14 What we're -- we're providing that here.
15 We're actually improving upon that here.

16 The residential unit that's proposed is in
17 the back of the building. It's not visible from
18 the street.

19 Some things that I just wanted to mention
20 real quickly. The proposed development is going
21 to result in a number of improvements. I'm just
22 going to go over those very quickly.

23 We're going to increase the minimum rear --
24 the rear yard setback from zero feet to five foot
25 nine inches. Again, we're increasing the rear

1 yard setback, zero feet current -- is the current
2 condition, we're proposing a setback of five foot
3 nine inches.

4 We're decreasing building coverage.
5 Currently, the building coverage is 90 percent.
6 We're proposing 80 percent.

7 We're decreasing total lot coverage. Total
8 lot coverage currently is a hundred percent, and
9 we're proposing 91 percent.

10 Briefly, I did look at the Master Plan. I
11 had an opportunity to review it. Again, we do
12 meet a number of the goals and objectives of the
13 plan.

14 Specifically, I wanted to bring the Board's
15 attention to the Master Plan and page 89. It
16 talks about the Bergenline Avenue Commercial
17 District, which this property is located within.

18 We do meet a number of the objectives and a
19 number of the recommendations.

20 This -- this district is intended to create
21 intense commercial retail districts. We do
22 create a pedestrian friendly street environment,
23 through the retail component that fronts on the
24 street.

25 One of the other components or

1 recommendations are that retail storefronts be
2 highly transparent at the street level.

3 I think, obviously, we accommodate that in
4 this proposal, as you can see from the
5 architectural rendering.

6 Also, to create shared parking that serves
7 all the residential and the commercial uses along
8 Bergenline Avenue, and that fall within the
9 Bergenline Avenue Commercial District.

10 Mr. Pereiras mentioned that there's a
11 municipal lot that's near here, and I believe
12 another one that's being constructed. So,
13 obviously, the Master Plan envisions that these
14 uses, these properties take advantage of those
15 municipal lots.

16 As I mentioned before, the property is
17 located in the CN Neighborhood Commercial
18 District. We need a D-1 use variance. Again,
19 the Municipal Land Use Law outlines the statutory
20 criteria for variance approval.

21 We need to make an affirmative showing of
22 both the positive and the negative criteria.

23 In my opinion, the general welfare is
24 promoted, as the proposed development is more
25 compliant than the existing development of the

1 property.

2 I talked about the location of the
3 residential -- existing residential unit and how
4 it fronts on the street currently. The very
5 small commercial component that's located in the
6 front of the property.

7 Again, what we're proposing here is much
8 more consistent with both the Zoning Ordinance
9 and the Master Plan by having that large retail
10 component fronting on the street, that's highly
11 visible and transparent to the street, as well,
12 again creating that sense of place and
13 environment.

14 I talked about the residential unit being
15 moved to the rear. Again, in terms of the need.
16 We're providing new housing.

17 Briefly, again, I'll go over the Master
18 Plan where it talked about the need for housing
19 and when different housing was constructed. So,
20 again, provision of new housing that's built in
21 accordance with modern day building standards.

22 Also, we need a couple C variances. There
23 are four variances that are required in total.
24 Two of the variances are existing conditions.
25 So, we really only are creating two new

1 | variances.

2 | First variance is for minimum rear yard.
3 | And again, the minimum rear yard setback
4 | variance, it's an improvement upon the existing
5 | condition of the property.

6 | So, minimum lot area; 2500 square feet is
7 | required, 2,440 square feet exists. It's an
8 | existing condition.

9 | Minimum lot depth is another existing
10 | condition; a hundred feet is required, 91 feet
11 | exists. Again, that's an existing condition of
12 | the property, as well, that can't be changed.

13 | Minimum rear yard; 20 feet's required, five
14 | feet nine inches is proposed. Again, we're
15 | increasing that. Currently, there's a zero foot
16 | rear yard setback. We're making that condition
17 | better.

18 | There's also somewhat of a hardship because
19 | of the narrowness of the property. The
20 | property's only 91 feet. If it were the full
21 | hundred, we'd add additional nine feet to that
22 | five feet nine inches.

23 | Finally, with respect to parking, 12 spaces
24 | is calculated in Mr. Spatz's memorandum, or
25 | required. We propose zero spaces.

