

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, October 11, 2018  
 Commencing at 6:19 p.m.

M E M B E R S     P R E S E N T:

VICTOR M. GRULLON  
 MARGARITA GUTIERREZ  
 JOHN MEDINA  
 DAVID W. PRESSEY  
 JOSEPH D. BONACCI, Vice Chairman

M E M B E R S     A B S E N T:

MIGUEL ORTIZ  
 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

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

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ALAIN MULKAY, ESQ.,  
Attorney for Applicant, Farouk Sheikh

ALAIN MULKAY, ESQ.,  
Attorney for Applicant, Ayoub Brothers Realty, LLC

ALAIN MULKAY, ESQ.,  
Attorney for Applicant, Antonino Forte

ALAIN MULKAY, ESQ.,  
Attorney for Applicant, Bienvenida Cuevas

BIANCA P. PEREIRAS, ESQ.,  
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BIANCA P. PEREIRAS, ESQ.,  
Attorney for Applicant, MBP Hoist and Crane, LLC

BIANCA P. PEREIRAS, ESQ.,  
Attorney for Applicant, 1707 Palisade Ave., LLC

BIANCA P. PEREIRAS, ESQ.,  
Attorney for Applicant, Hung Fat, Inc.

BIANCA P. PEREIRAS, ESQ.,  
Attorney for Applicant, Lirios de Los Valles

BIANCA P. PEREIRAS, ESQ.,  
Attorney for Applicant, Pilot Digital, LLC

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

3           Please take notice that on Thursday,  
4 October 11, 2018, at six p.m., 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           Notice of this meeting has been provided as  
10 follow:

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

18           Before we roll -- we call for tonight's  
19 meeting, can everybody rise to salute the flag,  
20 please?

21

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

24

25           THE SECRETARY: Thank you.

1     **ROLL CALL:**

2

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

5             Liberio Marotta?  Absent.

6             Joseph Bonacci?

7             VICE CHAIRMAN BONACCI:  Here.

8             THE SECRETARY:  Victor Grullon?

9             MR. GRULLON:  Here.

10            THE SECRETARY:  Margarita Gutierrez?

11            MS. GUTIERREZ:  Here.

12            THE SECRETARY:  Miguel Ortiz is absent.

13            David Pressey?

14            MR. PRESSEY:  Here.

15            THE SECRETARY:  John Medina?

16            MR. MEDINA:  Here.

17            THE SECRETARY:  Let the record indicate  
18 there are five present.

19            We have a full quorum for tonight's agenda  
20 and make any decision.

21                                 \* \* \*

22

23

24

25

1   **APPROVAL OF PREVIOUS MEETING MINUTES:**

2

3       ( 1)   Regular Meeting held on September 13,  
4   2018

5

6           THE SECRETARY:   Approval of Previous  
7   Meeting Minutes from September 13, 2018.

8           Can I have a motion?

9           MR. GRULLON:   Motion.

10          THE SECRETARY:   Motion by Mr. Grullon.

11          MS. GUTIERREZ:   Second.

12          THE SECRETARY:   Second by Ms. Gutierrez.

13          Roll call on the motion.

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:   Five in favor.

25          Motion carries.

1     **ADOPTION OF RESOLUTIONS:**

2

3       ( 1) 701 30<sup>th</sup> Street, LLC, 701-707 30<sup>th</sup> Street,  
4 Block 162, Lots 20, 21, 22, 23. Applicants are  
5 seeking one year extension. The Resolution was  
6 memorialized on August 9, 2007. Notice: Second  
7 extension.     **Denied**

8

9             THE SECRETARY: We are going to Resolution  
10 now.

11            We have five Resolution on tonight's  
12 agenda.

13            First Resolution, adoption of denied  
14 Resolution.

15            701 30<sup>th</sup> Street, LLC, 701-707 30<sup>th</sup> Street.

16            This application was denied at the previous  
17 meeting.

18            Can I have a motion to adopt the deny  
19 Resolution?

20            MS. GUTIERREZ: I --

21            MR. GRULLON: Motion.

22            THE SECRETARY: Motion by Mr. Grullon.

23            MS. GUTIERREZ: Second.

24            THE SECRETARY: Second by Ms. Gutierrez.

25            Roll call on the motion.

1 Mr. Bonacci?

2 VICE CHAIRMAN BONACCI: Yes.

3 THE SECRETARY: Ms. Gutierrez?

4 MS. GUTIERREZ: Yes.

5 THE SECRETARY: Mr. Grullon?

6 MR. GRULLON: Yes.

7 THE SECRETARY: Mr. Pressey?

8 MR. PRESSEY: Yes.

9 THE SECRETARY: Mr. Medina?

10 MR. MEDINA: Yes.

11 THE SECRETARY: Five in favor.

12 Motion carries.

13 \* \* \*

14

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1     **ADOPTION OF RESOLUTIONS:**

2  
3       ( 2) Vicente & Janeth Falconi, 813 Sip Street,  
4 Block 172, Lot 27. Applicant proposes to convert  
5 existing commercial space to a residential unit  
6 to create a two family house.     **Approved**

7       ( 3) 813 10<sup>th</sup> Street, LLC, 813 10<sup>th</sup> Street, Block  
8 186, Lot 17. Applicant proposes two new three  
9 family house.     **Approved**

10      ( 4) 134 35<sup>th</sup> Street, LLC, 136 35<sup>th</sup> Street, Block  
11 202, Lot 8. Applicant seeks relief to allow the  
12 construction of a new three family.     **Approved**

13      ( 5) 134 35<sup>th</sup> Street, LLC, 134 35<sup>th</sup> Street, Block  
14 202, Lot 7. Applicant seeks relief to allow the  
15 construction of a new three family.     **Approved**

16  
17             THE SECRETARY: Adoption -- adoption of  
18 Resolution 2, 3, 4 and 5.

19             Number 2.

20             Vicente and Janeth Falconi, 813 Sip Street.

21             Number 3.

22             813 10<sup>th</sup> Street, LLC, 813 10<sup>th</sup> Street.

23             Number 4.

24             134 35<sup>th</sup> Street, LLC, 136 35<sup>th</sup> Street.

25             Number 5.

1 134 35<sup>th</sup> Street, LLC, 134 35<sup>th</sup> Street.

2 Can I have a motion to adopt these

3 Resolutions?

4 MS. GUTIERREZ: I make a motion.

5 THE SECRETARY: Motion by Ms. Gutierrez.

6 Any second the motion?

7 VICE CHAIRMAN BONACCI: I'll second it.

8 THE SECRETARY: Second by Mr. Bonacci.

9 Roll call on the motion.

10 Mr. Bonacci?

11 VICE CHAIRMAN BONACCI: Yes.

12 THE SECRETARY: Ms. Gutierrez?

13 MS. GUTIERREZ: Yes.

14 THE SECRETARY: Mr. Grullon?

15 MR. GRULLON: Yes.

16 THE SECRETARY: Mr. Pressey?

17 MR. PRESSEY: Yes.

18 THE SECRETARY: Mr. Medina?

19 MR. MEDINA: Yes.

20 THE SECRETARY: Five in favor.

21 Motion carries.

22 \* \* \*

23

24

25

1     **3329 Hudson Avenue, LLC - 3329 Hudson Avenue:**

2

3             THE SECRETARY: We are going to hearing --  
4     hearings and applications.

5             First application.

6             3329 Hudson Avenue, LLC, 3329 Hudson  
7     Avenue.

8             Mr. Hernandez, please?

9             Mr. Hernandez?

10            MR. HERNANDEZ: Yes.

11            THE SECRETARY: You ready?

12            MR. HERNANDEZ: Right here.

13            Thank you.

14            Good evening.

15            Aristides Hernandez on behalf of the  
16     applicant, 3329 Hudson Realty, LLC.

17            We were here --

18            VICE CHAIRMAN BONACCI: Twice.

19            Right?

20            MR. HERNANDEZ: Twice. Yes.

21            First time, the calendar was very, very  
22     heavy and we were adjourned.

23            VICE CHAIRMAN BONACCI: Right.

24            MR. HERNANDEZ: Second time, what occurred  
25     was, we had a memo from the Building Department

1 --

2 VICE CHAIRMAN BONACCI: That's right.

3 MR. HERNANDEZ: -- that there was some kind  
4 of discrepancy with what we have with -- with  
5 what they say we have.

6 So now, we have a new memo that was issued.  
7 My understanding is that -- I saw the memo. The  
8 memo says basically what we contend is the use of  
9 the property which is four residential apartments  
10 and one commercial unit.

11 That commercial unit is a bar, which the  
12 applicant seeks to get rid of and replace it with  
13 residential units.

14 There are some exhibits that I'd like to  
15 have marked.

16 The memo is in your possession. We don't  
17 have to go through that.

18 Right?

19 Correct?

20 VICE CHAIRMAN BONACCI: Right.

21 MR. HERNANDEZ: Okay.

22 So, can I have this marked --

23 MS. DILLON: A-1?

24 MR. HERNANDEZ: Yes, that'd be one.  
25

1           (Whereupon, Site Environs dated 7/12/18 was  
2 received and marked as Exhibit A-1.)

3

4           MR. HERNANDEZ: And there's one for each of  
5 you.

6           MR. PANEQUE: Just hand them over. We'll  
7 just hand them down.

8           MR. HERNANDEZ: Okay.

9           MR. PANEQUE: Thank you, Mr. Hernandez.

10          VICE CHAIRMAN BONACCI: Pass them down.

11          MR. HERNANDEZ: Three. That should be  
12 enough for you guys I think.

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

15          MR. HERNANDEZ: This is a plan showing  
16 different uses of the area, as prepared by Mr.  
17 Izquierdo.

18          I believe last time we were here Mr.  
19 Izquierdo was qualified and was accepted by the  
20 Board as an architect and planner.

21          Is that true?

22          VICE CHAIRMAN BONACCI: Yes.

23          MR. HERNANDEZ: May I just confirm that?

24          VICE CHAIRMAN BONACCI: Mr. Izquierdo, we  
25 accept your qualifications.

1 MR. IZQUIERDO: Thank you, Mr. Bonacci.  
2 Very kind.

3 MR. HERNANDEZ: We weren't able to go very  
4 far, because right away, we had the memo issue --

5 VICE CHAIRMAN BONACCI: Memo problem.

6 MR. HERNANDEZ: -- come up.

7 VICE CHAIRMAN BONACCI: Yeah.

8 MR. HERNANDEZ: And then everything got  
9 delayed as a result of that.

10 VICE CHAIRMAN BONACCI: Um hum.

11 MR. PANEQUE: Mr. Hernandez?

12 MR. HERNANDEZ: Yes?

13 MR. PANEQUE: If I may, just for purposes  
14 of the fact that Mr. Pressey was not here at the  
15 last meeting, I know that Mr. Izquierdo started a  
16 portion of his testimony and an introduction, --

17 MR. HERNANDEZ: Okay.

18 MR. PANEQUE: -- I would just request that  
19 we start it from the inception.

20 MR. HERNANDEZ: Okay. Absolutely.

21 MR. PANEQUE: So, this will be a de novo  
22 application. So, Mr. Izquierdo, nothing that was  
23 said last -- at the last meeting is going to be  
24 used. We're starting fresh on this application.

25 MR. IZQUIERDO: Yes, sir.

1 MS. DILLON: Mr. Izquierdo, please raise  
2 your right hand.

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

5 MR. IZQUIERDO: I do.

6 MS. DILLON: Please just state your name  
7 for the record.

8 MR. IZQUIERDO: My name is Jose Izquierdo,  
9 architect 09143, planner 03385.

10 MS. DILLON: Thank you.

11 MR. HERNANDEZ: Mr. Izquierdo, can you just  
12 describe the variances that will be required for  
13 this application?

14 MR. IZQUIERDO: Good evening, members of  
15 the Board.

16 This is an application for a rear yard  
17 addition to a existing mixed use building, as  
18 well as a change of use.

19 The existing building consists of four  
20 residential units that were approved in a site  
21 plan back in around two thousand something, by  
22 Ana Galvan, and the issue had arisen as if  
23 applicant had obtained the proper Certificates of  
24 Occupancy completing that construction and  
25 memorializing the approval.

1           The applicant has. And there was a revised  
2 memo issued with that respect.

3           The property is 3329 Hudson Avenue, tax  
4 Block 200, tax Lot 31. And it lies within the R  
5 zone.

6           The existing use, which is four units plus  
7 a bar use on the ground floor, is not a  
8 conforming use. But since we're adding  
9 apartments to this, we really have a change of  
10 use. So, we would be changing from a four --  
11 four unit, plus bar, to a multifamily building.

12          The number of units to the building I would  
13 like -- if the Board is kind enough to make a  
14 modification, actually a deletion of the  
15 additional square footage of construction.

16          So, what we're trying -- what we're going  
17 to be proposing to the Board, and I will be glad  
18 to -- to extend revised drawings for that, is to  
19 have the four units existing to remain as is and  
20 then, to use the area presently occupied for the  
21 bar for two studio units, with no new  
22 construction, no rear addition performed.

23          So, in reality, what we're doing, the  
24 application is just to take the bar use and turn  
25 it into two studio units.

1           This Board gains jurisdiction of this  
2 application because this is a D-1 building use  
3 variance, where the apartment building is not an  
4 allowed use in the R zone.

5           There is a schedule of zoning compliance on  
6 sheet SP1, as well as the site plan. Part of the  
7 revisions that are going to be done, and you can  
8 see that on the first sheet, Mr. Grullon, is that  
9 apartment two rear on the studio and three rear  
10 on the studio, of 464 square feet, on that table  
11 of proposed conditions, is going to be  
12 eliminated.

13           Okay.

14           So, we're going to have apartment number  
15 one existing, apartment number two existing,  
16 apartment number three existing and apartment  
17 number four existing, and then addition of two  
18 units. Ground front of a studio being 400 square  
19 feet, which complies, and ground rear studio of  
20 400 square feet, which complies.

21           There are four drawings submitted with the  
22 application, SP1 has the site plan and those  
23 tables that I have addressed.

24           The zoning schedule, which I will be more  
25 than glad to go over, actually all variances are

1 existing. They're all preexisting condition,  
2 with just -- with the exception of the parking  
3 spaces, because right now, the bar with the four  
4 apartments require to have a total of -- 33  
5 parking spaces are required, eight are provided.

6       Actually, when we finish with the  
7 application, we're going to have the four one  
8 bedrooms, plus two studios. So, 11 will be  
9 required. So, I'm reducing the deficiency of 33  
10 to 11.

11       Sheet A1 shows the existing conditions and  
12 the demolition floor plan.

13       Sheet A2 -- sheet A2 shows the proposed  
14 conditions, whereas I have qualified that no  
15 addition is going to occur on the second floor or  
16 on the third floor. So, just a ground level is  
17 the one that remains as shown in the application.  
18 We have handicapped access and actually, two  
19 means of egress from both the parking area and  
20 the front of the building on Hudson Avenue.

21       Sheet A3 shows existing and proposed  
22 elevation on the front and Hudson Avenue, and as  
23 well, the proposed elevation on the side facing  
24 north, with the caveat that I'm going to be  
25 eliminating that rear yard addition.

1           In order to proceed, applicant requires a  
2 number of variances and a number of waivers. The  
3 waivers for site plan, which are required, a  
4 waiver of a loading dock; of the parking aisle  
5 dimension; of the size of the parking spaces,  
6 again, a dimension; and the maneuverability of  
7 the parking area.

8           Zoning Board acquires jurisdiction for a  
9 D-1 building use allowed.

10           In the exhibit that was submitted by  
11 counsel, there is a map of the neighborhood. And  
12 it shows that the area is extremely mixed in  
13 uses. We have Walgreen's, we have The Thread, we  
14 have commercial, Storage Blue, we have a new  
15 building under construction, we have a number of  
16 one, two and three family homes, we also have a  
17 religious site, which is under planning and  
18 construction next door, for the De La Virgen De  
19 La Caridad Del Cobre, we have an abandoned  
20 industrial building, we have bank parking,  
21 dentist, we have the Lincoln Tunnel access.

22           So, the -- the property is so close to the  
23 intersection of 31<sup>st</sup> and Hudson, which is a major  
24 thoroughfare, it's actually an interstate, the  
25 Lincoln Tunnel access, 495, that this development

1 is mostly geared to people that are going to rely  
2 on public transportation.

3 The United States Postal Service, which is  
4 the bus stop for a number of buses going to New  
5 York City, is within 300 -- yeah, maybe 300, 500  
6 feet, a thousand feet from the site.

7 So, we believe that converting the building  
8 from a four unit plus a bar to a six unit  
9 apartment building best meets the Zoning  
10 Ordinance and complies with the Zoning Ordinance.

11 In terms of the positive criteria, the  
12 number of parking spaces that are being required  
13 for this development are 33 existing and 11  
14 proposed.

15 The negative criteria of the application is  
16 the maneuverability of the parking area, the size  
17 of the parking spaces. The site is extremely  
18 irregular. The site is extremely narrow and it's  
19 extremely long, but it is what it is.

20 And this -- this parking arrangement was  
21 actually approved by this Board back in 2001.

22 I have nothing further.

23 VICE CHAIRMAN BONACCI: Mr. Hernandez, do  
24 you have any other testimony tonight?

25 MR. HERNANDEZ: No, I do not.

1           VICE CHAIRMAN BONACCI: I have a question  
2 for Mr. Izquierdo.

3           Mr. Izquierdo, I just want to clear up one  
4 thing. On the agenda here, it says that  
5 applicant proposes to abolish the bar.

6           MR. IZQUIERDO: Correct.

7           VICE CHAIRMAN BONACCI: And --

8           MR. IZQUIERDO: And we are.

9           VICE CHAIRMAN BONACCI: And add four  
10 residential units to the --

11          MR. IZQUIERDO: That's been --

12          VICE CHAIRMAN BONACCI: -- to the --

13          MR. IZQUIERDO: -- revised to two.

14          VICE CHAIRMAN BONACCI: Okay. So that's an  
15 error in the --

16          MR. IZQUIERDO: No, it's not an error. I  
17 --

18          MR. HERNANDEZ: No, it's not an error.

19          MR. IZQUIERDO: I --

20          VICE CHAIRMAN BONACCI: Okay.

21          MR. IZQUIERDO: I took the liberty of  
22 making a -- a modification of the application.  
23 It was just sua sponte so, I just came up with  
24 it.

25          VICE CHAIRMAN BONACCI: So, in total, it

1 would be eight residential units?

2 MR. IZQUIERDO: Six.

3 MR. HERNANDEZ: Six.

4 VICE CHAIRMAN BONACCI: Six.

5 Okay.

6 MR. IZQUIERDO: The four, the existing  
7 ones, and the only thing that we're seeking Board  
8 approval is for a use variance, because a six  
9 unit apartment building is not an allowed use in  
10 the R zone. But we're taking -- we're not  
11 building any additional square feet or any  
12 additional volume. Within the square feet and  
13 the volume of the bar, we're going to have two  
14 studio apartments.

15 VICE CHAIRMAN BONACCI: Okay.

16 Mr. Izquierdo, would you be able to tell us  
17 the studio apartments --

18 MR. IZQUIERDO: The new ones?

19 VICE CHAIRMAN BONACCI: Yeah.

20 -- that you propose, the new studio  
21 apartments, the square footage of those two  
22 studio apartments? Not in total, each one.

23 MR. IZQUIERDO: Exactly 400 square feet.  
24 Exactly.

25 VICE CHAIRMAN BONACCI: Okay.

1           MR. IZQUIERDO:  Actually, the way the two  
2 apartments are laid out, is shown in drawing A2,  
3 and it shows that they're -- both apartments face  
4 on the driveway, and there's a corridor that  
5 connects the front of the building to the rear of  
6 the building, so that anybody parking in the back  
7 does not have to walk through the driveway, which  
8 is already narrow as it is, but can come inside  
9 the building.

10           So, there's -- there's going to be a rear  
11 entrance to the building, which is presently the  
12 entrance to the bar, as well as a new front  
13 entrance to the building, handicapped accessible  
14 and all that good stuff.

