

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

	:	TRANSCRIPT OF RECORDED
REGULAR MEETING	:	
	:	PROCEEDINGS
_____	:	

City Hall
3715 Palisade Avenue
Union City, New Jersey

Thursday, May 10, 2018
Commencing at 6:24 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
DAVID W. PRESSEY
JOSEPH D. BONACCI, Vice Chairman

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

LIBERO MAROTTA, Chairman

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

CARLOS VALLEJO, Secretary to the Board

TOMAS R. PANEQUE, ESQ., Board Attorney

DAVID SPATZ, Consultant
Community Housing and Planning Associates,
(Left at 9:00 p.m.)

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

ROBERT C. MATULE, ESQ.,
Attorney for Applicant, K & J Union City, LLC

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

ROBERT M. MAYEROVIC, ESQ.,
Attorney for Applicant,
3311 Pleasant Associates, LLC

ADOLFO L. LOPEZ, ESQ.,
Attorney for Applicant, 300-302 Bergenline Ave.

BIANCA P. PEREIRAS, ESQ.,
Attorney for Applicant, Sip Inka, LLC

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

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

BIANCA P. PEREIRAS, ESQ.,
Attorney for Applicant, MPB Hoist & Crane, LLC

BIANCA P. PEREIRAS, ESQ.,
Attorney for Applicant,
1301-1301 Palisade Ave., LLC

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

3 Please take notice that on Thursday, May 12
4 (sic), 2018, at six p.m., a Regular Meeting is
5 scheduled for the Union City Zoning Board of
6 Adjustment, to be held in the Municipal Chambers,
7 located on the Second Floor, 3715 Palisade
8 Avenue, Union City, New Jersey.

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

11

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

14

15 THE SECRETARY: Thank you.

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

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

25

1 **ROLL CALL:**

2

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

5 Mr. Marotta? Absent.

6 Mr. Bonacci?

7 VICE CHAIRMAN BONACCI: Here.

8 THE SECRETARY: Mr. Grullon?

9 MR. GRULLON: Here.

10 THE SECRETARY: Ms. Gutierrez?

11 MS. GUTIERREZ: Here.

12 THE SECRETARY: Mr. Ortiz?

13 MR. ORTIZ: Here.

14 THE SECRETARY: Mr. Pressey?

15 MR. PRESSEY: Here.

16 THE SECRETARY: Mr. Medina?

17 MR. MEDINA: Here.

18 THE SECRETARY: Let the record indicate
19 there are present -- six present.

20 We have a full quorum for tonight's agenda.

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1 **APPROVAL OF PREVIOUS MEETING MINUTES:**

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3 (1) Regular Meeting held on April 12, 2018

4

5 THE SECRETARY: Approval of Previous
6 Meeting Minutes from April 12, 2018.

7 Can I have a motion to approve the meeting
8 minutes?

9 Motion by Mr. Bonacci.

10 MS. GUTIERREZ: And I'm second.

11 THE SECRETARY: Second by Ms. Gutierrez.

12 Roll call on the motion.

13 Mr. Bonacci?

14 VICE CHAIRMAN BONACCI: Yes.

15 THE SECRETARY: Ms. Gutierrez?

16 MS. GUTIERREZ: Yes.

17 THE SECRETARY: Mr. Grullon?

18 MR. GRULLON: Yes.

19 THE SECRETARY: Mr. Pressey?

20 MR. PRESSEY: Yes.

21 THE SECRETARY: Mr. Medina?

22 MR. MEDINA: Yes.

23 THE SECRETARY: Mr. Ortiz?

24 MR. ORTIZ: Yes.

25 THE SECRETARY: Six in favor.

1 Motion carries.

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

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3 THE SECRETARY: We are going to first
4 hearing.

5 MR. PANEQUE: Mr. Vallejo?

6 THE SECRETARY: Yes, sir?

7 MR. PANEQUE: If I may, I believe Mr.
8 Alonso just has one matter tonight. And I just
9 --

10 Is that right, Mr. Alonso?

11 MR. ALONSO: Yes.

12 MR. PANEQUE: Okay. If I -- if we could
13 just take number 2 out of turn.

14 THE SECRETARY: Yes.

15 MR. PANEQUE: Because that's going to be --
16 that's going to be an adjournment, and I'll place
17 the reasons on the record so that we do not hold
18 him up.

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

20 MR. PANEQUE: Okay.

21 THE SECRETARY: 541 42nd Street, LLC, 539-
22 541 42nd Street.

23 Mr. Alonso, please?

24 MR. ALONSO: Mr. Chairman, members of the
25 Board, for the record, Alvaro Alonso, Alonso

1 Navarette, on behalf of the applicant.

2 MR. PANEQUE: All right.

3 Ladies and gentlemen of the Board,
4 application number 2 is a matter that's been
5 remanded back to the Board by Judge Isabella, on
6 a decision that Judge Isabella made regarding a
7 Resolution.

8 As per Judge Isabella, the matter was to be
9 reminded (sic) -- remanded back to this Board for
10 deliberations and a vote, so that the Resolution
11 can have the findings of the Board placed into
12 the Resolution.

13 The matter was placed in today's agenda.
14 However, in speaking to the -- some of the
15 members here, it came -- it became evident that
16 the Board has not had an opportunity to review
17 the transcript from that meeting, and -- and
18 therefore, be able to put on the record findings
19 and conclusions, and have a meaningful
20 deliberation, which is what Judge Isabella
21 requested.

22 Based on that, this matter's going to be
23 carried to the next meeting, and I'm giving
24 instructions to the Board members to read the
25 transcript for that meeting, on this particular

1 application, so that at the next meeting in June,
2 the Board members can then make their findings
3 and conclusions and put them on the record.

4 Is that understood?

5 VICE CHAIRMAN BONACCI: Yes.

6 MR. MEDINA: Yes.

7 MS. GUTIERREZ: Um hum.

8 MR. PANEQUE: All right.

9 Mr. Alonso, anything else you want to add?

10 MR. ALONSO: That's it.

11 MR. PANEQUE: All right.

12 THE SECRETARY: Also, Mr. Paneque, for the
13 -- Paneque, for the record -- you know, they can
14 read a transcript at ucnj.com. All the
15 transcripts from the previous meetings is right
16 there.

17 MR. PANEQUE: Okay.

18 THE SECRETARY: ucnj.com.

19 MR. PANEQUE: That's it.

20 Okay.

21 MR. ALONSO: What date it will be adjourned
22 to?

23 VICE CHAIRMAN BONACCI: June 14.

24 THE SECRETARY: June 14, Mr. Alonso.

25 MR. ALONSO: Great.

1 Thank you.

2 THE SECRETARY: Can I have a motion to
3 adjourn --

4 MS. GUTIERREZ: You're welcome.

5 THE SECRETARY: -- adjourn this
6 application?

7 VICE CHAIRMAN BONACCI: I'll make motion.

8 THE SECRETARY: Motion by --

9 MR. GRULLON: Second.

10 THE SECRETARY: -- Mr. Bonacci.

11 MR. GRULLON: Second.

12 THE SECRETARY: Second by Mr. Grullon.

13 Roll call on the motion to adjourn this
14 application.

15 Mr. Bonacci?

16 VICE CHAIRMAN BONACCI: Yes.

17 THE SECRETARY: Ms. Gutierrez?

18 MS. GUTIERREZ: Yes.

19 THE SECRETARY: Mr. Grullon?

20 MR. GRULLON: Yes.

21 THE SECRETARY: Mr. Pressey?

22 MR. PRESSEY: Yes.

23 THE SECRETARY: Mr. Medina?

24 MR. MEDINA: Yes.

25 THE SECRETARY: Mr. Ortiz?

1 MR. ORTIZ: Yes.

2 THE SECRETARY: Six in favor.

3 Motion carries.

4 Next meeting for this application June 14,
5 2018.

6 Thank you, Mr. Alonso.

7 MR. ALONSO: Thank you very much.

8 Have a good evening.

9 MR. GRULLON: Thank you, Mr. Alonso.

10 MS. GUTIERREZ: Thank you.

11 MR. PANEQUE: Thank you.

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1 **K & J Union City, LLC -**

2 **609-611 25th Street & 608-610 24th Street:**

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4 MR. PANEQUE: Mr. Vallejo, if we could go
5 back next to the -- number 1 on the calendar with
6 Mr. Matule.

7 THE SECRETARY: Thank you, Mr. Paneque.

8 Okay. We go to the first public hearing
9 extension.

10 K and J Union City, LLC, 609-611 25th
11 Street and 608-610 24th Street.

12 Mr. Matule, please?

13 MR. MATULE: Yes. Good evening, Board
14 members.

15 Robert Matule appearing on behalf of the
16 applicant, K and J Union City, LLC.

17 As some of you may recall, this matter was
18 originally approved in 2012. We were here last
19 year requesting our second one year extension due
20 to issues with relocating two of the tenants on
21 the property, two of the residential tenants,
22 both who have special needs children.

23 Under the applicable statute, 40:55D-52,
24 the Board is authorized to grant up to three
25 additional one year extensions, for final site

1 plan approval, once the initial two year period
2 expires.

3 We have received two extensions, which
4 we're very appreciative, but as I provided the
5 Board members with some documentation from both
6 my client and the tenant, the matter is working
7 itself through. They are -- one of the tenants
8 has found a place to relocate. Both of the
9 tenants want to stay in Union City because
10 they're very happy with the care their children
11 get in the Union City school system, but for
12 reasons beyond the upstairs' tenants control,
13 they found a place, but the tenant that's in that
14 place is having trouble moving.

15 So long story short, we're here requesting
16 an additional one year extension. We realize
17 it's the third and final one. I've made that
18 very clear to the applicant, but we would
19 appreciate the Board's consideration to
20 facilitate the relocation of these residential
21 tenants.

22 MR. PANEQUE: Mr. Matule, is there a
23 timetable as to when you think these tenants will
24 be out of their apartments?

25 MR. MATULE: Well, as you can see from the

1 letter, they really can't give me a hard -- a
2 hard and fast time.

3 You know, I -- I'm loath to say it will be
4 in three months or six months. That's why we're
5 asking for the one year extension, knowing full
6 well that that's -- you know, that's it. It's --
7 it's now going to be up to the applicant and the
8 tenants to do whatever they need to do to make
9 this happen within that timeframe.

10 MR. PANEQUE: Okay.

11 And other than the tenants still being in
12 possession of the apartments, are there any other
13 impediments to the time going in and applying for
14 the permits?

15 MR. MATULE: Not really. I mean, the
16 applicant operates the scrap metal business on
17 the property. That's obviously going to take
18 some time to wind down, but that can be done
19 coincidentally with the -- the permit application
20 process.

21 Part of -- and I don't want to testify, but
22 I think my understanding is, part of the issue
23 here is, is that until he knows for sure the
24 tenants are going to be out, as I'm sure you
25 know, getting construction drawings prepared is a

1 very expensive process, and I don't think he's
2 wanted to make that financial commitment until
3 he's on a little firmer ground.

4 But once -- once he has a sense of security
5 that the tenants are, in fact, going to be going,
6 then we'll move forward with that permitting
7 process.

8 MR. PANEQUE: Thank you, sir.

9 MR. ORTIZ: No questions.

10 MR. PANEQUE: Any questions of the Board?

11 MR. ORTIZ: Nope.

12 MR. PANEQUE: Okay.

13 VICE CHAIRMAN BONACCI: Do we have any
14 questions from any members of the public?

15 Okay.

16 I'm going to make a motion -- we're just
17 looking to extend the Resolution.

18 Right?

19 MR. PANEQUE: That is correct.

20 VICE CHAIRMAN BONACCI: Okay.

21 MR. PANEQUE: This is a request, as stated
22 by Mr. Matule. It would be their third request
23 and that would be, statutorily, their -- their
24 last request extension under the statute.

25 So, if they don't get this project going

1 within the next year, basically, the Resolution
2 becomes void and the approval becomes void and
3 null.

4 MR. MATULE: Yes. Understood.

5 VICE CHAIRMAN BONACCI: Okay.

6 With that, I'll make a motion to grant an
7 extension.

8 THE SECRETARY: Motion to grant the
9 extension by Mr. Bonacci.

10 MS. GUTIERREZ: I'm seconding.

11 THE SECRETARY: Second by Ms. Gutierrez.

12 Roll call on the motion to extend this
13 application for one more year.

14 Mr. Bonacci?

15 VICE CHAIRMAN BONACCI: Yes.

16 THE SECRETARY: Ms. Gutierrez?

17 MS. GUTIERREZ: Yes.

18 THE SECRETARY: Mr. Grullon?

19 MR. GRULLON: Yes.

20 THE SECRETARY: Mr. Pressey?

21 MR. PRESSEY: Yes.

22 THE SECRETARY: Mr. Medina?

23 MR. MEDINA: Yes.

24 THE SECRETARY: Mr. Ortiz?

25 MR. ORTIZ: Yes.

1 THE SECRETARY: Six in favor.

2 Motion carries.

3 MR. MATULE: Thank you very much --

4 THE SECRETARY: Thank you --

5 MR. MATULE: -- for your consideration.

6 THE SECRETARY: -- Mr. Matule.

7 MR. MATULE: Both I and my client

8 appreciate it.

9 MR. PANEQUE: Thank you, sir.

10 MR. MATULE: Have a good evening.

11 MR. PANEQUE: Have a good night.

12 MR. MEDINA: You, too.

13 MS. GUTIERREZ: Good night.

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

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1 **3311 Pleasant Associates, LLC -**

2 **3311 Pleasant Ave.:**

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4 THE SECRETARY: Next application on
5 tonight's agenda, 3311 Pleasant Avenue -- 3311
6 Pleasant Association (sic), LLC.

7 Mr. Mayerovic, please?

8 MR. IZQUIERDO: Mr. Mayer -- good evening,
9 members of the Board.

10 Jose Izquierdo.

11 Mr. Mayerovic is not here, so if the Board
12 is kind enough to let him arrive, so that he can
13 present the application, please?

14 MR. PANEQUE: We'll -- we'll jump to the
15 next application.

16 MR. IZQUIERDO: Okay.

17 Thank you.

18 MR. PANEQUE: Thank you, Mr. Izquierdo.

19 THE SECRETARY: Thank you.

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1 **300-302 Bergenline Ave.:**

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3 THE SECRETARY: Okay.

4 We are going to change a little bit on the
5 order.

6 We are going to -- going to 300-302
7 Bergenline Avenue.

8 Mr. Lopez, please?

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

11 MR. LOPEZ: May I proceed, Mr. Chairman?

12 VICE CHAIRMAN BONACCI: Yes.

13 MR. LOPEZ: Good evening, Mr. Chairman,
14 members of the Board.

15 Adolfo Lopez, appearing on behalf of the
16 applicant.

17 With the Board's permission, I'd like to
18 submit jurisdictional documents.

19 MR. PANEQUE: Thank you, Mr. Lopez.

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

22 MR. PANEQUE: Let the record reflect that I
23 have been provided with the following
24 documentation by Mr. Lopez:

25 I have an Affidavit of Service, which was

1 signed by Mr. Lopez and notarized by Anna Noris,
2 an attorney-at-law of the State of New Jersey,
3 indicating that notice of tonight's application
4 with respect to the property at 300-302
5 Bergenline Avenue, was sent out to all property
6 owners within the 200 foot radius on April 18,
7 2018, as well as having been published in the
8 local paper, The Jersey Journal.

9 I've also been provided with an Affidavit
10 of Publication from The Jersey Journal,
11 indicating that notice was published on April
12 19th. Said notice indicates that notice of
13 tonight's hearing for May 10th, with respect to
14 the property at 300-302 was published in the
15 paper.

16 I've also been provided with a copy of the
17 notice that went out to all property owners
18 within the 200 foot radius, as well as a list
19 from the Tax Assessor's Office for the property,
20 300-302 Bergenline Avenue, with a date of April
21 9, 2018.

22 I've also been provided with copies of the
23 certified mail receipts, with a date of 4/18/18,
24 as well as the green cards that have come back to
25 date.

1 Based on the documentation that's been
2 provided, this Board has jurisdiction to proceed
3 and hear this matter.

4 MR. LOPEZ: Thank you.

5 Mr. Chairman, by way of the initial
6 presentation, this one is a little bit out of the
7 ordinary.

8 The matter comes down from United States
9 District Court. This is part of a bankrupt
10 estate, and there is an order where the matter
11 was sent, appointing me, signed by Judge Stacey
12 Meisel, and she is a United States District
13 judge.

14 She -- my firm is appointed as special
15 counsel to represent the bankrupt estate.

16 The property is owned by two separate
17 entities. One is in bankruptcy, the other one is
18 not. The one in control of the application and
19 the one that is shown as an applicant is someone
20 by the name of Benjamin Stanziale, and he is a
21 United States Bankruptcy Trustee, and for
22 purposes of this application, he is listed as the
23 applicant, even though he is not the property
24 owner.

25 Copies of the order appointing me for this

1 purposes were attached to the application.

2 And with that, let me just give very brief
3 description of the property and why we're here.

4 The overall property consists of two lots,
5 each one is 25 by a hundred. The entire property
6 is 5,000 square feet. Each one has what is
7 legally a one family house, but each one has a
8 second unit, which has existed for a very, very
9 long period of time, based upon the type of
10 construction.

11 The Building Department has asked that
12 these apartments be legalized. The United States
13 District Court will not agree to do anything with
14 the property until these apartments are, in fact,
15 legalized.

16 So, we're seeking, and obviously, my expert
17 will go into it in more detail, we're seeking to
18 legalize a two family house on a 25 by a hundred
19 lot.

20 The -- what is somewhat out of the ordinary
21 in this, is that in the rear of the -- both
22 properties, there is one large common structure,
23 which actually has a parking space. So, it's --
24 it's very, very good overall, but this one
25 structure goes over both lots on a perpendicular

1 basis, as you can see on it.

2 So, we're here for several reasons. A two
3 family house would not normally -- normally you
4 don't need any site plan application, you just
5 have to go to the Building Department, but
6 because variances are required, this Board has
7 jurisdiction.

8 And because of the strange layout of the
9 property, with that joint large garage in the
10 back, which actually is very handy, but we're
11 here for that reason.

12 As my expert, I have Orestes Valella, who I
13 would offer as a -- as a licensed architect and
14 he's been previously qualified, Mr. Paneque, many
15 times before this Board.

16 VICE CHAIRMAN BONACCI: We accept your
17 qualifications.

18 MR. VALELLA: Thank you.

19 VICE CHAIRMAN BONACCI: Thank you.

20 MR. LOPEZ: Mr. --

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. VALELLA: I do.

25 MS. DILLON: Please state your name for the

1 record.

2 MR. VALELLA: My name is Orestes Valella,
3 V-A-L-E-L-L-A, registered architect, State of New
4 York and New Jersey. And my professional offices
5 are at 5809 Madison Street in West New York, New
6 Jersey.

7 MR. LOPEZ: Mr. Valella, the plans that are
8 before the Board tonight, were they prepared by
9 your office?

10 MR. VALELLA: Yes.

11 MR. LOPEZ: They were prepared by you.

12 MR. VALELLA: Yes.

13 MR. LOPEZ: Can you please, let's go over
14 with a general description, certainly in more
15 detail than I gave, and then we'll go into the
16 types of variances that we are seeking.

17 MR. VALELLA: Absolutely. Be delighted.

18 This is, as counsel mentioned, two existing
19 two family homes that share a garage in the rear.
20 It's located on the corner of 3rd Street and
21 Bergenline Avenue. That would be Block 12, Lots
22 23 and 24.

23 Each lot is 25 by 100 and each lot has the
24 individual --

25 Yeah.

1 THE SECRETARY: Sorry.

2 MS. DILLON: Drink some water, Carlos.

3 MR. VALELLA: Each lot has the individual
4 two family home in it.

5 On Lot 23 is an existing two family home,
6 two stories and that goes side to side and facing
7 Bergenline -- fronting Bergenline Avenue, with a
8 rear yard.

9 And that is a two story, two family home.
10 Each apartment on -- on -- one apartment on the
11 ground level, one apartment on the second level.