1 One other thing that I was looking at the
2 Code, the Code, for lots that are less than 2500
3 square feet indicates that no parking's required
4 for the retail component.

5 So, essentially, that would result in a
6 reduction of two required parking spaces. So, my
7 calculations, we only needed ten.

8 This is a very small lot, and as was talked
9 about in that prior application, it's very
10 difficult to provide a -- the required retail
11 component and also provide parking on the street,
12 or parking in the -- in the building on a lot
13 that's 2500 square feet. It's just -- it's
14 difficult to achieve that.

15 So, it's somewhat of a hardship because of
16 the size of the site, to provide parking on the
17 street.

18 The parking deviation is mitigated because
19 Union City is an urban environment and it's in
20 close proximity to mass transit, and also it's in
21 very close proximity to the municipal parking
22 lot, in addition to an additional municipal
23 parking lot that's going to be built, also
24 consistent with your Master Plan, which talks
25 about creating shared parking opportunities

1 throughout the neighborhood.

2 With respect to the negative criteria, it's
3 my opinion that there will not be any substantial
4 detriment to the surrounding area.

5 I mentioned before numerous conditions that
6 are actually going to be made better as -- as a
7 result of this application; reduction of rear --
8 or an increase in the rear yard setback,
9 reduction of building coverages.

10 And then, in my opinion, there's no
11 substantial impairment to the intent and purpose
12 of the Master Plan or Zoning Ordinance.

13 I talked about, before, the intent of your
14 zoning ordinance, trying to create the retail
15 environment on the street.

16 Although we don't meet the letter of the
17 law, we meet the intent because the residential
18 unit that is proposed is located in the rear of
19 the building and is not visible from the street.
20 So, we still meet the intent of the ordinance, in
21 my opinion.

22 For those reasons, it's my opinion that the
23 applicant meets the burden of proof and the Board
24 can feel confident in granting the requested
25 variances.

1 Thank you.

2 CHAIRMAN MAROTTA: Any questions from
3 members of the Board?

4 The audience?

5 Yeah. I have one or two.

6 How -- how are the purposes of the
7 Municipal Land Use Law advanced, if we grant this
8 variance?

9 MR. KAUKER: As I mentioned before, we're
10 promoting the purposes of zoning because the --
11 we're promoting Purpose A of the zoning, for
12 example, because the general welfare is being
13 promoted.

14 With respect to the D-1 use variance, as I
15 said before, this project that we're proposing is
16 going to be more compliant with your zoning
17 ordinance than what currently exists on the
18 property. We still meet the intent and purpose,
19 in my opinion, of your zoning ordinance, as well.

20 The site itself is suitable for this type
21 of development, because it's located within an
22 area that it's very consistent and compatible
23 with the existing uses in the area, as well.

24 CHAIRMAN MAROTTA: You say the general
25 welfare is being promoted.

1 MR. KAUKER: It is. That's correct. In
2 addition, we're meeting a need of providing new
3 housing.

4 CHAIRMAN MAROTTA: The special reasons test
5 is satisfied under two conditions.

6 Right?

7 MR. KAUKER: Well, actually, more than two.

8 CHAIRMAN MAROTTA: One is that if the
9 proposed use is an inherently --

10 MR. KAUKER: Beneficial use.

11 CHAIRMAN MAROTTA: -- good use.

12 MR. KAUKER: Right.

13 CHAIRMAN MAROTTA: That's one.

14 MR. KAUKER: Right.

15 CHAIRMAN MAROTTA: The second one is, the
16 proposed use promotes the general welfare --

17 MR. KAUKER: Because the site --

18 CHAIRMAN MAROTTA: -- because the site is
19 particularly well suited to that use.

20 MR. KAUKER: That's correct.

21 CHAIRMAN MAROTTA: Now, you tell me why --

22 MR. KAUKER: But --

23 CHAIRMAN MAROTTA: -- this site --

24 MR. KAUKER: In --

25 CHAIRMAN MAROTTA: -- is particularly

1 suited.

2 MR. KAUKER: Well, I just told you why it
3 was, but in addition to that, any one of the
4 purposes of zoning can serve as a special reason.