15           VICE CHAIRMAN BONACCI:  Mr. Izquierdo,  
16 could -- would you be able to testify that the  
17 square footage of the studio apartments conforms  
18 to our Zoning Ordinance?

19           MR. IZQUIERDO:  Yes, that's exactly what it  
20 does.

21           VICE CHAIRMAN BONACCI:  Okay.

22           MR. IZQUIERDO:  The -- the Zoning  
23 Ordinance, on page 63, I believe, states that for  
24 a studio apartment, you need 400 square feet.  
25 For a one bedroom, you need 550.  For a two

1 | bedroom, you need 750. And for a three bedroom,  
2 | you need -- you need 900.

3 | VICE CHAIRMAN BONACCI: Yeah. The only  
4 | reason I ask is because we have Mr. Spatz's  
5 | memorandum.

6 | MR. IZQUIERDO: Yes. I -- I don't --

7 | VICE CHAIRMAN BONACCI: And in his --

8 | MR. IZQUIERDO: -- have a copy of that.

9 | VICE CHAIRMAN BONACCI: In his memorandum,  
10 | he has it down that the studio apartments, the  
11 | square footage does not conform, but your  
12 | testimony says that that's in --

13 | MR. IZQUIERDO: Mr. Spatz -- Mr. Spatz is  
14 | definitely referring to the units that are  
15 | already existing there.

16 | VICE CHAIRMAN BONACCI: Right.

17 | MR. IZQUIERDO: Those units, right now, for  
18 | a one bedroom, plus a den, is 439. For a one  
19 | bedroom is 390. For a one bedroom, plus a den,  
20 | is 439. And for a one bedroom is 390.

21 | As they -- these were approved and they are  
22 | legal by variance, but then the new Zoning  
23 | Ordinance was enacted in 2012, in March, and then  
24 | that's what established the --

25 | But as to the new units, they are exactly

1 400 square feet.

2 VICE CHAIRMAN BONACCI: So, the ones that  
3 Mr. Spatz is referring to in his memo, you're  
4 basically saying those are preexisting.

5 MR. IZQUIERDO: It has to be.

6 VICE CHAIRMAN BONACCI: Okay. Okay.

7 And with the demolition of the bar, you're  
8 able to testify now that the parking requirement  
9 has been reduced.

10 MR. IZQUIERDO: From 33 to 11.

11 VICE CHAIRMAN BONACCI: Okay.

12 MR. IZQUIERDO: And we have eight.

13 VICE CHAIRMAN BONACCI: It's a significant  
14 reduction.

15 MR. IZQUIERDO: Well, what happens is --  
16 what happens with the bar use, it's totally  
17 inconsistent with the policies of this  
18 administration and of the Zoning Ordinance.

19 There's actually a school, which is rather  
20 close to the bar. It's the school that is  
21 located on Palisade and, I believe, 34<sup>th</sup> Street.

22 So, removing that bar -- I mean, of course,  
23 it's a money maker, but it's also a trouble maker  
24 to have the bar there, because of brawls, because  
25 of everything and it's -- it's just conducive to

1 a number of things that I don't think are within  
2 the -- the desires of the R zone.

3 VICE CHAIRMAN BONACCI: Okay.

4 So, overall, we're removing a bar from the  
5 area and providing additional housing.

6 MR. IZQUIERDO: Two -- two studio  
7 apartments, accessible to the handicapped, with  
8 no elevator or anything, just nice, with the  
9 ramps and everything like that. Two means of  
10 egress, fully sprinklered and adding no square  
11 footage to the building.

12 So, it's a good tradeoff, I believe.

13 VICE CHAIRMAN BONACCI: And reducing the  
14 parking hardship.

15 MR. IZQUIERDO: Yes.

16 VICE CHAIRMAN BONACCI: Okay.

17 You don't have any more questions?

18 MR. PANEQUE: No. I don't. I don't.

19 Mr. Izquierdo, your testimony so far is  
20 that we're going from four to six.

21 MR. IZQUIERDO: Yes, sir.

22 MR. PANEQUE: Okay. Take a look at the  
23 plan, please, unless I'm looking at a different  
24 plan, as well as the application that was  
25 submitted, the request in the application is to

1 go from four to eight.

2 MR. IZQUIERDO: Yes.

3 MR. PANEQUE: With the additional for the  
4 four additional units.

5 MR. IZQUIERDO: Yes.

6 MR. PANEQUE: So, is it six or eight?

7 MR. IZQUIERDO: It's six.

8 I'm modifying the application. So instead  
9 of being four units existing plus four units  
10 proposed, I'm -- I'm making the application four  
11 units existing, plus two units proposed.

12 MR. PANEQUE: Okay.

13 MR. IZQUIERDO: Only the ones in the ground  
14 floor area with no rear yard addition, no  
15 additional square footage in the application.

16 MR. PANEQUE: Okay.

17 Have you submitted revised plans?

18 MR. IZQUIERDO: No.

19 MR. PANEQUE: You have not?

20 MR. IZQUIERDO: No.

21 MR. PANEQUE: So, you're modifying the  
22 application on your feet tonight.

23 MR. IZQUIERDO: Yes.

24 MR. PANEQUE: Okay.

25 MR. IZQUIERDO: And then, I will -- I will

1 follow it up with revised plans that can -- can  
2 be -- for review by -- by David or --

3 MR. PANEQUE: Now, for purposes of  
4 enlightening this Board, the two units that are  
5 shown on this application that consist of going  
6 from four to eight, which two units are being  
7 removed?

8 MR. IZQUIERDO: The ones that occur in a  
9 rear yard addition, over the existing rooftop.  
10 So, units two rear and three rear are being  
11 removed.

12 MR. PANEQUE: Okay.

13 MR. IZQUIERDO: Are being deleted from the  
14 application.

15 MR. PANEQUE: So, there's not going to be  
16 any second floor addition to the rear of the  
17 property.

18 MR. IZQUIERDO: Nor -- nor the third.

19 MR. PANEQUE: Nor the third. So --

20 MR. IZQUIERDO: Yes.

21 MR. PANEQUE: -- the property will remain  
22 in an L shape.

23 MR. IZQUIERDO: Yes.

24 MR. PANEQUE: Okay.

25 MR. IZQUIERDO: Yes.

1           MR. PANEQUE: And it's your testimony that  
2 the revised plans will consist of that.

3           MR. IZQUIERDO: Yeah. The revised plans  
4 are going to show everything that -- that is  
5 deleted, so that, number one, there's no new area  
6 being constructed. So, the floor area ratio of  
7 the property remains the same.

8           Number two, the -- the density is reduced  
9 from eight units that we were planning to  
10 propose, to only six units, four existing plus  
11 two new.

12          MR. PANEQUE: Okay.

13          MR. IZQUIERDO: And then all the square  
14 footages and all the parking calculations and  
15 everything that I have to --

16          MR. PANEQUE: Okay.

17          MR. IZQUIERDO: -- revise.

18          MR. PANEQUE: And the two units that are  
19 being eliminated are the ones that say two rear  
20 and three rear --

21          MR. IZQUIERDO: Yes.

22          MR. PANEQUE: -- which were consisting of  
23 464 square feet.

24          MR. IZQUIERDO: Each.

25          MR. PANEQUE: Each.

1           Okay. All right.

2           MR. IZQUIERDO: Yeah.

3           MR. PANEQUE: Thank you for clarifying.

4           THE SECRETARY: Also, we need revised  
5 plans.

6           MR. IZQUIERDO: I'm sorry for modifying --

7           THE SECRETARY: A revised application.  
8 Right?

9           MR. IZQUIERDO: -- the application.

10          MR. PANEQUE: We're going to need a revised  
11 plan.

12          And with respect to the application, Mr.  
13 Hernandez, are you requesting that the  
14 application be revised today on the record?

15          MR. HERNANDEZ: Correct.

16          MR. PANEQUE: Because your application  
17 reads you're going from four to eight.

18          MR. HERNANDEZ: Correct. I --

19          MR. PANEQUE: Okay.

20          MR. HERNANDEZ: -- have discussed that with  
21 my clients and that's -- that's the -- that's the  
22 way we're going to proceed with this.

23          MR. PANEQUE: Okay.

24          Mr. Vallejo, just for the record, since  
25 this is a downward modification, they're actually

1 reducing the number of units, we'll -- I -- I  
2 don't see an issue with Mr. Hernandez making his  
3 application on the record.

4 The only condition is that this Board needs  
5 to look at the plans. Okay? So, we won't be  
6 able to take a vote on this tonight until the  
7 plans are actually submitted and -- and come  
8 back.

9 MR. IZQUIERDO: That's reasonable.

10 MR. PANEQUE: Okay.

11 MR. HERNANDEZ: That's --

12 MR. PANEQUE: Okay.

13 MR. HERNANDEZ: That's the Board's desire,  
14 of course.

15 MR. PANEQUE: And just as a point of  
16 clarification, as well, you are requesting a D-1  
17 use variance.

18 MR. IZQUIERDO: Yes.

19 MR. PANEQUE: And your testimony here  
20 tonight is both as a registered architect and as  
21 a planner?

22 MR. IZQUIERDO: Yes.

23 MR. PANEQUE: Okay.

24 And you're testifying as a planner because  
25 the D-1 variance requires a --

1 MR. IZQUIERDO: I'm testifying as a planner

2 --

3 MR. PANEQUE: -- planner testimony.

4 MR. IZQUIERDO: -- that there's a D-1  
5 variance, there's not a D-2, there's not a D-3,  
6 there's not a D-4, D-5, or D-6.

7 MR. PANEQUE: Okay.

8 MR. IZQUIERDO: We're not seeking a density  
9 variance.

10 MR. PANEQUE: And --

11 MR. IZQUIERDO: Nor height.

12 MR. PANEQUE: And the C variances are  
13 encompassed --

14 MR. IZQUIERDO: Subsumed.

15 MR. PANEQUE: Subsumed under the Puleio  
16 case.

17 MR. IZQUIERDO: They're all preexisting,  
18 because we're just going to use the existing  
19 square footage of the building. We're not  
20 extending the building. We're just putting  
21 windows and putting the interior petitions where  
22 the bar is.

23 MR. PANEQUE: Okay.

24 And no rear addition on the second and  
25 third.

1 MR. IZQUIERDO: None.

2 MR. PANEQUE: Okay.

3 Just so that we have a -- even though  
4 you've made your application on the record to  
5 amend the actual application, Mr. Hernandez, I  
6 would request that a revised --

7 MR. HERNANDEZ: A revised application?

8 MR. PANEQUE: -- application --

9 MR. HERNANDEZ: All right. Very good.

10 MR. PANEQUE: -- just changing from four  
11 going to eight, from four to six.

12 MR. HERNANDEZ: Yeah. Okay.

13 MR. PANEQUE: And then, submit it to Mr.  
14 Vallejo.

15 Mr. Izquierdo, can the plans be submitted  
16 for --

17 MR. IZQUIERDO: Ready on Monday --

18 MR. PANEQUE: -- for the next one?

19 MR. IZQUIERDO: -- if you want.

20 MR. PANEQUE: Okay. All right.

21 VICE CHAIRMAN BONACCI: Members of the  
22 public?

23 MR. PANEQUE: Open it to the public. Yeah.

24 VICE CHAIRMAN BONACCI: If there's any  
25 members of the public that would like to be heard

1 on this application, 3329 Hudson Ave.?

2 Okay.

3 Closed to the public.

4 Let me just --

5 MR. HERNANDEZ: We'll be back, I guess,  
6 next month with the revised application and the  
7 revised plans.

8 VICE CHAIRMAN BONACCI: Okay.

9 Just so that you guys know, the next  
10 meeting is Thursday, November 1<sup>st</sup>.

11 MR. IZQUIERDO: Good enough. Yeah.

12 MR. HERNANDEZ: Okay. That works.

13 VICE CHAIRMAN BONACCI: Okay.

14 MR. IZQUIERDO: Thank you.

15 VICE CHAIRMAN BONACCI: I just told them  
16 Thursday, November 1<sup>st</sup> is our next meeting.

17 MR. PANEQUE: Yes.

18 MR. HERNANDEZ: We'll have everything done  
19 by then.

20 MR. PANEQUE: Yeah.

21 MR. HERNANDEZ: Yeah. We'll have  
22 everything submitted by then.

23 VICE CHAIRMAN BONACCI: And then we can  
24 take a vote.

25 MR. PANEQUE: You can just be here that

1 night.

2 MR. HERNANDEZ: Yes.

3 MR. PANEQUE: And then --

4 MR. HERNANDEZ: Do we need the architect  
5 here that night?

6 MR. IZQUIERDO: Yeah. I'm going to be  
7 here.

8 MR. HERNANDEZ: You'll be here?

9 MR. IZQUIERDO: I'm going to be here  
10 anyway.

11 MR. PANEQUE: Mr. Izquierdo is --

12 VICE CHAIRMAN BONACCI: He's a fixture.

13 MR. PANEQUE: A fixture.

14 MR. IZQUIERDO: No.

15 MR. PANEQUE: You know --

16 MR. IZQUIERDO: No, thank you.

17 MR. PANEQUE: A much welcomed fixture.

18 MR. IZQUIERDO: Not ready to be furniture  
19 right now.

20 Thank you.

21 VICE CHAIRMAN BONACCI: Then we can take a  
22 vote on November 1<sup>st</sup>.

23 MR. HERNANDEZ: Very good.

24 VICE CHAIRMAN BONACCI: All right.

25 MR. PANEQUE: Thank you.

1 THE SECRETARY: All right. Then, we are  
2 going to adjourn this application for November  
3 1<sup>st</sup>.

4 VICE CHAIRMAN BONACCI: Make a motion to  
5 adjourn the application until November 1<sup>st</sup>.

6 THE SECRETARY: No new notice required.

7 MR. PANEQUE: No new notice required, no.

8 THE SECRETARY: All right.

9 MR. HERNANDEZ: No new notice.

10 MR. PANEQUE: No new notice.

11 MR. HERNANDEZ: Okay.

12 Very good. Thanks.

13 MR. PANEQUE: Thank you.

14 Make a --

15 THE SECRETARY: Any second the motion to  
16 adjourn this application for November the 1<sup>st</sup>?

17 VICE CHAIRMAN BONACCI: Make a motion to  
18 adjourn.

19 THE SECRETARY: Second by Mr. Pressey.

20 MR. GRULLON: Second.

21 THE SECRETARY: Roll call -- roll call on  
22 the motion to adjourn this application for  
23 November 1<sup>st</sup>.

24 Mr. Bonacci?

25 VICE CHAIRMAN BONACCI: Yes.

1 THE SECRETARY: Ms. Gutierrez?

2 MS. GUTIERREZ: Yes.

3 THE SECRETARY: Mr. Grullon?

4 MR. GRULLON: Yes.

5 THE SECRETARY: Mr. Pressey?

6 MR. PRESSEY: Yes.

7 THE SECRETARY: Mr. Medina?

8 MR. MEDINA: Yes.

9 THE SECRETARY: Five in favor.

10 Motion carries.

11 MR. PANEQUE: Make a notice to the public  
12 that anybody who's here on this application --

13 THE SECRETARY: All right.

14 We are going to --

15 VICE CHAIRMAN BONACCI: If there's anybody  
16 here for 3329 Hudson Avenue, that has been  
17 adjourned until November 1<sup>st</sup>.

18 So, if there's anybody here, members of the  
19 public, 3329 Hudson Avenue, we're adjourning that  
20 application until November 1<sup>st</sup>, our next meeting.

21 \* \* \*

22

23

24

25

1     **Lirios de Los Valles - 4015 New York Avenue:**

2

3             THE SECRETARY: We are going to change a  
4 little bit tonight's order on the agenda.

5             We are going to move to number 10, it's  
6 going to be number second now.

7             Lirios de Los Valles, 4015 New York Avenue.

8             Ms. Pereiras, please?

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

11            MR. PANEQUE: Ready?

12            MS. DILLON: Yes.

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

16            Been provided with a certification as to  
17 publication and service, indicating that notice  
18 of tonight's hearing with respect to the property  
19 located at 4015 New York Avenue, Union City, New  
20 Jersey, was given to all property owners within  
21 the 200 foot radius of said property, and that  
22 said notice was published in the newspaper.

23            I have a copy of the Affidavit of  
24 Publication indicating that said notice was  
25 published on September 29, 2018. Notice reads

1 that:

2 Take notice that on Thursday, 11<sup>th</sup> day of  
3 October, at six p.m., a meeting will be held  
4 seeking the variances required for 4015 New York  
5 Avenue.

6 The -- I've also been provided with copies  
7 of the certified mail receipts. Said certified  
8 mail receipts have a postmark date of September  
9 28, 2018.

10 I've also been provided with a copy of the  
11 tax list that is promulgated by the tax assessor  
12 from Union City, with a date of September 24<sup>th</sup>,  
13 listing all property owners within the 200 foot  
14 radius.

15 I've also been provided with copies of the  
16 green cards that have come back to date, as well  
17 as the mail that has been returned as unclaimed  
18 or unable to forward.

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

22 MS. PEREIRAS: Thank you, counsel.

23 Good evening, counsel, Mr. Chairman,  
24 members of the Board.

25 May it please the Board, Bianca Pereiras on

1 | behalf of Iglesia Lirios de Los Valles for  
2 | property located at 4015 New York Avenue, also  
3 | known as Block 235, Lot 26.

4 |         The application before the Board this  
5 | evening is to convert -- we have an existing  
6 | building, to have a second floor addition, and  
7 | rear addition, and to convert the space for the  
8 | use of the church.

9 |         If you see behind me, we have most, if not  
10 | all of the congregation here with us today.

11 |         This is a small congregation that had their  
12 | services at 25<sup>th</sup> Street, for I think almost ten  
13 | years. Unfortunately, that was pursuant to a  
14 | lease. That lease is set to expire because it's  
15 | being sold to a new owner.

16 |         So, they've taken this opportunity, and  
17 | they worked very hard to get to this opportunity,  
18 | where they are -- they have acquired their own  
19 | space, and hopefully, if this Board sees fit,  
20 | they would like to operate their services and  
21 | have their congregation at this location.

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

25 |         MS. DILLON: Please raise your right hand.

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

3 MR. PEREIRAS: I do.

4 Manny Pereiras, P-E-R-E-I-R-A-S, with  
5 Pereiras Architects Ubiquitous, 1116 Summit  
6 Avenue, Union City.

7 MS. DILLON: Thank you.

8 MR. PEREIRAS: Thank you.

9 MS. PEREIRAS: And for purposes of the  
10 record, Mr. Pereiras has testified before the  
11 Board in the past, and I ask that he be accepted  
12 --

13 VICE CHAIRMAN BONACCI: Yup.

14 MS. PEREIRAS: -- as an expert.

15 VICE CHAIRMAN BONACCI: We accept your  
16 qualifications.

17 MR. PEREIRAS: Thank you.

18 It's good to see everyone.

19 VICE CHAIRMAN BONACCI: You, too.

20 MS. PEREIRAS: Mr. Pereiras, are you  
21 familiar with the property at 4015 New York  
22 Avenue?

23 MR. PEREIRAS: I am.

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

1 MR. PEREIRAS: I have.

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

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

5 You know, behind me, I have a beautiful  
6 congregation, Lirios de Los Valles, and that --  
7 that name translates to lily of the valley, which  
8 is a flower that grows in -- in difficult  
9 conditions.

10 And right now, they're in a small space on  
11 25<sup>th</sup> Street. And you could see the beautiful  
12 congregation that we have behind us is strong,  
13 it's flourishing and they want to grow a little  
14 bit more, and they want to stay in Union City,  
15 and they were able to acquire this lot.

16 We have a 25 by 100, right on the corner of  
17 41<sup>st</sup> Street and New York Avenue.

18 The drawings I have to my right are the  
19 same drawings that were submitted before the  
20 Board, simply on the easel for purposes of this  
21 presentation.