12 On Lot 24, which would be the corner
13 property, there is a two family and that's a one
14 story, two family. One apartment in the front,
15 one apartment in the rear.

16 On the back, crossing both properties, is a
17 substantial 1,670 square foot garage that has a
18 driveway and curb cut onto 3rd Street. And that
19 accommodates the parking.

20 The apartments -- so, the application, as
21 -- you know, counsel mentioned is here to
22 legalize something that's been here, could be
23 from the '50s. I'm not quite sure. You need a
24 -- you need a DNA test, the construction, but for
25 a substantial amount of time.

1 The -- the apartments are empty. There is
2 a basement that has on -- that is on both of
3 them. The basement -- the basements are
4 unfinished. They have a very low ceiling height.
5 It's a six foot ceiling height. The basements
6 are 757 square feet and they're basically
7 accessed from stairwell hatches from Bergenline
8 -- from 3rd Street and from the rear; unfinished
9 construction. They basically have the boiler and
10 the heating plant for each dwelling unit and
11 that's about it. It's unfinished.

12 On the ground floor of apartment number
13 one, which is the two family on Lot 23, there is
14 a 718 square foot two bedroom, living room,
15 bathroom, kitchen, apartment. And that's -- you
16 enter that directly from the street on Bergenline
17 Avenue.

18 That also has a rear door that gets access
19 through a breezyway (sic), which is called the
20 existing patio. There's a breezyway (sic) there.
21 And there's a door in the garage that you can go
22 in, park in the garage, and walk through the rear
23 yard into that dwelling unit.

24 And that apartment is a two bedroom, 718
25 square foot unit.

1 On the second floor of that two family,
2 there was the second dwelling unit that's
3 accessed through the internal stair. And that's
4 a two bedroom, 813 square foot apartment.

5 Both of these are empty. They're --

6 MR. LOPEZ: Mr. Valella, let me stop you
7 one second, because relating to this apartment,
8 you -- let's explain why we listed it in this
9 fashion.

10 Your testimony is that it is a two bedroom
11 apartment.

12 MR. VALELLA: Yes.

13 MR. LOPEZ: We're showing an extra room.
14 Can you explain where that room is located, and
15 why it's -- why you listed it as a bedroom, but
16 it really is not a bedroom?

17 MR. VALELLA: Yeah. I assume it's not.
18 It's a rarity. It's a room that's -- once you
19 come up the hallway, before you enter the
20 apartment, it has its own door and it's a room.

21 Now, this has been vacant for awhile, so we
22 can't really tell what use it is.
23 Conservatively, we could say perhaps it's being
24 use -- or could be used as a bedroom. So, that
25 would make it a three, under worst case scenario.

1 But it's out --

2 MR. LOPEZ: The room is actually outside
3 the --

4 MR. VALELLA: It's outside the confines of
5 the apartment, so it's a -- it's a weird little
6 thing.

7 In either case, whether it's a two or a
8 three bedroom, for parking purposes, as a two
9 family, the parking count would still be two.
10 So, we listed it; it's an oddity.

11 But for clarity -- you know.

12 MR. LOPEZ: Right.

13 Thank you.

14 MR. VALELLA: Apart -- now going on to Lot
15 24, which is the one story one, we have two
16 apartments there as well. But these are only on
17 the ground floor. There is no second floor.

18 Apartment number three is a two bedroom
19 apartment, and that's 739 square feet. There is
20 a partition in one of the bedrooms that is
21 makeshift; we're proposing to be removed so that
22 there's no temptation to make that a third
23 bedroom.

24 And so, it's a two bedroom, kitchen,
25 bathroom apartment. And that goes directly out

1 onto Bergenline Avenue.

2 The fourth dwelling unit is 588 square
3 feet. And that's access -- accessed through 3rd
4 Street, and that is a three bedroom apartment and
5 living room, apartment number four. And that's
6 500 -- I'm sorry. Two bedroom. I misspoke.
7 It's a two bedroom, 588 square foot dwelling
8 unit. Again, two bedrooms, bathroom, and
9 kitchen. And the front door is out to 3rd Street.

10 In the rear is the garage, and that can
11 accommodate eight parking spaces. And it's
12 pretty big, it's 48 by 34, it's a one story
13 masonry garage that as was mentioned before,
14 crosses in the rear yard and occupies both -- is
15 part of both lots.

16 MR. LOPEZ: Mr. Valella, can you go over as
17 to what the required variances are before this
18 Board?

19 MR. VALELLA: Sure. The -- our property is
20 located in the R, low density residential
21 district, and it is existing under, I guess, the
22 Building Department, as one families. We're
23 proposing the conversion to a two.

24 The lot area that would be required --
25 well, the existing lot area for the entire

1 property is 5,000 square feet. And for a two
2 family, for 2500 per, or 5,000 for two, the lot
3 width is 50, would be 50. The -- and again, we
4 can -- we can do the analysis on either a 25 by
5 100 or as a 5,000. We did it as a 5,000, because
6 of the garage in the rear. But in either case,
7 it meets the lot areas of 25 by 100.

8 The lot depth is 100. The front yard would
9 be ten feet or the prevailing. The front yard is
10 zero. It's an existing condition. The side yard
11 total would be six, we are at zero.

12 The rear yard will be 25 percent of the lot
13 depth, which would be 25 feet. And we're at 13
14 percent at the properties, but at the garage,
15 it's zero.

16 Building coverage would be 60 percent,
17 where existing is 86 percent. The -- I'm sorry.
18 The building coverage would be 60, we're at 86.

19 The lot coverage would be 75 and we're at
20 96.

21 The maximum stories would be three, and we
22 are at two.

23 The maximum height would be 40, and we're
24 approximately 20.

25 And the parking requirement for four two

1 | bedroom units, or two two families, will be four
2 | each. And we are -- we have capacity for eight.

3 | MR. LOPEZ: So, Mr. Valella, relating to
4 | the front yard, the required is ten feet or the
5 | prevailing setback. This is, in fact, the
6 | prevailing setback --

7 | MR. VALELLA: This is the typical --

8 | MR. LOPEZ: -- generally on the block.

9 | MR. VALELLA: -- situation on Bergenline
10 | Avenue there, 90 percent of them --

11 | MR. LOPEZ: In --

12 | MR. VALELLA: -- are right on the property
13 | line.

14 | MR. LOPEZ: In that section.

15 | MR. VALELLA: Yes.

16 | MR. LOPEZ: Yes. And then, relating to the
17 | side yard, we would need a variance because we
18 | are -- we have zero even --

19 | MR. VALELLA: We are --

20 | MR. LOPEZ: -- though it's existing.

21 | MR. VALELLA: We are deficient. But again,
22 | this is a preexisting condition. This house has
23 | been there for -- it's -- it's been there for
24 | awhile.

25 | MR. LOPEZ: And same applies for the

1 combined side yards. We need a variance there.

2 Rear yard, building coverage and lot
3 coverage. All these are existing variances.

4 MR. VALELLA: These are all existing --

5 MR. LOPEZ: Existing conditions that we're
6 seeking variances --

7 MR. VALELLA: Yes.

8 MR. LOPEZ: -- because of the application.

9 MR. VALELLA: Yes.

10 MR. LOPEZ: Is that correct?

11 MR. VALELLA: We are not proposing any new
12 work. We're not removing or making bigger. It's
13 all been there for quite awhile.

14 MR. LOPEZ: That concludes our
15 presentation, unless the Board or the public has
16 any questions.

17 VICE CHAIRMAN BONACCI: Mr. Lopez, you just
18 mentioned the variances that are preexisting --

19 MR. LOPEZ: They are existing conditions.
20 Because we have this application before the Board
21 --

22 VICE CHAIRMAN BONACCI: Right.

23 MR. LOPEZ: -- these are the actual
24 variances that we -- we would seek.

25 VICE CHAIRMAN BONACCI: Can you just point

1 out the variances that are not preexisting
2 conditions, that are like new to the project or
3 --

4 MR. LOPEZ: The --

5 VICE CHAIRMAN BONACCI: -- to the proposal?

6 MR. LOPEZ: There's absolutely nothing new
7 to the project.

8 VICE CHAIRMAN BONACCI: Okay.

9 MR. LOPEZ: What I did not mention, Mr.
10 Chairman, are the existing conditions, which do
11 not require variances. I only mentioned the ones
12 that are existing, but specifically require
13 variances at this point.

14 VICE CHAIRMAN BONACCI: Are you requesting
15 variances for, let's say, for the -- for the
16 parking?

17 MR. LOPEZ: No. Parking is fully
18 compliant.

19 VICE CHAIRMAN BONACCI: Okay.

20 And the two family structure is permitted
21 in this zone?

22 MR. VALELLA: Yes.

23 MR. LOPEZ: Yeah. It's a --

24 VICE CHAIRMAN BONACCI: All right.

25 MR. LOPEZ: It's exactly -- it's the --

1 MR. VALELLA: The --

2 MR. LOPEZ: -- R zone and it permits one,
3 two, and three family structures.

4 MR. VALELLA: If -- if --

5 VICE CHAIRMAN BONACCI: So, still low --
6 still low density residential.

7 MR. LOPEZ: Correct.

8 MR. VALELLA: If I may, just --

9 MR. LOPEZ: Yes.

10 MR. VALELLA: These are -- they're one
11 families, which is a permitted use. We're in the
12 R zone. We are requesting that they be converted
13 to two families, which is still a permitted use.
14 The lot area for a two family would be 25 by 100.
15 Each of them has the 25 by 100.

16 So, the use is permitted. The lot area is
17 satisfactory. And the parking capacity is
18 satisfactory.

19 It's really a matter of bulk.

20 VICE CHAIRMAN BONACCI: Just one other
21 thing.

22 Mr. Orestes, maybe you can help me with
23 this. The parking spaces. The -- the specs on
24 that.

25 MR. VALELLA: Nine by 18.

1 VICE CHAIRMAN BONACCI: Nine by 18. And
2 that complies with the S -- the RS --

3 MR. VALELLA: RSSI (sic) --

4 VICE CHAIRMAN BONACCI: Yeah.

5 MR. VALELLA: -- size standards for the
6 State. Yes.

7 VICE CHAIRMAN BONACCI: Okay.

8 I don't have any additional questions --
9 for you guys?

10 MR. GRULLON: I have --

11 VICE CHAIRMAN BONACCI: Yes.

12 MR. GRULLON: I have a question, Mr. Lopez.

13 Typically, when -- like when you are
14 requesting to legalize units, right, like in this
15 case, you are legalizing two units --

16 MR. VALELLA: Um hum.

17 MR. LOPEZ: Correct.

18 MR. GRULLON: Typically, we see that the
19 units are occupied.

20 In this case, the units are empty.

21 MR. VALELLA: Yes.

22 MR. GRULLON: But --

23 MR. LOPEZ: The problem with -- if this
24 property was owned by a regular property owner,
25 they would be occupied.

1 MR. GRULLON: Yes. Yes. Yes.

2 MR. LOPEZ: If they're owned by a
3 bankruptcy trustee --

4 MR. GRULLON: Yeah. But I --

5 MR. LOPEZ: -- they're not going to be
6 occupied.

7 MR. GRULLON: What I see here is the -- we
8 have a chance now to bring the units in
9 compliance -- you know, according to the size.
10 Like I can see, three of the units, they are like
11 undersized. Like unit number one is 718 square
12 feet, when -- when it should be at 750 square
13 feet.

14 MR. VALELLA: Well --

15 MR. GRULLON: Unit number three and unit
16 number four, they -- all those three units are
17 undersized.

18 I don't know if you are considering to make
19 any renovations inside or --

20 MR. VALELLA: Yes.

21 MR. GRULLON: -- will be --

22 MR. VALELLA: Well --

23 MR. GRULLON: You can bring them down from
24 two bedroom to a one bedroom and make it in
25 compliance.

1 MR. VALELLA: Okay. The -- we don't want
2 to make this any bigger. We want to leave
3 everything as is.

4 At the moment, there is -- it's going
5 through a legal process. The owner wants -- I
6 don't want to speak for -- but you may want to?

7 MR. LOPEZ: It's -- unfortunately, my
8 client, as indicated tonight, can't do anything,
9 cannot engage in construction.

10 Subject to approval by this Board, these
11 will be sold. And as part of the process,
12 that's, in all likelihood, what will take place,
13 and there will be substantial renovations to the
14 property.

15 MR. GRULLON: Yes.

16 MR. LOPEZ: The properties are in very bad
17 shape. They are completely empty and there --
18 there is a contract pending before the bankruptcy
19 trustee, but again, it cannot be sold until this
20 is legalized.

21 If -- now, the problem, as Mr. Valella
22 indicates, in order to -- and it's very slight
23 variations. I think it's 11 square feet on one
24 and the other one is -- is a little bit more,
25 about 30 square feet. So, it's not a lot and the

1 | problem to then enlarge these properties becomes
2 | a bit of an issue. We're now creating --

3 | MR. GRULLON: No. I'm not talking about
4 | enlarging them, I'm talking about reducing the
5 | amount of bedrooms.

6 | MR. LOPEZ: Reducing the amount of
7 | bedrooms? If --

8 | MR. GRULLON: Yes.

9 | MR. LOPEZ: If that's what this Board's
10 | recommendation is --

11 | MR. GRULLON: Just to make it in --

12 | MR. LOPEZ: It's not something --

13 | MR. GRULLON: -- compliance. Yes.

14 | MR. LOPEZ: I -- I understand. It's
15 | something that if that's what this Board's
16 | Resolution is, that's fine.

17 | My client, this evening, cannot commit to
18 | that. If it's part of the Resolution and once
19 | the property is sold, I guess that would be the
20 | -- the condition that -- that goes along with it.

21 | But my client cannot commit to that,
22 | because as a bankruptcy trustee, they are not
23 | allowed to engage any type of construction on the
24 | asset.

25 | MR. GRULLON: Understand, sir.

1 Thank you, Mr. Lopez.

2 MR. LOPEZ: Thank you.

3 MR. VALELLA: This will have exten -- I
4 mean, if you approve, this will have extensive
5 work done to it, extensive repairs. Not only
6 because the owner wants to, but it has to go from
7 here to the Building Department, and the Building
8 Department will require a lot of work.

9 MR. GRULLON: Yeah.

10 MR. LOPEZ: They're in -- they're in very
11 bad shape.

12 MR. GRULLON: For how long have the units
13 been empty?

14 MR. LOPEZ: I don't have that information.
15 The bankruptcy petition has been pending for over
16 two years. At some point in that process, the
17 trustee either took whatever steps to fully
18 vacate the units.

19 MR. GRULLON: Thank you.

20 VICE CHAIRMAN BONACCI: I just have a
21 question for Mr. Grullon.

22 So, Mr. Grullon, your concern is that the
23 minimum requirement of the unit size is 750
24 square feet.

25 MR. GRULLON: Yes. Um hum.

1 VICE CHAIRMAN BONACCI: And the two
2 existing apartments that the applicant seeks to
3 legalize, one of them, it looks like apartment
4 number three, first floor, is at 739, which is
5 undersized. And then, apartment number four, on
6 the first floor, is 588, which is undersized.

7 So, you -- you were looking -- your concern
8 was to get all the apartment bedrooms around 750
9 square feet.

10 MR. GRULLON: Actually, if -- if they bring
11 it down to like one bedroom --

12 VICE CHAIRMAN BONACCI: Right.

13 MR. GRULLON: -- the requirement will be
14 five --

15 MR. PANEQUE: Yeah.

16 MR. GRULLON: I believe 550.

17 Is that correct?

18 MR. SPATZ: Yeah. What --

19 MR. PANEQUE: If I may?

20 MR. SPATZ: Well --

21 MR. PANEQUE: Mr. Spatz, can you clarify
22 because --

23 MR. LOPEZ: That --

24 MR. PANEQUE: -- I don't believe the --

25 MR. LOPEZ: That doesn't apply to --

1 MR. PANEQUE: -- the density applies here.

2 MR. SPATZ: Right. Because these are two
3 -- are two family homes. It's really two, two
4 family homes. The minimum lot -- unit size is
5 not triggered, only when it's a four unit
6 building or more.

7 VICE CHAIRMAN BONACCI: Okay.

8 MR. SPATZ: So because they are two family
9 homes, there's no minimum size on that.

10 MR. VALELLA: Yeah. We put that chart for
11 comparison purposes, typically, for the Board so
12 that they have a gauge. But it's not applicable
13 to a two family.

14 MR. GRULLON: Thank you.

15 VICE CHAIRMAN BONACCI: Any other members,
16 questions?

17 Mr. Lopez, how long did you say that the
18 space has been vacant?

19 MR. LOPEZ: I don't know, Mr. Chairman.
20 The bankruptcy petition has been pending for
21 about two years. At some point -- from that
22 point to now, steps were taken by the trustee to
23 remove all tenants from the property. But I
24 don't -- I can't give you a figure. I apologize.

25 VICE CHAIRMAN BONACCI: Okay. No. That's

1 cool.

2 MR. LOPEZ: And -- and it has to remain
3 vacant --

4 VICE CHAIRMAN BONACCI: Until --

5 MR. LOPEZ: -- until it's sold.

6 VICE CHAIRMAN BONACCI: Right.

7 MR. LOPEZ: Yeah.

8 VICE CHAIRMAN BONACCI: I totally
9 understand.

10 Do we have any questions from any members
11 of the public at this time?

12 Okay.

13 Close to members of the public.

14 Just one last time, anybody from the
15 members of the Board? You guys are good?

16 MR. ORTIZ: No. We're clear.

17 MR. GRULLON: No. We are clear. We're
18 good.

19 Thank you.

20 VICE CHAIRMAN BONACCI: All right. With
21 that, I'm just going to make a motion to --

22 MR. PANEQUE: State your reasons.

23 VICE CHAIRMAN BONACCI: -- to approve this
24 application.

25 But before I do so, I just want to put on

1 record testimony that -- the site plan, including
2 any proposed conditions that you had mentioned,
3 Mr. Lopez, provide -- you know, with the goals
4 and the objectives of the Master Plan and the
5 Municipal Land Use Law, and promotes the health
6 and safety and general welfare of the public.

7 And it would be -- you know, nice to see
8 something happening in that area where currently
9 nothing's happening.

10 So with that, I'd like to make a motion to
11 approve the application.

12 THE SECRETARY: Motion to approve the
13 application by --

14 MR. GRULLON: I second.

15 THE SECRETARY: -- Mr. Bonacci.

16 MR. GRULLON: Second the motion.

17 THE SECRETARY: Second by Mr. Grullon.

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

20 Mr. Bonacci?

21 VICE CHAIRMAN BONACCI: Yes.

22 THE SECRETARY: Ms. Gutierrez?

23 MS. GUTIERREZ: Yes.

24 THE SECRETARY: Mr. Grullon?

25 MR. GRULLON: Yes.

1 THE SECRETARY: Mr. Pressey?

2 MR. PRESSEY: Yes.

3 THE SECRETARY: Mr. Medina?

4 MR. MEDINA: Yes.

5 THE SECRETARY: Mr. Ortiz?

6 MR. ORTIZ: Yes.

7 THE SECRETARY: Six in favor.

8 Motion carries.

9 MR. VALELLA: Thank you.

10 MR. LOPEZ: Thank you so much.

11 MR. GRULLON: Thank you.

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

14 MR. SPATZ: The attorney for this, Pleasant
15 Avenue, is still not here, so just -- just keep
16 moving.

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

19 * * *

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1 **Sip Inka, LLC - 717-719 Street and**
2 **718-720 31st Street:**

3

4 THE SECRETARY: Right.

5 Next application on tonight's agenda is an
6 extension, Sip Inka, LLC, 717-719 Street and 718-
7 720 31st Street.

8 Ms. Pereiras, please?

9 MS. PEREIRAS: Good evening.

10 Bianca Pereiras, on behalf of the
11 applicant.

12 I owe your counsel some additional
13 information on this matter, so if the Board would
14 be so kind, I'd like to present this extension at
15 the next month's meeting.