5 There's a third criteria, too. If -- and
6 it's come -- it's an older criteria, but -- and
7 it still exists today. The third one is that
8 there is a hardship, just for the Board's total
9 edification.

10 But as I said before, I think this site is
11 suitable for --

12 CHAIRMAN MAROTTA: What's the third
13 criteria?

14 MR. KAUKER: Hardship. If there's --

15 CHAIRMAN MAROTTA: For a special reason?

16 MR. KAUKER: Yes. Hardship is another test
17 that the Board can grant the variance.

18 CHAIRMAN MAROTTA: Go ahead.

19 MR. KAUKER: So, essentially, as I said
20 before, I mean, obviously, this application that
21 is here currently before you is very similar to
22 the one that you had, I think, the second or
23 third application that was before the Board.

24 You know, in my opinion, it meets the
25 general welfare. I think this site is suited for

1 the proposed use, because it's consistent and
2 compatible with the other existing uses in the
3 area. It furthers the purposes of the municipi --
4 and the goals and objectives and recommendations
5 of your own Master Plan document.

6 And again, it promotes a general welfare
7 because we're reducing a lot of the
8 nonconformities that currently exists onsite, as
9 I mentioned before.

10 In -- in addition to that, we're proposing
11 something that is more compatible with your own
12 Zoning Ordinance, than what currently exists on
13 the property.

14 CHAIRMAN MAROTTA: I'm troubled with a base
15 -- with a ground floor apartment. And the reason
16 I say I'm troubled with that is because it's not
17 consistent with our zone, with our Code.

18 And if this -- if we approve this variance,
19 to permit a ground floor apartment here, we'll be
20 setting a precedent and other applicants come in
21 and say, well, you did it for them, why don't you
22 do it for us?

23 MR. KAUKER: I --

24 CHAIRMAN MAROTTA: And if -- if that grows
25 in the City, it's completely inconsistent with

1 | our plan.

2 | MR. KAUKER: I would respectfully disagree,
3 | and the reason being, as I mentioned before, the
4 | intent of your Ordinance is to create a visual
5 | environment where retail fronts on the street.

6 | What we're doing here achieves that intent
7 | of the -- of the Zoning Ordinance.

8 | The residential unit that's being created
9 | is located in the rear of the property, not
10 | visible from the street. And again, it also
11 | meets that need for the ADA compliant unit, as
12 | well.

13 | CHAIRMAN MAROTTA: I have the Ordinance in
14 | front of me.

15 | MR. KAUKER: Um hum.

16 | CHAIRMAN MAROTTA: The purpose of the
17 | Ordinance, the intent.

18 | MR. KAUKER: Okay.

19 | CHAIRMAN MAROTTA: To regulate use of land
20 | within zoning districts; provide adequate light,
21 | air, and open spaces; limit and restrict building
22 | and structures to specified zones; and regulate
23 | buildings and structures according to their type
24 | and the nature and extent of their use.

25 | That's not what you said.

1 MR. KAUKER: I'm -- well, what I'm looking
2 at, the intent of the Ordinance -- what we're
3 requesting the D-1 use variance for is because
4 specifically, permitted principal uses in the CN
5 Neighborhood Commercial District: apartments,
6 upper floors only, in a low rise or mid-rise
7 apartment building that has one or more permitted
8 nonresidential uses on the ground floor.

9 You read that, and then you read your
10 Master Plan.

11 CHAIRMAN MAROTTA: What --

12 MR. KAUKER: What --

13 CHAIRMAN MAROTTA: What section is that?

14 MR. KAUKER: That is -- it's under the CN
15 Neighborhood Commercial District. I don't have
16 the specific --

17 CHAIRMAN MAROTTA: It's not our Code.

18 MR. KAUKER: It is your Code.

19 CHAIRMAN MAROTTA: But you don't have the
20 section.

21 MR. KAUKER: I don't. It's just -- but it
22 is your Code.

23 If you'd like, I could look it up. It's --
24 it's the section under Permitted Uses, and it's
25 the section regarding the CN Neighborhood

1 Commercial District, and it's the list of
2 permitted uses under the zone.

3 CHAIRMAN MAROTTA: Could the applicant
4 build this without the apartment on the first
5 floor -- on the ground floor?

6 MR. KAUKER: Again, similar to the -- to
7 the other application, we would need --
8 obviously, what this does is it achieves that ADA
9 compliant unit on the first floor.