22 On the top left corner is our site plan.  
23 This is 41<sup>st</sup> Street. This is New York Avenue.  
24 Union City already corrected and fixed the -- the  
25 brand new beautiful sidewalks there.

1           The rear of the property has an existing  
2 curb cut. What we're looking to do is to --  
3 we're actually working in phases. The first  
4 thing that they want to do is get the  
5 congregation in there so that they could -- they  
6 could celebrate and -- and observe their religion  
7 in this space.

8           So, we're looking to renovate that first  
9 floor and we're creating a portion along the  
10 front that is going to have access for bathrooms  
11 and a small kitchen, so that they could have  
12 small activities there and an area where they  
13 could meet as a multipurpose room.

14           We're also taking the rear portion of it  
15 and creating parking, so we'll have parking for  
16 two large vehicles, specifically for this church.  
17 This is a small community based church and their  
18 congregation relies on a system that they already  
19 have of vans. They have two vans and their vans  
20 go and pickup the -- the congregation.

21           So, we made sure that we had -- provided  
22 parking for those two cars in the facility.

23           What we're looking to do on the second  
24 floor is do an addition that occupies the entire  
25 site, the hundred feet lengthwise, so that we're

1 | doing an addition in the rear portion of this.  
2 | We're creating an emergency escape so that the  
3 | space will have adequate emergency egress and  
4 | meets all fire codes.

5 |         The congregation itself will sit in this  
6 | portion that I'm calling out here, with an alter  
7 | along this portion, that would sit maximum  
8 | occupancy of 112 people. That is basically the  
9 | size of their congregation, when they have larger  
10 | events. So, this fits them and suits them very  
11 | well.

12 |         If their congregation were to grow, they  
13 | would have separate services.

14 |         And then, there's an overflow space to meet  
15 | with all Code requirements, the primary means of  
16 | egress and an elevator for handicap compliance.  
17 | The two parking spaces would be handicap  
18 | compliant.

19 |         And so, they would have their congregation  
20 | along the top floor and their multipurpose room  
21 | below, if they have coffee and doughnuts  
22 | afterwards downstairs.

23 |         We have a use variance for the house of  
24 | worship. And so, all the -- the other variances,  
25 | all the C variances are consumed within -- within

1 | that D variance.

2 |           This is a small congregation. Their --  
3 | their -- every penny and dollar is hopefully  
4 | going to construction and through -- you know,  
5 | for this application has been a hardship for  
6 | them, but they've worked very hard to get here  
7 | and they're looking forward to building with the  
8 | money that they have been able to -- to come  
9 | with.

10 |           The elevations.

11 |           We're looking to do a beautiful monumental  
12 | church that is yet very humble in materials and  
13 | in size.

14 |           So, we're adding the second floor and  
15 | purposes of economics, we're doing a pitched roof  
16 | so that that -- it's a cheap way for them to  
17 | build and maintain, and yet, gives it this  
18 | monumental height for -- to have a nice tall  
19 | story worship space on the second floor.

20 |           We're accentuating the entrance, the same  
21 | kind of corner entrance that exists now, but a  
22 | lot more beautiful, making it ADA compliant,  
23 | using the topography to make it -- making it ADA  
24 | compliant, and accentuating it with this steeple  
25 | at that corner.

1           And then, we're bringing in the A frame in  
2 order to give it a little bit more of a  
3 ecclesiastical look and make it look like a --  
4 rightfully a church, that they deserve and they  
5 could feel proud to be their home.

6           The elevation along 41<sup>st</sup> Street shows you  
7 the A frame accentuating the nave with a big  
8 window that will bring light into that space very  
9 beautifully.

10          Same thing on the other end. And then,  
11 there's a blind side to this, which is the -- the  
12 side that's facing north.

13          I could probably keep on talking about this  
14 congregation. They're here as well, but I -- I  
15 think it's easier if we open it up to questions.

16          VICE CHAIRMAN BONACCI: Do you guys have  
17 any additional testimony? Just --

18          MS. PEREIRAS: We do not.

19          VICE CHAIRMAN BONACCI: Okay.

20          MS. PEREIRAS: Just the architect.

21          VICE CHAIRMAN BONACCI: All right. Okay.

22          So, D-3 use is required.

23          Right?

24          MR. PEREIRAS: Yes.

25          VICE CHAIRMAN BONACCI: Okay.

1           It seems like we have a couple of issues  
2 with the setbacks and lot coverage.

3           Right?

4           MR. PEREIRAS: That's correct.

5           VICE CHAIRMAN BONACCI: You guys are off by  
6 a couple feet.

7           MR. PEREIRAS: That's right. I'll --

8           VICE CHAIRMAN BONACCI: On -- on most of  
9 these.

10          MR. PEREIRAS: You want me to walk through  
11 it?

12          VICE CHAIRMAN BONACCI: Yeah.

13          MR. PEREIRAS: I'll be happy to.

14          So, we have an existing building. That  
15 existing building has zero front yard and it has  
16 zero side yard, zero rear yard.

17          The one thing that we're actually making  
18 worse, we're expanding on, is the rear yard. But  
19 that's important because we need that second  
20 means of egress from the congregation above, so  
21 we're creating that addition and making it large  
22 enough so that they could -- it could actually  
23 work for them.

24          So, we will have -- we're triggering a rear  
25 yard variance there, as well.

1           And of course, lot coverage, we're at a  
2 hundred percent lot coverage, so that's another  
3 variance and building coverage, that's a hundred  
4 percent as well.

5           So, we have variances throughout there. We  
6 have variances for parking, but it's really  
7 mitigated by the fact that this is a small  
8 congregation. You see them right here, and they  
9 are all basically -- they commute either by van,  
10 or they walk there, because they are a local  
11 congregation.

12           VICE CHAIRMAN BONACCI: Okay.

13           Is this going to be like a complete  
14 demolition of the existing warehouse?

15           MR. PEREIRAS: No. We're keeping as --

16           VICE CHAIRMAN BONACCI: Okay.

17           MR. PEREIRAS: -- much as we can. The --  
18 the finances are very tight, so we're -- we're  
19 renovating everything that we have -- that we  
20 have.

21           We're keeping the existing foundations.  
22 We're -- we're supporting it a little bit more.  
23 We're adding a little bit of structure to it, but  
24 we're reusing what we have.

25           VICE CHAIRMAN BONACCI: So, some of the

1 setback and lot coverage issues that don't meet  
2 the requirements are preexisting, as well.

3 MR. PEREIRAS: Almost all of them are  
4 preexisting except for that rear yard.

5 VICE CHAIRMAN BONACCI: Okay.

6 And as far as the parking goes, you got the  
7 two vehicles, which are vans, and that's pretty  
8 much like a carpool situation.

9 MR. PEREIRAS: It's exactly a carpool  
10 situation. The church operates those vans. They  
11 drive through the community, and it's actually  
12 extremely local. It's Union City. The majority  
13 of the congregation. They pickup the members and  
14 they drop them off, and then we have parking for  
15 those two vans.

16 VICE CHAIRMAN BONACCI: The elevator that's  
17 -- there's not an elevator now.

18 MR. PEREIRAS: Correct.

19 VICE CHAIRMAN BONACCI: That's what you're  
20 going to put in?

21 MR. PEREIRAS: That's correct.

22 VICE CHAIRMAN BONACCI: Okay.

23 And that's going to help to make you guys  
24 handicap compliant.

25 MR. PEREIRAS: That is correct.

1           VICE CHAIRMAN BONACCI: Can you just  
2 testify again, real quick for me, Manny, with the  
3 safety standards for access, emergency egress and  
4 all that again?

5           MR. PEREIRAS: Absolutely.

6           So, we have what's called an A-3, which is  
7 an assembly for house of worship. The  
8 requirements are actually heightened in this type  
9 of situation.

10          First and foremost, we have a fully  
11 suppressed building, which has -- basically, it's  
12 a sprinkler system throughout, with good coverage  
13 everywhere.

14          In addition to that, we have two primary  
15 means of egress with ample size doors, or  
16 actually oversized doors on both ends. We have  
17 handicap compliance throughout. There is fire --  
18 there are fire separations throughout the  
19 building. It's actually a two hour separation  
20 between the floors. We have a two hour  
21 separation at the exterior walls.

22          So, this is an extremely safe building, as  
23 it has to meet all the requirements of the  
24 Uniform Construction Code and the International  
25 Building Code.

1 VICE CHAIRMAN BONACCI: Okay.

2 Any testimony as to neighboring properties?

3 MR. PEREIRAS: They are -- it's a -- it's  
4 mixed. We know New York Avenue. There are some  
5 businesses around there. It's mostly  
6 residential. If you turn along 41<sup>st</sup> Street, it's  
7 residential in nature. It -- so, it's a -- it's  
8 a mixed congregation and yet, this is a church  
9 that services the community, so it really fits in  
10 from this community perspective.

11 VICE CHAIRMAN BONACCI: So, there's no  
12 change in the use. It's being used as a church  
13 currently and it's --

14 MR. PEREIRAS: It --

15 VICE CHAIRMAN BONACCI: -- going to  
16 continue that way.

17 Right?

18 MR. PEREIRAS: It's not. It's actually --  
19 there's a chiropractic office there.

20 VICE CHAIRMAN BONACCI: Okay.

21 MR. PEREIRAS: So, it is a change of use.

22 The -- this church is extremely correct in  
23 everything that they're doing. They're going  
24 through the right process. Before they could  
25 actually meet there, they need approvals from

1 | this Board, and they're -- they're doing all the  
2 | right things. So, we're wading through --  
3 | hopefully, to have approvals today.

4 | VICE CHAIRMAN BONACCI: Okay.

5 | And then, my just last question is just --  
6 | you know, for purposes of having it on record,  
7 | can you testify to the building materials meeting  
8 | what the standards and Code?

9 | MR. PEREIRAS: Absolutely. They meet in  
10 | every way.

11 | The majority of this building will be vinyl  
12 | siding, just because of an economic standpoint.  
13 | There are portions of stucco. And then, we have  
14 | windows throughout.

15 | So, it's really stucco, vinyl siding. The  
16 | steeple itself, if it gets built in -- in a later  
17 | date, that we will phase it, it will probably be  
18 | a metal steeple. And that's it for the  
19 | materiality.

20 | VICE CHAIRMAN BONACCI: Okay.

21 | Thank you.

22 | MR. PEREIRAS: Thank you.

23 | MR. GRULLON: Mr. Pereiras, I have a  
24 | question.

25 | The -- can you testify on the hours of

1 operation for the congregation?

2 MR. PEREIRAS: Absolutely.

3 They meet Saturday, Sunday. They also meet  
4 Tuesdays and I believe, Thursdays.

5 MS. PEREIRAS: Friday.

6 MR. PEREIRAS: Am I correct?

7 Friday.

8 They also have bible study throughout the  
9 week. Very typical church behavior, very -- you  
10 know, and so they'll have peak hours for their  
11 services. If the church grows, it will have  
12 multiple services, but right now, they have  
13 single services.

14 So, very typical church behavior. And --  
15 and they have -- we have representatives here, if  
16 you want to talk to them, but it's nothing out of  
17 the ordinary when we're talking, that you've  
18 heard here before many times.

19 MR. GRULLON: Thank you.

20 VICE CHAIRMAN BONACCI: All right. I'm  
21 just going to --

22 Do you guys have any other questions,  
23 because I'm sure we have a lot of people here who  
24 might want to --

25 MS. GUTIERREZ: Asked it before.

1           VICE CHAIRMAN BONACCI: Is there anybody,  
2 members of the public, that object to the  
3 application that would like to come forward?  
4 Because I'm assuming anybody that's here is in  
5 favor of the application.

6           MR. PEREIRAS: Very much so.

7           VICE CHAIRMAN BONACCI: Any members of the  
8 public at all?

9           Okay.

10          Closed to members of the public.

11          Okay.

12          Being that the use is a positive impact on  
13 the health, safety and welfare of the residents  
14 of the city, there's no substantial impact on the  
15 traffic. As you testified, you've got the two  
16 vans, most of the people of the congregation are  
17 commuting by foot, bus or -- you know, the vans  
18 that you had mentioned, and there's no impairment  
19 of the Zoning Ordinance or Master Plan.

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

22          THE SECRETARY: Motion to approve the  
23 application by Mr. Bonacci.

24          MS. GUTIERREZ: And I'm second.

25          THE SECRETARY: Second by Ms. Gutierrez.

1 Roll call on the motion to approve this  
2 application.

3 Mr. Bonacci?

4 VICE CHAIRMAN BONACCI: Yes.

5 THE SECRETARY: Ms. Gutierrez?

6 MS. GUTIERREZ: Yes.

7 THE SECRETARY: Mr. Grullon?

8 MR. GRULLON: Yes.

9 THE SECRETARY: Mr. Pressey?

10 MR. PRESSEY: Yes.

11 THE SECRETARY: Mr. Medina?

12 MR. MEDINA: Yes.

13 THE SECRETARY: Five in favor.

14 Motion carries.

15 Thank you.

16 MS. PEREIRAS: Thank you all very much.

17 Thank you.

18 MR. PEREIRAS: Thank you everyone.

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

21 MR. PANEQUE: Go off the record, please.

22 Thank you.

23

24 (Whereupon, the Board recessed from 7:08  
25 p.m. to 7:17 p.m.)

1     **Farouk Sheikh - 912 Palisade Avenue:**

2

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

5             Let's go back in record.

6             Next application on tonight's agenda --

7             MR. PANEQUE: Mr. Mulkay?

8             THE SECRETARY: -- Farouk Sheikh, 912  
9 Palisade Avenue.

10            Mr. Mulkay, please?

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

13            THE SECRETARY: He's coming.

14            Mr. Mulkay?

15            MR. MULKAY: Good evening, Mr. Chairman,  
16 members of the Board.

17            Alain Mulkay, from Mulkay and Rendo, on  
18 behalf of Farouk.

19            This is an application that we were here  
20 last month. We made a presentation. The  
21 Chairman and the Board members and the public  
22 made a bunch of comments. We made revisions and  
23 we submitted it to the Board. But as I  
24 understand, one of the members of the Board is  
25 not here tonight, and we really would like to

1 proceed with a full Board that was here the last  
2 time, so that he could understand the changes.

3 So, we're requesting an adjournment to the  
4 November 1<sup>st</sup>.

5 MR. PANEQUE: Mr. Mulkay, we have the  
6 statutory time limits that we have to keep to.

7 Do you waive those statutory time limits?

8 MR. MULKAY: I waive those statutory  
9 limits, up to the next meeting, November 1<sup>st</sup>.

10 MR. PANEQUE: Thank you.

11 And just so that --

12 Mr. Pressey?

13 MR. PRESSEY: Yes.

14 MR. PANEQUE: You -- you were not here at  
15 the --

16 MR. PRESSEY: Correct.

17 MR. PANEQUE: -- last meeting. I'm going  
18 to request, if you'd be so kind as to read the  
19 transcript, so that at the next meeting, you will  
20 be caught up with this application. And then  
21 that will allow you to participate in the  
22 continuation, as well as the vote.

23 MR. PRESSEY: Fine.

24 MR. PANEQUE: Okay?

25 And then, Mr. Mulkay, hopefully, Mr. Ortiz

1 will be here and we could have the six members.

2 MR. MULKAY: Yup. I think that somebody  
3 from the public here, you indicated?

4 MR. PANEQUE: Yeah. Well, is there a  
5 motion on the floor?

6 VICE CHAIRMAN BONACCI: So --

7 THE SECRETARY: Motion by Mr. Pressey to  
8 adjourn this --

9 MR. GRULLON: Do they need to renotice?

10 MS. GUTIERREZ: Second.

11 THE SECRETARY: -- application for November  
12 1<sup>st</sup>.

13 VICE CHAIRMAN BONACCI: Do they got to  
14 renotice?

15 MR. PANEQUE: No, no notice.

16 VICE CHAIRMAN BONACCI: Okay. Okay.

17 THE SECRETARY: Second by Margarita  
18 Gutierrez.

19 Roll call to adjourn this application for  
20 November 1<sup>st</sup>.

21 Mr. Bonacci?

22 VICE CHAIRMAN BONACCI: Yes.

23 THE SECRETARY: Ms. Gutierrez?

24 MS. GUTIERREZ: Yes.

25 THE SECRETARY: Mr. Grullon?

1 MR. GRULLON: Yes.

2 THE SECRETARY: Mr. Pressey?

3 MR. PRESSEY: Yes.

4 THE SECRETARY: Mr. Medina?

5 MR. MEDINA: Yes.

6 THE SECRETARY: Five in favor.

7 Motion carries.

8 MR. PANEQUE: For the public, anyone who's  
9 here on the application for 912 Palisade Avenue,  
10 this application is being carried to November 1<sup>st</sup>  
11 meeting. Okay, 912 Palisade Avenue being carried  
12 now to November 1<sup>st</sup>, six p.m.

13 Thank you, Mr. Mulkay.

14 MR. MULKAY: Thank you.

15 MS. GUTIERREZ: Thank you.

16 \* \* \*

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1     **Ayoub Brothers Realty, LLC -**

2     **4007 Bergenline Avenue:**

3

4             MR. PANEQUE: Next case. Call it.

5             THE SECRETARY: Next application on

6     tonight's agenda, Ayoub Brothers Realty, LLC,

7     4007 Bergenline Avenue.

8             Mr. Mulkay, please?

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

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

13            Alain Mulkay from Mulkay and Rendo, on  
14     behalf of the applicant.

15            By way of background, we were here last  
16     month. We submitted our notices and the Board --  
17     Board's counsel reviewed the notices and the  
18     Board acquired jurisdiction.

19            This is an application to legalize an  
20     existing apartment.

21            We have two experts tonight. Mr. Kaltsis  
22     is an architect. He's been recognized by this  
23     Board numerous times. He's our first witness,  
24     and I would ask that the Board recognize him as  
25     an expert.

1 VICE CHAIRMAN BONACCI: Yeah. Sure. We  
2 accept your qualifications.

3 Have you testified before this Board  
4 before?

5 MR. KALTSIS: Yes, I have.

6 VICE CHAIRMAN BONACCI: Okay. Yeah.

7 MR. MULKAY: Many times.

8 VICE CHAIRMAN BONACCI: We accept your  
9 qualifications.

10 Thanks.

11 MR. KALTSIS: Thank you.

12 MS. DILLON: Sir, please raise your right  
13 hand.

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

16 MR. KALTSIS: I do.

17 MS. DILLON: Could you please state your  
18 name and spell it for the record?

19 MR. KALTSIS: It's Demetrios Kaltsis. Last  
20 name is K-A-L-T-S-I-S.

21 MR. MULKAY: Mr. Kaltsis, did your office  
22 have an opportunity to visit the site?

23 MR. KALTSIS: Yes, we have.

24 MR. MULKAY: And did your office prepare  
25 the plans that were submitted to the Board that

1 | you're looking at currently?

2 |           MR. KALTSIS: Yes, we did.

3 |           MR. MULKAY: Could you explain to the Board  
4 | what the plans reflect and what the project  
5 | entails?

6 |           MR. KALTSIS: Sure.

7 |           This -- this property is located on the  
8 | west side of Bergenline Avenue. It is 26 feet  
9 | wide in the front and 27.26 wide in the -- in the  
10 | rear.

11 |           The property has a lot depth of 91 feet and  
12 | a total area of 2,430 square feet.

13 |           The build -- there's an existing building  
14 | on the property that consists of three stories,  
15 | with a basement. The basement itself is 1,053  
16 | square feet.

17 |           The first floor consists of a nail salon  
18 | that is 1,343 square feet.

19 |           The second floor of the building consists  
20 | of -- of two dwelling units. One that is 519  
21 | square feet. The second is 460 square feet.  
22 | Those two dwelling units both consist of one  
23 | bedroom and one bathroom.

24 |           And finally, on the third floor, there is a  
25 | three bedroom unit that is 1,073 square feet.

1 Both -- all three of these units have access from  
2 a main entrance located on the north side of the  
3 commercial space on the ground floor.