16 MR. PANEQUE: Yes, ladies and gentlemen of
17 the Board, I had an opportunity to speak to Ms.
18 Pereiras.

19 On this particular application, Ms.
20 Pereiras had given me a call and had indicated
21 that she was going to provide me with some legal
22 memorandum justifying her application. Because
23 of time constraints, that was not able to be
24 done, and as such, the request is to carry the
25 application to June 14th, is it?

1 MR. SPATZ: Yes.

2 THE SECRETARY: June 14, yes.

3 MR. PANEQUE: June 14th.

4 MS. PEREIRAS: Thank you very much.

5 MS. GUTIERREZ: Um hum.

6 MR. PANEQUE: Okay.

7 So, is there a motion?

8 VICE CHAIRMAN BONACCI: I'll make a motion
9 to adjourn this application to June 14th.

10 THE SECRETARY: Motion by Mr. Bonacci.

11 MS. GUTIERREZ: And I'm seconding.

12 THE SECRETARY: Second by Ms. Gutierrez.

13 Roll call on the motion to adjourn this
14 application for June 14, 2018.

15 Mr. Bonacci?

16 VICE CHAIRMAN BONACCI: Yes.

17 THE SECRETARY: Ms. Gutierrez?

18 MS. GUTIERREZ: Yes.

19 THE SECRETARY: Mr. Grullon?

20 MR. GRULLON: Yes.

21 THE SECRETARY: Mr. Pressey?

22 MR. PRESSEY: Yes.

23 THE SECRETARY: Mr. Medina?

24 MR. MEDINA: Yes.

25 THE SECRETARY: Mr. Ortiz?

1 MR. ORTIZ: Yes.

2 THE SECRETARY: Six in favor.

3 Motion carries.

4 MS. PEREIRAS: Thank you all very much.

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

7 THE SECRETARY: Mr. -- Mr. Paneque?

8 MR. PANEQUE: Yes?

9 THE SECRETARY: Going back to --

10 MR. PRICE: That was Sip Inka.

11 Right?

12 MR. PANEQUE: That was -- yeah, Sip Inka,
13 number 5 on the calendar.

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1 **3311 Pleasant Associates, LLC -**

2 **3311 Pleasant Ave.:**

3

4 THE SECRETARY: Now we are going to go to
5 3311 Pleasant Associations (sic), LLC, 3311
6 Pleasant Avenue.

7 Mr. Mayerovic?

8 MR. MAYEROVIC: Good morning. Good
9 evening, gentlemen.

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

12 MR. MAYEROVIC: Proof of publication,
13 certifica -- I got an extra copy of these, if you
14 want. This just -- if you want, that's all.
15 That's fine.

16 MR. PANEQUE: That's fine.

17 MR. MAYEROVIC: Certification of mailing,
18 the date stamp April 27th and five are date
19 stamped April 30th.

20 MR. PANEQUE: Mr. Mayerovic, do you have
21 your 200 foot list?

22 MR. MAYEROVIC: Yes. I -- it's -- it's
23 part of the application. Well, I have that.

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

1 MR. PANEQUE: And the green cards?

2 MR. MAYEROVIC: These are the green cards
3 that came back. This is what came back so far.

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

6 MR. MAYEROVIC: That's it.

7 There are two lists. There's one for Union
8 City, list of Weehawken.

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

11 MR. PANEQUE: This is Union City.

12 MR. MAYEROVIC: I got to give you
13 Weehawken.

14 I'm sorry. It's in the packet. It's --
15 it's in the original -- Weehawken and Union City
16 is in the original packet.

17 MR. PANEQUE: Okay. Let me see if we have
18 it then.

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

21 MR. PANEQUE: All right. This is just
22 Union City.

23 MR. MAYEROVIC: Here's Weehawken.

24 MR. PANEQUE: Okay.

25 MR. MAYEROVIC: You have a copy.

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

3 MR. PANEQUE: For the record, I've been
4 provided, by Mr. Mayerovic, with the following
5 documentation:

6 I've been provided with a Certification of
7 Mailing, which has been signed by Mr. Mayerovic,
8 indicating that notice of tonight's application,
9 with respect to premises at 3311 Pleasant Avenue
10 was provided to all property owners by certified
11 mail on April 27th and April 30th.

12 I've also been provided with an Affidavit
13 of Publication from The Jersey Journal, which
14 indicates that notice of tonight's hearing was
15 published on April 30th, 2018. The notice
16 indicates that notice for tonight's hearing, May
17 10th, at six p.m., with respect to the property at
18 3311 Pleasant Avenue was given.

19 I've also been provided with a copy of the
20 notice that went out to all property owners, as
21 well as a list from the Tax Assessor's Office,
22 with a date of March 29, 2018, and a list from
23 the Weehawken Tax Assessor, with a date of April
24 3rd, 2018, listing all property owners within the
25 200 foot radius.

1 I've also been provided with the certified
2 mail receipts. Most of them are dated April 27th,
3 and there are a few, towards the back, that have
4 a postmark date of April 30th, which is within the
5 ten day period.

6 I've also been provided with the copies of
7 the certified return receipts that have come
8 back, as well as unclaimed envelopes.

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

12 MR. MAYEROVIC: Ladies and gentlemen,
13 Robert M. Mayerovic appearing on behalf of the
14 applicant.

15 MS. DILLON: Oh I'm sorry, Jose. I
16 apologize.

17 MR. MAYEROVIC: Just a brief overview.

18 The property address is 3311 Pleasant
19 Avenue, Union City. The property address is 3311
20 Pleasant Avenue, Union City, New Jersey.

21 This is -- this historically, and for the
22 last 25, 30 years, this building was a five
23 family -- taxed as a five family house and -- and
24 in the past year, the Building Department
25 determined that three of the units were not legal

1 units, or were not authorized. And as a result
2 of that, we're here before the Board seeking to
3 convert this two family house to a legal four
4 family house.

5 And as I said, I want to just emphasize, in
6 the initial part of the -- the presentation, that
7 for the past 25 years, it has been taxed and
8 assessed as a -- a five family house.

9 And I'm just going to ask that the Board --
10 the Board take note of that.

11 I have just the Tax Assessor's record on
12 that, and I'll just hand it to show that it's
13 been assessed as a five family unit.

14 I'll also tell the Board --

15 MR. PANEQUE: Mr. Mayerovic, before you
16 proceed, do you want to have this marked as an
17 exhibit?

18 MR. MAYEROVIC: Yes. We can mark that as
19 marked SP-1.

20 MR. PANEQUE: Okay. A-1.

21 MR. MAYEROVIC: A-1.

22 MR. PANEQUE: Yes.

23

24 (Whereupon, Tax Assessment Record (2 pages)
25 was received and marked as Exhibit A-1.)

1
2 MR. MAYEROVIC: And then, the other thing I
3 -- I want to tell the members of the Board is
4 that we have recently, or we just -- we did file,
5 because we didn't know what the Board was going
6 to decide, but based on -- based on the existing
7 situation, we -- we did even file a tax appeal
8 having to do with the fact that for all the
9 years, the property is assessed -- was assessed
10 as a five family and is now a two family house.

11 Also, I would ask the Board, just a little
12 bit out of order, I have two witnesses, Mr.
13 Izquierdo and Mr. Tomasz. Mr. Tomasz is the
14 architect who prepared the drawings. Mr.
15 Izquierdo is my planner, but I'm using Mr.
16 Izquierdo to also address two architectural
17 issues, with the consent of Mr. Tomasz.

18 And that being said, I would ask that the
19 Board allow me to qualify both Mr. -- Mr.
20 Izquierdo both in the field of -- as a planner
21 and also as an architect.

22 I know he's testified before the Board. If
23 the Board wants me to go through his
24 qualifications, I -- I'm prepared to do that.

25 VICE CHAIRMAN BONACCI: No. We know who he

1 is. We accept your qualifications.

2 MR. IZQUIERDO: Thank you, Mr. Bonacci.

3 MS. DILLON: Mr. Izquierdo, please raise
4 your right hand.

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

7 MR. IZQUIERDO: I do.

8 MS. DILLON: Please state your name for the
9 record.

10 MR. IZQUIERDO: My name is Jose Izquierdo,
11 architect. Address at 207 60th Street, West New
12 York, New Jersey. Architectural license 09143,
13 planner license 03385.

14 MS. DILLON: Thank you.

15 MR. MAYEROVIC: I'm using him in two
16 capacities and they overlap. There's some degree
17 of overlap.

18 Mr. Izquierdo, did you have occasion to
19 actually visit the site and visit the units --

20 MR. IZQUIERDO: Yes, I did.

21 MR. MAYEROVIC: -- that are at the
22 building?

23 MR. IZQUIERDO: Yes, I did.

24 MR. MAYEROVIC: Can you tell the Board, or
25 give -- give the Board just an assessment of your

1 onsite inspection of the premises?

2 MR. IZQUIERDO: I certainly will.

3 Good evening, members of the Board.

4 The Zoning Board gains jurisdiction of this
5 application under two alternates. One is as a
6 D-1 building use zone.

7 On March the 6th, 2018, the City rezoned a
8 number of properties in the city, and all the
9 zones that were previously called residential
10 medium, or city center, or all of those, gate --
11 city gateway, were all turned into the CN
12 commercial neighborhood zone.

13 That was in the Reexamination Report that
14 the City commissioned back in February, and
15 adopted on March the 6th.

16 Previously, this property was located in
17 the RM zone. Under the RM zone, this Board gains
18 jurisdiction because we would have a D-6 building
19 height variance.

20 Additionally, the Reexamination Report
21 changed the rule as to the time of the
22 application, as opposed to the time of decision,
23 which was the rule that was previously enforced
24 in the city.

25 So, I will proceed with the analysis of the

1 -- of the zone, under the CN zone, and under the
2 time of application rule.

3 Applicant seeks, together with the site
4 plan approval, waiver of the following issues,
5 which are required, mandatory by statute.

6 Topography, since the topography of the
7 property's existing and we don't plan to have any
8 changes to that; vegetation, all existing;
9 drainage. The Board can take judicial notice
10 that we are not located in a flood plain, and as
11 well the location of parking spaces and walkways
12 and all of that are shown in Mr. Bona's
13 architectural drawings.

14 Can you hand this out? This?

15 MR. MAYEROVIC: Okay.

16 MR. IZQUIERDO: Let me have one.

17 MR. MAYEROVIC: Go ahead. I'm sorry.

18 We're -- we're going to mark a document
19 P-2.

20 MR. IZQUIERDO: A-2.

21 MR. MAYEROVIC: A-2.

22 VICE CHAIRMAN BONACCI: Counselor, before
23 you guys go further, if I may, we're looking over
24 the pictures, and we're just a little confused as
25 to which property is the one in question.

1 MR. MAYEROVIC: Okay. It's the first house

2 --

3 MR. IZQUIERDO: The corner property.

4 MR. MAYEROVIC: Corner.

5 VICE CHAIRMAN BONACCI: The -- okay.

6 MR. PANEQUE: The yellow brick?

7 MR. MAYEROVIC: Yes, the corner property.

8 VICE CHAIRMAN BONACCI: This one here?

9 MR. MAYEROVIC: Right.

10 VICE CHAIRMAN BONACCI: Okay.

11 MR. IZQUIERDO: The Victorian looking
12 house, with the big front porch.

13 VICE CHAIRMAN BONACCI: Gotcha. Okay.

14 Thank you.

15 MR. MAYEROVIC: There are no -- there are
16 -- when you look at the photograph and the
17 Victorian houses, there would be no houses on the
18 other side of it because it's actually the
19 highway is over there, 495. The access road and
20 495.

21 I'm just -- I want to mark this document
22 A-2, and just circulate it to the Board.

23 MR. IZQUIERDO: What Mr. Mayerovic is
24 handing is the Schedule of Variances and the 200
25 Foot Radius Exhibit Plan.

1
2 (Whereupon, Schedule of Variances and 200
3 Foot Radius Exhibit Plan was received and marked
4 as Exhibit A-2.)
5

6 MR. IZQUIERDO: One of the issues that the
7 Reexamination Report, adopted in March the 6th,
8 2018, recognized is that when Union Hill and West
9 Hoboken became Union City, actually, 495 cuts the
10 city in half.

11 MS. DILLON: Mr. Mayerovic, do you have
12 another copy?

13 MR. MAYEROVIC: Yes.

14 MR. IZQUIERDO: There's one half to the
15 south, there's one half to the north.

16 So, this property would actually be a
17 corner property if it didn't have the
18 right-of-way of 495. And that is a hardship that
19 we face in providing parking for the premises.

20 When you see the building, and Mr. -- Mr.
21 Bona will go into detail on that, the house, in
22 my opinion, was originally built as a multi-
23 family building, because first of all, it has
24 four floors, but it has two central staircases
25 that serve the entire building.

1 So, it's my contention that the house was
2 probably built as a four family house, that was
3 used as a five family house before the Zoning
4 Ordinance of Union City, back in 1971.

5 Essentially, the applicant is seeking just
6 a D-1 building use variance. What the CN zone
7 requires is that we have a commercial space on
8 the ground floor, and apartments on the upper
9 floors, because no residential is allowed on the
10 ground floor.

11 That is the reason for the D-1 building use
12 variance, that we're -- if we had -- we're coming
13 in to -- with an application that showed that we
14 have a grocery store or a beauty parlor, or
15 whatever on the ground floor, and three
16 apartments on top, jurisdiction would be proper
17 before the Planning Board, because the building
18 use would not be an issue.

19 However, when you examine the whole area
20 around the property, there are no commercial
21 activities around this site. This site, and all
22 the surrounding, is totally residential. And I
23 will go into that plan a little bit more in
24 detail.

25 MR. MAYEROVIC: We -- we've given you a

1 series of photographs that we'll -- we'll mark,
2 and it's clear from the photographs that as you
3 look up the block, there --

4 MR. IZQUIERDO: It's all residential.

5 MR. MAYEROVIC: It's all residential, no
6 commercial.

7 MR. IZQUIERDO: So the lot -- the lot area
8 required by the CN zone is 2,500 square feet and
9 we have 4,120.5 square feet, which exceeds and
10 complies.

11 The lot width required is 25 feet, we have
12 41.2. Actually, 42.11 maximum and 40.3 minimum,
13 which exceeds and complies.

14 The lot depth required is a hundred feet.
15 We had a hundred feet, which complies.

16 The front yard require -- required is zero
17 feet. We have actually 18 feet seven inches to
18 the existing front yard, and we have -- to the
19 main structure, not the stoop. However, the
20 house is consistent with all the developments on
21 that side of the street.

22 The topography of that site can best be
23 characterized by the location of the Lincoln
24 Tunnel. The Lincoln Tunnel was placed there
25 because the normal topography of the Palisades

1 naturally slope down, and there is a high slope
2 coming down so that 495 then can circle around
3 and go into the tunnel.

4 So, the backyard of this property is higher
5 and the other property is higher, and everything
6 goes higher. That's why we're the highest point
7 on the Palisades.

8 But this is -- the front of the property is
9 a lot lower than the rear of the property, which
10 again is a topographical hardship.

11 The side yards required are zero feet.
12 Five feet is provided.

13 We have 11 feet on one side, 12.5 feet in
14 the back, and the average is 12.1, which exceeds
15 and complies.

16 The rear yard required is 20 feet. We have
17 21 feet six inches.

18 The building height allowed is four stories
19 or 50 feet. Under the CN zone, that is not a
20 building height variance. We have four -- four
21 stories or 50 feet, and my -- my schedule is
22 wrong. So, I beg your pardon for that.

23 The lot coverage allowed is a hundred
24 percent. The building covers 71.52 percent,
25 because only the front of the property is paved.

1 The rear yard is all landscaped.

2 The building coverage is 80 percent and the
3 house is only 40 percent. It's actually a small
4 house for such a big site.

5 But when it comes to the parking, we cannot
6 provide the required 6.9 spaces. We can only
7 provide one space in the front, which is actually
8 -- and I'll go into the 200 Foot Area Plan, which
9 is what the other properties in the neighborhood
10 can provide. But we're required to have 6.9.

11 Originally, when I saw this application, I
12 thought that we could use the rear yard for
13 parking. But first of all, we're not a corner
14 property because the ten foot right-of-way is
15 owned by the U.S. Department of Transportation,
16 so we cannot cross that.

17 Additionally, this is such a busy
18 intersection. This was actually in the news,
19 with the Mayor of Weehawken and the Mayor of
20 Union City actually trying to prevent the traffic
21 from here because people use it from other parts
22 of the state to cross through and make a shorten
23 into the Lincoln Tunnel.

24 That's in the courts because we cannot
25 alter the -- under the commerce clause.

1 So, we have a requirement of 6.9 parking
2 spaces.

3 The apartments are super large. The way
4 this house was built, was built before the zoning
5 of Union City, and they're just very large
6 apartments.

7 MR. MAYEROVIC: On the average -- on the
8 average, the square footage of these apartments
9 will be -- you know --

10 MR. IZQUIERDO: I don't have the -- Mr. --
11 Mr. Bona will go over that.

12 MR. MAYEROVIC: Mr. Tomasz will -- will
13 testify, but these -- you'll see, these are large
14 apartments. We are not -- we are not expanding
15 the apartments. We're not enlarging the
16 apartments.

17 MR. IZQUIERDO: There are no exterior
18 changes to the building; no outside improvements
19 either.

20 When the Board sees the 200 foot radius map
21 that I -- that my office prepared, on the lower
22 side of the map are the properties in Weehawken.
23 And that shows, for instance, a four family on a
24 four story structure, a two family and a four
25 story structure, a four family and a two story

1 structure.

2 Most of the properties in Union City, this
3 is a multi-family with 14 units, four stories,
4 and it has three parking spaces. Again, because
5 of the topography.

6 The -- the sites that provide a lot of
7 parking are the Julianne Apartments. They have
8 the whole rear of the building, but they don't
9 provide parking a hundred percent.

10 Lot 3 does have an underground garage, and
11 that provides parking for its nine units.

12 Our next door neighbor is a one family,
13 which is three stories, then there's also a
14 vacant lot, and there is a three family on a
15 three story structure.

16 So, most -- most of the buildings around
17 this area, first of all, have no commercial.
18 Providing commercial here on the ground floor,
19 even though that's what the Master Plan calls
20 for, would result in substantial detriment to the
21 Master Plan, because first of all, it's not a
22 very good location for a commercial at all.

23 Additionally, since we have only the
24 possibility of providing one parking space, that
25 parking space is going to be provided to comply

1 with the standards of the handicapped apartment,
2 which we're going to have on the basement level.

3 So, in order to -- to result in a variance,
4 applicant has to show that we have an exceptional
5 and practical difficulty. And that difficulty is
6 part of the topography, and it's because of the
7 right-of-way of 495.

8 Additionally, the variance that you're
9 granted is not going to result in substantial
10 detriment to the Zoning Ordinance, because
11 provision of providing a commercial space on the
12 ground floor here would really be detrimental.

13 The CN zone allows apartments on the upper
14 floors in a low-rise or mid-rise apartment
15 building. We're a low-rise apartment building
16 that has one or more permitted nonresidential
17 uses on the ground floor. That is the reason for
18 our D-1 variance.

19 The D-1 variance also states that in
20 particular cases and for special reasons, and it
21 has to comply with the purposes of zoning. And
22 that is actually the positive criteria.

23 We're not going to enter into any conflict
24 with the development of Weehawken because this
25 house has been used as a five family for -- for

1 | time immemorial and it has not resulted in any
2 | change of the neighborhood.

3 | It's an appropriate population density.
4 | Actually, when you compare it to the other
5 | properties in the zone, because even though we
6 | have four families, we have 4200 square feet,
7 | whereas only 2500 is required.

8 | The building is going to be fully
9 | sprinklered and it's going to be brought up to
10 | ADA standards, with the exception of the front
11 | ramp, which again is a hardship on the
12 | applicants.

13 | We're also conserving open space. We're
14 | leaving the whole rear yard to be landscaped and
15 | to be pervious. So -- and the Reexamination
16 | Report also recognizes that our development in
17 | the city is in-fill development, because there's
18 | a dwindling supply of vacant land.