10 And again, as I said, it does not meet the
11 letter of the law, but it meets the intent of the
12 law.

13 VICE CHAIRMAN BONACCI: Chairman, we're
14 coming across this issue a lot with the
15 residential unit on the first floor, when there's
16 a commercial structure.

17 Clearly, our Ordinance is not up to par
18 with this new requirement.

19 Would it be possible, and I'm not saying to
20 approve or deny the application --

21 CHAIRMAN MAROTTA: All right. Okay.

22 VICE CHAIRMAN BONACCI: -- either one,
23 until we get some clarification on what we can do
24 going forward with this issue, we put this one on
25 hold?

1 CHAIRMAN MAROTTA: I don't know. I'd ask,
2 can we do that, Mr. --

3 MR. PANEQUE: The problem with putting it
4 on hold is that the applicant has made their
5 application.

6 CHAIRMAN MAROTTA: Right.

7 MR. PANEQUE: And this Board is under a
8 statutory obligation to act upon that application
9 within a certain time period.

10 Now, they presented their application. I
11 believe you -- you've completed your testimony,
12 Ms. Pereiras?

13 MS. PEREIRAS: I would just like to address
14 briefly --

15 MR. PANEQUE: Um hum.

16 MS. PEREIRAS: -- some of the comments.

17 MR. PANEQUE: Okay.

18 MS. PEREIRAS: And again, we currently have
19 a building that has a residential component on
20 the ground floor. It's currently there.

21 By this application, we're actually
22 bringing it more into conformance with your
23 Ordinance, because now, we're looking at the
24 actual commercial storefront on the ground floor.

25 So, you can't see the apartment from the

1 street view. So, in all intents and purposes, it
2 actually matches your Ordinance better.

3 And again, ADA compliance is a federal law.
4 We need to provide an apartment that is
5 accessible to someone with a disability. This is
6 the only way to achieve that on this site.

7 So, I ask that the Board, similar to the
8 application you heard earlier --

9 CHAIRMAN MAROTTA: Okay.

10 MS. PEREIRAS: -- which had more units,
11 approve this application.

12 CHAIRMAN MAROTTA: Then, I'll make a motion
13 to approve this, but I'm not setting a precedent
14 by it. But I'll make a motion to approve this
15 application.