4 The second floor has a fire escape that  
5 facilitates a second means of egress for one of  
6 the dwelling units in the front and an additional  
7 fire escape that gives a second means of egress  
8 to the second unit on the second floor, as well  
9 as the three bedroom dwelling unit on the third  
10 floor.

11 With regards to the façade, we're not  
12 proposing any improvements to the existing  
13 building. It is currently a brick façade finish,  
14 with a decorative cornice detail at the very top.  
15 The sides simply consist of a siding finish, as  
16 well as the rear.

17 That is all with regards to the -- the  
18 breakdown of the building.

19 As far as the proposal, one of the dwelling  
20 units on the second floor we're simply proposing  
21 to legalize it and convert this from two dwelling  
22 units to three.

23 No -- no work is being proposed to the  
24 building. It will remain as is, as it is  
25 currently being used as such.

1 VICE CHAIRMAN BONACCI: Okay.

2 So right now, it's three stories.

3 MR. KALTSIS: Correct.

4 VICE CHAIRMAN BONACCI: Going to stay three  
5 stories.

6 MR. KALTSIS: Correct.

7 VICE CHAIRMAN BONACCI: Right now, you have  
8 two residential units and one ground floor  
9 commercial.

10 MR. KALTSIS: No, there --

11 VICE CHAIRMAN BONACCI: And you're going to  
12 add -- you're going to --

13 MR. KALTSIS: There are -- there are two  
14 dwelling units on the second floor, one dwelling  
15 unit on the -- on the third floor. One of those  
16 two dwelling units on the second floor we're  
17 proposing to legalize.

18 VICE CHAIRMAN BONACCI: Okay.

19 So just --

20 MR. MULKAY: Just --

21 VICE CHAIRMAN BONACCI: -- legalizing the  
22 one --

23 MR. MULKAY: Just --

24 VICE CHAIRMAN BONACCI: -- and everything  
25 is staying the same, the whole layout.

1 MR. KALTSIS: Correct.

2 MR. MULKAY: The whole layout, everything's  
3 staying the same. Since my client's owned the  
4 property, he's owned it as a three family. As a  
5 result of some improvements, he had pulled a  
6 permit and discovered -- the Building went out  
7 there, they discovered that one of the units was  
8 not legal.

9 As far as he was concerned, it was always a  
10 legal three family and so we're here just  
11 proposing to legalize it. There's no work being  
12 proposed, other than, obviously, whatever the  
13 Building Department requires to bring this up to  
14 current Code and legalize it. But that would be  
15 something that would be with the review with the  
16 Building Department.

17 VICE CHAIRMAN BONACCI: And it's a mixed  
18 use, because the ground floor is going to be  
19 commercial, like it is now.

20 MR. MULKAY: It is now.

21 MR. KALTSIS: Yes.

22 MR. MULKAY: Correct.

23 VICE CHAIRMAN BONACCI: And that's the  
24 entryway, is through the ground floor commercial.

25 MR. KALTSIS: Yes. There's an entrance to

1 the north side of the commercial space that gives  
2 you access to the -- to the residential floors  
3 above.

4 MR. MULKAY: And there's a second means of  
5 egr --

6 MR. KALTSIS: Yes.

7 MR. MULKAY: -- as you testified to before.

8 MR. KALTSIS: The building has a fire  
9 escape in the front and a fire escape in the back  
10 that gives the dwelling units a second means of  
11 egress.

12 VICE CHAIRMAN BONACCI: Okay.

13 What's the variance that you guys require?

14 MR. KALTSIS: We have -- we have a planner  
15 here that can testify with regards to the  
16 variances.

17 VICE CHAIRMAN BONACCI: Okay.

18 MR. KALTSIS: But all -- essentially,  
19 they're all preexisting and nonconforming.

20 VICE CHAIRMAN BONACCI: And you can testify  
21 to the safety standards being up to Code?

22 MR. KALTSIS: Yes.

23 VICE CHAIRMAN BONACCI: Okay.

24 MR. MULKAY: As I said, the Building  
25 Department would require it as part of --

1 VICE CHAIRMAN BONACCI: Right. Right.

2 MR. MULKAY: -- as a condition of issuing  
3 the CO, they would require to bring the building  
4 -- the whole Building Department up to Code.

5 VICE CHAIRMAN BONACCI: Okay.

6 MR. MULKAY: And your office would be  
7 involved in --

8 MR. KALTSIS: Yes.

9 MR. MULKAY: -- preparing the plans and --  
10 to submit to the Building Department.

11 MR. KALTSIS: Yes.

12 VICE CHAIRMAN BONACCI: Okay.

13 Since you have other testimony --

14 MR. MULKAY: Right. We have one more  
15 witness, the planner.

16 VICE CHAIRMAN BONACCI: -- we'll do that.  
17 And then, if we have questions, we'll go -- we'll  
18 roll them out for each --

19 MR. KALTSIS: Sure.

20 VICE CHAIRMAN BONACCI: -- you know,  
21 person.

22 MR. MULKAY: Okay.

23 VICE CHAIRMAN BONACCI: Thank you.

24 MR. MULKAY: Jill?

25 MS. DILLON: You can -- you can keep the

1 microphone.

2 MR. KALTSIS: Okay.

3 MS. DILLON: But it's live, so don't talk.

4 MR. KALTSIS: Don't curse.

5 MS. HARTMANN: That's all right.

6 MS. DILLON: Please raise your right hand.

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

9 MS. HARTMANN: Yes.

10 MS. DILLON: If you would please state your  
11 name and spell it for the record?

12 MS. HARTMANN: Jill Hartmann,  
13 H-A-R-T-M-A-N-N.

14 MS. DILLON: Thank you.

15 MR. MULKAY: Ms. Hartmann, you've been a  
16 planner, licensed planner in the State of New  
17 Jersey.

18 Correct?

19 MS. HARTMANN: Yes. For awhile.

20 MR. MULKAY: I'd ask that the Board  
21 recognize her as a planner.

22 VICE CHAIRMAN BONACCI: Absolutely.

23 MR. MULKAY: She's testified here plenty of  
24 times.

25 VICE CHAIRMAN BONACCI: No problem.

1 MS. HARTMANN: Thank you.

2 MR. MULKAY: Ms. Hartmann, with respect to  
3 this project, did you have an opportunity to  
4 visit the site?

5 MS. HARTMANN: Yes.

6 MR. MULKAY: And review the plans?

7 MS. HARTMANN: Yes, I have.

8 MR. MULKAY: And did you develop an opinion  
9 as to -- from a planning point -- point of view,  
10 what this application entails and the impact it  
11 would be on the Zoning Ordinance?

12 MS. HARTMANN: Yes, I have.

13 MR. MULKAY: Can you please explain --

14 MS. HARTMANN: So, --

15 MR. MULKAY: -- to the Board your opinion?

16 MS. HARTMANN: -- I think you're all aware  
17 of where it may be located.

18 First of all, it's located in the CN, the  
19 neighborhood commercial district.

20 It's an existing three story, mixed  
21 commercial use, with commercial on the ground  
22 floor and three residential uses above.

23 The site itself is located, basically,  
24 centrally within that established neighborhood,  
25 along Bergenline Avenue.

1           Directly adjacent and south of the site is  
2 a similar three story building. It's older  
3 building with ground floor commercial, and it has  
4 two stories above with residential uses. This is  
5 followed by two additional three story buildings,  
6 mixed commercial and residential all the way down  
7 to 40<sup>th</sup> Street.

8           Directly adjacent and north of the subject  
9 site is a larger two story, mixed, commercial and  
10 residential building. And this has multiple  
11 commercial uses on the ground floor.

12           Again, this is followed by a mixed  
13 commercial and residential building that's at the  
14 intersection of Bergenline and 41<sup>st</sup>.

15           Across from the subject site and to the  
16 south, to the 40<sup>th</sup> Street intersection, is a two  
17 story mixed commercial and office building. And  
18 then, across from the subject site, and to the  
19 north, to the 41<sup>st</sup> Street intersection, is a two  
20 story mixed commercial and residential building,  
21 with multiple commercial uses on the ground  
22 floor.

23           So, our application is to legalize the  
24 existing third apartment.

25           The existing building has a -- the

1 following floor plan. Did -- did Demetrios --

2 MR. MULKAY: He went --

3 MS. HARTMANN: -- talk about it?

4 MR. MULKAY: Demetrios went through the  
5 floor plan, yes.

6 MS. HARTMANN: Okay.

7 So, basically, there are two one bedroom  
8 apartments and one three bedroom apartment.

9 There are a significant number of existing  
10 nonconforming conditions that will not be  
11 changed. Nothing is being altered or -- or  
12 changed at the subject site.

13 The parking requirement for this -- for the  
14 one bedroom unit is 3.6 -- for the -- the one  
15 bedroom units, it's 3.6 spaces, and for the three  
16 bedroom, it's 2.1. So, all together, six spaces  
17 are required. And the commercial space requires  
18 ten off-street parking spaces.

19 So, in accordance with your Ordinance, on-  
20 street parking spaces directly in front of the  
21 subject site count toward off-street parking.  
22 So, therefore, the site provides one off-street  
23 parking space for the commercial use, resulting  
24 in a deficiency of three spaces and really not  
25 four spaces.

1           Consistent with the general development  
2 along Bergenline Avenue, on-street meter parking  
3 is provided on both sides, so there's limited  
4 off-street private parking provided at all.

5           There is a municipal parking lot that's  
6 located off of Bergenline Avenue, between 41<sup>st</sup> and  
7 42<sup>nd</sup> Street that provides approximately -- and  
8 don't quote me on this, but approximately 88  
9 spaces and that's within 500 feet of the subject  
10 site.

11           Again, your Ordinance permits off-street  
12 parking and the Board -- and allows the Board to  
13 grant a conditional use for off-street parking,  
14 provided the required spaces are within 500 feet  
15 of pedestrian access to the building served.

16           And it's my measurement and my opinion that  
17 this use is actually within 500 feet, so it  
18 appears that the subject site can meet its off-  
19 street parking requirement for both the  
20 commercial and residential uses, through the use  
21 of the one on-street parking space and the  
22 available spaces within the local parking lot.

23           However, if you choose not to grant that,  
24 then we require parking variance for two spaces.

25           I did look at the Municipal Land Use Law,

1 as well as the Union City Master Plan and for  
2 special reasons for -- for the granting of this,  
3 I would say that it preserves the character of  
4 the community. It's very consistent with what's  
5 along Bergenline Avenue, with commercial on the  
6 ground floor and apartments above. There is some  
7 mix with commercial on the ground floor and  
8 offices, but it's a consistent type of  
9 development that takes place in local downtowns  
10 and -- and city downtowns.

11 To provide a balance of land uses and  
12 balanced development patterns, to preserve the  
13 character of the neighborhood, to provide a broad  
14 range of housing choices and to preserve existing  
15 and create new housing opportunities.

16 Again, from the Municipal Land Use Law, I  
17 would say that it's supported to encourage  
18 municipal action to -- it promotes the general  
19 public health and welfare, it promotes the  
20 establishment of appropriate population  
21 densities, and it provides sufficient space and  
22 in appropriate locations for various uses,  
23 including residential, commercial and  
24 recreational.

25 As far as the negative criteria goes, I

1 don't believe that -- I believe the requested  
2 variances can be granted without substantial  
3 detriment to your -- to the public good or impair  
4 the intent and purpose of your zone plan and  
5 Master Plan.

6 VICE CHAIRMAN BONACCI: Thank you, Ms.  
7 Hartmann.

8 I'm just going to wait until you're done.  
9 That's the last testimony?

10 MR. MULKAY: That's the last. Yeah.

11 VICE CHAIRMAN BONACCI: Okay.

12 I don't have any questions for you at this  
13 time.

14 But since you're up here --

15 MS. HARTMANN: Yes.

16 VICE CHAIRMAN BONACCI: -- I'll ask if any  
17 of the other members of the Board have any  
18 questions for Ms. Hartmann, who's the planner?

19 MR. GRULLON: No.

20 VICE CHAIRMAN BONACCI: Okay.

21 I just have a couple of questions for Mr.  
22 Kaltsis.

23 MR. MULKAY: Do you want to open up to the  
24 public for Ms. Hartmann, or no?

25 VICE CHAIRMAN BONACCI: I guess since

1 | you're up here, we might as well. Good idea.

2 |       Any members of the public have any  
3 | questions on this application, 4007 Bergenline  
4 | Avenue, for Ms. Hartmann, who just provided  
5 | testimony as the planner of this application?

6 |       MS. DILLON: Mr. Price, please raise your  
7 | right hand.

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

10 |       MR. PRICE: I do.

11 |       MS. DILLON: Name and address, please, for  
12 | the record.

13 |       MR. PRICE: Larry Price, 1006 Palisade  
14 | Avenue.

15 |       MS. DILLON: Thank you.

16 |       MR. PRICE: First, two -- two issues.  
17 | Okay.

18 |       First of all, parking. This is on  
19 | Bergenline Avenue.

20 |       MS. HARTMANN: Correct.

21 |       MR. PRICE: Particularly, if our -- if our  
22 | new amended Land Development Ordinance ever gets  
23 | adopted, there's no parking requirement either  
24 | for commercial spaces or for residential spaces  
25 | on Bergenline Avenue north of 30<sup>th</sup> Street, which -

1 - and this is north of 30<sup>th</sup> Street. So it's --

2 MS. HARTMANN: But it's not, yet, so --

3 MR. PRICE: Well, yes. Whatever.

4 Now, my question -- and actually, I have  
5 two --

6 There are two apartments on -- one you said  
7 was four hundred and -- is a one bedroom, 416  
8 square feet.

9 MR. KALTSIS: Yes.

10 MR. PRICE: The other --

11 MR. MULKAY: Four sixty, I thought he said,  
12 460.

13 MR. KALTSIS: Four hundred and sixty.

14 MR. MULKAY: Yeah.

15 MR. KALTSIS: And 519.

16 MR. PRICE: Five hundred and nineteen. And  
17 is also a one bedroom.

18 MR. KALTSIS: Yes.

19 MR. PRICE: Okay.

20 It's unfortunate that Mr. Spatz is not here  
21 this evening, but we -- we've had this debate,  
22 but the Land Development Ordinance says that in  
23 multifamily buildings, that a certain size has to  
24 be met. And a one bedroom has to be 550 square  
25 feet.

1 MR. PANEQUE: Mr. Price, as a point of  
2 clarification, I believe Mr. Spatz, on several  
3 occasions, has indicated that that Ordinance  
4 applies to four units and above.

5 MR. PRICE: Because he is taking the  
6 definition of an apartment building.

7 MR. PANEQUE: Well, that --

8 MR. PRICE: Which is four --

9 MR. PANEQUE: -- that's been --

10 MR. PRICE: -- units or more.

11 MR. PANEQUE: Okay.

12 So, even though we don't have the benefit  
13 of having Mr. Spatz here, that has always been  
14 Mr. Spatz's interpretation and what this Board  
15 has been guided by.

16 MR. PRICE: Okay.

17 MR. PANEQUE: So, we're -- with respect to  
18 this application that we have here tonight, which  
19 is only a three unit, and that relates more to  
20 the density, the size of the unit, with respect  
21 to our density variance.

22 MR. PRICE: Correct.

23 MR. PANEQUE: We -- we don't have to  
24 entertain any testimony as to the size of the  
25 unit, because it's not applicable from what Mr.

1 Spatz's position has been in the past.

2 MR. PRICE: Okay.

3 You're --

4 MR. PANEQUE: I'm just making the -- the  
5 statement.

6 MR. PRICE: Okay.

7 MR. PANEQUE: Since you brought Mr. Spatz  
8 up.

9 MR. PRICE: Okay. As I say, it's  
10 unfortunate he's not here.

11 The actual statutory -- or the -- says  
12 multifamily. The -- and if you go to the  
13 definitions, apartment building is -- you know,  
14 four units or more. So, they're not synonymous  
15 terms, so we might want to revisit that in the  
16 future. For tonight, I don't think we have to  
17 revisit it.

18 Anyway, as for the parking requirement, I  
19 don't -- particularly for residential on  
20 Bergenline north of 30<sup>th</sup> Street, I -- I still  
21 don't think it exists. And it certainly won't  
22 exist if we -- if and when we ever pass the  
23 amendment to the Land Development Ordinance. So,  
24 it's not something to get overly stressed over.

25 VICE CHAIRMAN BONACCI: So, Mr. Price,

1 | you're saying that there's no -- for the  
2 | commercial aspect of this application, there's  
3 | not going to be a parking requirement. So, it  
4 | doesn't really bear any sort of --

5 | MR. PRICE: Because -- yes.

6 | VICE CHAIRMAN BONACCI: Okay.

7 | MR. PRICE: My -- and I'm recalling from  
8 | memory, and at my age, that's a very tricky  
9 | maneuver, but I don't think for residential that  
10 | there's a parking requirement today on Bergenline  
11 | Avenue north of 30 -- 30<sup>th</sup> Street, as long as it's  
12 | not more than six units. And this is only three.

13 | VICE CHAIRMAN BONACCI: Yeah.

14 | MR. PRICE: I don't -- there would still be  
15 | a requirement today for -- whatever. But the --  
16 | the proposed amendments to the Land Development  
17 | Ordinance say that there will be -- if it fronts  
18 | on either Summit Avenue or Bergenline Avenue,  
19 | it's a commercial use, there's no parking  
20 | requirement.

21 | VICE CHAIRMAN BONACCI: And you guys don't  
22 | have -- you're not asking -- you don't have a  
23 | parking variance requested here.

24 | Right?

25 | MR. PRICE: Well, --

1 VICE CHAIRMAN BONACCI: So, it doesn't  
2 really -- just a --

3 MR. PRICE: And there's --

4 MS. HARTMANN: Well, I was talking to that  
5 variance --

6 VICE CHAIRMAN BONACCI: Right.

7 MS. HARTMANN: -- because I -- I had read  
8 your Ordinance and I --

9 VICE CHAIRMAN BONACCI: Yeah.

10 MS. HARTMANN: -- did not --

11 VICE CHAIRMAN BONACCI: There's no need --

12 MS. HARTMANN: And --

13 VICE CHAIRMAN BONACCI: -- to ask for it,  
14 because he -- he just --

15 MS. HARTMANN: But the -- the Master Plan  
16 hasn't been adopted.

17 VICE CHAIRMAN BONACCI: Right.

18 MS. HARTMANN: Or those -- those Ordinances  
19 haven't, so --

20 VICE CHAIRMAN BONACCI: Yeah.

21 MS. HARTMANN: -- to cover it.

22 VICE CHAIRMAN BONACCI: Well to --

23 MS. HARTMANN: Let's put it that way.

24 VICE CHAIRMAN BONACCI: -- to Mr. Price's  
25 point, there's really no need to ask for it on

1 | this application because it's not going to be  
2 | required.

3 | MR. MULKAY: Well --

4 | VICE CHAIRMAN BONACCI: So they're kind of  
5 | --

6 | MS. HARTMANN: But today, it --

7 | MR. MULKAY: -- we're still governed --

8 | MS. HARTMANN: -- will be.

9 | MR. MULKAY: -- under the current --

10 | MS. DILLON: Just go to the microphone --

11 | MR. MULKAY: I'm sorry.

12 | MS. DILLON: -- Mr. Mulkay.

13 | MR. MULKAY: We're still -- we're still  
14 | governed under the current Ordinance, and I --  
15 | I'm not sure that we agree with Mr. Price, with  
16 | all due respect to Mr. Price, that it's not  
17 | required. But in any event, if the Board has no  
18 | issue with the parking, it's a moot point --

19 | VICE CHAIRMAN BONACCI: Yeah. Well --

20 | MR. MULKAY: -- anyway.

21 | MS. HARTMANN: And it further substantiates  
22 | my testimony.