19 | All of the properties within this zone are
20 | nonconforming use because none of them have
21 | commercial on the ground floor. But in Bell
22 | Atlantic versus Riverdale Zoning, the -- the
23 | court stated that the fact that there were many
24 | nonconforming uses among the applicant's
25 | immediate neighbors was a proof that the approval

1 of the variance at issue would not change the
2 character of the neighborhood or be detrimental
3 to the zone plan.

4 But in -- in considering the positive
5 criteria, there's a substantiality balancing that
6 has to happen with the negative criteria.

7 The negative criteria here is that we can
8 provide only one parking space, and that is for
9 the handicap. However, in this specific
10 property, providing more parking and having more
11 vehicles enter and exit this property would be a
12 traffic problem.

13 So, it is my contention, as an architect,
14 that any -- as a planner, that anybody that rents
15 an apartment here, because this is a rental
16 building, is going to use mass transit. There's
17 actually a bus that stops in front of the
18 building every -- every two minutes, because
19 that's also the 495 and the bus stop is right
20 there.

21 So, the granting of the variance, being the
22 D-1 variance, as well as the parking variance,
23 advance the purposes of zoning because it
24 completes the -- the residential character of the
25 neighborhood, and it will not result in -- or

1 | impair the intent of the Master Plan or the
2 | Zoning Ordinance.

3 | I have nothing further, until after the
4 | architect testifies, and then the attorney wants
5 | me to testify as to the 20 percent
6 | disproportionate cost rule.

7 | MR. MAYEROVIC: Any questions of Mr. --

8 | I have one or two --

9 | VICE CHAIRMAN BONACCI: I think --

10 | MR. MAYEROVIC: -- questions.

11 | VICE CHAIRMAN BONACCI: I think it would be
12 | best if we just hear all the testimony and then
13 | go back to the questions.

14 | What do you guys think?

15 | MR. GRULLON: Yes.

16 | VICE CHAIRMAN BONACCI: We'll get --

17 | MS. GUTIERREZ: Yeah.

18 | VICE CHAIRMAN BONACCI: -- the testimony
19 | out of the way, and then we'll open it up to
20 | members of the public, questions and all that.

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

23 | MS. DILLON: Sir, please raise your right
24 | hand.

25 | Do you affirm the testimony you're about to

1 give this Board is the whole truth?

2 MR. BONA: Yes.

3 MS. DILLON: If you could please state your
4 name and spell it for the record?

5 MR. BONA: Yes.

6 My name is Tomasz Bona, B-O-N-A is my last
7 name.

8 I'm a licensed architect, the State of New
9 Jersey, and my office is located at 26 4th Street
10 in Wood Ridge, New Jersey.

11 MS. DILLON: Okay. And if you'd spell your
12 first name for me?

13 MR. BONA: Yes. Tomasz, T-O-M-A-S-Z.

14 MS. DILLON: Thank you.

15 MR. MAYEROVIC: Mr. Tomasz, how -- how many
16 -- how long have you been a licensed architect?

17 MR. BONA: I'm licensed since 2010.

18 MR. MAYEROVIC: And have you testified
19 before -- have you testified in courts or before
20 boards before?

21 MR. BONA: Yes, I have testified --

22 MR. MAYEROVIC: And how --

23 MR. BONA: -- before numerous boards around
24 Northern New Jersey.

25 MR. MAYEROVIC: Okay.

1 And on the average, how many times a year
2 would you be testifying?

3 MR. BONA: At least three, four times a
4 year.

5 MR. MAYEROVIC: Okay.

6 And have you testified in court proceedings
7 also?

8 MR. BONA: Not really. Only zoning boards.

9 MR. MAYEROVIC: Only zoning boards?

10 MR. BONA: Yes.

11 MR. MAYEROVIC: Okay.

12 Licensed in the State of New Jersey?

13 MR. BONA: That's correct.

14 MR. MAYEROVIC: And I would offer him as a
15 licensed architect.

16 VICE CHAIRMAN BONACCI: Yeah. We'll --
17 we'll accept his qualifications.

18 MR. MAYEROVIC: Okay.

19 VICE CHAIRMAN BONACCI: Thank you.

20 MR. MAYEROVIC: Mr. --

21 MR. BONA: Thank you.

22 MR. MAYEROVIC: A-3 will -- will be -- the
23 plans that you prepared.

24 MR. BONA: Yes. There's a set of plans.

25 Mr. Izquierdo did a very thorough overview of the

1 zoning and neighborhood characteristics, so I
2 think I'm going to just focus specifically on the
3 building itself.

4 There was a -- I was originally engaged by
5 the owner, when he determined that he needed to
6 do some improvements to the basement level
7 apartment.

8 And so, when we started analyzing it, we
9 met with the building inspectors and -- you know,
10 all -- all of sudden, it appeared that there's
11 severe issues with the building itself, from a
12 Code perspective. And building inspector
13 requested that some of these issues of the
14 building are -- you know, being brought up to
15 current Code, or best we can to make the building
16 safer. And -- and also, for the occupants, and
17 also at the same time, deflect the issue with
18 aforementioned -- you know, with this being
19 perceived as a two family building, whereas
20 currently it is occupied as a four family
21 building.

22 So, it's a four story building, as Mr.
23 Izquierdo mentioned. The -- the basement
24 apartment was there originally, and there was
25 about 1100 square feet. The balance of the

1 | basement level is saved for the storage and
2 | utilities that serve all the apartments in the
3 | building.

4 | The second and third apartments are
5 | approximately 1400 square feet. And there's also
6 | attic that's utilized as a studio apartment.

7 | So, the lowest level, basement apartment,
8 | once again, it had three bedrooms originally, and
9 | first and second floor apartments were two
10 | bedroom, plus the attic.

11 | As Mr. Izquierdo also mentioned, the
12 | building is positioned as multi-family. It has
13 | two stair towers and everything indicates that
14 | these towers were original to the building
15 | construction.

16 | The -- another item that was flagged by the
17 | building inspectors was the need to provide fire
18 | protection system. So, building owner is
19 | required to complete full -- to fully sprinkle
20 | the building and in -- in addition to this, we're
21 | going to be providing smoke and fire alarms
22 | throughout the floors. Building is also
23 | deficient in that sense.

24 | And there are some other Code compliant
25 | requirements, such as improvement of some of the

1 | doors, the way they swing, the way they close,
2 | and also some of the fire barrier surrounding
3 | stair towers were deficient. They're going to
4 | require remedy.

5 | The acceptance of Building Department's use
6 | of the basement as -- as an apartment also
7 | mandated improvements of some of the egress
8 | windows, which were undersized. And we found a
9 | way to also meet that requirement.

10 | MR. MAYEROVIC: And -- and we will make the
11 | basement handicap Code compliant, in terms of the
12 | doors for the bathroom, in terms of the doors for
13 | the kitchen and the accessways.

14 | MR. BONA: I think for clarity, it's
15 | possible to make the interior of the apartment an
16 | accessible space. However, there's significant
17 | challenges related to the topography of this
18 | property that pretty much precludes any potential
19 | to -- to make the entrances to the basement
20 | apartment accessible. It's just neither feasible
21 | nor practical, and it would result in -- you
22 | know, multiple challenge -- challenges to achieve
23 | that.

24 | MR. MAYEROVIC: The -- the third floor
25 | apartment, what would be the square footage of

1 the third floor -- or the top floor apartment?

2 The attic?

3 MR. BONA: The attic is approximately a
4 thousand square foot space.

5 MR. MAYEROVIC: So, the basement, that
6 would be the smallest apartment, at a thousand
7 square feet.

8 MR. BONA: Actually, because a portion of
9 the basement is utilized for utility spaces, the
10 basement apartment is about 1100 square feet, and
11 the attic apartment is also about 1100 square
12 feet. It's listed on drawing A1 in the package.

13 MR. MAYEROVIC: And so, you have the bottom
14 apartment, 1100 square feet.

15 MR. BONA: Then --

16 MR. MAYEROVIC: The top apartment 1100
17 square feet.

18 MR. BONA: That's correct.

19 MR. MAYEROVIC: And --

20 MR. BONA: And then, two in the middle are
21 about 1400 square feet each.

22 MR. MAYEROVIC: Only telling you this
23 because you're -- you're getting nice size living
24 space for -- for the -- you know, these are not
25 little boxes. These are -- you know, two means

1 of egress -- you know, entrance, two means of
2 access, whatever it is.

3 MR. BONA: And these were and are commuters
4 dream. I mean, the bus is right there. The
5 access to the tunnel and the -- that's pretty
6 much how neighborhood is positioned.

7 MR. MAYEROVIC: And when you examine the --
8 the plumbing and the -- the kitchen work there,
9 is that all -- was that all original work, not
10 something that was recently done?

11 MR. BONA: It certainly looks like the
12 layout of all the individual rooms is original to
13 the building. We couldn't determine any
14 modifications that were made to -- to the
15 original structure and -- and position of the
16 rooms.

17 MR. MAYEROVIC: And -- and we're not --
18 we're not changing the structure.

19 MR. BONA: We're not-- we're not effecting
20 exterior of the building in any way, other than
21 modifications to the egress windows required for
22 the basement level.

23 MR. MAYEROVIC: I have no further questions
24 of this witness.

25 MR. IZQUIERDO: In terms of accessibility

1 to the basement --

2 I can speak into this one, no?

3 This one?

4 MS. DILLON: Yes. Yes.

5 MR. IZQUIERDO: Okay. In terms of --

6 MS. DILLON: No, no, no. No.

7 MR. IZQUIERDO: -- accessibility to the
8 basement, when the 1991 federal act for
9 accessibility of all buildings and structures was
10 enacted, there have been several modifications
11 because it really placed the burden on the
12 existing structures.

13 So what I'm going to testify is applicable
14 only to existing structures, not to new
15 buildings.

16 When the totality of all the costs of the
17 building are calculated and the architect files
18 the construction documents, and -- and the
19 contractor knows how much is going for the
20 renovation to cost, that's a total figure.

21 The law states that the applicant does not
22 have to spend any more than 20 percent of that
23 total cost. Twenty percent of that total cost
24 has to go to making the building accessible.
25 Making the building accessible includes the

1 | doorknobs, includes framing changes that need to
2 | be made because now the maneuverability clearance
3 | requires 18 inches on this side for the
4 | wheelchair. It also includes signaling devices,
5 | areas of refuge that have to be provided on the
6 | stairs at every floor for the occupants to be
7 | able to get there.

8 | So, all those modifications do not have to
9 | exceed 20 percent. The problem that we have is
10 | with the accessible ramp.

11 | These are all elements of the accessible
12 | route. The accessible route is defined as when
13 | the applicant -- as when the -- when the tenant
14 | parks, when the disabled person parks, we're
15 | going to provide him a handicap parking space,
16 | eight feet and five feet, totally matching the
17 | standards.

18 | However, to get into that apartment, either
19 | going down or going up, he -- the applicant would
20 | have to either blast rock or -- or do something
21 | to excavate. It would require underpinning the
22 | structure.

23 | And if a single element of the accessible
24 | route exceeds 20 percent of the cost, it is
25 | thereby waived.

1 So, since the Building Department is going
2 to look at the documents that you would approve,
3 in whatever manner you would have approve them, I
4 would like stated for the record that the
5 applicant is going to file a 20 percent
6 Disproportionate Cost Affidavit with the Building
7 Department, because it is my estimation that that
8 ramp is going to -- to exceed the budget by more
9 than 20 percent.

10 I have faced similar cases in Union City,
11 actually that are less burdensome and less --
12 less of a challenge, as Mr. Bona described it,
13 and they have -- they have met the 20 percent
14 requirements. That is the 20 percent
15 disproportionate cost rule.

16 So, we're not providing a handicap ramp to
17 the -- to that basement apartment, because it's
18 technically infeasible, it's -- it's undoable.

19 VICE CHAIRMAN BONACCI: Mr. Izquierdo, let
20 me just jump in for a second, if I may?

21 Do you have any more testimony?

22 MR. MAYEROVIC: I -- I was just going to --
23 I don't have any more testimony. I would just
24 want the photographs to be part of the record.

25 VICE CHAIRMAN BONACCI: Right.

1 MR. MAYEROVIC: And -- and you know, that
2 -- that's really it. I would have Mr. Merheb
3 testify to that, if that's needed, unless you
4 want to accept them.

5 MR. PANEQUE: Mr. Mayerovic, were the
6 photographs part of your application --

7 MR. MAYEROVIC: Yes.

8 MR. PANEQUE: -- packet?

9 MR. MAYEROVIC: Yes.

10 MR. PANEQUE: All right. If they're part
11 of the application packet, we don't have to mark
12 them as an exhibit. They're part of the packet.

13 MR. MAYEROVIC: They were part of the --

14 MR. PANEQUE: Okay.

15 MR. MAYEROVIC: They were -- they were part
16 of the packet. You see the neighborhood, you see
17 the house, whatever it is.

18 It's an exceptional circumstance here. And
19 the truth is, in order -- because of the way the
20 house is built, in its present structure, my
21 understanding is that the cost of renovating it
22 or bringing it to a four family house, it's there
23 already, it's there.

24 The plumb -- we're not -- we're not running
25 new plumbing. It's not like we're going to be

1 running new plumbing lines. It's not like we're
2 going to be running new kitchen lines. It's all
3 there.

4 What we have to deal is with the sprinkler
5 system, the fire safety, and whatever we need to
6 do to bring it up to handicap --

7 MR. IZQUIERDO: Accessibility.

8 MR. MAYEROVIC: -- accessibility --

9 MR. BONA: And Code compliances.

10 MR. MAYEROVIC: -- in the basement
11 apartment.

12 So, the house is there as a four family
13 already. I mean, as you see, they are very large
14 -- I'm sorry.

15 VICE CHAIRMAN BONACCI: Mr. Mayer --
16 Mayerovic?

17 MR. MAYEROVIC: Yes.

18 VICE CHAIRMAN BONACCI: Before we get ahead
19 of ourselves, with the accessibility and all
20 those other things, I just want to focus the
21 Board members on just the -- the -- just to zone
22 in on the specific use that you're looking for,
23 is you're looking for us to grant the D-1 use.

24 MR. MAYEROVIC: That's correct.

25 VICE CHAIRMAN BONACCI: Now --

1 MS. DILLON: Can you just get to the
2 microphone --

3 VICE CHAIRMAN BONACCI: The --

4 MR. MAYEROVIC: I'm sorry.

5 MS. DILLON: -- Mr. Mayerovic, --

6 MR. MAYEROVIC: Yes.

7 MS. DILLON: -- please?

8 VICE CHAIRMAN BONACCI: The reason that
9 you're here is you stated earlier, the testimony
10 was that the Building Department doesn't
11 recognize three of the five units.

12 MR. MAYEROVIC: Right. And we vacated
13 those units already.

14 VICE CHAIRMAN BONACCI: I understand.

15 Now, I just want us to look at that for a
16 moment, because we're had a chance to look at the
17 tax records and the Building Department records.

18 And Mr. Paneque, you correct me if I'm
19 wrong with any of this, and maybe Mr. Spatz, you
20 can, as well.

21 But in looking over the Building Department
22 records, it seems to clarify, for me, at least,
23 why the Building Department states that there's
24 three units that are not legal.

25 And if we look at the ownership records,

1 | which I have, and the schedule of the rental, it
2 | indicates that the owner originally lived on the
3 | first floor, and then there was a one unit rented
4 | on the second floor.

5 | So, from all the records that we have here
6 | from the Building Department, and the tax
7 | records, it seems as though it was two units
8 | always, and that it might have been three bedroom
9 | units on each floor.

10 | MR. MAYEROVIC: That was --

11 | VICE CHAIRMAN BONACCI: So, it was never
12 | intended to be five unit use. It was always just
13 | intended to be two floors and two units.

14 | MR. MAYEROVIC: No. That's not --

15 | VICE CHAIRMAN BONACCI: Now, whether or not
16 | anybody used it as a five unit dwelling was
17 | illegal and it would be if we granted the D-1 use
18 | variance.

19 | So, being that this is used as a five
20 | family dwelling illegally, we would have to grant
21 | a D-1 use variance for something that's already
22 | being used illegally.

23 | So, we, in essence, would be granting a
24 | variance to something that's already illegal, or
25 | being used illegally. Let me correct -- you

1 know, the way that I framed it.

2 MR. MAYEROVIC: I --

3 VICE CHAIRMAN BONACCI: Do you understand
4 where I'm going with that?

5 MR. MAYEROVIC: If you could rephrase it?
6 I want to answer the question.

7 VICE CHAIRMAN BONACCI: Sure.

8 MR. MAYEROVIC: If you could -- you -- you
9 could rephrase.

10 VICE CHAIRMAN BONACCI: Originally, this is
11 a two unit dwelling.

12 MR. MAYEROVIC: Not so.

13 VICE CHAIRMAN BONACCI: A unit on the first
14 floor and a unit on the second floor.

15 MR. MAYEROVIC: I disagree --

16 VICE CHAIRMAN BONACCI: It was never
17 intended to be a five unit dwelling. Whether or
18 not it was ever used that way, was illegal,
19 that's what the Building Department picked up on.

20 MR. MAYEROVIC: That's not exactly correct.
21 And -- and I had to deal with it on multiple
22 levels.

23 There were two apartments --

24 VICE CHAIRMAN BONACCI: Excuse me. I'm
25 sorry.

1 Exactly correct or it's -- it's either
2 correct or it's incorrect. It's --

3 MR. MAYEROVIC: I don't believe that's
4 correct and let me just answer that.

5 I had to deal with it on two levels. I had
6 to deal with it with the Building Department.

7 VICE CHAIRMAN BONACCI: With this
8 application.

9 MR. MAYEROVIC: With this application, and
10 with the -- with the tenant advocate. So, there
11 were two tenants in the basement apartment. The
12 -- the basement apart -- the basement was used as
13 two units. Not the first floor, not the second
14 floor.

15 VICE CHAIRMAN BONACCI: Was that part of
16 your guys testimony before on how it was used, as
17 a five unit dwelling?

18 MR. MAYEROVIC: I was going to have Mr.
19 Merheb testify to that.

20 VICE CHAIRMAN BONACCI: Okay, but I asked
21 if there was any more testimony, and you --

22 MR. MAYEROVIC: Well --

23 VICE CHAIRMAN BONACCI: -- you said there
24 wasn't.

25 MR. MAYEROVIC: I --

1 VICE CHAIRMAN BONACCI: But anyways, that's
2 okay.

3 Go ahead.

4 MR. MAYEROVIC: There's -- on the attic, on
5 the 1100 -- the 1100 square foot, there was
6 another tenant. Each of these three tenants were
7 the illegal occupancy. So, there was one
8 occupancy on the -- what I would say the street
9 level floor, the first level. There was one
10 occupancy on the second floor level. Okay?

11 Now, so, what we cleaned out -- what we
12 cleaned out were the two apartments in the
13 basement, we cleaned out or removed the -- the
14 two apartment -- the one apartment in the attic.
15 That's what we vacated.

16 And that's the history of this building.

17 MR. PANEQUE: Okay.

18 VICE CHAIRMAN BONACCI: You understand our
19 --

20 MR. MAYEROVIC: There was --

21 VICE CHAIRMAN BONACCI: You understand the
22 difficulty that this Board would have in allowing
23 the D-1 use, when it -- you know, is supposed to
24 be a two.

25 MR. MAYEROVIC: I can give --

1 VICE CHAIRMAN BONACCI: And you guys --

2 MR. MAYEROVIC: I can you give the
3 documentation.

4 I mean, the two tenants in the -- the three
5 tenants -- the three tenants, the attic tenant,
6 the -- the two basement tenants, I had to -- we
7 had to vacate them. We had to give them
8 relocation money. And we did this all with
9 Regina Rodriguez, out of -- the Tenant Advocate.

10 So, there is documentation to show that the
11 -- the five units came from not the two
12 apartments, but from the two in the basement and
13 the attic.