16 THE SECRETARY: Motion to approve the
17 application by Chairman Marotta.

18 Any second on the motion?

19 Second by Mr. Bonacci.

20 Roll call on the motion to approve this
21 application.

22 Mr. Marotta?

23 CHAIRMAN MAROTTA: Yes.

24 THE SECRETARY: Mr. Bonacci?

25 VICE CHAIRMAN BONACCI: Yes.

1 THE SECRETARY: Mr. (sic) Gutierrez?

2 Mrs. Gutierrez?

3 MS. GUTIERREZ: Yes.

4 THE SECRETARY: Mr. Grullon?

5 MR. GRULLON: Yes.

6 THE SECRETARY: Mr. Medina?

7 MR. MEDINA: Yes.

8 THE SECRETARY: Mr. Ortiz?

9 MR. ORTIZ: Yes.

10 THE SECRETARY: Six in favor.

11 Motion carries.

12 MS. PEREIRAS: Thank you all very much.

13 CHAIRMAN MAROTTA: You know, it's ten to
14 ten, quarter to ten.

15 MR. MEDINA: You got two more.

16 CHAIRMAN MAROTTA: I know we have --

17 MS. PEREIRAS: Two more applications.

18 MS. GUTIERREZ: Aye, yai, yai.

19 CHAIRMAN MAROTTA: I would rather not start
20 and then have to stop at ten o'clock.

21 Would you mind if we put this on for next

22 --

23 MS. PEREIRAS: If you -- I have one of my
24 clients here. And if you don't mind, if I can
25 just speak to him?

1 CHAIRMAN MAROTTA: Yeah.

2 MS. PEREIRAS: And get his consent?

3 CHAIRMAN MAROTTA: Because we're going to
4 close at ten o'clock.

5 MS. PEREIRAS: I understand.

6 VICE CHAIRMAN BONACCI: I don't think
7 there's going to be enough time.

8 CHAIRMAN MAROTTA: And I don't like to --
9 you know, I don't like to carry them.

10 THE SECRETARY: Next appli --

11 MS. PEREIRAS: Interrupt the flow.

12 MR. PANEQUE: Wait.

13 VICE CHAIRMAN BONACCI: I don't think it's
14 going to be enough time.

15 MS. PEREIRAS: I understand.

16 MS. GUTIERREZ: She got two application.

17 VICE CHAIRMAN BONACCI: We got two.

18 MR. PANEQUE: We also have to do the
19 Resolutions, Mr. Marotta.

20 CHAIRMAN MAROTTA: Yes.

21 MS. GUTIERREZ: And she has two more
22 applications.

23 CHAIRMAN MAROTTA: Then we have to do
24 Resolutions, too.

25 MS. GUTIERREZ: She have two more

1 application, too.

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

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1 **613 39th Street, LLC - 611-613 39th Street:**

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3 CHAIRMAN MAROTTA: Okay?

4 MS. PEREIRAS: Mr. Marotta, my -- my client
5 is very appreciative of your time, so of course,
6 he will carry the matter.

7 CHAIRMAN MAROTTA: Thank you very much.

8 MS. PEREIRAS: Thank you.

9 CHAIRMAN MAROTTA: Because we have other
10 work to do.

11 MS. PEREIRAS: I just have to submit my
12 jurisdictional proofs, so I don't have to do this
13 again.

14 THE SECRETARY: May I have your attention,
15 please?

16 Next application, 407 -- I'm sorry -- 613
17 39th Street, LLC, 611-613 39th Street.

18 Mrs. Pereiras, please?

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

21 CHAIRMAN MAROTTA: I thought we were going
22 to carry it?

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

24 Mr. Marotta, we're going to establish
25 jurisdiction.

1 CHAIRMAN MAROTTA: Establish -- okay.

2 Good.

3 MR. PANEQUE: Okay?

4 Let the record reflect the following. I've
5 been provided by Ms. Pereiras with the following
6 documentation:

7 Been provided with an Affidavit of
8 Publication from The Jersey Journal, indicating
9 that notice of tonight's hearing for February 8,
10 2018, with respect to the property at 613 39th
11 Street was published in The Jersey Journal on
12 January 27.

13 I've been provided with a certification as
14 to publication and service, indicating that
15 notice of tonight's hearing was sent out to all
16 property owners within the 200 foot radius of the
17 subject property, 611-13 39th Street, signed by
18 Ms. Bianca Pereiras.

19 I've been provided with copies of certified
20 mail receipts, with a postmark stamp date of
21 January 29th, as well as the tax list provided
22 from the Union City Tax Assessor's Office, with a
23 date of January 26, 2018.

24 Also, certified mail green cards that have
25 come back to date, as well as envelopes that have

1 | come back unable to forward.

2 | Based on the documentation that's been
3 | provided, this Board has jurisdiction to proceed
4 | and hear this matter.

5 | Now, Mr. Marotta, I understand that based
6 | on the fact that it's about ten minutes to ten,
7 | you're asking that this matter be carried to --

8 | CHAIRMAN MAROTTA: Carried --

9 | MR. PANEQUE: -- the next meeting.

10 | CHAIRMAN MAROTTA: -- until the next
11 | meeting.

12 | MR. PANEQUE: Okay.

13 | Is there a motion on the floor?

14 | CHAIRMAN MAROTTA: I'll make that motion.

15 | THE SECRETARY: Motion by --

16 | MS. GUTIERREZ: And I'm seconding.

17 | THE SECRETARY: -- by Mr. Marotta.

18 | Second by Ms. Gutierrez to adjourn this
19 | application for March 8, 2018.

20 | No new notice required.

21 | Roll call on the motion.

22 | Mr. Marotta?

23 | CHAIRMAN MAROTTA: Yes. Yes.

24 | THE SECRETARY: Mr. Bonacci?

25 | VICE CHAIRMAN BONACCI: Yes.