23 | VICE CHAIRMAN BONACCI: And you did testify  
24 | that you said don't quote me, but there's  
25 | probably 88 spaces in the municipal lot within --

1 MS. HARTMANN: Right.

2 VICE CHAIRMAN BONACCI: -- 500 feet of

3 MS. HARTMANN: Correct.

4 VICE CHAIRMAN BONACCI: -- your --

5 MS. HARTMANN: And that is something in  
6 your Ordinance that allows you --

7 VICE CHAIRMAN BONACCI: Right.

8 MS. HARTMANN: -- to -- to permit us,  
9 because of the provision of it.

10 MR. PRICE: Yeah. Okay.

11 MS. HARTMANN: But thank you.

12 VICE CHAIRMAN BONACCI: Thanks.

13 MR. PRICE: Thank you.

14 Thank you.

15 MR. PANEQUE: Just for the Board, I just  
16 want to bring something up to the attention of  
17 the Board.

18 In the memo that we received from the  
19 Building Department, although the memo states  
20 that the property is recognized as a commercial  
21 and two unit structure, I do want to note that  
22 the record is clear that along with that memo, we  
23 did have attached a copy of the assessment that  
24 came from the 1973-'74, Mr. Price, your --

25 MR. PRICE: '72-'73. Yes.

1 MR. PANEQUE: '72-'73.

2 And as I read through this, even though  
3 it's quite, at some points, very illegible, there  
4 appears to have been, back at that time, two  
5 apartments on the second floor, and the rents are  
6 reflected. Rents collected per unit, \$110.00 and  
7 120. And then, the -- the apartment on the third  
8 unit, the rent was 178.

9 So, even back in 1972-'73, there were at  
10 least three units paying rent that is shown on  
11 the assessment report. Although technically, up  
12 on the top, it's still legally showing as a two  
13 unit.

14 Okay?

15 So, that -- that's something that the --  
16 the Board has in its possession. And I just --  
17 bringing it to the court's attention -- not  
18 court's -- the Board's attention.

19 It's hard to break a habit.

20 MR. MULKAY: Yeah.

21 MR. PANEQUE: I just bring it to the  
22 Board's attention and -- and sometimes, we do pay  
23 attention to that assessment from 1972-'73.

24 Okay.

25 MR. PRICE: Courts do, I can tell you.

1 MR. PANEQUE: Courts do. Um hum. Yeah.

2 VICE CHAIRMAN BONACCI: Any members of the  
3 public with questions for Ms. Hartmann?

4 Okay.

5 Closed to the public on Ms. Hartmann.

6 MS. HARTMANN: Thank you.

7 VICE CHAIRMAN BONACCI: I just have a  
8 couple of questions for your architect.

9 MR. MULKAY: Mr. Kaltsis.

10 MR. KALTSIS: Yes.

11 VICE CHAIRMAN BONACCI: And then, I'll open  
12 it to the members of the Board --

13 MR. KALTSIS: Sure.

14 VICE CHAIRMAN BONACCI: -- for you and then  
15 for the public.

16 Would you say that the -- the nature or the  
17 most work here of the architecture is like  
18 cosmetic to what's already existing? You guys  
19 aren't really reinventing the wheel here.

20 Right?

21 MR. KALTSIS: We're not proposing any work  
22 to the existing building.

23 VICE CHAIRMAN BONACCI: Right. Okay.

24 So, then, therefore --

25 MR. KALTSIS: There's no cosmetic work.

1 | There's nothing being proposed at all.

2 |       VICE CHAIRMAN BONACCI: You're just  
3 | legalizing that one --

4 |       MR. KALTSIS: Yes.

5 |       VICE CHAIRMAN BONACCI: -- unit.

6 |       MR. KALTSIS: Yes.

7 |       VICE CHAIRMAN BONACCI: Okay. Fair enough.  
8 | I don't have any more questions.

9 |       MR. KALTSIS: Okay.

10 |       VICE CHAIRMAN BONACCI: Guys?

11 |       MR. GRULLON: No.

12 |       VICE CHAIRMAN BONACCI: Okay.

13 |       Members of the public, any questions for  
14 | Mr. Kalits (phonetic) (sic)?

15 |       MR. KALTSIS: Kaltsis.

16 |       VICE CHAIRMAN BONACCI: Kaltsis, who's the  
17 | architect of this application.

18 |       Okay.

19 |       Closed to the members of the public.

20 |       Just for the record, there doesn't seem to  
21 | be any substantial negative impact or detriment  
22 | to the neighborhood, or any substantial  
23 | impairment to the Zoning Ordinance or Master  
24 | Plan.

25 |       So, with that, I'd like to make a motion to

1 approve this application.

2 MR. GRULLON: Second.

3 THE SECRETARY: Motion to approve the  
4 application by Mr. Bonacci.

5 MR. GRULLON: Second.

6 THE SECRETARY: Bonacci. I'm sorry.

7 Second by Mr. Grullon.

8 Roll call on the motion to approve this  
9 application.

10 Mr. Bonacci?

11 VICE CHAIRMAN BONACCI: Yes.

12 THE SECRETARY: Ms. Gutierrez?

13 MS. GUTIERREZ: Yes.

14 THE SECRETARY: Mr. Grullon?

15 MR. GRULLON: Yes.

16 THE SECRETARY: Mr. Pressey?

17 MR. PRESSEY: Yes.

18 THE SECRETARY: Mr. Medina?

19 MR. MEDINA: Yes.

20 THE SECRETARY: Five in favor.

21 Motion carries.

22 MR. MULKAY: Thank you.

23 THE SECRETARY: Thank you.

24 MR. KALTSIS: Thank you.

25 MS. GUTIERREZ: You're welcome.

1           VICE CHAIRMAN BONACCI: For members of the  
2 public, we'll probably take another application  
3 and then have a short break. And we conclude our  
4 meeting at ten o'clock.

5                           \* \* \*

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1     **Antonino Forte - 1701-07 Kerrigan Avenue:**

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3             THE SECRETARY: Next application on  
4 tonight's agenda, Antonino Forte, 1701-1707  
5 Kerrigan Avenue.

6             Mr. Mulkay, please?

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

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

11             Alain Mulkay, from Mulkay and Rendo, on  
12 behalf of the applicant, Nick Forte.

13             This is an application to construct a  
14 building at 1701 Kerrigan Avenue.

15             We have two experts tonight. We have an  
16 architect and a planner.

17             I'd like to introduce our first expert.

18             MS. DILLON: Sir, please raise your right  
19 hand.

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

22             MR. MELIA: I do.

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

25             MR. MELIA: First name is Adrian,

1 A-D-R-I-A-N. Last name is Melia, M-E-L-I-A.

2 MS. DILLON: Thank you.

3 MR. MULKAY: I would ask that the Board  
4 recognize Mr. Melia as an expert in architecture.  
5 He's been here and testified many times before.

6 VICE CHAIRMAN BONACCI: We accept your  
7 qualifications.

8 MR. MELIA: Thank you.

9 VICE CHAIRMAN BONACCI: Thanks.

10 MS. DILLON: Mr. Mulkay, can you take one  
11 step back --

12 MR. MULKAY: I'm sorry. Sure.

13 MS. DILLON: -- so you're on the other side  
14 of the mic?

15 MR. MULKAY: I've always been accused of  
16 speaking loud. I apologize.

17 MS. DILLON: Thank you.

18 MR. MULKAY: You got it.

19 Mr. Melia, did your office have an  
20 opportunity to visit the site and prepare the  
21 plans that are presented to the Board?

22 MR. MELIA: Yes.

23 MR. MULKAY: Could you explain to the Board  
24 what the site entails, what it currently is, and  
25 what the project?

1 MR. MELIA: Certainly.

2 The address is 1701 Kerrigan Avenue. It's  
3 on the northwest side of the intersection of 17<sup>th</sup>  
4 Street on Kerrigan.

5 This drawing set that I have on the easel  
6 is exactly what you have in front of you.

7 And if you turn to Z-2, there is a photo  
8 board showing what the existing conditions are.  
9 These photos were taken a couple of weeks ago and  
10 you can see, top left, the first two photos  
11 indicate what the site is right now, which is a  
12 surface lot with ten parking spaces, which the  
13 applicant is currently renting out.

14 Toward the back of the site, it's a very  
15 long site, it's 134 feet of frontage, is a single  
16 family house. The address is 1707 Kerrigan.

17 This application proposes to keep that  
18 house, but the building that we're proposing is  
19 going to replace the ten surface lot spaces.

20 You can also see that some of the -- some  
21 of the cars that are presently parked here are  
22 actually utility trucks. So, it's not ideal  
23 having this kind of parking directly opposite the  
24 school, which you can see is diagonally opposite  
25 the intersection, Gilmore School.

1           Other photos show what was here previously,  
2 which was a seven car garage that was demolished  
3 recently. So, we presently have this surface lot  
4 of parking spaces and a continuous curb cut down  
5 Kerrigan, which we would be reducing as part of  
6 this application to only three cars, freeing up  
7 room for two street spaces in the process.

8           So, the application is proposing a  
9 commercial unit on the first floor level and two  
10 apartments above that. If you look at sheet Z-5,  
11 you can see the floor plans. The top plan is the  
12 ground floor plan, so the commercial unit is on  
13 the corner of 17<sup>th</sup> and Kerrigan.

14           We've also got the residential lobby for  
15 the two units above. And then three enclosed  
16 garage spaces; one for the commercial unit and  
17 one for each of the units above.

18           Just to the side of this is the existing  
19 house, which we're not touching.

20           The second floor shows it's a two bedroom  
21 and a one bedroom. They're -- they're generously  
22 sized apartments. The two bedroom is 1,080  
23 square feet. The one bedroom is 850 square feet.

24           We're proposing a commercial unit at the  
25 first floor because unlike other lots in this

1 area, where only residential is permitted, we do  
2 have a lot of frontage and it's not ideal to have  
3 a residential unit fronting directly onto the  
4 sidewalk. You have windows -- you know, adjacent  
5 to people passing by.

6 So, the commercial unit offers the  
7 applicant -- you know, the potential to elevate  
8 the living spaces to the second floor, where  
9 they're more desirable, and at the same time,  
10 offset some of the lost revenue from the -- from  
11 the parking, by having a commercial unit on the  
12 ground floor.

13 Z-6 is just the roof plan, where we have a  
14 stair going up to the roof. There's a couple of  
15 mechanical units, but there are no roof decks or  
16 anything of that nature proposed.

17 And on Z-7, we have the Kerrigan Street  
18 elevation. You can see that it's going to be a  
19 masonry building with some aluminum clad  
20 projecting bays, with a cast stone water table.  
21 So, in terms of materials, it's going to be a  
22 very aesthetically pleasing building.

23 The elevation on 17<sup>th</sup> Street mimics that.  
24 It's a continuation of that.

25 And also, the back of the building, which

1 faces the -- the single family that's on the --  
2 the lot is also clad in brick. So, three sides  
3 of the building will have a brick façade.

4           Again, we're here for a D-1 variance for  
5 the commercial space, because it's a residential  
6 zone. But there are other commercial uses  
7 nearby. There's a dog grooming space and a deli  
8 one block away. So, it's not unique to the area.  
9 The school is directly across the intersection.  
10 It would be a commercial space, office. We're  
11 not proposing anything like a fast food chain  
12 that would generate crazy traffic. But this, we  
13 feel, is more appropriate than having the site  
14 continue to be used as a surface level parking  
15 lot for utility vehicles. So, we think it's  
16 inherently beneficial to propose the commercial  
17 space, in light of that.

18           MR. MULKAY: The site location is also  
19 unique because it's a corner property and the  
20 length and the width of the property.

21           Is that correct?

22           MR. MELIA: Correct.

23           It's 134 feet of frontage right on  
24 Kerrigan. It's very challenging to do -- give a  
25 setback or a stoop, which mid-block buildings

1 | would have to offer some privacy from the  
2 | sidewalk.

3 |       As well as that, I didn't mention, just in  
4 | terms of improvements to the -- to the  
5 | streetscape, there are two existing trees which  
6 | we would maintain. And then, we would reduce the  
7 | curb cut, which runs the full width from the  
8 | intersection all the way down to only 30 feet for  
9 | the three cars, which would essentially free up  
10 | 60 feet of frontage.

11 |       MR. MULKAY: For off-street parking.

12 |       MR. MELIA: You could possibly get three  
13 | cars there, but the Ordinance says 22 feet. So,  
14 | at least two cars will be able to park on the  
15 | street, which would be beneficial to the  
16 | neighborhood, because right now, it's a  
17 | continuous curb cut.

18 |       MR. MULKAY: There's no parking off-street  
19 | right now.

20 |       MR. MELIA: Correct. So there's three --

21 |       MR. MULKAY: On-street. I'm sorry.

22 |       MR. MELIA: So, we would be eliminating  
23 | that, providing a new sidewalk. There's already  
24 | an existing ADA crosswalk that's in perfect  
25 | condition on the corner, but we would be

1 proposing three new street trees, as well, which  
2 would help improve the streetscape.

3 VICE CHAIRMAN BONACCI: Okay.

4 Mr. Melia, the architect --

5 Do you have other testimony?

6 Right?

7 MR. MULKAY: We have the planner. Yes.

8 VICE CHAIRMAN BONACCI: Okay.

9 So, we'll hear from the planner. And then,  
10 we'll save our questions for after all the  
11 testimony.

12 Thank you.

13 MS. HARTMANN: Hi.

14 VICE CHAIRMAN BONACCI: Hello.

15 MS. DILLON: Ms. Hartmann was previously --

16 VICE CHAIRMAN BONACCI: Right.

17 MS. DILLON: -- sworn.

18 VICE CHAIRMAN BONACCI: Okay.

19 MR. MULKAY: Ms. Hartmann, you were  
20 recognized previously as an expert.

21 Correct?

22 MS. HARTMANN: Yes.

23 MR. MULKAY: Okay.

24 Ms. Hartmann, you had an opportunity to  
25 visit the site and review the plans?

1 MS. HARTMANN: Yes, I have.

2 MR. MULKAY: And did you develop an opinion  
3 as to a planning point of view?

4 MS. HARTMANN: Yes.

5 MR. MULKAY: Could you explain to the Board  
6 what your opinion is?

7 MS. HARTMANN: So, as you're aware, the  
8 subject site is a 2,968 square foot corner  
9 parcel, that's -- it was -- actually, it's  
10 presently developed with one structure, which is  
11 a single family residence. It contains ten on-  
12 street park -- off-street parking spaces that are  
13 used commercially for people who need off-street  
14 parking. And generally, they can be rented to  
15 either -- and right now, they are rented to two  
16 commercial vehicles, trucks and -- and there's no  
17 -- and eight cars at the moment.

18 This site is located in the R, the low  
19 density residential district of the city. I know  
20 we talked about what surrounds, but I think it's  
21 important to note that directly adjacent and  
22 north of the subject site is a three story, three  
23 family house, with only one off-street parking  
24 space. And adjacent to this site is the corner  
25 three story apartment building, with two off-

1 street parking spaces.

2           Directly adjacent to the site and west of  
3 the site is a two story, three family residence  
4 that has one on-street -- off-street parking  
5 space.

6           And then, across from the subject site is a  
7 three story apartment building, with two off-  
8 street parking spaces. And as you go further  
9 north, there are three two family residences.

10           The major development that's there is the  
11 expansion of the elementary school, which is  
12 across the street and encompasses the entire  
13 corner.

14           The application is for a use variance to  
15 permit a commercial use on the ground floor and  
16 two apartments above, with three off-street  
17 parking space.

18           The project itself will eliminate the  
19 existing nonconforming ten parking spaces. It  
20 will be -- again, we'll construct a two story  
21 building, with a mixed use, with two residential  
22 units and a -- a commercial office use.

23           The existing one and a half story dwelling  
24 will be retained. It will eliminate the existing  
25 extensive curb cut that runs approximately 70

1 feet from the corner of 17<sup>th</sup> Street north, and it  
2 will create a new 32 foot two inch curb cut to  
3 accommodate the three new garages.

4 The building will have a floor plan -- the  
5 ground floor will have 1,080 square feet  
6 commercial space and three garage spaces. And  
7 the second floor will have a one bedroom unit,  
8 and a one two bedroom unit.

9 In addition, the existing nonconforming lot  
10 width is 24 feet one inch, where 25 feet is  
11 required and there will be no change in that.  
12 It's an existing nonconforming condition.

13 There are several C variances, which if  
14 approved, would be subsumed into the -- the use  
15 variance.

16 And they include the front yard setback,  
17 which is required to be ten feet, but is proposed  
18 at zero; the side yards, where two feet is  
19 required on one and five feet on both, and zero  
20 is proposed; where the building coverage is  
21 required to be 60 percent and it's a hundred  
22 percent; and where the off-street parking is  
23 required to have eight spaces and we have three  
24 spaces.

25 And that translates into the off-street

1 parking for the residential units are four spaces  
2 and the commercial use is four spaces as again --  
3 as I said before, three spaces are proposed, one  
4 space for each use.

5         Again, as noted, there will be  
6 approximately two new on-street parking spaces,  
7 resulting from the proposed elimination of that  
8 large open curb cut.

9         And so, as I stated, this is a use  
10 variance. And as a use variance, first, we have  
11 to determine or demonstrate that the site is  
12 particularly suited for the proposed use.

13         The Supreme Court has upheld a more general  
14 understanding for a particularly suited use,  
15 which requires that we demonstrate that the site,  
16 in particular, the property as developed for the  
17 proposed use serves the general welfare, and  
18 because of its location, is particularly suited.

19         And one of the things I would -- I would  
20 say is that it's a very unique site in that  
21 generally corner properties are maybe a little  
22 wider, but they're usually not long and narrow,  
23 like this one is along Kerrigan.

24         And the corner properties lend themselves  
25 to more distinctive uses, as you will see down

1 the street, where you have ground floor  
2 commercial in the -- the pet care site, as well  
3 as the -- the small convenience grocery store,  
4 with residential above.

5 The unique aspect of the site is the fact  
6 that generally, even as you go across the street,  
7 if you -- as you could see from the pictures  
8 before, the -- the windows and the -- the aspects  
9 of those properties tend to not have windows and  
10 living areas right on the ground floor. They  
11 tend to have more of the siding that's up and the  
12 half basement or the basement that's there.

13 This site is unique in the sense that as  
14 you come by, you will -- the ground floor will,  
15 in fact, have all the cars. So, building and  
16 allowing for apartments above and a commercial  
17 use on the ground floor lends itself -- this site  
18 lends itself to that use, plus the proposed units  
19 are relatively spacious in their -- their  
20 proposal for the one and two bedrooms.

21 So, creating another unit, just would  
22 decrease the size of the space of the units, and  
23 not provide the -- the unique aspects of the  
24 site.

25 So, for that reason, I would say that it

1 provides a -- it's a unique and particularly  
2 suited for the proposed use.

3         The -- and its location within the  
4 neighborhood, again, the different uses that  
5 surround it are all a mixture. You have a three  
6 -- the three unit, three family across the  
7 street, the -- the school on the other corner.  
8 You've got an apartment building on the other  
9 corner. So, it is a mix -- has somewhat of a  
10 mixed use quality.

11         So, I did then go look at the City's Master  
12 Plan, which dates to 2009.

13         And some of the significant purposes and  
14 goals are that it -- it continues to preserve the  
15 character of the community. You're taking away a  
16 significantly nonconforming use of allowing the  
17 parking of commercial vehicles and other vehicles  
18 on this site, and replacing it with a -- a mixed  
19 use, small office building on the ground floor  
20 and apartments above, much more consistent with  
21 what's permitted in the zone.

22         One of the other purposes, to encourage  
23 economic development. The office tends to do  
24 that.

25         To provide a balance of land uses and

1 balanced development patterns. These types of  
2 corners tend to lend themselves, again, to mixed  
3 use.

4 It continues to preserve the character of  
5 the neighborhood by eliminating that  
6 significantly nonconforming parking condition.

7 It provides a broad range of housing  
8 choices. This is a different type of -- of use  
9 than a three family house and it's significantly  
10 different than an apartment building. It's only  
11 a couple of units.

12 It promotes and reinforces the city as a  
13 desirable residential location. And I believe it  
14 would improve the quality of life of the  
15 residents of this neighborhood by eliminating  
16 that -- that grossly nonconforming use.