14 MR. PANEQUE: Okay.

15 MR. MAYEROVIC: I -- I just -- you know,
16 and I --

17 VICE CHAIRMAN BONACCI: Yeah. No. I -- I
18 understand what you're -- what you're testifying.
19 It's just that to get over that hurdle and grant
20 the D-1 use, it's -- that's very difficult for
21 me, personally, to over -- to get over that
22 hurdle, and then expect the members of the Board
23 to do that, as well.

24 MR. MAYEROVIC: I can just tell you what --
25 I can just tell you what happened.

1 VICE CHAIRMAN BONACCI: Okay.

2 MR. MAYEROVIC: That's --

3 VICE CHAIRMAN BONACCI: I appreciate that.

4 MR. MAYEROVIC: That's all. That's --
5 that's all.

6 VICE CHAIRMAN BONACCI: Thank you. Yeah.

7 MR. MAYEROVIC: And -- and if the Board
8 wants the documentation -- you know, there's --
9 it's full documentation. There were -- I'm
10 sorry. There were agreements. There were -- you
11 know, there were -- there -- there were
12 agreements.

13 And not only that, we had to also settle
14 with the Building Department for those two
15 basement and the attic apartment.

16 MR. IZQUIERDO: Mr. Bonacci --

17 MR. PANEQUE: If I may?

18 MR. IZQUIERDO: The D-1 --

19 MR. PANEQUE: Mr. Izquierdo, just one
20 second.

21 MR. MAYEROVIC: Go ahead.

22 MR. PANEQUE: I just want to bring this to
23 the attention of the Board, because it's been
24 provided.

25 This is a memo from the Building

1 Department. And there's been no testimony and
2 I'll give you the opportunity to respond to this,
3 but the memo from the Building Department
4 indicates that the Building Department recognizes
5 this structure as a two unit structure.

6 In justification of that finding, they've
7 attached the 1973 tax assessment. Okay?

8 Now, there's been a lot of testimony from
9 your experts as to the fact that, in their
10 professional opinion, this building goes back,
11 infinitum, as a five unit.

12 However, in 1973, when the Tax Assessor was
13 there, and this is for the edification of the
14 Board, the Tax Assessor's finding on the first
15 floor, they found that there was a six-three-one
16 unit. Six rooms, three bedrooms, one kitchen and
17 they specifically state -- you know, three
18 bedrooms, one living room, one dining room, one
19 bath. First floor.

20 Second floor, same structure.

21 And second page of that tax assessment also
22 has one living room, one dining room, one
23 kitchen, three bedrooms and one bath.

24 There's no mention of any kind of structure
25 in the basement, either a one or a two family --

1 two apartments in the basement. And there's no
2 mention of any structure in the attic.

3 The finding from the Tax Assessor in 1973
4 was that this was a two family house.

5 Now, some -- somewhere in the time period
6 between when this assessment was done to the
7 present, that building was converted to then go
8 from two to five, by adding two basement units,
9 and adding an attic unit.

10 Okay?

11 But clearly, in 1973, and this is for the
12 Board's knowledge, the finding was that this was
13 a two unit structure. The testimony that there's
14 two different stairwells -- well, that doesn't go
15 with -- I mean, it may have two stairwells, but
16 it was never intended to be used as a five unit
17 structure, based on this.

18 Now, if your experts want to respond to
19 this -- you know, we're open to listening to it.

20 MR. MAYEROVIC: The -- the --

21 MR. IZQUIERDO: Mr. Bonacci?

22 VICE CHAIRMAN BONACCI: Yeah.

23 MR. IZQUIERDO: The use variance results
24 since this property is in the CN zone, it results
25 from not having a commercial space on the ground

1 floor.

2 If we took the basement and made a
3 commercial space on the ground floor, we would be
4 allowed. Even for the two units, that would be a
5 D-1 building use variance before the Board.

6 So, any use in this building that does not
7 incorporate a ground floor commercial use is a
8 D-1 building use variance.

9 That's all I wanted to say.

10 VICE CHAIRMAN BONACCI: Yeah, no. Mr.
11 Izquierdo, I understand that. But --

12 MR. IZQUIERDO: The issue as to two --

13 VICE CHAIRMAN BONACCI: Yeah.

14 MR. IZQUIERDO: -- and five, I understand.
15 I haven't seen the -- the prep card, 1973.

16 VICE CHAIRMAN BONACCI: You -- but you're
17 not putting to put a commercial on the ground
18 floor --

19 MR. IZQUIERDO: No.

20 VICE CHAIRMAN BONACCI: -- with this
21 application.

22 Right?

23 MR. IZQUIERDO: No.

24 MR. MAYEROVIC: No.

25 VICE CHAIRMAN BONACCI: So, that's why I

1 | don't really -- you know, I don't think it's
2 | necessary to focus on -- you know, the fact that
3 | now it's a -- a CN zone instead of what it was
4 | before, because that's sort of irrelevant to what
5 | you guys are looking for the D-1 use variance
6 | for.

7 | MR. MAYEROVIC: What I'm saying to you is,
8 | yes, somewhere along the line, the building went
9 | from two to five.

10 | VICE CHAIRMAN BONACCI: Yeah.

11 | MR. MAYEROVIC: In the 25, 30 years that my
12 | client has owned it, it's always been a five, and
13 | he's always been taxed that way, as a five unit
14 | building.

15 | So, what we're saying is, this has been
16 | there for the past 25 years. It's not like
17 | something hid -- you know, it's not -- it's not
18 | something that was hidden from the city or --

19 | VICE CHAIRMAN BONACCI: Right. Yeah.

20 | MR. MAYEROVIC: -- or --

21 | VICE CHAIRMAN BONACCI: I under -- I
22 | understand all that. But you know, in going over
23 | the documents -- you know, it's clear that this
24 | wasn't intended to be used the way it's being
25 | used, or the way that we're supposed to approve

1 | that it should be used, from now going forward.

2 | MR. PANEQUE: If -- if I may?

3 | VICE CHAIRMAN BONACCI: Simply -- simply
4 | put. I can't really make it any clearer than
5 | that.

6 | MR. PANEQUE: Mr. Izquierdo, your testimony
7 | was that this property is in the CN zone?

8 | MR. IZQUIERDO: According to the new
9 | zoning.

10 | MR. PANEQUE: Okay.

11 | MR. IZQUIERDO: As of March 6, 2018, it's
12 | in the CN zone. It was before in the RM zone.
13 | The Reexamination Report changed that to the CN
14 | zone, didn't it?

15 | MR. SPATZ: Well, it recommended that it be
16 | changed to the CN zone. It's not in the CN zone
17 | until the Zoning Ordinance itself has changed,
18 | which hasn't taken place yet.

19 | MR. IZQUIERDO: So in -- in the alternate
20 | case, which is what I describe, being in the RM
21 | zone, we have a use that is permitted. In the RM
22 | zone, a four family apartment -- a four unit
23 | apartment --

24 | MR. SPATZ: No.

25 | MR. IZQUIERDO: -- build --

1 MR. SPATZ: No, I don't believe that it --
2 it's a four family home. I would not treat it as
3 a low-rise apartment, so I think you do need a
4 use variance. I just think you need a use
5 variance to allow a four unit -- a four family
6 home.

7 MR. IZQUIERDO: In --

8 MR. SPATZ: As opposed to --

9 MR. IZQUIERDO: In the RM zone, one family,
10 two families and three families are allowed.

11 MR. SPATZ: Right.

12 MR. IZQUIERDO: And low-rise apartment
13 buildings --

14 MR. SPATZ: I would not consider this a
15 low-rise apartment building.

16 MR. IZQUIERDO: But it's a four unit.

17 MR. SPATZ: I would --

18 MR. IZQUIERDO: Why wouldn't --

19 MR. SPATZ: Well, I think it's a four
20 family home.

21 MR. IZQUIERDO: That's not --

22 MR. SPATZ: Which is not permitted.

23 MR. IZQUIERDO: The -- the Union City
24 Zoning Ordinance does not have a four family home
25 --

1 MR. SPATZ: Correct. That's why you need a
2 use variance.

3 MR. IZQUIERDO: No. No.

4 With all due respect, Mr. Spatz, when you
5 see the apartment, the definition of the
6 apartment building -- actually, I'm going to tell
7 you on page --

8 Apartment building. It's on page four.

9 MR. SPATZ: Um hum.

10 MR. IZQUIERDO: It says, a building
11 containing four or more apartments.

12 MR. SPATZ: I -- again, I think the -- this
13 Board has held that this type of a structure
14 would be considered as a four family house.
15 Again, --

16 MR. IZQUIERDO: The four family --

17 MR. SPATZ: -- the Board would ultimately
18 be the one making the decision, not myself.

19 MR. IZQUIERDO: With all the --

20 MR. SPATZ: I'm just giving my
21 recommendation to them.

22 VICE CHAIRMAN BONACCI: And if that's Mr.
23 Spatz's recommendation, then that's the
24 recommendation that I'm going to take.

25 And then, we're not even taking into

1 account that we'd have to grant a variance for
2 the parking, because then you would need, like,
3 six, seven parking spaces.

4 MR. IZQUIERDO: Seven.

5 VICE CHAIRMAN BONACCI: And then, you would
6 need a variance for that, too.

7 So, I mean that's how I feel. So, rather
8 than -- you know, go into all these additional
9 things about -- you know, the building and the
10 sprinkler system, and that kind of stuff, I just
11 want to focus on -- you know, the nuts and bolts
12 of this thing, which is the use variance. So,
13 then, we don't have to runaround in circles. But
14 --

15 MR. PANEQUE: Well --

16 VICE CHAIRMAN BONACCI: Does any other
17 members of the Board have any questions for --

18 MR. GRULLON: The only question that I have
19 is that I keep hearing they're being paying taxes
20 for five units and I don't see the documentation
21 of that.

22 VICE CHAIRMAN BONACCI: I didn't either and
23 I looked through the --

24 MR. MAYEROVIC: I provided -- I provided --
25 two things I provided.

1 I provided the tax records and -- and I can
2 also provide the court, the Board with the appeal
3 that we filed on the assessment, based on that,
4 that it's a five unit.

5 In fact, I worked something out with Mr.
6 Mucciolo on that issue.

7 MR. PANEQUE: Mr. Mayerovic, do you want to
8 have your expert respond to the 1973 assessment,
9 because the testimony was that this goes way back
10 to past time?

11 MR. MAYEROVIC: You know, my client will
12 testify that for the past 25 years of his
13 ownership of the property, it's always been a
14 five family. And I'll -- and I'll make a copy of
15 this and give it to this -- this is just the
16 negotiations I'm having with Mr. Mucciolo over
17 the issue that the property is -- is assessed as
18 a -- as a five family.

19 And the one document I gave you showed you
20 the assessment as a five unit.

21 VICE CHAIRMAN BONACCI: Are you bringing up
22 somebody to testify?

23 MR. MAYEROVIC: Mr. Merheb.

24 VICE CHAIRMAN BONACCI: Okay.

25 MS. DILLON: Sir, please raise your right

1 hand.

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

4 MR. MERHEB: Yes.

5 MS. DILLON: Could you please state your
6 name and spell it for me?

7 MR. MERHEB: Adel Merheb.

8 MS. DILLON: I'm sorry. I can't hear you.

9 MR. MERHEB: Adel Merheb.

10 MS. DILLON: Spell?

11 MR. MERHEB: M-E-R-H-E-B.

12 MS. DILLON: M-E-R --

13 MR. MERHEB: H-E-B.

14 MR. MAYEROVIC: Mr. Merheb, when did you
15 purchase the property?

16 MR. MERHEB: I believe like --

17 MS. DILLON: You have to stand closer to
18 the microphone and keep your --

19 MR. MERHEB: Okay.

20 MS. DILLON: -- voice up for me.

21 MR. MERHEB: Okay.

22 I believe in 19 -- 1995, '96, something
23 like that.

24 MR. MAYEROVIC: You've owned it
25 continuously, that -- since that time?

1 MR. MERHEB: Yes.

2 MR. MAYEROVIC: And when you bought the
3 house, how many units was it?

4 MR. MERHEB: Well, when I bought the house,
5 I look at tax record, what -- five units, since
6 when I bought it.

7 MR. MAYEROVIC: You bought it as a five
8 unit building --

9 MR. MERHEB: Yes, sir.

10 MR. MAYEROVIC: -- in 1995?

11 MR. MERHEB: Yes.

12 MR. MAYEROVIC: And the -- the units, the
13 apartments, where were they situated? Where were
14 the five units situated?

15 MR. MERHEB: Actually, same it is now.
16 First, second, third and in the basement.

17 MR. MAYEROVIC: How many units were in the
18 basement?

19 MR. MERHEB: Two of them.

20 MR. MAYEROVIC: And how much were on the
21 third floor?

22 MR. MERHEB: First one.

23 MR. MAYEROVIC: On each floor, one and two
24 --

25 MR. MERHEB: Each one one, one, one.

1 MR. MAYEROVIC: And you've been paying
2 since 1995 to the present time, you've been
3 paying taxes --

4 MR. MERHEB: Taxes.

5 MR. MAYEROVIC: -- as a five unit --

6 MR. MERHEB: On fifth unit. Yes.

7 MR. MAYEROVIC: On the five units.

8 Is that correct?

9 MR. MERHEB: Yes.

10 MR. MAYEROVIC: Have you made any
11 structural changes to the building since --

12 MR. MERHEB: No.

13 MR. MAYEROVIC: -- you owned it?

14 MR. MERHEB: I haven't done anything.

15 MR. MAYEROVIC: Bathrooms, kitchens?

16 MR. MERHEB: No.

17 MR. MAYEROVIC: I have no further
18 questions.

19 MR. PANEQUE: Okay.

20 MR. MAYEROVIC: And the tenants, when you
21 evicted the tenants, are all the -- the two
22 basement tenants were given relocation money?

23 MR. MERHEB: Yes.

24 MR. MAYEROVIC: And the third --

25 MR. MERHEB: Six months, and the sale at

1 six months, on rear.

2 MR. MAYEROVIC: And the third -- and the
3 tenant on --

4 MR. MERHEB: Third one, too.

5 MR. MAYEROVIC: Was also given relocation
6 money?

7 MR. MERHEB: Yes, sir.

8 MR. PANEQUE: Mr. Mayerovic, I have a
9 couple of questions of your client.

10 MR. MAYEROVIC: Yes.

11 MR. PANEQUE: Mr. Merheb, is this property
12 registered with the Department of Community
13 Affairs? Do you have a Certificate of
14 Registration and green card?

15 MR. MERHEB: I don't know. I can -- I
16 don't recall. I don't know.

17 MR. PANEQUE: Mr. Mayerovic, do you have
18 that?

19 MR. MAYEROVIC: I don't know the answer to
20 that question. I didn't follow up on that issue.

21 MR. MERHEB: When I bought it, I bought it
22 as is. And paying taxes, that's it.

23 VICE CHAIRMAN BONACCI: Mr. Merheb, right?

24 MR. MERHEB: Yes, sir.

25 VICE CHAIRMAN BONACCI: You're paying

1 | taxes, five units. You collect rent from five
2 | tenants, too.

3 | Right?

4 | MR. MERHEB: Well, yes.

5 | VICE CHAIRMAN BONACCI: Okay. So, it's a
6 | wash. He's paying taxes for five, and he's
7 | collecting five tenants' rent.

8 | MR. MERHEB: Yeah, but -- but I used to use
9 | my basement for myself -- you know.

10 | VICE CHAIRMAN BONACCI: Okay. Yeah, yeah.

11 | MR. MERHEB: I don't rent it, actually --
12 | you know?

13 | VICE CHAIRMAN BONACCI: I got you. You
14 | live there, too?

15 | MR. MERHEB: No, no. Not now.

16 | VICE CHAIRMAN BONACCI: Okay.

17 | MR. MERHEB: But before -- you know?
18 | Couple years, like ten years -- you know, I
19 | didn't rent it.

20 | VICE CHAIRMAN BONACCI: So, you've been
21 | there since 1995.

22 | MR. MERHEB: I think so.

23 | VICE CHAIRMAN BONACCI: Okay.

24 | MR. MERHEB: Since that time. Yeah.

25 | VICE CHAIRMAN BONACCI: Sounds good.

1 You guys have any questions for Mr. Merheb?

2 I don't have any more questions.

3 Thank you, Mr. Merheb.

4 You don't have any tax records that show us
5 anything that the Building Department -- you
6 know, to offset what we're seeing from the
7 Building Department.

8 Right?

9 MR. MAYEROVIC: I -- I gave you --

10 MR. PANEQUE: We have it.

11 MR. MAYEROVIC: I gave you the --

12 MR. PANEQUE: I'll -- for the record, Mr.
13 Mayerovic did provide us, which has been marked
14 as an exhibit, I think --

15 MS. DILLON: It's A-1.

16 MR. PANEQUE: -- A-1, a copy of the tax
17 record on this property. And currently, the
18 property is being taxed as a five unit. Okay.

19 MR. MAYEROVIC: And -- and that's been for
20 -- as Mr. Merheb says, for 25 years.

21 VICE CHAIRMAN BONACCI: No, I understand.

22 MR. IZQUIERDO: Mr. Bonacci, I just spoke
23 to the client. Would -- would the Board be
24 amenable to a three family structure, in this --
25 in this site, as opposed to a four family?

1 VICE CHAIRMAN BONACCI: I mean --

2 MR. IZQUIERDO: So that --

3 VICE CHAIRMAN BONACCI: That's --

4 MR. IZQUIERDO: We may revise our
5 application right now.

6 VICE CHAIRMAN BONACCI: I mean, not right
7 now because -- you know, the way I see it, as the
8 presentation that you guys are giving, is the way
9 that it's stated on the agenda. So, I have to
10 look at it the way that it's presented to me.

11 However -- you know, if you guys were to re
12 -- you know, apply.

13 MS. GUTIERREZ: Re-apply.

14 MR. IZQUIERDO: Re-file.

15 VICE CHAIRMAN BONACCI: Re-file, then it
16 would be a different application. And then --
17 you know, we'd look at it in a different light.
18 But to -- to go from two to five, I'm having a
19 little trouble wrapping my -- my brain around
20 that right now, due to what the Building
21 Department has provided us with.

22 MR. MAYEROVIC: We're not asking for a five
23 family here.

24 VICE CHAIRMAN BONACCI: Right.

25 MR. PANEQUE: Asking for four.

1 MR. MAYEROVIC: We're not asking --

2 VICE CHAIRMAN BONACCI: Okay.

3 MR. MAYEROVIC: -- for -- we're not asking
4 for a five family unit. We were asking -- we
5 were asking for four units.

6 VICE CHAIRMAN BONACCI: I'm sorry.

7 MR. MAYEROVIC: Not like --

8 VICE CHAIRMAN BONACCI: Yeah. That's my
9 bad.

10 MR. MAYEROVIC: You know, so whatever it
11 is.

12 I would ask the Board, would the Board
13 allow us to amend this application? We could
14 adjourn this hearing, allow us to amend it and
15 the drawings to -- to modify it to a three
16 family?

17 MR. PANEQUE: If that's the request -- is
18 that a request you're making, Mr. Mayerovic?

19 MR. MAYEROVIC: Let me just -- just one
20 second.

21 VICE CHAIRMAN BONACCI: Yeah. Talk it
22 over.

23 MS. DILLON: You want to go off the record?

24 MR. PANEQUE: Off the record. Yeah.

25 (Off the record at 7:57 p.m.)

1 (On the record at 7:59 p.m.)

2 MS. DILLON: Okay.

3 On the record.

4 MR. MAYEROVIC: We would like to revise the
5 plans, to come back to the Board as a three
6 family as opposed to a four. If the Board would
7 allow us, ask the Board to keep this application
8 open.

9 MR. PANEQUE: If I --

10 MR. MAYEROVIC: This --

11 MR. PANEQUE: If I may answer that, Mr.
12 Mayerovic?

13 The issue that is raised with changing the
14 application to a three family is that at that
15 point, this Board would lose jurisdiction.

16 You're before this Board today on a use
17 variance and that -- that's what gives this Board
18 jurisdiction because of the four family request
19 that you made.