1 THE SECRETARY: Ms. Gutierrez?

2 MS. GUTIERREZ: Yes.

3 THE SECRETARY: Mr. Grullon?

4 MR. GRULLON: Yes.

5 THE SECRETARY: Mr. Medina?

6 MR. MEDINA: Yes.

7 THE SECRETARY: Mr. Ortiz?

8 MR. ORTIZ: Yes.

9 THE SECRETARY: Six in favor.

10 Motion carries.

11 No new notice required.

12 MR. PANEQUE: For members of the public
13 that are here on 613 39th Street, the application
14 is being carried to the next meeting.

15 I think you asked about that, sir?

16 A CITIZEN: Yeah. I did.

17 MR. PANEQUE: You did.

18 That's going to be heard at the March 8th
19 meeting, six o'clock, this room.

20 A CITIZEN: Thank you.

21 MR. PANEQUE: Okay, sir?

22 A CITIZEN: Okay.

23 MR. PANEQUE: If anybody else here is on
24 that application, as well.

25 Mr. Price?

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

2

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

5 Mrs. Pereiras, please?

6 MS. PEREIRAS: Again, Bianca Pereiras on
7 behalf of the applicant.

8 MR. PANEQUE: I've been provided with the
9 following documentation:

10 I have a Affidavit of Publication, noting
11 that notice of tonight's hearing, with respect to
12 the property at 709 New York Avenue was published
13 in The Jersey Journal, with a date of January 27,
14 2018, indicating that tonight's hearing was
15 hearing that application.

16 I've also been provided with a
17 certification as to publication and service,
18 indicating that notice went out to all property
19 owners within the 200 foot radius, for property
20 709 New York Avenue, as well as the certified
21 mail receipts, with a postmark date of January
22 29, 2018, and a certified list from the Union
23 City Tax Assessor's Office with a date of
24 February 8th, 2018, as well as the certified green
25 cards that have come back, and the post -- the

1 envelopes that have come back unable to forward.

2 Based on the documentation that's been
3 provided, this Board has jurisdiction to hear
4 this matter.

5 Since it's now about ten minutes to ten, is
6 there application or a motion --

7 MS. PEREIRAS: Can I just make a --

8 CHAIRMAN MAROTTA: To carry.

9 MS. PEREIRAS: -- a quick request --

10 MR. PANEQUE: Well --

11 MS. PEREIRAS: -- if possible, Mr.
12 Chairman, members of the Board?

13 This application actually came before this
14 Board two months ago. It was approved. We had a
15 discrepancy on our side yard. And that's the
16 reason we're back in front of you.

17 So, I don't think it would -- we would need
18 to do a full presentation.

19 CHAIRMAN MAROTTA: Right.

20 MS. PEREIRAS: I don't think the side yard
21 changes too much --

22 CHAIRMAN MAROTTA: Okay.

23 MS. PEREIRAS: -- this Board's approval.

24 So, if -- if the -- Mr. Chairman wouldn't mind,
25 if the Board wouldn't mind, we can speed through

1 it.

2 MR. PEREIRAS: And just to clarify that --

3 CHAIRMAN MAROTTA: Everyone good on that?

4 MR. PEREIRAS: -- the survey had the --

5 CHAIRMAN MAROTTA: Okay.

6 MR. PEREIRAS: -- mistake.

7 MS. PEREIRAS: Thank you so much.

8 CHAIRMAN MAROTTA: Okay.

9 MS. PEREIRAS: I appreciate it.

10 Thank you very much.

11 (Whereupon, Manuel Pereiras, previously
12 sworn, testified.)

13 MR. PEREIRAS: I'll explain it very easily.
14 The survey --

15 MS. DILLON: Wait a minute, Manny.

16 MR. PEREIRAS: Oh. I'm sorry.

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

19 MR. PEREIRAS: So, it's -- there was a
20 mistake on the survey and we had shown the side
21 yard to be, I think, 1.8, and the reality is that
22 it's .6 of a foot. So, it's a little bit less.
23 It's half a foot.

24 It doesn't change anything to the
25 application. Doesn't change our -- we still have

1 the side yard variance. Everything stays exactly
2 the same. It's just a technicality of that
3 sliver of space, instead of it being like this,
4 it was like this.

5 And the Building Department noticed that
6 and we're here to correct that issue.

7 So, we just need a Resolution to reflect
8 that.

9 MR. PANEQUE: Mr. Pereiras, you previously
10 testified on this application.

11 Correct?

12 MR. PEREIRAS: I have, sir.

13 MR. PANEQUE: Would your testimony tonight
14 be the same testimony that you provided in your
15 previous presentation to this Board?