17 The Municipal Land Use Law goals and  
18 objectives, I would say, would be, A, to -- to  
19 promote the general welfare. This will certainly  
20 provide -- C, to provide adequate light and air  
21 and open space. By developing the site the way  
22 it's proposed, the units themselves have access  
23 to more than adequate light and air, as well as  
24 the commercial use.

25 Goal E, to promote the establishment of

1 appropriate population densities and  
2 concentrations.

3 Goal G, to provide sufficient space for  
4 appropriate locations of variety of uses.

5 Goal L, to promote a desirable visual  
6 environment through creative development  
7 techniques, and good civic design and  
8 arrangement.

9 I -- I believe that this site, locating the  
10 garages, obviously, on the ground floor, as well  
11 as a commercial use, with the apartments above,  
12 and the design that's being proposed, in fact,  
13 promotes that goal.

14 So, it's my opinion that the requested  
15 variances and the use variance can be granted  
16 without substantial detriment to the public good  
17 and will not substantially impact the intent and  
18 purpose of your zone plan or your Zoning  
19 Ordinance.

20 The new construction is generally  
21 consistent with the surrounding neighborhood,  
22 both the immediate neighborhood and the greater  
23 neighborhood, in that the proposed development,  
24 again, eliminates a significantly nonconforming  
25 use from the site, is compatible with the

1 immediate neighborhood, and uses, the use of  
2 three small story apartment buildings and the  
3 three family residences and the expanded Gilmore  
4 Elementary School. So, I don't believe there  
5 will be any impact.

6 VICE CHAIRMAN BONACCI: Thank you, Mr.  
7 Hartmann.

8 MS. HARTMANN: My pleasure.

9 VICE CHAIRMAN BONACCI: Okay.

10 I'm going to go back to Mr. Melia. Start  
11 my questions with him. And then, after those,  
12 I'll ask them and we'll --

13 MS. HARTMANN: Sure. I'll be back.

14 VICE CHAIRMAN BONACCI: Okay.

15 MS. HARTMANN: I'm here.

16 VICE CHAIRMAN BONACCI: All right.

17 Okay, Mr. Melia, can you explain the two  
18 and a half story one family unit that's going to  
19 be above the three car garage? That's a little  
20 different from things that we've seen before.

21 MS. DILLON: Let me help you.

22 MR. MELIA: Thank you.

23 So, the -- the two and a half story  
24 building that's on the plans is the existing  
25 structure. It's best explained if we look at --

1 VICE CHAIRMAN BONACCI: Okay.

2 MR. MELIA: -- sheet Z-2.

3 VICE CHAIRMAN BONACCI: Right.

4 MR. MELIA: It's a very long property.

5 Typically, it's a hundred feet, but this one is  
6 135 feet. The last 35 feet of the site is an  
7 existing single family, which is two and a half  
8 stories tall.

9 VICE CHAIRMAN BONACCI: So, you're saying  
10 that that's going to stay there.

11 MR. MELIA: We're not doing anything to  
12 that.

13 VICE CHAIRMAN BONACCI: Okay.

14 MR. MELIA: The building is only happening  
15 on the remaining 100 feet from --

16 VICE CHAIRMAN BONACCI: Got you.

17 MR. MELIA: -- where this ends to the  
18 corner.

19 VICE CHAIRMAN BONACCI: Okay.

20 Now, it says in the application that that  
21 two and a half story single family dwelling, the  
22 three car garage is going to be --

23 MR. MELIA: It's adjacent to it.

24 VICE CHAIRMAN BONACCI: Okay.

25 MR. MELIA: So, this is --

1 VICE CHAIRMAN BONACCI: All right. Now, I  
2 see it.

3 MR. MELIA: If we look at Z-3, so this is  
4 --

5 VICE CHAIRMAN BONACCI: Got you.

6 MR. MELIA: -- what we're not touching.  
7 And then our -- our building starts here.

8 VICE CHAIRMAN BONACCI: Okay.

9 MR. MELIA: So, three car garage, entry  
10 into the two units above, trash area, et cetera  
11 for the commercial space.

12 VICE CHAIRMAN BONACCI: Okay.

13 The front yard setback, you're required to  
14 have ten feet and this is going to go right to  
15 the line?

16 MR. MELIA: As presently proposed, yes.

17 VICE CHAIRMAN BONACCI: As presently  
18 proposed. Okay.

19 Okay.

20 I think that's it with my questions for Mr.  
21 Melia.

22 Do you guys have any?

23 MR. GRULLON: With regard to the existing  
24 two and a half story building, do you have any  
25 parking for that?

1 MR. MELIA: No.

2 MR. GRULLON: No. It's not part -- it's  
3 part of the same property?

4 MR. MELIA: It's on -- it's definitely on  
5 the same property. I don't know if the -- is  
6 there parking for this on the site?

7 The applicant's family member lives in the  
8 house.

9 MR. GRULLON: Are you counting the -- the  
10 parking count as -- are you counting that unit on  
11 the parking count requirement --

12 MR. MELIA: Yeah.

13 MR. GRULLON: -- to the --

14 MR. MELIA: In -- in the tabulation chart?

15 MR. GRULLON: Yes. Um hum.

16 MR. MELIA: We -- we do include that as --  
17 as required. Ten spaces are required. So, we're  
18 providing three on the site.

19 MR. MULKAY: And adding two from the  
20 on-street parking --

21 MR. MELIA: Correct.

22 MR. MULKAY: -- that we're giving back two  
23 on-street parking.

24 MR. MELIA: Well, there's also -- yes.

25 MR. MULKAY: It's a net positive of minimum

1 of five, possibly six.

2 MR. MELIA: Correct.

3 Just also want to mention that while we are  
4 asking for a commercial unit, we're only building  
5 22 feet in height, where 40 feet is permitted.  
6 So, we've been sensitive to the light and air and  
7 impact that --

8 Oh.

9 VICE CHAIRMAN BONACCI: Whoa.

10 MR. MELIA: -- that this project will have,  
11 particularly because it's on the north side of  
12 the intersection.

13 The properties behind it will basically be  
14 in shade if we were to construct to the permitted  
15 height. So, by only constructing two stories and  
16 22 feet, we don't put any shade in the rear of  
17 the adjoining property on 17<sup>th</sup> Street.

18 MR. GRULLON: Thank you.

19 MR. MEDINA: I have a question.

20 So, you propose three parking space.

21 MR. MELIA: Inside, yes.

22 MR. MEDINA: Okay.

23 What -- it's on Kerrigan Avenue?

24 MR. MELIA: Yes. Correct.

25 MR. MEDINA: Do you know we got close to

1 Gilmore School, right? There's a school next --  
2 next lot. And it's right there. I  
3 (indiscernible) property down there, this --

4 MR. MELIA: I understand.

5 MR. MEDINA: -- this is my concern, you  
6 know?

7 MR. MELIA: We are proposing three spaces  
8 off-street. But what the challenge of the corner  
9 lot is, you have to provide it somewhere, as per  
10 the Ordinance. So, you either provide it on 17<sup>th</sup>  
11 Street, right on the intersection, it's a small  
12 lot, which is right on top of a crosswalk, or you  
13 provide it on Kerrigan.

14 I mean, an alternate is to not provide it  
15 at all, which we -- we could consider, but I  
16 think it's a balance of providing some parking  
17 versus not providing any at all.

18 And I also just want to reiterate, it's  
19 presently ten parking spaces, with utility  
20 vehicles. So, we're moving from that, which is  
21 directly opposite the school on the intersection,  
22 to three enclosed parking spaces, which is just  
23 smaller vehicles for the units, and one for the  
24 commercial space. So --

25 MR. MULKAY: So -- so, just to draw on that

1 point that you just said, currently now,  
2 commercial vehicles are parking on that property  
3 and a total of ten parking spaces that are  
4 pulling in and out in front of the school.

5 MR. MELIA: Correct.

6 MR. MULKAY: Correct?

7 And we're reducing that to three. And in  
8 the parking garages that you're doing, it would  
9 only fit cars, it wouldn't fit commercial  
10 vehicles.

11 Correct?

12 MR. MELIA: Correct. They're only sized  
13 for standard size cars, but also the curb cut  
14 goes all the way to the intersection. So --

15 MR. MEDINA: Just to clarify, this is --  
16 when you say commercial, when you mean  
17 commercial, it's just --

18 MR. MELIA: Well, there's utility trucks.  
19 I mean, they're -- that's what's currently using  
20 the site. They're --

21 MS. GUTIERREZ: They're rent -- they're  
22 renting. They're renting the space.

23 MR. MELIA: If -- if you look at the -- the  
24 first image on -- on sheet Z-2, you can see the  
25 size of the trucks. It's not like they're just

1 standard cars. That's what it's presently used  
2 for. So --

3 MR. MULKAY: What -- what's in the --

4 MR. MELIA: We're --

5 MR. MULKAY: The picture that's in the  
6 bottom, that has the garages is the way it used  
7 to be. The garages were torn down and --

8 MS. GUTIERREZ: Um hum. Yeah. Um hum.

9 MR. MULKAY: -- now it's just vacant.

10 MR. MELIA: It -- to meet the requirement,  
11 this is -- a three family is permitted, which  
12 would require six parking spaces. There's --  
13 there's nowhere for them to go on this site,  
14 where they're not either right on top of the  
15 intersection on 17<sup>th</sup>, or there's some kind of curb  
16 cut on Kerrigan. It's -- it's physically  
17 impossible, just because it's a corner lot.

18 So, we're trying to balance that by only  
19 providing three.

20 MR. MULKAY: And by providing the three  
21 nearer the existing house, you're making it safer  
22 because the further --

23 MR. MELIA: They're --

24 MR. MULKAY: -- away from the intersection,  
25 the safer it is --

1 MR. MELIA: Yes.

2 MR. MULKAY: -- for the cars to pull in and  
3 out.

4 MR. MELIA: Correct.

5 MR. MULKAY: Correct?

6 And it's safer for the kids crossing the  
7 street in the crosswalk.

8 Correct?

9 MR. MELIA: Correct.

10 MR. MEDINA: Okay.

11 Thank you.

12 VICE CHAIRMAN BONACCI: Members of the  
13 public, any questions for Mr. Melia, the  
14 architect?

15 And then we'll ask questions for Ms.  
16 Hartmann, the planner.

17 MS. GUTIERREZ: Come on, Mr. Price.

18 VICE CHAIRMAN BONACCI: Let's see what you  
19 got.

20 MR. PRICE: Okay. Still Larry Price and  
21 I'm still under oath.

22 Let me go to the one family house.

23 The one family house has no -- will have no  
24 parking.

25 Correct?

1 MR. MELIA: Correct.

2 MR. PRICE: Okay.

3 How many bedrooms in the one family house?

4 MR. MELIA: There are -- how many? Two.

5 MR. PRICE: Two. Okay. Okay.

6 The commercial space. How large is it?

7 MR. MELIA: It's just over a thousand

8 square feet, 1,110 square feet.

9 MR. PRICE: How many?

10 MR. MELIA: One thousand one hundred and  
11 ten.

12 MR. PRICE: One hundred and ten.

13 Okay.

14 And the apartment -- the two apartments  
15 above the -- on the second floor, how many  
16 bedrooms do they have?

17 MR. MELIA: It's one two bedroom and one  
18 one bedroom.

19 MR. PRICE: Okay.

20 Okay. So --

21 MR. MELIA: Ten spaces is the requirement,  
22 including --

23 MR. PRICE: I --

24 MR. MELIA: -- the single family.

25 MR. PRICE: -- think I agree with you, but

1 I'll reserve. Okay. Okay.

2 MR. MELIA: There's a calculation on the  
3 front sheet.

4 MR. PRICE: Okay.

5 Four for the commercial space, two for the  
6 house and four for basically for the apartments.  
7 So, which is ten.

8 MR. MELIA: It's calculated out, 1.8 for  
9 the one bedroom, two for each two bedroom, and  
10 one space for every 300 square feet of retail.

11 MR. PRICE: Yeah. So --

12 MR. MELIA: -- which total nine point  
13 something, which rounds up to ten.

14 MR. PRICE: Which rounds to ten. Okay.  
15 Okay.

16 MR. MELIA: Again, we could put ten parking  
17 spaces on the first floor, but that's what's  
18 there right now and that's what we're trying to  
19 avoid.

20 MR. PRICE: Okay.

21 You want the questions to Ms. Hartmann  
22 separately.

23 Correct?

24 VICE CHAIRMAN BONACCI: Yeah.

25 MR. PANEQUE: You can address them now.

1 VICE CHAIRMAN BONACCI: Well, you could --  
2 you could -- yeah. If you have them now, we'll  
3 bring her up now and then I'll -- I'll ask her my  
4 questions.

5 MR. PRICE: Oh, okay.

6 Okay. Ms. Hartmann, first question I would  
7 ask, we have a commercial space here, a mixed use  
8 as a result of commercial space.

9 How many commercial spaces exist within the  
10 200 foot zone?

11 MS. HARTMANN: I have no idea. I just went  
12 down the street. Two blocks away is the -- so,  
13 within the 200 foot, I would say you have at  
14 least the -- the other corner use, which is the  
15 pet --

16 VICE CHAIRMAN BONACCI: Grooming.

17 MS. HARTMANN: -- grooming --

18 Thank you.

19 I --

20 VICE CHAIRMAN BONACCI: Yeah.

21 MS. HARTMANN: -- keep forgetting.

22 Pet grooming business, and then two blocks  
23 beyond that was the --

24 MR. PRICE: Well --

25 MS. HARTMANN: -- grocery store.

1           MR. PRICE: Two blocks beyond that would be  
2 beyond the 200 foot.

3           MS. HARTMANN: But it's the greater  
4 neighborhood. It is the neighborhood. I mean --

5           MR. PRICE: Well, okay. But my question's  
6 specific, 200 -- so we have a dog grooming  
7 service and then --

8           MS. HARTMANN: With apartments above and no  
9 off-street parking.

10          MR. PRICE: Okay. But we have one  
11 commercial space. Okay.

12          MS. HARTMANN: On the corner.

13          MR. PRICE: Okay.

14          The -- the other question I would ask, I  
15 would -- I would invite your attention, and maybe  
16 even the Board's attention, to the provision in  
17 the Land Development Ordinance which says, only  
18 one principal building may be erected on a lot in  
19 the R zone.

20          Now, we've already had testimony.

21          MS. HARTMANN: Right.

22          MR. PRICE: We've got the existing one  
23 family, two and a half story building, which is a  
24 separate unit and we're now constructing a mid --  
25 mixed use building --

1 MS. HARTMANN: So you'll have two.

2 MR. PRICE: -- on the same lot. So, we  
3 have two principal uses on the same lot.

4 I didn't hear any testimony from you  
5 regarding this.

6 MS. HARTMANN: No, you did not.

7 I -- it would -- for me, it was part of the  
8 use variance aspect of it, but I would say that  
9 it's an existing house that is in good condition.  
10 It's a very long lot of over 130 feet long. It  
11 takes up the -- the northern portion of the lot  
12 and the applicant is proposing to develop the  
13 southern portion. And being long and narrow, it  
14 lends itself to allowing those two buildings and  
15 those two uses to remain on that lot.

16 MR. PRICE: Well, the lot is 134 feet long.

17 MS. HARTMANN: Long. Correct.

18 MR. PRICE: It's 24 feet --

19 MS. HARTMANN: Wide.

20 MR. PRICE: -- wide.

21 MS. HARTMANN: Correct.

22 MR. PRICE: Which is narrow? I mean, it --  
23 that's very close to the normal --

24 MS. HARTMANN: It's a foot shorter.

25 MR. MELIA: It tapers to 20 feet.

1 MS. HARTMANN: And tapers to 20. So it  
2 tapers down --

3 MR. PRICE: Oh.

4 MS. HARTMANN: -- to 20.

5 MR. PRICE: It's an irregularly shaped lot.

6 MS. HARTMANN: Correct.

7 MR. PRICE: Okay. Okay.

8 Board has to deal with -- you know, you've  
9 --

10 MS. HARTMANN: Well, you are permitted --

11 MR. PRICE: It --

12 MS. HARTMANN: I'm sorry. I apologize.

13 MR. PRICE: Yeah. It's -- the -- the Land  
14 Development Ordinance prohibits two uses on the  
15 same lot. And it's a D-1 -- and it really is a  
16 separate D-1 use variance. There was no  
17 testimony in support of it, so I think --

18 MS. HARTMANN: So --

19 MR. PRICE: I think there is a problem  
20 here.

21 VICE CHAIRMAN BONACCI: Thanks, Mr. Price.

22 You got more or --

23 MR. PRICE: No.

24 VICE CHAIRMAN BONACCI: Okay. I didn't  
25 want to cut you off.

1 MS. HARTMANN: So, the --

2 MR. PRICE: I think --

3 MS. HARTMANN: If I could address that?

4 VICE CHAIRMAN BONACCI: Yeah. Sure. Go  
5 ahead.

6 MS. HARTMANN: So, the Ordinance clearly  
7 permits only one principal use per -- per lot.

8 However, this is an irregularly shaped lot.  
9 It's long.

10 It -- it also permits three families, and  
11 as a result, we have three units that are being  
12 built here, albeit onto different buildings.  
13 There is no reason to take down a perfectly fine  
14 and structurally sound single family residence  
15 that doesn't have any parking related to it right  
16 now and is in the narrow portion of the lot, so  
17 that redeveloping that portion of the lot would  
18 be significantly different, as well as it tapers  
19 down.

20 So, from that perspective, having allowing  
21 the two -- the two structures to be there, again,  
22 I would say makes this lot particularly suited  
23 for that -- that type of use.

24 VICE CHAIRMAN BONACCI: Mr. Price, do you  
25 have any other questions, comments, for Ms.

1 Hartmann or Mr. Melia?

2 MR. PRICE: No.

3 VICE CHAIRMAN BONACCI: Okay.

4 Any other members of the public?

5 MR. PRICE: By the way, actually --

6 VICE CHAIRMAN BONACCI: Yeah.

7 MR. PRICE: -- can I just confirm one  
8 number?

9 It's 2,968 square feet for the entire site.

10 Correct?

11 MS. HARTMANN: I believe so.

12 MR. MELIA: Correct.

13 MR. PRICE: Okay.

14 Thank you.

15 VICE CHAIRMAN BONACCI: Thanks, Mr. Price.

16 Any other members of the public for Ms.

17 Hartmann or Mr. Melia?

18 Okay.

19 Ms. Hartmann, since you're --

20 MS. HARTMANN: Sure.

21 VICE CHAIRMAN BONACCI: -- up here.

22 I just want to let you guys know that Mr.  
23 Spatz's memorandum is what we base our  
24 determinations on. So, we have that memorandum  
25 in front of us and that's -- I could speak for

1 myself, that's pretty much my guideline. That's  
2 my go to thing when we make these decisions.

3 So, out of Mr. Spatz's findings, 11 of them  
4 in total, eight of the 11 are not conforming.  
5 So, that's an issue for us.

6 What I agree with you guys on, Ms.  
7 Hartmann, you said it a few times, very unique  
8 site, being that it's corner property. I agree  
9 with that.

10 And I also like the idea of economic  
11 benefits of the commercial space, but it's not  
12 permitted in this zone. And we just can't throw  
13 that out the window and ignore it. It's not  
14 permitted in the zone.

15 I heard Mr. Melia say something about  
16 parking not being physically possible, which is  
17 true if you're trying to meet the requirements of  
18 what your client is asking you to do.

19 But my question for Ms. Hartmann is, you're  
20 a planner; I know nothing about planning. But I  
21 would ask you if you already know that the  
22 commercial is not allowed in the zone --

23 MS. HARTMANN: Right.

24 VICE CHAIRMAN BONACCI: -- and all the  
25 parking requirements, you guys would be short

1 five. So, eight parking spaces is what you would  
2 need. You would provide three, so you'd be short  
3 five.

4 So, being that there's no commercial  
5 allowed and the parking deficiency, there's got  
6 to be a better planning alternative with this  
7 unique site.