20 MR. IZQUIERDO: We still have a building
21 height variance.

22 MR. PANEQUE: Is it a D-6 variance?

23 MR. IZQUIERDO: Yes. Yes.

24 MR. PANEQUE: It is?

25 MR. IZQUIERDO: It's four -- yeah.

1 MR. PANEQUE: Okay.

2 MR. IZQUIERDO: On the -- on the --

3 MR. PANEQUE: Is that on all four corners
4 you've measured, or because -- I'm looking at the
5 height.

6 MR. IZQUIERDO: On the RM zone, the maximum
7 height allowed for a low-rise apartment building
8 is three stories or 40 feet.

9 MR. PANEQUE: Okay.

10 I mean, if you have a D-6 variance, Mr.
11 Izquierdo, then --

12 MR. IZQUIERDO: Yeah, we do.

13 MR. PANEQUE: -- you would be before us
14 still.

15 MR. IZQUIERDO: Yes.

16 MR. PANEQUE: Mr. Spatz?

17 MR. SPATZ: Well, as shown on the site
18 plan, it shows that the height is approximately
19 40 feet. So --

20 MR. IZQUIERDO: It's four stories.

21 MR. SPATZ: That would be a C variance.

22 MR. PANEQUE: Okay.

23 MR. SPATZ: Stories is a C variance, not a
24 D variance.

25 So, if it's approximately 40 feet, or

1 anything less than 44 feet, it would be a C
2 variance.

3 MR. PANEQUE: Okay.

4 MR. SPATZ: And that would go to the
5 Planning Board.

6 MR. PANEQUE: Yeah.

7 MR. IZQUIERDO: Would you need a height
8 certification to -- to guarantee that, because
9 nobody has measured that building. I think it's
10 more than 40 feet. I really do.

11 MR. PANEQUE: The -- the issue that we run
12 to, Mr. Izquierdo and Mr. Mayerovic, is that if
13 this Board doesn't have jurisdiction, you're
14 going to be coming back in July, just to be told
15 that there's no jurisdiction from this Board.

16 Now, if -- if we reduce the number of units
17 to three, we lose that D-1 variance -- use
18 variance. And if you don't have a D-6, Mr. Spatz
19 is saying that it's a C variance, because of the
20 40 --

21 MR. IZQUIERDO: Four stories.

22 MR. PANEQUE: -- under 44 feet.

23 So, we can -- you can either withdraw this
24 application tonight, so that there's no vote from
25 this Board and the application is withdrawn.

1 The Board can take a vote on it, whatever
2 the vote may be, and then you can re-file with
3 your -- your new application, and it would
4 probably be before the Planning Board.

5 MR. IZQUIERDO: Withdraw the application.

6 MR. PANEQUE: You want to take a few
7 minutes?

8 MR. IZQUIERDO: Withdraw the application.

9 MR. MAYEROVIC: We will -- let me just --
10 (Whereupon, there was a pause in the
11 proceedings.)

12 MR. MAYEROVIC: We will withdraw the
13 application.

14 MR. PANEQUE: Okay.

15 VICE CHAIRMAN BONACCI: So, we don't need
16 to make any motion.

17 MR. MAYEROVIC: Okay.

18 Thank you.

19 MR. GRULLON: Thank you.

20 MR. IZQUIERDO: Thank you.

21 MS. GUTIERREZ: Thank you.

22 MS. DILLON: Mr. Mayerovic, before you
23 leave I did not get the spelling of your client's
24 first name.

25 MR. MAYEROVIC: Merheb, Adel. M-E-R --

1 M-E-R-H-A-B (sic).

2 MS. DILLON: H-A?

3 MR. MERHEB: H-A-B.

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

6 VICE CHAIRMAN BONACCI: We've got one, two,
7 three, four, four left. And then the rest are
8 Resolutions.

9 Right?

10 MR. PANEQUE: Yeah.

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

13 VICE CHAIRMAN BONACCI: Take a five minute
14 break.

15 MR. MAYEROVIC: Thank you, gentlemen.

16 THE SECRETARY: Five minute break.

17 MR. MAYEROVIC: Thank you, everybody.

18 MS. GUTIERREZ: You're welcome.

19 MR. MAYEROVIC: Have a nice night.

20 THE SECRETARY: Five minute break.

21 MS. GUTIERREZ: Five minute break.

22

23 (Whereupon, the Board recessed from 8:02
24 p.m. to 8:13 p.m.)

25

* * *

1 **CORRECTIVE RESOLUTION:**

2

3 (1) 4007 Park Ave, LLC - 4007 Park Ave. Block
4 238, Lots 22, 36, 37, 38, 39, 40 & 41. The
5 application was approved on 5/2/06. The
6 resolution was memorialized on 0/29/06.

7

8 MS. DILLON: Okay, Carlos. Whenever you're
9 ready.

10 THE SECRETARY: May I have your attention,
11 please?

12 Where is Ms. Pereiras?

13 On the record.

14 MS. DILLON: She's here.

15 MR. SPATZ: She's here. She's here.

16 THE SECRETARY: We are going to change a
17 little bit the order of tonight's agenda.

18 MR. PANEQUE: If I --

19 THE SECRETARY: Yes, Mr. Paneque?

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

22 MR. PANEQUE: Mr. Vallejo, we have one
23 Resolution -- it's 509?

24 MR. LOPEZ: No, it's the very last one.

25 VICE CHAIRMAN BONACCI: It's a Corrective

1 Resolution?

2 MR. LOPEZ: It's a Corrective Resolution
3 for 4007 Park.

4 MS. DILLON: Not -- not from there, Mr.
5 Lopez, please.

6 MR. LOPEZ: I'm sorry. I'm sorry.

7 VICE CHAIRMAN: I got it. I got it.

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

10 MS. GUTIERREZ: 2006, right?

11 MR. PANEQUE: Do you have it on there?

12 VICE CHAIRMAN BONACCI: Yeah. It's right
13 here.

14 MR. PANEQUE: Okay.

15 VICE CHAIRMAN BONACCI: Last one.

16 MR. PANEQUE: Okay. All right.

17 If I may?

18 Mr. Lopez, step up.

19 We're going to call out of order case
20 number XV, Corrective Resolution.

21 THE SECRETARY: Go ahead, Mr. Paneque.

22 MR. PANEQUE: Mr. Lopez?

23 MR. LOPEZ: Good evening, once again.

24 Mr. Chairman, members of the Board, the
25 Corrective Resolution that's being sought,

1 original approval, 2006. It then fell under the
2 Permit Extension Act and this Board granted one
3 extension, which -- one applicable extension,
4 which was last year.

5 In putting together the building
6 applications, we determined that a mistake was
7 made on the original Resolution. The original
8 Resolution, because the plans originally called
9 for 128 parking spaces, the original Resolution
10 indicated 128 parking spaces.

11 However, during the approval meeting, the
12 Board requested that two parking spaces be
13 removed. I'm sorry. The Board requested that an
14 additional vehicular ingress and egress be
15 provided onto 40th Street. So, there's one from
16 Park Avenue. The Board wanted one onto 40th
17 Street.

18 And there's transcript evidence, which I've
19 reviewed with Mr. Paneque, where the Board says
20 -- where the Board understands that two parking
21 spaces would be lost, but they prefer that in
22 order to have that second means of ingress and
23 egress for cars.

24 And so, at the end, there's clear evidence,
25 again, which was presented and reviewed by Mr.

1 | Paneque, that there's an indication that the
2 | total number of approved parking spaces were 126.

3 | It's the only thing we're seeking. Clear
4 | -- clearly reflecting what was approved that day,
5 | 126 parking spaces, and an additional ingress and
6 | egress on 40th Street.

7 | MR. PANEQUE: What was just stated on the
8 | record by Mr. Lopez is correct.

9 | I have had an opportunity to review the
10 | transcripts of the Board, and it is clear from
11 | the conversations and back and forth that took
12 | place during the deliberations and the
13 | application, that the Board did approve the
14 | application with the two space reduction from 128
15 | to 126, for the specific purpose of creating a
16 | second means of vehicular egress and -- egress --
17 | ingress and egress onto the building.

18 | When the Resolution was finalized and
19 | approved, inadvertently, it listed 128 spaces.
20 | So, this Corrective Resolution is reflecting that
21 | the Board approved it with 126 spaces.

22 | Is there an application?

23 | VICE CHAIRMAN BONACCI: So, you want to
24 | make a motion to approve the -- are we
25 | memorializing it? Is this the first extension,

1 or this would be the second extension?

2 MR. PANEQUE: Actually --

3 MR. LOPEZ: This is not an extension.

4 MR. PANEQUE: Yeah.

5 VICE CHAIRMAN BONACCI: Okay.

6 MR. PANEQUE: If I may? This is not an
7 extension.

8 MS. GUTIERREZ: To approve the --

9 MR. PANEQUE: This is a --

10 MS. GUTIERREZ: -- the two more.

11 MR. PANEQUE: -- a Resolution correcting
12 the previous Resolution --

13 MS. GUTIERREZ: Um hum.

14 MR. PANEQUE: -- to correctly reflect that
15 instead of 128 spaces, the Board approved the
16 application --

17 MS. GUTIERREZ: One twenty-six.

18 MR. PANEQUE: -- with 126, and a second
19 means of vehicular egress and ingress.

20 VICE CHAIRMAN BONACCI: Okay.

21 THE SECRETARY: Motion to --

22 MR. LOPEZ: And one more thing. We're
23 still within the timeframe of the original
24 extension. And that's part of the reason on the
25 rush on this Resolution. We have to get

1 everything into the Building Department.

2 VICE CHAIRMAN BONACCI: Okay.

3 MS. GUTIERREZ: Okay.

4 VICE CHAIRMAN BONACCI: I'm going to make a
5 motion to approve the Resolution.

6 THE SECRETARY: Motion to --

7 MS. GUTIERREZ: And I'm seconding.

8 THE SECRETARY: -- approve the Resolution
9 by Mr. Bonacci.

10 Second by Ms. Gutierrez.

11 Motion to adopt this Corrective Resolution.

12 Mr. Bonacci?

13 VICE CHAIRMAN BONACCI: Yes.

14 THE SECRETARY: Ms. Gutierrez?

15 MS. GUTIERREZ: Yes.

16 THE SECRETARY: Mr. Gullon?

17 MR. GRULLON: Yes.

18 THE SECRETARY: Mr. Pressey?

19 MR. PRESSEY: Yes.

20 THE SECRETARY: Mr. Medina?

21 MR. MEDINA: Yes.

22 THE SECRETARY: Mr. Ortiz?

23 MR. ORTIZ: Yes.

24 THE SECRETARY: Six in favor.

25 Motion carries.

1 MR. LOPEZ: Thank you, members of the
2 Board.

3 VICE CHAIRMAN BONACCI: Sure.

4 MS. GUTIERREZ: You're welcome.

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1 **1301-1303 Palisade Ave, LLC -**

2 **1301-1303 Palisade Ave.:**

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4 THE SECRETARY: Mr. Paneque?

5 MR. PANEQUE: The next application we're
6 also taking out of turn.

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

9 THE SECRETARY: Go ahead, Mr. Paneque.

10 MR. PANEQUE: The next application is 1301-
11 1303, number 9 on the agenda.

12 And Ms. Pereiras?

13 For the record, I've been provided with the
14 following documentation:

15 I have a Certification as to publication
16 and service, signed by Ms. Bianca Pereiras, on be
17 -- as attorney for the applicant, indicating that
18 notice of tonight's hearing was sent to all
19 property owners within the 200 foot radius, as
20 well as published in the newspaper.

21 The actual publication in the newspaper is
22 listed in an Affidavit of Publication, which
23 notes that notice of tonight's hearing, with
24 respect to the 1301-03 Palisade Avenue, was
25 published on April 28th, 2018 for tonight's

1 hearing of May 10th.

2 I've also been provided with a copy of the
3 Tax Assessor's list, with respect to the property
4 in question, with a date of April 26, 2018.

5 I've also been provided with the certified
6 mail receipts with a date of April 27, 2018, as
7 well as the green cards and envelopes that have
8 come back to date.

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

12 MS. PEREIRAS: Good evening, Mr. Chairman,
13 counsel, members of the Board.

14 May it please the Board, Bianca Pereiras,
15 on behalf of the applicant.

16 I understand that your professional planner
17 has not had an opportunity to review these
18 drawings and prepare a memorandum for the Board.
19 So, I have no objection to carrying this matter,
20 to give him that opportunity.

21 MR. PANEQUE: All right. For the Board, we
22 did receive a memo indicating that Mr. Spatz had
23 not had an opportunity to review --

24 I believe there are some revised plans, Mr.
25 Spatz?

1 MR. SPATZ: Yes. It was originally
2 submitted as a six family building. It has been
3 -- it was resubmitted for two three family
4 buildings.

5 So, I only recently received them, so I
6 would like an opportunity to review, because the
7 variances are different from my previous review.
8 And I'd like to be able to give the Board the
9 benefit of my review.

10 VICE CHAIRMAN BONACCI: Okay.

11 MR. PANEQUE: Based on that, and the
12 application by Ms. Pereiras is to carry the
13 matter, and I would concur with that.

14 This Board retains jurisdiction. There
15 would be no need to either republish or renotify.
16 And it would be carried to the next meeting,
17 which would be June 14.

18 MS. GUTIERREZ: Fourteen.

19 VICE CHAIRMAN BONACCI: Okay.

20 Make a motion to adjourn the application
21 until June 14th.

22 THE SECRETARY: Motion to adjourn the --

23 MS. GUTIERREZ: And I'm seconding.

24 THE SECRETARY: -- application for June 14
25 by Mr. Bonacci.

1 Second by Ms. Gutierrez.

2 Roll call on the motion to -- to adjourn
3 this application for June 14, 2018.

4 No new notice required.

5 Roll call on the motion.

6 Mr. Bonacci?

7 VICE CHAIRMAN BONACCI: Yes.

8 THE SECRETARY: Ms. Gutierrez?

9 MS. GUTIERREZ: Yes.

10 THE SECRETARY: Mr. Grullon?

11 MR. GRULLON: Yes.

12 THE SECRETARY: Mr. Pressey?

13 MR. PRESSEY: Yes.

14 THE SECRETARY: Mr. Medina?

15 MR. MEDINA: Yes.

16 THE SECRETARY: Mr. Ortiz?

17 MR. ORTIZ: Yes.

18 THE SECRETARY: Six -- six in favor.

19 Motion carries.

20 MS. PEREIRAS: Thank you.

21 THE SECRETARY: Thank you.

22 * * *

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1 **613 39th Street, LLC - 611-613 39th Street:**

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3 THE SECRETARY: All right.

4 We are going to the next application on
5 tonight's agenda, 613 39th Street, LLC, 611-613
6 39th Street.

7 Ms. Pereiras, please?

8 MS. PEREIRAS: Thank you.

9 Again, Bianca Pereiras, on behalf of the
10 applicants for property located at 613 39th
11 Street.

12 As the Board may recall, this Board
13 originally established jurisdiction at the
14 February meeting. We actually presented for the
15 first time at your March meeting.

16 At the time, the Board heard from both our
17 professional planner and our architect, as to the
18 property and to the proposed application.

19 We are proposing two three family homes.
20 The reason we were before this Board is because
21 our property -- while most of it lies in the R
22 low density residential, there is a small portion
23 that lies in that CN neighborhood commercial
24 zone, which requires a commercial component.
25 We're not proposing any commercial component, and

1 | that's why we have the use variance and are
2 | before this Board.

3 | I -- I believe the Board, at the last
4 | meeting -- Mr. Bonacci, I believe you in
5 | particular, had a question for your professional
6 | planner, to confirm that this was, in fact, two
7 | three family homes.

8 | VICE CHAIRMAN BONACCI: Right.

9 | MS. PEREIRAS: Mr. Spatz wasn't here, so we
10 | continued this matter for that purpose.

11 | VICE CHAIRMAN BONACCI: Right.

12 | MS. PEREIRAS: And I believe that purpose
13 | alone.

14 | VICE CHAIRMAN BONACCI: At the last -- the
15 | last time that you presented the application --

16 | MS. PEREIRAS: Yes.

17 | VICE CHAIRMAN BONACCI: Okay. There it is.
18 | Never mind.

19 | That's why I took a five minute break, so I
20 | could --

21 | MS. PEREIRAS: Not a problem.

22 | VICE CHAIRMAN BONACCI: Gotcha. Okay.

23 | MS. PEREIRAS: So, I defer, I guess, to
24 | your professional planner --

25 | MR. SPATZ: Right.

1 MS. PEREIRAS: -- for his analysis --

2 VICE CHAIRMAN BONACCI: Yeah.

3 MS. PEREIRAS: -- of the project.

4 VICE CHAIRMAN BONACCI: Mr. Spatz?

5 MR. SPATZ: Yes.

6 VICE CHAIRMAN BONACCI: The problem that I
7 had when we were going over this application at
8 the last meeting --

9 MR. SPATZ: Right.

10 VICE CHAIRMAN BONACCI: -- was whether or
11 not Mr. Pereira's drawing is, in fact, two
12 buildings, because my concern was that in the
13 event of a fire, nobody's going to get through
14 that hole that separates the two buildings, which
15 I believe, at the time, that created a -- a
16 safety issue from -- from my perspective.

17 MR. SPATZ: All right. Well, there -- I
18 guess there are two questions there, whether it's
19 -- it's two three family homes, there are
20 separate entrances for the buildings, so what are
21 -- they're attached, but they are two separate
22 three family homes, with that single story
23 element in front of it.

24 So, from that point of view, I would treat
25 this as two threes versus a six unit building.

1 As to the safety issues, that's really
2 something that the Board has to consider -- you
3 know, whether there are other means of getting
4 off the property and out of the property.
5 Perhaps, that's a question that the project
6 architect can describe how it meets the Building
7 Codes and the fire safety requirements for that.

8 But as to the design of it, it is -- I
9 would treat it as two three family homes.

10 VICE CHAIRMAN BONACCI: Okay.

11 MR. SPATZ: Based on -- on the design.

12 VICE CHAIRMAN BONACCI: Thank you, Mr.
13 Spatz.

14 And then, I think that now that I'm looking
15 at the memorandum that's in front of us, I
16 believe that the other issue we may have had was
17 the total number of parking spaces.

18 And, Mr. Spatz, how many would be required?

19 MR. SPATZ: The -- the way I looked at it
20 was -- was 2.4 spaces are required for each three
21 bedroom unit, would be a total of 14, and five
22 are being provided.

23 MS. PEREIRAS: Mr. Bonacci, and I'm happy
24 to bring up the architect again. We have a very
25 distinct topography on the site.

1 VICE CHAIRMAN BONACCI: Okay.

2 MS. PEREIRAS: Which only allows us to put
3 the five spots, but he can address that much
4 better than I can.

5 Mr. Pereiras?

6 MR. PEREIRAS: Happy to --

7 MS. DILLON: Please raise your right hand.

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

10 MR. PEREIRAS: I do.

11 MS. DILLON: Please state your name for the
12 record.

13 MR. PEREIRAS: Manny Pereiras,
14 P-E-R-E-I-R-A-S, with Pereiras Architects
15 Ubiquitous, 1116 Summit Avenue, Union City.

16 MS. DILLON: Thank you.

17 MS. PEREIRAS: And simply for purposes of
18 the record, Mr. Pereiras --

19 VICE CHAIRMAN BONACCI: Yeah. We accept
20 your --

21 MS. PEREIRAS: -- has testified in the
22 past.

23 VICE CHAIRMAN BONACCI: -- qualifications.

24 MS. PEREIRAS: Thank you very much.

25 MR. PEREIRAS: Thank you so much.

1 So, we have a really unique site and we
2 took a lot of extra care to make sure that this
3 meets all safety requirements --

4 MS. DILLON: Manny --

5 MR. PEREIRAS: -- and that we comply -- I'm
6 sorry?

7 MS. DILLON: I'm sorry. That's --

8 MR. PEREIRAS: It's off?

9 MS. DILLON: I don't know why it's off.

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

12 MS. DILLON: Go ahead. I may need to
13 change the battery, but keep --

14 MR. PEREIRAS: Testing. One, two, three.

15 MS. DILLON: Yeah, no, no, no. It's --
16 it's going. Go ahead.

17 MR. PEREIRAS: Okay. Fantastic.

18 So, there are very -- a lot of really
19 unique characteristics to this.

20 The first is the -- the zoning boundaries.
21 This site is 50 in the back, it's 75 in the
22 front. And it has this L shape. That's why
23 we're here before this Board, otherwise, we'd be
24 before the Planning Board. Three family is
25 simple, but since the zoning districts, this is

1 in the CN and this is in the R, no matter what we
2 do, we're here before you.