16 MR. PEREIRAS: It's the same testimony,
17 with the exception of that one dimensional
18 change.

19 MR. PANEQUE: And that dimensional change
20 is on the outside side yard.

21 MR. PEREIRAS: Correct.

22 Which, by the way, was an existing
23 condition for the rear of the house, and we're
24 just extending that to the new front yard.

25 MR. PANEQUE: Okay.

1 Are there any other changes to the
2 application, other than clearing for the Board
3 that side yard variation?

4 MR. PEREIRAS: No changes.

5 MR. PANEQUE: Okay.

6 The application that you are presenting and
7 the plans that you are presenting are identical
8 to the ones that were previously approved by this
9 Board.

10 MR. PEREIRAS: Yes, with the exception of
11 what I stated.

12 MR. PANEQUE: Okay.

13 Questions?

14 CHAIRMAN MAROTTA: I don't know if I was
15 here at that original.

16 MR. PANEQUE: I --

17 MR. PEREIRAS: You were, sir.

18 CHAIRMAN MAROTTA: Was I here then?

19 MR. PANEQUE: Yeah. I believe you were,
20 Mr. Marotta.

21 CHAIRMAN MAROTTA: Okay.

22 MS. GUTIERREZ: Wasn't here.

23 MR. MEDINA: Yeah.

24 MS. GUTIERREZ: For clarification. Just
25 check.

1 THE SECRETARY: One second.

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

4 MS. GUTIERREZ: Better to check.

5 MR. PANEQUE: If not we could always ask
6 Mr. Price.

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

9 MS. DILLON: He was here in December.

10 Mr. Pereiras, when were you approved? In
11 December?

12 THE SECRETARY: Yes.

13 MS. DILLON: Were you approved in December?

14 THE SECRETARY: I have the transcript.

15 MR. PEREIRAS: We submitted the Board -- to
16 the Board in November. So, I'm assuming it was
17 the December meeting.

18 MS. DILLON: Mr. -- Chairman Marotta was
19 here.

20 CHAIRMAN MAROTTA: Okay. Right.

21 MS. DILLON: He was here.

22 CHAIRMAN MAROTTA: Does anybody have any
23 questions?

24 Then I'll move to approve it.

25 MR. PANEQUE: Motion on the floor.

1 CHAIRMAN MAROTTA: Motion to approve it.

2 THE SECRETARY: Motion to approve the
3 application by Mr. Marotta.

4 MR. MEDINA: Second.

5 THE SECRETARY: Second by --

6 MR. MEDINA: Second.

7 THE SECRETARY: -- Mr. Bonacci.

8 Roll call on the motion.

9 Mr. Marotta?

10 CHAIRMAN MAROTTA: Yes.

11 THE SECRETARY: Mr. Bonacci?

12 VICE CHAIRMAN BONACCI: Yes.

13 THE SECRETARY: Ms. Gutierrez?

14 MS. GUTIERREZ: Yes.

15 THE SECRETARY: Mr. Grullon?

16 MR. GRULLON: Yes.

17 THE SECRETARY: Mr. Medina?

18 MR. MEDINA: Yes.

19 THE SECRETARY: Mr. Ortiz?

20 MR. ORTIZ: Yes.

21 THE SECRETARY: Six in favor.

22 Motion carries.

23 Application --

24 MS. PEREIRAS: Thank you very, very much.

25 THE SECRETARY: -- has been approved.

1 MS. GUTIERREZ: Okay. No problem.

2 MS. PEREIRAS: Have a good night.

3 MS. GUTIERREZ: Good night.

4 MS. PEREIRAS: I'll see you next month.

5 Thank you.

6 MS. GUTIERREZ: All right.

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1 **RESOLUTIONS:**

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3 (1) New 604 11th Street, LLC, 604 11th Street,
4 Block 54, Lot 24. Legalization of an existing
5 apartment to create six residential units.