8 MS. HARTMANN: I think what's being  
9 proposed, in this configuration, and recognizing  
10 that, yes, you've got a parking deficiency --

11 VICE CHAIRMAN BONACCI: Right.

12 MS. HARTMANN: -- recognizing that you're  
13 putting some parking back on the street,  
14 recognizing the impact that the street traffic  
15 has on ground floor residential uses, I think  
16 that in reality, the -- it's this very tiny,  
17 small, 1,000 square foot commercial space is  
18 indicative and consistent with these types of  
19 neighborhoods.

20 I think if you design or -- or restrict or  
21 -- or provide for the appropriate commercial use  
22 in an office, you may only have one or two people  
23 that actually are there.

24 An office like mine, which is just myself,  
25 or a small architect, or a small engineer, or a

1 small attorney, things of that nature, you might  
2 have one or two people.

3 So, I think that this is a really good  
4 alternative for that particular site, given the  
5 constraints of it, given its location next to the  
6 school, and given that they, in fact, are going  
7 to reduce the coverage on the street --

8 VICE CHAIRMAN BONACCI: Right.

9 MS. HARTMANN: -- of the open, so --

10 VICE CHAIRMAN BONACCI: And I understand  
11 your point on that.

12 But then, from our perspective, if we  
13 granted the commercial space, then we got -- you  
14 guys are already telling us about the one, where  
15 the dog grooming place is. Then somebody comes  
16 to us next month and they want to put a  
17 commercial space on the ground floor. And then,  
18 the next thing you know we've got to bend this  
19 rule for the whole neighborhood and then it  
20 becomes a different zone altogether.

21 So, we can't grant the application with the  
22 commercial on the zone.

23 And then, right off the bat -- you know, a  
24 better planning alternative on this unique site,  
25 being a corner property, would be you already

1 have how many spaces on ground floor? Parking  
2 spaces?

3 MS. HARTMANN: Three.

4 MR. MULKAY: Three.

5 VICE CHAIRMAN BONACCI: That's in your  
6 plan.

7 MR. MELIA: Ten existing.

8 VICE CHAIRMAN BONACCI: But that -- that  
9 currently exists at --

10 MR. MULKAY: Oh, there.

11 MS. HARTMANN: Right.

12 MR. MULKAY: Ten.

13 MR. PANEQUE: Ten.

14 VICE CHAIRMAN BONACCI: Right.

15 MR. GRULLON: Ten. Yes.

16 VICE CHAIRMAN BONACCI: So, putting three  
17 units on top of, let's say, forget ten spots,  
18 let's say you only did six spots, you meet the  
19 requirement now. Three unit residential and  
20 you've got six spots underneath it. And then,  
21 you conform and you don't even need to ask us for  
22 anything.

23 MS. HARTMANN: I don't think --

24 VICE CHAIRMAN BONACCI: That's a better  
25 planning alternative, from my opinion.

1 MS. HARTMANN: Yeah, and if I could  
2 respond?

3 VICE CHAIRMAN BONACCI: Um hum.

4 MS. HARTMANN: I would say that, first, you  
5 won't be able to get six parking spaces or six  
6 garages, because you'll be too close to the  
7 intersection and they won't be allowed to be put  
8 in place.

9 VICE CHAIRMAN BONACCI: But that would be a  
10 question for Mr. Melia, because he's the  
11 architect. That's why I'm just going --

12 MS. HARTMANN: No but --

13 VICE CHAIRMAN BONACCI: -- planning  
14 alternatives with you.

15 MS. HARTMANN: Right, but -- but that's why  
16 -- but that is part of it.

17 VICE CHAIRMAN BONACCI: Right.

18 MS. HARTMANN: We look at -- at the  
19 physical -- the physical constraints of the site.

20 The other thing is, is that I would -- I  
21 would suggest to you that you might get another  
22 application here or there for a corner property  
23 like this. There are very few corner properties  
24 left that have nonconforming uses on them and  
25 substantially nonconforming structures or any of

1 | that, that you'd take down.

2 |       Plus, you have a significant -- a  
3 | significantly unique corner in that every single  
4 | thing on each corner is different from the other.

5 |       You've got a school on one, a three family  
6 | house on another and a relatively largish  
7 | apartment building on the third.

8 |       So, it is a unique -- it's a unique piece  
9 | of property. It has the -- the house that's  
10 | there. It goes from 24 feet down to 20 feet.  
11 | It's 134 feet deep. All of those things lend  
12 | itself to a very unique and particular aspect to  
13 | this site.

14 |       VICE CHAIRMAN BONACCI: I'm not disagreeing  
15 | with you guys on the uniqueness. But the zone  
16 | and the requirements are what they are. And  
17 | we're not changing that, we're just trying to  
18 | abide by the rules.

19 |       So, your client has a unique property and  
20 | there's a lot he can do with it. At this time,  
21 | that's not the best alternative and we can't  
22 | grant the application, --

23 |       MR. MULKAY: Okay.

24 |       VICE CHAIRMAN BONACCI: -- with all those  
25 | things being deficient.

1 MR. MULKAY: Can we have a few minutes to  
2 take a five minute break and speak to my client  
3 before the Board makes any kind of decision?  
4 Two minute break?

5 MR. PANEQUE: Mr. Chairman, we can take the  
6 break now.

7 MS. GUTIERREZ: Yeah.

8 VICE CHAIRMAN BONACCI: Okay.

9 MR. MULKAY: Okay.

10 Thank you.

11 VICE CHAIRMAN BONACCI: Yeah.

12 THE SECRETARY: Five minute break.

13

14 (Whereupon, the Board recessed from 8:22  
15 p.m. to 8:43 p.m.)

16

17 MS. DILLON: Okay.

18 THE SECRETARY: May I have your attention,  
19 please?

20 Mr. Mulkay, please?

21 MR. MULKAY: Mr. Chairman, I've had an  
22 opportunity to speak to my client.

23 We've taken the comment from the Board and  
24 from the public at heart, and we request an  
25 adjournment to the next available hearing date,

1 to have an opportunity to make -- see if we could  
2 -- if we could get rid of the commercial space  
3 and what changes we could make before the Board  
4 takes a vote.

5 VICE CHAIRMAN BONACCI: Mr. Mulkey, with --  
6 with all due respect --

7 MR. MULKAY: Yes.

8 VICE CHAIRMAN BONACCI: -- we've got 11  
9 items on tonight's agenda. And we're already  
10 trying to find a way to hear all these cases in a  
11 timely fashion.

12 We have to make a determination on your  
13 application and we're going to make a motion on  
14 it now.

15 MR. MULKAY: Tonight.

16 VICE CHAIRMAN BONACCI: Now, if you want to  
17 re -- you know, you want to redo your thing,  
18 that's up to you, but we have to make a motion  
19 tonight to deny the application that's currently  
20 in front of us.

21 MR. MULKAY: I -- I would ask, is --

22 THE SECRETARY: Motion to deny the  
23 application by Mr. Bonacci.

24 MR. MULKAY: Before -- I don't know if that  
25 was a motion. I think he was just --

1 VICE CHAIRMAN BONACCI: Yeah, no. I got to  
2 make a motion. We've got to move on. We've got  
3 to cut some stuff off the agenda, otherwise it  
4 just -- it's like a snowball effect. It's going  
5 to go on forever.

6 THE SECRETARY: All right.

7 Is a motion on the table to deny the  
8 application by Mr. Bonacci.

9 Any second the motion?

10 MR. GRULLON: Second the motion.

11 THE SECRETARY: Second by Mr. Grullon.

12 Roll call on the motion to deny this  
13 application.

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: Five in favor.

25 Motion carries.

1     **DISCUSSION:**

2

3             VICE CHAIRMAN BONACCI:    Okay.

4             Just want to let everybody know that we  
5 have about an hour and a half left -- an hour and  
6 20 minutes before we wrap up our meeting at ten  
7 o'clock.

8             Should I mention the special meeting?

9             MR. PANEQUE:    Yeah, but wait a second.

10            VICE CHAIRMAN BONACCI:    Okay.

11            MR. PANEQUE:    Mr. Mulkay, you have one  
12 left?

13            MR. MULKAY:    Yeah.    I have one left.

14            MR. PANEQUE:    That's a mixed use building  
15 --

16            MR. MULKAY:    Cuevas.

17            MR. PANEQUE:    -- with social hall.

18            MR. MULKAY:    Yup.

19            MR. PANEQUE:    Okay.    I'm thinking that we  
20 may be able to do this one and this one.    What do  
21 you think?

22            VICE CHAIRMAN BONACCI:    Five and 6?

23            MR. PANEQUE:    Yeah.

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

1           VICE CHAIRMAN BONACCI:   Okay.   Let's see if  
2 we get to 6, sure.

3           MR. PANEQUE:   Let me just --

4           Ms. Pereiras?

5           MS. PEREIRAS:   Yes.

6           MR. PANEQUE:   Just in case we can get to  
7 you, all right, are you ready to proceed on 3305  
8 Pleasant Avenue?

9           MS. PEREIRAS:   Absolutely.

10          MR. PANEQUE:   Okay.

11          Let's -- Mr. Mulkay's next, and then if we  
12 have time, we'll get at least your one  
13 application in.

14          Okay?

15          All right.

16                           \*   \*   \*

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1 **Bienvenida Cuevas - 1707 New York Avenue:**

2

3 THE SECRETARY: Next application on  
4 tonight's agenda, Bienvenida Cuevas, 1707 New  
5 York Avenue.

6 Mr. Mulkay, please?

7 MR. MULKAY: Yes.

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

10 MR. PANEQUE: For the record, I've been  
11 provided with the following documentation by Mr.  
12 Mulkay:

13 I have an Affidavit of Service, indicating  
14 that notice of tonight's hearing was published in  
15 The Jersey Journal on September 20<sup>th</sup>, 2018. And  
16 that notices of the meeting was sent to all  
17 property owners within the 200 foot radius.

18 I've also been provided, in Exhibit A, with  
19 a copy of the notice that was served. Said  
20 notice says that on October 11<sup>th</sup> at six o'clock,  
21 the Board will hear the application with respect  
22 to the property at 1707 New York Avenue.

23 I've also been provided with a copy of the  
24 Affidavit of Publication. Said Affidavit of  
25 Publication has a copy of the notice that was

1 published indicating that on 11<sup>th</sup> day of October,  
2 at six o'clock, the notice for 1707 New York  
3 Avenue will be heard by this Board.

4 I also have been provided with the list  
5 that was done by the Tax Assessor's Office for  
6 the property in question, 1707 New York Avenue,  
7 consisting of five pages, listing all property  
8 owners within the 200 foot radius.

9 Mr. Mulkay has also provided me with the  
10 official certified mail receipts, with a postmark  
11 date of September 26 and the notices, certified  
12 mail return receipt notices that have come back  
13 to date, as well as some of the envelopes that  
14 have been returned as unclaimed or unable to  
15 forward.

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

19 MR. MULKAY: Mr. Chairman, members of the  
20 Board, Alain Mulkay, M-U-L-K-A-Y, from Mulkay and  
21 Rendo, on behalf of the applicant, Bienvenida  
22 Cuevas.

23 Generally, this is an application for a  
24 mixed use property at 1707 New York Avenue.

25 Just by way of background, my client had

1 owned the property since 2003, for 15 years, but  
2 she occupied the property in its current use for  
3 approximately five years prior, a little bit  
4 longer than that, under a lease agreement. The  
5 property has been occupied and used in this  
6 manner for the last -- at least for the last 20  
7 years.

8 We have two experts today. Our first  
9 expert is Mr. Hayk, is an expert in architecture.  
10 I would ask that he be sworn in and recognized as  
11 an expert by this Board.

12 MS. DILLON: Sir, please raise your right  
13 hand.

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

16 MR. EKSHIAN: I do.

17 MS. DILLON: Please state your name and  
18 spell it for the record.

19 MR. EKSHIAN: Hayk Ekshian, H-A-Y-K.

20 MS. DILLON: H-A --

21 MR. EKSHIAN: Y-K.

22 MS. DILLON: Um hum.

23 MR. EKSHIAN: Last name, Ekshian,  
24 E-K-S-H-I-A-N.

25 MS. DILLON: Thank you.

1           MR. MULKAY: I would ask that the Board  
2 recognize him as an expert in architecture. He's  
3 a licensed architect in the State of New Jersey.

4           VICE CHAIRMAN BONACCI: Yeah. We recognize  
5 your qualifications.

6           Thanks.

7           MR. EKSHIAN: Okay. Thank you.

8           MR. MULKAY: Mr. Hayk, can you explain to  
9 the Board what your plans --

10          MR. EKSHIAN: Okay.

11          MR. MULKAY: -- explain to the Board what  
12 the proposed use of the property is?

13          MR. EKSHIAN: Currently, the first floor is  
14 being used as a social hall, assembly space. And  
15 the second floor is being used as an apartment,  
16 one -- three bedroom apartment.

17          The building is 1707 New York Avenue, is  
18 located between 17 and 18<sup>th</sup> Streets.

19          On the first floor, we have three assembly  
20 spaces, with utility spaces in the center, two  
21 bathrooms, storage spaces, and a kitchen.

22          There are three means of egress from the  
23 building, from the first floor, two from the side  
24 yard, goes into an alleyway, comes out to the  
25 street, and --

1           MR. MULKAY: And that alleyway, just for  
2 clarification, that alleyway is part of the  
3 property.

4           Correct?

5           MR. EKSHIAN: Yes, it is.

6           MR. MULKAY: So, it's a hallway that leads  
7 out to the front and a separate door.

8           MR. EKSHIAN: Yes, it does.

9           MR. MULKAY: Okay.

10          MR. EKSHIAN: And -- and another means of  
11 egress from the front of the building.

12          On the second floor, we have three  
13 bedrooms, one kitchen, one bathroom and a living  
14 room. And this -- this apartment has one means  
15 of egress to the set of stairs in front of the  
16 building.

17          I've drawn the existing elevation, on  
18 drawing number three. The building is about 25  
19 feet high. It's -- it's an estimate.

20          So, we're asking for a use variance for --  
21 for the social hall and we're not proposing any  
22 new work to the building.

23          MR. MULKAY: No -- no construction. What  
24 you described to the Board and what your plans  
25 reflect is what's currently there.

1 Correct?

2 MR. EKSHIAN: Yes.

3 MR. MULKAY: And you visited the site.

4 MR. EKSHIAN: Yes.

5 MR. MULKAY: And as far you're aware from  
6 speaking to your client, this site has been used  
7 in this manner for over -- for the last 20 years.

8 MR. EKSHIAN: Yes.

9 MR. MULKAY: Correct?

10 MR. EKSHIAN: Yes.

11 MR. MULKAY: Okay.

12 If the Board was to approve this project,  
13 you would have to submit plans to the Building  
14 Department as part of the permitting process.  
15 You would make this comply with all life, fire  
16 and safety --

17 MR. EKSHIAN: Yes.

18 MR. MULKAY: -- requirements.

19 Correct?

20 MR. EKSHIAN: It will be brought up to  
21 Code. Yes.

22 MR. MULKAY: Okay.

23 There's no change proposed to the footprint  
24 of the building.

25 Correct?

1 MR. EKSHIAN: No. No, there isn't.

2 MR. MULKAY: Fine.

3 I have nothing further.

4 VICE CHAIRMAN BONACCI: Do you have any  
5 other testimonies?

6 MR. MULKAY: We do.

7 VICE CHAIRMAN BONACCI: Okay.

8 MR. MULKAY: Ms. Hartmann?

9 MS. DILLON: Ms. Hartmann was previously  
10 sworn.

11 MS. HARTMANN: Hi, again.

12 Okay. So, the subject site is a 3,125  
13 square foot interior rectangular parcel that's  
14 developed with this two story mixed use building.

15 The building contains two independent  
16 entries, with the entrance to the second floor  
17 apartment located on the southern part of the  
18 building, and the entry to the ground floor  
19 assembly hall on the northern entrance.

20 The subject site is located in your R low  
21 density residential district. This district  
22 permits one, two and three family homes, as well  
23 as, as a conditional use, clubs for civic,  
24 political, charitable, social services or  
25 veterans' organizations.

1           So, this application is for a conditional  
2 use. The -- a conditional use variance, I guess.

3           The immediate surrounding neighborhood  
4 consists of -- directly adjacent and north of the  
5 subject site is a small house of worship, with an  
6 alleyway that provides maybe eight to ten cars.  
7 It's a little -- if you pack them in. I'm not  
8 exactly sure how they do, but it's a  
9 substantially wide enough alley for -- for maybe  
10 eight to ten cars.

11           And adjacent to that is a small three story  
12 apartment building.

13           Directly adjacent and south of the subject  
14 site is a small two story apartment building that  
15 has interior parking on the ground floor. And  
16 adjacent to that is a four story apartment  
17 building.

18           Across from the subject site are two  
19 apartment buildings. The northern apartment  
20 building is a six story building with interior  
21 parking and the southern building is a four story  
22 apartment building that doesn't provide off-  
23 street parking.

24           And just to kind of orient you a little  
25 further, north is the Emerson Middle School,

1 | which spans both sides of the road.

2 |         The application proposes to legalize this  
3 | existing local nonprofit assembly use and the  
4 | existing three bedroom apartment.

5 |         Not only has this group occupied the  
6 | building for the last 20 years, in the  
7 | configuration that it is, but in -- around 2003,  
8 | they purchased the property.

9 |         And it is a local nonprofit they use for  
10 | gathering and for small meetings. You really  
11 | need to get maybe from them what they do, but  
12 | it's a -- a meditation and their -- their goal is  
13 | to better the human race, is what I was -- what I  
14 | was told.

15 |         They give lectures and things of that  
16 | nature. They occupy it with between 15 and 20  
17 | people at a time, is their largest, kind of,  
18 | group occupation. And they'll all from the --  
19 | the neighborhood, so they generally walk to the  
20 | site.

21 |         The submitted plan again shows an office.  
22 | It has three separate assembly spaces, a kitchen,  
23 | storage rooms and bathrooms. And then, the  
24 | second floor has a three bedroom apartment, which  
25 | has a kitchen, a living room and a full bathroom.

1           Again, no off-street parking is provided.

2           The site itself and -- and the development  
3 of the site is -- has a significant number of  
4 existing nonconforming conditions that will not  
5 be changed by the proposed use or the existing  
6 use. It's the lot size, it's lot width, it's  
7 front yard setback, it's side yard setbacks, it's  
8 rear yard setback, building coverage, impervious  
9 surface coverage and off-street parking.

10           So, it's -- it's typical of a lot of  
11 existing buildings that have been built years ago  
12 prior to zoning and now don't comply.

13           So, generally conditional uses is a use  
14 that's suitable to the zoning district, but it's  
15 not permitted in every location.

16           So, the test really is -- it's -- you know,  
17 a conditional use applicant's inability to comply  
18 with some of the Ordinances. Condition is not  
19 necessarily or materially effecting the  
20 appropriateness of the use, but we do need to  
21 show the positive and negative criteria to permit  
22 this use.

23           So, I reviewed the City's Master Plan and  
24 from a broad stroke, if you will, it does  
25 continue to preserve the character of the

1 community. Again, it provides a balance of land  
2 uses and balanced development patterns. It -- it  
3 -- excuse me -- protects and preserves the  
4 established character of the neighborhood, the  
5 residential character. It provides a broad range  
6 of housing choices.

7           And I believe given the -- the nonprofit  
8 aspect of the use and the civic use, it improves  
9 the quality of life for the residents of Union  
10 City.

11           It continues to maintain the character of  
12 this mixed use residential neighborhood, again,  
13 which contains small apartment buildings, a  
14 church, Emerson Middle School, and as part of the  
15 immediate neighborhood, and as far as the greater  
16 neighborhood, there's a variety of mixed  
17 commercial and residential uses along this major  
18 corridor.

19           With regards to the Municipal Land Use Law,  
20 I believe it -- it is supported, goals and  
21 objectives.

22           In particular, goal A, which is to promote  
23 the public health, safety and welfare; to promote  
24 general establishment of the appropriate  
25 population densities; and to provide sufficient

1 space for appropriate -- excuse me -- locations  
2 for a variety of uses and they would be  
3 agriculture, residential, commercial. And in  
4 this particular instance, a civic use.