3 There's nothing that could be built here
4 that would be compliant.

5 So, Mr. Marotta always asks the questions,
6 what could you build that's compliant? Well,
7 absolutely nothing, because we're in both zones.
8 We can't meet the requirements of both zones.

9 So, that's why this Board exists to -- for
10 conditions exactly like this. So, that's why
11 we're here in front of you today.

12 Now, this -- we all know 39th Street. You
13 have the Housing Authority on the right hand side
14 and you're going down the hill. You have that
15 huge big massive wall. We're right before that
16 wall.

17 Now, there's rocks there that you see and
18 there's a lot of topography. The site,
19 basically, goes up ten feet before it flattens
20 out.

21 So, we can't build the traditional three
22 family, with parking all the way underneath, and
23 then, unit, unit, unit. No matter what, we can't
24 do it because we'd be blasting, we would -- it
25 would never happen.

1 So what we have -- that's a really true
2 hardship that the applicant has with the
3 topography of the site.

4 So, what we're proposing is utilizing all
5 that frontage that we have and provide parking
6 along there, along the front, so that on here, we
7 have two buildings that are staying flat.

8 So, yes, we have five, and actually, the
9 applicant -- the way I showed it, we actually can
10 make six parking spaces. And let me clarify
11 that.

12 In order to get the sixth parking space, we
13 need to do a lot of drilling to get that rock
14 out. The applicant already said that no matter
15 how much it cost, he's going to do it, and he'll
16 make that as a condition of this Board. So,
17 instead of just five spaces, we're providing six
18 spaces, so that each of the units will have their
19 own parking space.

20 Right now, the requirement is over 14
21 spaces. However, if you look at the new
22 reconsideration of the Master Plan, we would only
23 be required 12 spaces, so that they -- they --
24 we're assuming two spaces per unit. And what
25 we're able to do here, even though we have this

1 | messed up topography, the applicant's going to
2 | put a lot of money into this in order to get the
3 | six spaces, so that we could have -- meet the
4 | requirements of the Master Plan, as far as having
5 | the two three families, and be able to provide
6 | the six spaces for garage.

7 | And, of course, in Union City, we're able
8 | to park in the -- in front of the -- the
9 | driveway, so it gives us that opportunity, too.
10 | So we have even more spaces available to us
11 | there.

12 | So, each of the units is going to have
13 | their own parking space and potentially an
14 | additional one in front of their -- in front of
15 | their driveway.

16 | So, I -- I hope that satisfies the Board's
17 | concerns with parking. I mean, there's really no
18 | other thing to do. This is really a hardship
19 | situation.

20 | And then, to talk about safety. While this
21 | is an extremely safe building, because there are
22 | a lot of factors that we could talk about safety,
23 | but here's the big factor that is very important.

24 | The way our Ordinance is written, you have
25 | three feet on one side, two feet on the other.

1 The problem with that is that a fireman, if he
2 has to get to the back, can't really do that.
3 So, one of the reasons that this works really
4 well, we have two three family houses, exactly
5 what we want, but what I did is I created side
6 yards that are four feet four inches. So now,
7 this is really true life safety, it helps,
8 because if a fireman had to get to the back of
9 this building, they have the room to do that.
10 And we didn't do that just on one side, we did
11 that on both sides of this building.

12 So, it's an extremely safe building, and I
13 don't want, like, a space between the buildings
14 that's hard to get to and dangerous. That's
15 exactly why we eliminated the space, and so we
16 put the two buildings right up against each
17 other, so that there is no space where someone
18 could get -- go and get caught, that there's no,
19 like, wind, there's no fire danger.

20 So, that space got eliminated, so the two
21 houses are right up against each other, and
22 there's a lot of open space around the two sides.

23 And what we do with that is that we do a
24 massive two hour fire wall on each of the
25 properties, so they each have a wall that's built

1 | against fire, that it takes two hours for a fire,
2 | roughly, to get from one side of this wall to the
3 | other.

4 | And then, the other wall, it takes two
5 | hours for a fire to get from one side to the
6 | other.

7 | So, basically, it takes four hours for a
8 | fire to get from one side to the other, giving
9 | our great fire department ample opportunity to --
10 | you know, to -- to slow down the fire, to
11 | extinguish it and more than ample opportunity for
12 | everyone to leave.

13 | As well as, since it's three family, it's
14 | going to be fully sprinklered, each of them
15 | individually. There's going to be two lines
16 | going in there. One for each of the units. It's
17 | going to have separate fire alarms, completely
18 | individual and -- and protecting the units, and
19 | all that fire safety that we talked about, as
20 | well as these units have two stairwells each.
21 | So, there's a stairwell in the back and a
22 | stairwell in the front.

23 | And then, the other thing that -- you know,
24 | the topography -- you know, it's not all
25 | horrible. One of the nice things about this

1 topography is that it really creates the
2 opportunity for some, like, open space.

3 So, since we set the houses back
4 significantly, now we have this whole front area,
5 which becomes like a really front, beautiful,
6 landscaped front porch, where the residents of
7 the house could -- could hang out there and have
8 a -- it really beautifies the neighborhood, has
9 planters. It's actually taking this topography,
10 which is a negative thing, and making it into
11 something really beautiful.

12 So, I -- I present to you that I think the
13 applicant has worked with the City really as much
14 as they could, in order to provide almost exactly
15 what the City's asking for, two three family
16 houses in an oversized lot. We only need 25 by a
17 hundred. This is bigger. Okay? So, we have an
18 extra 25 by 25 that's part of this.

19 VICE CHAIRMAN BONACCI: Thank you, Mr.
20 Pereiras.

21 MR. PEREIRAS: Thank you.

22 VICE CHAIRMAN BONACCI: Ms. Pereiras?

23 MS. PEREIRAS: Yes.

24 VICE CHAIRMAN BONACCI: This is the CN
25 zone?

1 MS. PEREIRAS: There --

2 VICE CHAIRMAN BONACCI: That --

3 MS. PEREIRAS: There's a portion of the
4 property.

5 VICE CHAIRMAN BONACCI: Part of it.

6 MS. PEREIRAS: Mr. Pereiras can point out
7 to it --

8 VICE CHAIRMAN BONACCI: Right.

9 MS. PEREIRAS: -- on the drawing.

10 MR. PEREIRAS: So, --

11 MS. PEREIRAS: But it is in the CN zone.

12 MR. PEREIRAS: -- this portion of the
13 property is CN. And then, the rest is R. So,
14 we're in both zones.

15 VICE CHAIRMAN BONACCI: Okay.

16 Last time you guys had Mr. Kauker
17 testifying for you.

18 MS. PEREIRAS: We did.

19 MR. PEREIRAS: Yes.

20 VICE CHAIRMAN BONACCI: Okay. I remember
21 now -- you know, there's still a lot of the same
22 issues that I had. The variances. You guys --
23 you know, respectfully, beautiful -- you know,
24 work that you do, is seeking a lot of relief
25 here, which concerns me. The front setback, the

1 rear yard, the side yard, the max lot coverage.

2 Earlier -- you know, I know that we
3 clarified it with Mr. Spatz, as to whether it was
4 two buildings or one, but it's still in the CN
5 zone, part of it, which doesn't conform. That's
6 why you're here. I understand.

7 The disagreements that I had with Mr.
8 Kauker seemed to have been my interpretation on
9 cases which set precedent.

10 So I mean, I still have some of those same
11 issues. So, I'm still going to go the way that I
12 originally had intended on going.

13 MR. PEREIRAS: I think I could help you out
14 and make you feel --

15 VICE CHAIRMAN BONACCI: Because I know that
16 you guys have other cases to get to tonight. I
17 know you guys have two additional applications --

18 MR. PEREIRAS: Yeah.

19 VICE CHAIRMAN BONACCI: -- for us to hear
20 tonight.

21 MR. PEREIRAS: We do. And I think I --

22 VICE CHAIRMAN BONACCI: So, I don't want to
23 waste anybody's time.

24 MR. PEREIRAS: Yeah. I think I can make
25 you feel a lot better about this application,

1 | because if you're concerned about the variances
2 | that we're seeking --

3 | VICE CHAIRMAN BONACCI: Um hum.

4 | MR. PEREIRAS: -- I want to talk to each --
5 | single one of those variances.

6 | Under the new Master Plan, okay, let's go
7 | one by one.

8 | You're required to have a ten foot front
9 | yard. We have 20 foot front yard. So, we're
10 | much, much better.

11 | Under the new Master Plan, you're required
12 | to have only a five foot rear yard. We have a 15
13 | foot rear yard, ten feet more than what we're
14 | required to have.

15 | If I go by -- one by one on every single
16 | thing under the new Master Plan, we're much
17 | better. Like significantly better.

18 | VICE CHAIRMAN BONACCI: But you guys still
19 | need --

20 | MR. PEREIRAS: We're required --

21 | VICE CHAIRMAN BONACCI: But you still need
22 | variances for this. You're still asking for
23 | relief on those -- each and every one of them.

24 | MR. PEREIRAS: Yes, sir. And the reason
25 | why is for several things.

1 Number one and the foremost is because we
2 are in two zones. We are in the CN and we are in
3 the R. We can't comply with both.

4 If we were to go with the CN zone, we have
5 zero variances, except for the use of the store,
6 because you're allowed zero on one side, you're
7 allowed zero on the other, you're allowed zero on
8 the front, you're allowed a hundred percent
9 coverage.

10 So, the reason that this is -- the reason
11 there are variances is because the City has this
12 zoned as two separate things, not because we're
13 asking for anything. We're not really asking for
14 anything that is other than because we're in two
15 zones.

16 And -- and I hope your -- your planner
17 could explain a little bit better, coming from
18 your side --

19 VICE CHAIRMAN BONACCI: Right.

20 MR. PEREIRAS: -- to understand. But what
21 we're -- we're not asking for relief that is
22 beyond what the City Master Plan is telling us to
23 do.

24 VICE CHAIRMAN BONACCI: I appreciate it.

25 Members of the Board any questions for Mr.

1 or Ms. Pereiras?

2 Open to the public.

3 Okay.

4 Closed to the public.

5 Like I said, earlier -- you know,
6 respectfully, I -- I appreciate -- you know, your
7 application. I still have many of the same
8 issues that I did when we saw it a month or two
9 months ago.

10 With that, I'm going to make a motion to
11 deny this application.

12 THE SECRETARY: Motion on the table to deny
13 the application by Mr. Bonacci.

14 Any second the motion?

15 MR. GRULLON: So I just -- I just also want
16 to mention for the record that I had the
17 opportunity to review the minutes from previous
18 meeting, and again, one of the concerns that I
19 have is that 39th Street is a very busy section.
20 And having all those curb cuts there for parking,
21 I know it's not compliance with -- with the
22 amount of parkings, but I don't think it'd be
23 appropriate to have all those curb cuts there.

24 I make a motion to deny it, too. Second
25 the motion.

1 THE SECRETARY: Second the motion by Mr.
2 Grullon to deny the application.

3 Roll call on the motion to deny the
4 application.

5 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. Pressey?

12 MR. PRESSEY: No.

13 THE SECRETARY: Mr. Medina?

14 MR. MEDINA: Yes.

15 THE SECRETARY: Mr. Ortiz?

16 MR. ORTIZ: Yes.

17 THE SECRETARY: Five in favor, one against.
18 Motion carries.

19 The application has been denied.

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

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

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

5 Mrs. Pereiras, please?

6 MS. PEREIRAS: Thank you.

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

9 MR. PANEQUE: For the record, I've been
10 provided with the following documentation from
11 Ms. Pereiras:

12 I have a Certification as to publication
13 and service, signed by Ms. Pereiras, indicating
14 that notice of tonight's hearing, with respect to
15 the property at 424 8th Street, was given to all
16 property owners within the 200 feet radius of
17 this property in question on April 27, 2018.

18 I've also been provided with an Affidavit
19 of Publication which indicates that notice of
20 tonight's hearing with respect to the property,
21 424 8th Street, was published in The Jersey
22 Journal on April 28, 2018.

23 I've also been provided with copies of the
24 certified mail receipts, with a postmark date of
25 April 27, as well as the certified list of

1 property owners within the 200 foot radius from
2 the Tax Assessor's Office, with a date of April
3 26, 2018, and the green cards and envelopes that
4 have come back to date.

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

8 THE SECRETARY: Thank you, Mr. Paneque.

9 MS. PEREIRAS: Thank you, counsel.

10 Again, Bianca Pereiras, on behalf of the
11 applicant.

12 There's been a lot of history with this
13 project, especially in front -- in front of this
14 Board. We had presented testimony on it before,
15 but because it had been continued so many times,
16 we erred on the side of caution and provided
17 additional notices and publication.

18 Originally, when we came before you the
19 first time, we were seeking to legalize one unit.
20 It was brought to our attention, at that time,
21 that we actually needed to legalize two. At one
22 point in the past, Ms. Sevillano had received an
23 amnesty to legalize a rear unit. That amnesty --
24 and she had gone through all the Building
25 Department to make that Code compliant. That

1 amnesty had been remanded and returned from
2 court, and it was no longer valid.

3 So at this point, we were going forward to
4 get two units legalized. It was also brought to
5 our attention by one of the members of the
6 public, that to approve two units would make him
7 appeal this project. And unfortunately, Ms.
8 Sevillano does not have the funds or the energy
9 to pursue something in the courts. So what we
10 have before the Board this evening is to legalize
11 that rear unit in the back, and to make the
12 ground floor, in the front building, connected to
13 the bottom floor, to make it almost a
14 mother/daughter.

15 I don't know if this Board remembers, but
16 Ms. Sevillano has an adult son that,
17 unfortunately, many years ago, was viciously
18 attacked and remains incapacitated since that
19 time.

20 They'd like to give him his independence, a
21 little bit, but still need to keep him close to
22 home. So, the unit in the basement would be for
23 him and the mother would be living upstairs to
24 take care of him.

25 That is the proposal before the Board this

1 evening. I don't know if the Board would like to
2 hear from our expert, Mr. Pereiras?

3 VICE CHAIRMAN BONACCI: Yeah. Sure.

4 MS. PEREIRAS: Mr. Pereiras?

5 MR. PEREIRAS: I recognize I am still under
6 oath, still Manny Pereiras.

7 Counsel explained it perfectly well. We
8 have four units in the building. They've been
9 existing for awhile. There's long history. We
10 went through the Building Department, did a lot
11 of constructive work.

12 We're legalizing the rear unit. I gave
13 testimony on this in the past.

14 There is -- and just to talk a little bit
15 about the site. We have a site that's 35.33 feet
16 wide and it has a depth of 76.05 feet, for a
17 total of 2,702 square feet. So, even though we
18 don't meet the -- the depth, we do have a size --
19 a site that's a little bit oversized, and there's
20 ability to have two cars parked along the side of
21 it.

22 The rear structure is one of the units that
23 we're legalizing, and the other unit is in the
24 basement of the front portion of the building.

25 And just to describe it a little bit

1 better, the -- the rear unit is a duplex. It
2 falls on two floors. You enter the building, you
3 have the -- an existing living room, dining room,
4 kitchen area. And then, you take the steps
5 upstairs to have two bedrooms. What's really in
6 question, and it's been in debate before this
7 Board before, is this basement unit. It's a 473
8 square foot unit and we are looking to make that
9 into like a mother/daughter, in the sense that
10 the mother literally is -- it would be better --
11 more better labeled as a mother/son, in this
12 case. The mother will be living on this floor,
13 and the son will be living on the lower floor.

14 Actually, I'm sorry. The -- the son will
15 be living along here.

16 What we're -- we're doing is we're
17 basically making everything meet Code. We're
18 adding a few walls to make this fire safe. We're
19 adding walls to split the boiler area.

20 And that concludes my testimony. I could
21 expand on it, if you need it.

22 VICE CHAIRMAN BONACCI: I think I -- I
23 think some of us are familiar with the last time.
24 It seems to be a good compromise that you guys
25 worked out.

1 Correct me if I'm wrong, but wasn't there
2 discussed some sort of compromise where the
3 basement and the rear apartment would be granted
4 to be legal by the Board, with the provision that
5 as long as they're residing there, was -- wasn't
6 that part of what we discussed?

7 MR. PEREIRAS: Not the rear, just the
8 basement.

9 VICE CHAIRMAN BONACCI: Just the basement.
10 So, the rear stays for good.

11 MR. PEREIRAS: Yes.

12 VICE CHAIRMAN BONACCI: And the basement
13 would be with the provision that the family
14 resides at that area.

15 MS. PEREIRAS: Correct.

16 VICE CHAIRMAN BONACCI: Do we have any
17 questions from any members of the public on this?

18 Want to --

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

21 MS. DILLON: Did I swear you already?

22 MR. PRICE: No, you didn't.

23 MS. DILLON: I didn't so.

24 MR. PRICE: I've been very quiet this
25 evening --

1 MS. DILLON: I -- you've been --

2 MR. PRICE: -- Mrs. Dillon.

3 MS. DILLON: -- very quiet, Mr. Price.

4 Do you affirm that the testimony you're
5 about to give this Board is the whole truth?

6 MR. PRICE: I do.

7 MS. DILLON: Thank you.

8 MR. PRICE: Larry Price, 1006 Palisade
9 Avenue.

10 The only thing that I'm concerned about is
11 that -- you know, the -- the provision on these
12 temporary -- that these mother/daughter is that
13 the arrangement is supposed to be temporary.
14 That the legalization of the basement apartment
15 only lasts as long as the son continues to reside
16 in that. And then -- then, the permission of
17 this Board is supposed to expire.

18 And that requires a deed restriction, so
19 that any potential buyer of this property
20 realizes that he's buying a legal three family,
21 not a legal four family.

22 Now, who's going to put the deed
23 restriction on?

24 MS. PEREIRAS: I can prepare one and send
25 it to counsel for his approval.

1 VICE CHAIRMAN BONACCI: I just have a
2 question for Mr. Price.

3 So, did I touch upon the area of concern,
4 when I mentioned the provision about the
5 basement? Was that something that you were
6 interested in?

7 MR. PRICE: Very much so. And --

8 VICE CHAIRMAN BONACCI: Okay.

9 MR. PRICE: I've had a continuing -- a long
10 continuing relationship with this property. And
11 I have no problems with this arrangement, so long
12 as it's clearly understood by all parties,
13 including potential buyers of this property, that
14 what this Board is doing is legal -- creating a
15 legal three family with a temporary living
16 arrangement for the basement apartment.

17 VICE CHAIRMAN BONACCI: Mr. Price, when I
18 testified earlier that I said it seems to be a
19 good compromise, would you agree?

20 MR. PRICE: Yeah.

21 VICE CHAIRMAN BONACCI: With that?

22 MR. PRICE: Yeah, I -- yes, I would --

23 VICE CHAIRMAN BONACCI: Okay.

24 MR. PRICE: I --

25 VICE CHAIRMAN BONACCI: We want to make

1 | sure that the members of the public are happy, as
2 | well.

3 | MR. PRICE: Both of us?

4 | VICE CHAIRMAN BONACCI: So, we would then
5 | have to, correct me if I'm wrong, Mr. Paneque, we
6 | would have to grant -- we would approve, with the
7 | provision that there would be a deed restriction
8 | for the basement apartment, but not the rear.

9 | MR. PANEQUE: Well, this Board, if it sees
10 | fit to approve the request that is being made,
11 | would legalize the rear apartment, thereby
12 | creating a legal three family home. And legalize
13 | the use of the basement in a provisional fashion,
14 | while the son is still occupying the premises.