6 **Approved**

7 (2) Home Away, LLC, 100 Manhattan Avenue, Block
8 191.02, Lots 1, 2, 3 & 3 New Daycare. **Approved**

9 (3) Franklin Medina, 522 4th Street, Block 16,
10 Lot 21. Applicant proposed to convert a two
11 family house to a four family house by legalizing
12 two existing basement apartments. **Approved**

13 (4) Nirvana Realty, LLC, 2105 Bergenline
14 Avenue, Block 114, Lot 3. A new mixed use
15 building consisting of five residential and one
16 commercial units. **Approved**

17 (5) CHJS Holdings, LLC, 320 38th Street, Block
18 226, Lot 4. The construction of a second and
19 third floor story addition to an existing one
20 story structure for use by a mixed media company.

21 **Approved**

22

23 THE SECRETARY: We are going to Resolutions
24 now.

25 We have five Resolutions on tonight's

1 agenda.

2 First Resolution, New 604 11th Street, 604
3 11th Street.

4 Second Resolution, Home Away, LLC, 100
5 Manhattan Avenue.

6 Third Resolution, Franklin Medina, 522 4th
7 Street.

8 Fourth Resolution, Nirvana Realty, LLC,
9 2105 Bergenline Avenue.

10 Resolution number 5, CHJS Holding, LLC, 320
11 38th Street.

12 All these application was approved at the
13 previous meeting.

14 Can I have a motion to adopt these
15 Resolutions?

16 CHAIRMAN MAROTTA: So moved.

17 THE SECRETARY: Motion by Mr. --

18 MS. GUTIERREZ: I'm second.

19 THE SECRETARY: -- Marotta.

20 MR. MEDINA: I'm third.

21 THE SECRETARY: Second by Mrs. Gutierrez.

22 Roll call on the motion.

23 Mr. Marotta?

24 CHAIRMAN MAROTTA: Yes.

25 THE SECRETARY: Mr. Bonacci?

1 VICE CHAIRMAN BONACCI: I have to abstain.

2 I wasn't here last meeting.

3 THE SECRETARY: Ms. Gutierrez?

4 MS. GUTIERREZ: Yes.

5 THE SECRETARY: Mr. Grullon?

6 MR. GRULLON: 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, one
12 abstained.

13 Motion carries.

14 Thank you.

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1 **RESOLUTIONS:**

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3 (6) MBP Hoist and Crane, LLC, 1221 New York
4 Avenue, Block 61.02, Lot 7. New mixed use
5 building consisting of five residential and one
6 commercial unit. Denied

7

8 THE SECRETARY: One more thing.

9 MR. PANEQUE: Mr. Vallejo, on the next
10 matter on the agenda, which is the adoption of
11 denied resolution number 6, with MBP Hoist.

12 Mr. Marotta, that Resolu -- that Resolution
13 today is going to be adjourned. There was a
14 letter --

15 CHAIRMAN MAROTTA: Right. Okay.

16 MR. PANEQUE: -- requesting recommendation
17 --

18 CHAIRMAN MAROTTA: Yes.

19 MR. PANEQUE: -- by this Board, which only
20 came to your attention today.

21 So, that matter will be brought back at the
22 March 8th meeting --

23 CHAIRMAN MAROTTA: Right.

24 MR. PANEQUE: -- for this Board to take a
25 vote on reconsideration, after you've had an

1 opportunity to review the applicant's letter.

2 CHAIRMAN MAROTTA: Right. Okay.

3 MR. PANEQUE: Okay?

4 CHAIRMAN MAROTTA: Thank you.

5 THE SECRETARY: Thank you.

6 CHAIRMAN MAROTTA: What about number 6?

7 THE SECRETARY: Yes.

8 MR. PANEQUE: That's number 6.

9 MS. GUTIERREZ: That's number 6.

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1 **ADJOURNMENT:**

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3 THE SECRETARY: There being no other
4 application on tonight's agenda, can I have a
5 motion to close tonight's meeting?

6 Motion by Margarita Gutierrez.

7 Second by?

8 Any -- Mr. Ortiz.

9 All in favor to end tonight's meeting, say
10 aye.

11

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

13

14 THE SECRETARY: The ayes have it.

15 Thank you and have a good night everyone.

16 Let the record show that the meeting has
17 ended.

18

19 (Whereupon, the proceedings were concluded
20 at 9:57 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, February 8, 2018
11 and digitally recorded.

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25 Monitored and proofread by: Deborah Dillon