15 | In the future, if the son is no longer
16 | there, or if the house is sold, or changes
17 | ownership, then that -- the basement apartment
18 | would have to be removed. That would entail
19 | removing, at minimum, the kitchen area. Okay?
20 | Because you know, you would have to remove that
21 | kitchen area in order to get rid of that
22 | apartment.

23 | The bathroom, probably the Building
24 | Department will let it stay. And then, the rest
25 | of that basement unit would then be living area

1 for the upstairs apartment, but would not be able
2 to be rented as a fourth unit.

3 VICE CHAIRMAN BONACCI: Okay.

4 MR. PRICE: Fine.

5 VICE CHAIRMAN BONACCI: That's okay --

6 MR. PANEQUE: So --

7 VICE CHAIRMAN BONACCI: -- with you, Ms.
8 Pereiras?

9 MS. PEREIRAS: That is okay.

10 VICE CHAIRMAN BONACCI: Okay.

11 Okay. So, I guess then, what I'm doing
12 here is making a motion to approve the
13 application, with the provision that there be a
14 deed restriction on the basement apartment. So,
15 we're -- we're making a motion to make this a
16 three family dwelling.

17 MS. PEREIRAS: Correct.

18 VICE CHAIRMAN BONACCI: And there's a
19 provision for the basement, and with the
20 provision that you're going to take care of the
21 deed restriction.

22 MS. PEREIRAS: Correct.

23 VICE CHAIRMAN BONACCI: Okay.

24 MR. PANEQUE: Now, just so that we're
25 clear, the Resolution will also indicate that the

1 | basement must be fully compliant with all safety
2 | and -- you know, safety regulations and rules
3 | from the Building Department.

4 | MS. PEREIRAS: To make sure it's up to
5 | Code. Absolutely. Not a problem.

6 | MR. PANEQUE: And I'm sure Mr. Pereiras
7 | would see to that.

8 | MS. PEREIRAS: Yes.

9 | MR. PEREIRAS: Absolutely.

10 | THE SECRETARY: Motion on the table to
11 | approve this application, with the provision of
12 | the basement apartment, by Mr. Bonacci.

13 | MS. GUTIERREZ: And I'm seconding.

14 | THE SECRETARY: Second by Ms. Gutierrez.

15 | Roll call on the motion.

16 | Mr. Bonacci?

17 | VICE CHAIRMAN BONACCI: Yes.

18 | THE SECRETARY: Mr. Guti -- Ms. Gutierrez?

19 | MS. GUTIERREZ: Yes.

20 | THE SECRETARY: Mr. Grullon?

21 | MR. GRULLON: Yes.

22 | THE SECRETARY: Mr. Pressey?

23 | MR. PRESSEY: Yes.

24 | THE SECRETARY: Mr. Medina?

25 | MR. MEDINA: Yes.

1 THE SECRETARY: Mr. Ortiz?

2 MR. ORTIZ: Yes, with all the stated
3 conditions.

4 THE SECRETARY: Six in favor.

5 Motion carries.

6 MS. PEREIRAS: Thank you very much.

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1 **MPB Hoist & Crane, LLC - 2306 West Street:**

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3 THE SECRETARY: Next application on
4 tonight's agenda, MPB Hoist and Crane, LLC, 2306
5 West Street.

6 Ms. Pereiras, please?

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

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

12 I have a Certification as to publication
13 and service, indicating that notice of tonight's
14 hearing on May 10th, with respect to the property
15 at 2306 West Street, was sent out to all property
16 owners within the 200 foot radius on April 27,
17 2018.

18 I've also been provided with an Affidavit
19 of Publication, indicating that notice of
20 tonight's hearing was published, with respect to
21 the property 2306 West Street, on The Jersey
22 Journal, on April 28, 2018, indicating notice of
23 tonight's hearing, May 10th.

24 I've also been provided with the tax list
25 from the Tax Assessor's Office, with a date of

1 April 26, 2018, for all properties within the 200
2 foot radius of 2306 West Street.

3 And I've also been provided with the
4 certified mail receipts, with a date of April 27,
5 2018, and the green cards and envelopes that have
6 come back to date.

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

10 MS. PEREIRAS: Thank you, counsel.

11 Again, Bianca Pereiras, on behalf of the
12 applicant, for property 2306 West Street, also
13 known as Block 128, Lot 19.02.

14 We are located in the R low density
15 residential zone. What's currently onsite is a
16 mixed use property, where there is commercial on
17 the ground floor and an apartment above.

18 What we're trying to do is to bring this
19 much more back into conformance by removing the
20 commercial component and making another
21 residence.

22 So, we are looking to have two legal units
23 onsite. We are proposing a third story addition
24 to enlarge these units, but that is the gist of
25 our application.

1 We have one expert to testify before the
2 Board, and that is Mr. Manuel Pereiras.

3 MR. PEREIRAS: Still Manny Pereiras, still
4 under oath.

5 MS. PEREIRAS: Mr. Pereiras, did you
6 prepare the drawings that are before the Board
7 this evening?

8 MR. PEREIRAS: I have.

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

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

12 And I want to make sure that my testimony
13 is inline with the -- the memorandum from the
14 Building Department.

15 Do you have that, counsel?

16 MR. PANEQUE: Not yet.

17 MR. PEREIRAS: Okay.

18 MR. PANEQUE: Mr. Vallejo, do we have a
19 memo --

20 THE SECRETARY: Yes, sir.

21 MR. PANEQUE: -- from the Building
22 Department?

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

25 THE SECRETARY: Do you have it there?

1 MR. PANEQUE: I do not.

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

4 MR. PANEQUE: Did you get a notice, Ms.
5 Gutierrez?

6 MS. GUTIERREZ: No.

7 MR. PANEQUE: No? What -- what's your
8 address?

9 MS. GUTIERREZ: 820 23rd Street.

10 VICE CHAIRMAN BONACCI: Eight --

11 MR. PANEQUE: 820 --

12 VICE CHAIRMAN BONACCI: 33rd.

13 MS. GUTIERREZ: 23rd.

14 VICE CHAIRMAN BONACCI: Okay; 23rd Street.

15 THE SECRETARY: I don't have the record
16 here.

17 MR. PANEQUE: 820 is --

18 MS. GUTIERREZ: Between Summit and
19 Kerrigan.

20 MR. PANEQUE: Oh, no. You're not within
21 the 200 feet. This is west.

22 MS. GUTIERREZ: West.

23 MR. PANEQUE: This -- no.

24 MS. GUTIERREZ: One block down?

25 MR. PANEQUE: No, no. You're -- you're

1 good.

2 MS. GUTIERREZ: I'm good?

3 MR. PANEQUE: Yeah.

4 MS. GUTIERREZ: Okay.

5 MR. PANEQUE: Yeah. You're good.

6 MS. GUTIERREZ: I just want to make sure.

7 MR. PANEQUE: Okay. We do not have it at
8 this time, so --

9 MR. PEREIRAS: I -- I'd like to make the
10 statement of what's there existing, and I believe
11 it to be factual to this -- at this moment.

12 We have -- from the photograph that you see
13 here, it's a very small property. The lot itself
14 only is 722 square feet. It's 17.5 feet in
15 width, it's 41.4 feet in depth.

16 And obviously, that triggers a bunch of
17 existing nonconformities. So, there's -- we're
18 dealing with an undersized weird lot here in
19 Union City. And what we want to do is my -- the
20 applicant came to me, he's like, I want to do
21 something with this. And I said, how can we make
22 this better?

23 And the first thing I told him is remove
24 the commercial and let's make that residential.
25 But we had a big problem. The units were too

1 small.

2 So, what we're doing is, instead of
3 increasing the footprint in any way, we're going
4 up so that we'll make the units adequate size.
5 So that's what we're presenting to you today.
6 We're removing the commercial off the ground
7 floor, and we're making it residential. And
8 we're doing -- and we're increasing the size,
9 with an addition above, so that it would be
10 compliant.

11 Let's talk it -- let's go through floor
12 plan -- actually, in the elevations, it's better
13 to show it.

14 We have this building. It's a big garage
15 door, very ugly, with siding along the front.
16 What we're looking to do is remove all that
17 siding, make it a beautiful brick façade,
18 introduce windows, nice windows along it -- along
19 the front, provide a cornice and create a new
20 front entrance to the building, so that you're
21 not entering from the side or through garage
22 doors.

23 So, we're making it a lot more beautiful,
24 nice for the neighborhood, so that everyone could
25 -- it really beautifies the streetscape and

1 eliminates that commercial use from that ground
2 floor.

3 Turning to the floor plans. We have the
4 existing condition. You have a car garage in the
5 front. And then, in the back, it was kind of
6 like a lavatory. There's counter space. There's
7 multiple sinks. I'm not sure what it was used
8 for, but that's what we have currently there.

9 And then, upstairs, there was a bathroom, a
10 small kitchenette and all the mechanicals there.

11 We're demolishing everything and building
12 this building from scratch new. We're creating a
13 two hour enclosure for the car, so that we
14 provide parking for this building, so that there
15 will be one car parking space there.

16 You enter the side, the rear apartment,
17 through the side of the building, where you enter
18 and it's a 463 square foot studio. And the way
19 we accomplish that is by duplexing that, so it's
20 on two levels.

21 So, we have the living, sleeping area along
22 the top, and the -- and the entrance for the
23 kitchen, dining room and bathroom area along the
24 bottom. And it gives you a total of 463 square
25 feet, which is compliant.

1 And then, the other apartment, you enter
2 from the front of the building. You take the
3 stairs up and we created another duplex, going
4 from here up, so that the total square footage of
5 this duplex is 941.5 square feet. And we created
6 a nice two bedroom duplex.

7 Now, in our addition, we didn't take the
8 full coverage of the building, because we wanted
9 to provide windows on the top floor, so we're
10 setting the building back another five feet along
11 the -- the third floor, so that we could have
12 windows for that bedroom.

13 And that pretty much concludes my
14 testimony. I mean, we're taking this from a
15 nonconforming use to a conforming one. And yes,
16 we have a bunch of bulk variances, but that's the
17 -- the nature of what this building is. We're
18 technically expanding on them, because we're
19 going up, so we're expanding on those side yards,
20 front yards, rear yards. But -- but we're making
21 a situation that is preexisting into something
22 significantly better.

23 VICE CHAIRMAN BONACCI: Mr. Pereiras, this
24 is low density residential.

25 MR. PEREIRAS: Yes, sir, and we continue to

1 be low density residential.

2 VICE CHAIRMAN BONACCI: So, yeah, removing
3 the commercial space, really doesn't do much to
4 hurt that part of it because it's still going to
5 be low density residential, with or without the
6 commercial on that first floor.

7 MR. PEREIRAS: No. So, before, with the
8 commercial --

9 VICE CHAIRMAN BONACCI: Right.

10 MR. PEREIRAS: -- it wasn't low density
11 residential.

12 VICE CHAIRMAN BONACCI: Right. You had --

13 MR. PEREIRAS: So it was --

14 VICE CHAIRMAN BONACCI: You had --

15 MR. PEREIRAS: It was --

16 VICE CHAIRMAN BONACCI: Right.

17 MR. PEREIRAS: Yeah. We're removing it, so
18 now we're compliant.

19 VICE CHAIRMAN BONACCI: Right.

20 No, I -- I see that there's -- you know,
21 there's relief, but like you had pointed out,
22 most of it, if not all of it almost, is
23 preexisting nonconforming. And you're taking --
24 you have clients here that they're living here.
25 This is their place.

1 MR. PEREIRAS: Right now, it's empty.

2 VICE CHAIRMAN BONACCI: Okay.

3 MR. PEREIRAS: There is -- there is nothing
4 there.

5 VICE CHAIRMAN BONACCI: Yeah. But they
6 came to you to make this a better thing.

7 MR. PEREIRAS: Yes.

8 VICE CHAIRMAN BONACCI: And it looks like
9 that's what you did with the duplex --

10 MR. PEREIRAS: Absolutely.

11 VICE CHAIRMAN BONACCI: -- idea, that's
12 something that we haven't really seen too much at
13 this Board.

14 MR. PEREIRAS: Yeah. Yeah.

15 VICE CHAIRMAN BONACCI: Right?

16 So, you created a conforming space by going
17 up rather than tearing down walls.

18 MR. PEREIRAS: Yes.

19 VICE CHAIRMAN BONACCI: Okay.

20 I think it's a great idea. I think you did
21 a really nice job.

22 MR. PEREIRAS: Thank you.

23 VICE CHAIRMAN BONACCI: Do you have any
24 more testimony, Ms. Pereiras, or that's it?

25 MS. PEREIRAS: No, that would conclude our

1 presentation.

2 VICE CHAIRMAN BONACCI: Okay.

3 Does any -- do we have any members of the
4 Board that would like to ask any questions about
5 this application?

6 MR. PEREIRAS: Yes, sir.

7 MR. ORTIZ: Go ahead.

8 MR. PRESSEY: Yes. I was wondering about
9 like an outside camera.

10 MR. PEREIRAS: We would be happy to
11 provide a camera. I think that any applicant
12 today wants safety.

13 I -- if it's in the notes in the
14 Resolution, we'd be happy to provide a camera.
15 Think it's a great idea.

16 MR. PRESSEY: And nothing about parking?

17 MR. PEREIRAS: Well, we have that one
18 parking space.

19 MS. GUTIERREZ: One parking.

20 MR. PEREIRAS: In the garage. Yeah.
21 That's it.

22 MS. GUTIERREZ: Um hum. Um hum.

23 VICE CHAIRMAN BONACCI: Which you also made
24 a little bit -- you fixed that up, too.

25 MR. PEREIRAS: Yeah. It's going to be --

1 VICE CHAIRMAN BONACCI: Yeah.

2 MR. PEREIRAS: -- fire rated now and safe.

3 MS. GUTIERREZ: Um hum.

4 VICE CHAIRMAN BONACCI: Do we have any
5 members of the public that would like to speak on
6 this application?

7 Okay.

8 A VOICE: No comment.

9 MS. GUTIERREZ: No comment.

10 VICE CHAIRMAN BONACCI: All right.

11 With that, I'm going to make a motion to
12 approve the application.

13 However, just for the record, I just want
14 for the testimony -- for it to be on record that
15 the proposal is consistent with the goals and
16 objectives of the Master Plan, and the Municipal
17 Land Use Law, and promotes health, safety and
18 general welfare of the public.

19 So, with that, I'd like to make a motion to
20 grant the application.

21 THE SECRETARY: Motion to grant the
22 application --

23 MR. GRULLON: Second the motion.

24 THE SECRETARY: -- by Mr. Bonacci.

25 Second by Mr. Ortiz. He raised the hand

1 first.

2 Roll call on the motion to approve this
3 application.

4 Mr. Bonacci?

5 VICE CHAIRMAN BONACCI: Yes.

6 THE SECRETARY: Ms. Gutierrez?

7 MS. GUTIERREZ: Yes.

8 THE SECRETARY: Mr. Grullon?

9 MR. GRULLON: Yes.

10 THE SECRETARY: Mr. Pressey?

11 MR. PRESSEY: Yes, with the stipulation of
12 a camera.

13 THE SECRETARY: Mr. Medina?

14 MR. MEDINA: Yes.

15 THE SECRETARY: Mr. Ortiz?

16 MR. ORTIZ: Yes.

17 THE SECRETARY: Six in favor.

18 Motion carries.

19 MS. PEREIRAS: Thank you all very much.

20 MR. PEREIRAS: Thank you, everyone.

21 MS. PEREIRAS: Have a good night.

22 MR. PEREIRAS: Good night.

23 MS. GUTIERREZ: Good night.

24 MR. GRULLON: Good night.

25 MR. PRESSEY: Good night.

1 MS. PEREIRAS: We'll see you next month.

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3 (Whereupon, David Spatz left the meeting at
4 9:00 p.m.)

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1 **CORRECTIVE RESOLUTION:**

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3 (1) Jaime Fuentes, 307 47th Street, Block
4 269.02, Lot 17. This Resolution was memorialized
5 on September 8, 2016.

6

7 THE SECRETARY: Just one second Board
8 members, please.

9 We are going --

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

12 THE SECRETARY: We have a second Corrective
13 Resolution.

14 That is Jaime Fuentes, 307 47th Street.

15 This Resolution was memorialized on
16 September 8, 2016.

17 Mr. Paneque, please?

18 MR. PANEQUE: Yes.

19 This Resolution is being corrected as a
20 result of a request from the Building Department.

21 The Resolution originally read the
22 legalization of a ground floor apartment unit.
23 Throughout the evidence that was presented in the
24 hearing, it was clear that it was a basement
25 unit. And in the Resolution itself, in the other

1 pages, it refers to the unit as a basement unit.

2 The Building Department wanted that
3 clarification. They don't seem to think that
4 ground floor unit is basement, so the Resolution
5 is being corrected to remove ground floor and
6 replace with basement, only in the first
7 paragraph. That's the only place it appears.
8 And that's the only change that is being made to
9 the Resolution, so that the Building Department
10 can process the paperwork.

11 And that's it.

12 THE SECRETARY: Can I have a motion to
13 adopt the Resolution?

14 By Mr. Pressey.

15 Second by Mr. Bonacci.

16 Roll call on the motion.

17 Mr. Bonacci?

18 VICE CHAIRMAN BONACCI: Yes.

19 THE SECRETARY: Ms. Gutierrez?

20 MS. GUTIERREZ: Yes.

21 THE SECRETARY: Mr. Grullon?

22 MR. GRULLON: Abstain.

23 THE SECRETARY: Abstain?

24 MR. GRULLON: Yes. I was not part of the
25 meeting.

1 THE SECRETARY: Mr. Pressey?

2 MR. PRESSEY: Yes.

3 THE SECRETARY: Mr. Medina?

4 MR. MEDINA: Yes.

5 THE SECRETARY: Mr. Ortiz?

6 MR. ORTIZ: Yes.

7 THE SECRETARY: Six -- five in favor, one
8 abstained.

9 Motion carries.

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1 **RESOLUTION:**

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3 (1) 509-513 Bergenline, LLC - 507, 509-513
4 Bergenline Avenue, Block 23, Lots 28, 29, 30 and
5 31. Applicant proposes the construction of a new
6 multi-family building of 12 units and 24 parking
7 spaces. **The application was Denied on April 12,**
8 **2018.**

9

10 THE SECRETARY: Stay with me.

11 All right.

12 We have a Adoption of Deny Resolution of
13 509-513 Bergenline Avenue, LLC, 507, 509-513
14 Bergenline Avenue.

15 The application was denied on April 12,
16 2018.

17 Can I have a motion to adopt this
18 Resolution?

19 Only the persons can vote on this adoption
20 of the Resolution, that's Mr. Bonacci and Ms.
21 Gutierrez.

22 Can I have a motion?

23 Motion by Mr. --

24 VICE CHAIRMAN BONACCI: Yes.

25 THE SECRETARY: -- Bonacci.

1 Second by Ms. Gutierrez?

2 MS. GUTIERREZ: Yes.

3 THE SECRETARY: Roll call on the motion.

4 Mr. Bonacci?

5 VICE CHAIRMAN BONACCI: Yes.

6 THE SECRETARY: Ms. Gutierrez?

7 MS. GUTIERREZ: Yes.

8 THE SECRETARY: Two in favor.

9 Motion carries.

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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 Mr. Pressey.

7 MS. GUTIERREZ: Second.

8 THE SECRETARY: Second by Mr. Medina.
9 All in favor?

10

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

12

13 THE SECRETARY: The ayes have it.

14 MR. PRESSEY: All right.

15 MS. GUTIERREZ: Aye.

16 THE SECRETARY: Let the record show that
17 the meeting has ended.

18 Have a good night, everyone.

19

20 (Whereupon, the proceedings were concluded
21 at 9:04 p.m.)

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1 STATE OF NEW JERSEY :

2 :

3 COUNTY OF ESSEX :

4

5

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, May 10, 2018 and
11 digitally recorded.

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25 Monitored and proofread by: Deborah Dillon