5 I don't believe that the requested  
6 variances will have any substantial impact or  
7 detriment to the public good or the intent and  
8 purpose of your zone plan.

9 I think the legalization of this use, it  
10 contains a small local nonprofit. It has an  
11 existing three bedroom apartment that's been here  
12 for over 20 years, and probably more, as far as  
13 that's concerned. It fits into the fabric of the  
14 neighborhood and does not significantly tax the  
15 available on-street parking.

16 It is compatible with the immediate  
17 neighborhood and you know, I did -- I did  
18 question the applicant to find out if there's  
19 been any issues with regards to noise and -- you  
20 know, assembly, and the response I got was there  
21 have been no summonses, no issues, no one asking  
22 them to keep it down, or that -- in fact, they do  
23 a lot of meditation. So, I think they're pretty  
24 quiet.

25 VICE CHAIRMAN BONACCI: Do you have your --

1 your client is not going to testify?

2 MR. MULKAY: She's here and she can  
3 testify. She speaks a little bit of English, but  
4 she's here to testify if you would like to hear  
5 from her.

6 VICE CHAIRMAN BONACCI: We'll see if it's  
7 necessary first.

8 MR. MULKAY: Okay.

9 VICE CHAIRMAN BONACCI: I don't want to  
10 make her --

11 MR. MULKAY: I just -- I just approached  
12 and I asked her, how's her English? I always  
13 speak to her in Spanish.

14 VICE CHAIRMAN BONACCI: Right.

15 MR. MULKAY: And she said her English was a  
16 little weak.

17 VICE CHAIRMAN BONACCI: All right.

18 MR. MULKAY: But if we need to, I can  
19 interpret if you'd like.

20 VICE CHAIRMAN BONACCI: All right.

21 Let's see if we need to get to that.

22 MR. MULKAY: I think we got the use and the  
23 volume of the use, the number of people that  
24 typically use it.

25 As I testified before, you got it from the

1 expert, through the architect.

2           They've been there over 20 years occupying  
3 it this way. And again, this came up, the same  
4 issue. They went in for permits and the Building  
5 Department saw it and said, it's not a permitted  
6 use -- that means this is not a permitted use.

7           VICE CHAIRMAN BONACCI: For the social  
8 hall.

9           MR. MULKAY: For the social hall. Correct.

10          VICE CHAIRMAN BONACCI: But everything was  
11 okay with the apartment.

12          MR. MULKAY: I think with both. There's no  
13 construction -- there's no -- as you can tell  
14 from the plans, there's no full bathroom on the  
15 ground floor. It's only a half bath. It's been  
16 occupied this way since they bought -- since they  
17 rented it and since they bought it.

18          VICE CHAIRMAN BONACCI: My question though  
19 is --

20          MR. MULKAY: A social hall.

21          VICE CHAIRMAN BONACCI: -- according to the  
22 Building Department, there was no issue with the  
23 apartments.

24          MR. MULKAY: As far as we know. Correct.  
25 We were told it was just not a permitted use and

1 | that's why we're here.

2 |           VICE CHAIRMAN BONACCI: The permitted use  
3 | -- the -- the not permitted use was the social  
4 | hall.

5 |           MR. MULKAY: Correct.

6 |           MS. HARTMANN: Correct.

7 |           And the reason --

8 |           MR. MULKAY: Right.

9 |           MS. HARTMANN: -- why we need a conditional  
10 | use variance is -- and I -- I probably glossed  
11 | over it quickly, but we're required to meet the  
12 | industrial use standards and schedule. And some  
13 | of those we don't meet because of the existing  
14 | building and its configuration.

15 |           VICE CHAIRMAN BONACCI: Okay.

16 |           I'm going to hold off on my questions until  
17 | -- unless you guys have any questions for either  
18 | Mr. Mulkay, the architect, or Ms. Hartmann? Save  
19 | mine until after.

20 |           MR. GRULLON: I don't have any questions.

21 |           MS. GUTIERREZ: No.

22 |           VICE CHAIRMAN BONACCI: Members of the  
23 | public, any questions?

24 |           MR. PRICE: Larry Price, still under oath.

25 |           I have a question.

1 First, what does the memo from the Building  
2 Department say is the existing use of these?

3 VICE CHAIRMAN BONACCI: I have the memo  
4 here from Mr. Spatz. That's what I've been  
5 glancing over.

6 MR. PRICE: Oh, but --

7 MR. GRULLON: Here's the building  
8 department one. Commercial.

9 VICE CHAIRMAN BONACCI: Okay.

10 The memo from the Building Department says  
11 that according to Department records, Building  
12 Department records, the property located at 1707-  
13 09 New York Avenue, Block 90, Lot 3, was  
14 originally a commercial structure. It doesn't  
15 say anything about a social hall. It just says a  
16 commercial structure.

17 MR. PANEQUE: Mr. Price, and members of the  
18 Board, attached to that memo is also the 1972-'73  
19 assessment card.

20 MR. PRICE: Yes.

21 MR. PANEQUE: And that assessment card  
22 indicates that the first floor was occupied as a  
23 store and the second floor was occupied as a --  
24 the notation here is four plus B, which I'm  
25 assuming it's a four bedroom. Okay.

1           So, back to 1972, it does show that we had  
2 a mixed use there, with a store. Doesn't say  
3 what kind of store. Probably some kind of  
4 grocery store, or something to that effect.

5           MR. PRICE: Right.

6           MR. PANEQUE: I did Google it, and like I  
7 shared it with our -- with our Chair -- Vice  
8 Chairman here, and I don't know if Mr. Mulkay has  
9 a -- any picture with it, but this property is  
10 the one that is right next to the -- the church  
11 that actually came before this Board not too long  
12 ago that we -- we gave an approval for some  
13 additions that they did.

14           It's -- let me enlarge it for you so you  
15 can better --

16           MS. HARTMANN: This is positive.

17           MR. MULKAY: Yeah.

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

20           MR. PANEQUE: I'll be right with you.

21           Oh, there we go.

22           It's -- it's this little house right in the  
23 middle there. And it's right adjacent to the  
24 church.

25           MR. PRICE: Correct.

1           And it's the one that has Gnostic or  
2 something theologic, whatever.

3           MR. PANEQUE: Well, yeah. And it -- it's  
4 definitely -- I mean, the ground floor, we have  
5 store window.

6           VICE CHAIRMAN BONACCI: It looks like it's  
7 commercial.

8           MR. PANEQUE: It looks commercial. And  
9 back to 1972 and '73, it was a store, with an  
10 apartment above.

11           And I'm no expert, but that building looks  
12 like it's been there probably as long as I've  
13 been alive.

14           MR. PRICE: That's kind of the point that  
15 I'm sort of leading up to.

16           Plus you know, this is -- this site happens  
17 to be far enough from where I live that I -- you  
18 know, I've lived in Union City since 1968, so I  
19 went by this property then. And I always --  
20 frankly, I always remember that Gnostic -- or  
21 however they say it --

22           MS. HARTMANN: Gnostic.

23           MR. PRICE: -- being -- whatever.

24           MS. HARTMANN: And that's what they are.  
25 Yes.

1 MR. PRICE: Now, my question to you is,  
2 you're asking for a D-1 use variance.

3 MS. HARTMANN: No. I'm asking for a  
4 conditional use variance.

5 MR. PRICE: A what?

6 MS. HARTMANN: Conditional.

7 MR. PANEQUE: That would be --

8 MS. HARTMANN: Civic clubs are permitted as  
9 a conditional use and are required to utilize the  
10 industrial --

11 MR. PRICE: Okay.

12 MR. PANEQUE: That's a D-3, Ms. Hartmann.

13 MS. HARTMANN: That's a D-3.

14 MR. PRICE: Yeah.

15 MS. HARTMANN: That's right.

16 MR. PRICE: It would be a D-3. So, you  
17 don't need a --

18 MS. HARTMANN: No.

19 MR. PRICE: Clubs. Okay.

20 MS. HARTMANN: Okay. It's civic  
21 organizations, social clubs, veterans  
22 organizations, as much as clubs, and nonprofits  
23 --

24 MR. PRICE: Okay.

25 MS. HARTMANN: -- are required.

1 MR. PRICE: My real question is, I see the  
2 words -- you know, or the phrase social hall, and  
3 I have visions of drunken orgies on --

4 MR. MULKAY: This is --

5 MR. PRICE: -- New York Avenue.

6 VICE CHAIRMAN BONACCI: Whoa. Whoa.

7 MR. PRICE: You know --

8 MR. MULKAY: This is quite the opposite.

9 MR. PRICE: Which is the --

10 MR. MULKAY: You see -- you see the wording  
11 on the --

12 MR. PRICE: Well, that's the place next  
13 door.

14 MR. MULKAY: No, no.

15 MR. PRICE: Yeah.

16 MR. MEDINA: That's the neighbor.

17 MR. MULKAY: You're right. That is the  
18 place next door. Yeah.

19 MR. MEDINA: It's not that kind of place.

20 MR. MULKAY: No. It's not -- it's not that  
21 kind of an organization.

22 MR. PRICE: Okay.

23 As long -- the -- the truth of the matter  
24 is that I think it was a preexisting use. Pretty  
25 good evidence it was a preexisting use in 1974,

1 | when we adopted the original zoning in this  
2 | space.

3 |         And I would argue there was a store -- you  
4 | know, it was commercial activity. And I would  
5 | argue that -- you know, as long -- the use can  
6 | change over time, as long as it's substantially  
7 | similar. And I would argue that this probably is  
8 | substantially similar.

9 |         And so, in fact, I have a feeling -- you  
10 | know, if any variance would be required, it'd be  
11 | a D-2 variance, but there's no expansion here. I  
12 | think, in fact -- you know, they don't probably  
13 | need any variance, except to satisfy the Building  
14 | Department.

15 |         But it would look to me like they've got --

16 |         MS. HARTMANN: That's the God we always  
17 | have to --

18 |         MR. PRICE: They had --

19 |         MS. HARTMANN: -- satisfy.

20 |         MR. PRICE: They had an -- they had an  
21 | original use and as the -- you know, the hall  
22 | that they have is substantially similar to that  
23 | original use.

24 |         And so, they could -- they could ask for  
25 | whatever, but it's simpler to just give them a D-

1 2.

2 But I -- I don't even think any variances  
3 are required, frankly.

4 MR. PANEQUE: Thank you, Mr. Price.

5 VICE CHAIRMAN BONACCI: Thanks, Mr. Price.

6 MS. GUTIERREZ: Thank you, Mr. Price.

7 MR. GRULLON: Thank you.

8 VICE CHAIRMAN BONACCI: Any other members  
9 of the public for any of the -- anyone who  
10 testified on this application?

11 All right.

12 Closed to the public.

13 I just have a couple of issues with this.  
14 Okay?

15 MS. HARTMANN: Yes.

16 VICE CHAIRMAN BONACCI: Okay. It's the  
17 word -- it's the -- I'm going to agree with Mr.  
18 Price with the -- we're opening up a can of worms  
19 if we grant this as a social hall. It looks --  
20 according to the -- according to the Building  
21 Department records, it says commercial. Looks  
22 like it's commercial. If that was what you guys  
23 wanted is commercial on the ground floor or  
24 industrial, that's different than us granting  
25 permission for a social hall, which opens up the

1 can of worms to what's going on over there. Is  
2 alcohol taking place there?

3 MR. MULKAY: Well, --

4 VICE CHAIRMAN BONACCI: Is there noise?  
5 It's close to a school zone.

6 MS. HARTMANN: So -- so maybe if we --

7 VICE CHAIRMAN BONACCI: I'm -- I'm sorry.

8 MS. HARTMANN: I'm sorry.

9 VICE CHAIRMAN BONACCI: Let me just get to  
10 this too.

11 MS. HARTMANN: I apologize.

12 VICE CHAIRMAN BONACCI: And also, like I  
13 had said earlier, we go by Mr. Spatz's  
14 memorandum.

15 And again, this type of use, if it's going  
16 to be -- quote, unquote -- a social hall, it  
17 doesn't fit with low density residential.

18 There are seven findings that don't  
19 conform. I understand that they're preexisting  
20 nonconforming structures, but if it's an  
21 industrial space that's short 20 parking spaces,  
22 that would be a lot different than a social hall  
23 that would be short 20 parking spaces.

24 So, that's the -- the issue that I have in  
25 granting the variance for that particular use, as

1 a social hall.

2 MS. HARTMANN: So, maybe if we defined it  
3 for you, even though --

4 VICE CHAIRMAN BONACCI: Or if you --

5 MS. HARTMANN: -- it says that.

6 VICE CHAIRMAN BONACCI: -- called it  
7 something else, something that it looks more  
8 like.

9 MR. MULKAY: The non --

10 MS. HARTMANN: It is --

11 MR. MULKAY: We could call it a non --  
12 we'll call it what it is. It's a nonprofit  
13 organization, Gnostic Institute.

14 VICE CHAIRMAN BONACCI: Well, why not just  
15 stick with what the Building Department said,  
16 which is that it's an industrial use, or that  
17 it's more --

18 MR. MULKAY: But they won't permit --

19 VICE CHAIRMAN BONACCI: -- of a commercial  
20 use?

21 MR. MULKAY: They won't permit them to meet  
22 there because they're saying it's not a -- they  
23 can't have their meetings there.

24 This is a nonprofit organization, much like  
25 a Mason, much like a Mason or a lodge. And --

1 and it's actually less than a lodge, because a  
2 lodge implies the parties.

3       They don't have parties. Completely the  
4 opposite. They try to talk people into being --  
5 living -- living natural, living natural lives  
6 without the use of alcohol, without the use of  
7 drugs, without the use of --

8       VICE CHAIRMAN BONACCI: Yeah.

9       MR. MULKAY: -- any of that.

10       VICE CHAIRMAN BONACCI: I'm not debating --

11       MR. MULKAY: And because people --

12       Just -- if you could just let --

13       VICE CHAIRMAN BONACCI: Sure.

14       MR. MULKAY: -- me finish?

15       VICE CHAIRMAN BONACCI: Yeah.

16       MR. MULKAY: So -- so the idea is, the  
17 reason that we're here is because the Building  
18 Department took the position quite the opposite  
19 of exactly what you're taking the position now is  
20 that the use that they're using now --

21       VICE CHAIRMAN BONACCI: Right.

22       MR. MULKAY: -- doesn't conform with a  
23 commercial space. And therefore, we need to go  
24 in and it was their suggestion that we need to go  
25 in and use the terms social hall, which is why

1 we're here.

2           It's quite unfair to put them on that  
3 notice and tell them that. We don't have the  
4 benefit of the --

5           VICE CHAIRMAN BONACCI: Right.

6           MR. MULKAY: -- David Spatz or the Building  
7 Department memo.

8           VICE CHAIRMAN BONACCI: Right.

9           MR. MULKAY: And they're telling us to use  
10 that terminology.

11           But we have no problem using the  
12 terminology that the Chairman feels comfortable  
13 with. It's understood what the use is and what  
14 we're trying to legalize here. And I think we're  
15 falling on semantics here.

16           VICE CHAIRMAN BONACCI: Um hum.

17           MR. MULKAY: And they're getting bounced --  
18 this is a town resident --

19           VICE CHAIRMAN BONACCI: Right.

20           MR. MULKAY: -- who's getting bounced from  
21 the Building Department to the Board, and now,  
22 from the Board back to the Building Department,  
23 or back to square one, without the benefit of the  
24 -- the -- your memo from David Spatz.

25           VICE CHAIRMAN BONACCI: Right.

1 MR. MULKAY: Your memo from the Building  
2 Department. This is the first time -- it's  
3 unfair that it's getting thrown to us tonight.

4 VICE CHAIRMAN BONACCI: Right.

5 MR. MULKAY: And now, you're in a position  
6 where you're going to -- if I'm hearing what  
7 you're saying --

8 VICE CHAIRMAN BONACCI: Um hum.

9 MR. MULKAY: -- is you have a problem with  
10 this and you're going to deny the application.  
11 Again, when they were set up --

12 VICE CHAIRMAN BONACCI: Right.

13 MR. MULKAY: -- by the Building Department  
14 to apply for this particular use.

15 VICE CHAIRMAN BONACCI: Right.

16 MS. HARTMANN: So, if we changed the use  
17 that's on your application to a social services  
18 organization, which is what they are, --

19 No, unless you know.

20 I mean, it is not a social hall --

21 VICE CHAIRMAN BONACCI: The issue --

22 MS. HARTMANN: -- in the sense --

23 VICE CHAIRMAN BONACCI: The issue that I  
24 have is not with your client's intention for the  
25 use. I'm not doubting it at all.

1 MR. MULKAY: They've been using it -- so  
2 we're clear --

3 VICE CHAIRMAN BONACCI: But let me --

4 MR. MULKAY: They've been using it for over  
5 20 years --

6 VICE CHAIRMAN BONACCI: Yeah.

7 MR. MULKAY: -- the same way.

8 VICE CHAIRMAN BONACCI: I understand that,  
9 but if we approved it as a social hall, and then  
10 somebody else occupied it and it still falls  
11 under that category of social hall, what's the  
12 next person going to do with it? Then we set  
13 that domino up to drop.

14 MR. MULKAY: But that's --

15 VICE CHAIRMAN BONACCI: That's the problem  
16 that --

17 MR. MULKAY: But --

18 VICE CHAIRMAN BONACCI: -- I have --

19 MR. MULKAY: But you can't --

20 VICE CHAIRMAN BONACCI: -- with granting it  
21 as a social hall.

22 MR. MULKAY: So -- so then, grant it as a  
23 commercial space, where they could have meetings.  
24 Because -- because --

25 VICE CHAIRMAN BONACCI: That's not what you

1 | guys asked for.

2 |       MR. MULKAY: Well because --

3 |       VICE CHAIRMAN BONACCI: You guys asked for  
4 | a social --

5 |       MR. MULKAY: Because the Building  
6 | Department asked us to --

7 |       VICE CHAIRMAN BONACCI: I understand that.

8 |       MR. MULKAY: So, we'll amend --

9 |       VICE CHAIRMAN BONACCI: We don't talk --

10 |       MR. MULKAY: -- the application today.

11 |       VICE CHAIRMAN BONACCI: Yeah. Right.

12 |       MR. MULKAY: So, we can amend the  
13 | application today, and you define it how you feel  
14 | that it should be. Everybody understands what  
15 | they're using it for. It's a nonprofit.

16 |       VICE CHAIRMAN BONACCI: Right.

17 |       MR. MULKAY: It's Gnostic organization,  
18 | without parties. No alcohol.

19 |       VICE CHAIRMAN BONACCI: Yeah.

20 |       MR. MULKAY: You can limit.

21 |       VICE CHAIRMAN BONACCI: If -- if you --

22 |       MR. MULKAY: You give the approval without  
23 | allowing parties or --

24 |       VICE CHAIRMAN BONACCI: If you were to come  
25 | back here with a more clear definition of what

1 | that use is going to be like, maybe like an  
2 | assembly hall or --

3 |         MR. MULKAY: So, let's call it an --

4 |         VICE CHAIRMAN BONACCI: Right.

5 |         MR. MULKAY: But to make them come back,  
6 | it's --

7 |         VICE CHAIRMAN BONACCI: But I just can't  
8 | grant it on the terms that it's --

9 |         MR. MULKAY: So, let's call it --

10 |         VICE CHAIRMAN BONACCI: -- going to be a  
11 | social hall.

12 |         MR. MULKAY: -- an assembly hall, which is  
13 | a permitted use, which is what they do. They're  
14 | -- it's exactly an assembly hall.

15 |         VICE CHAIRMAN BONACCI: Yeah.

16 |         MR. MULKAY: It was the Building Department  
17 | that used, in their summons to them --

18 |         VICE CHAIRMAN BONACCI: The -- the --

19 |         MR. MULKAY: -- it was the Building  
20 | Department --

21 |         VICE CHAIRMAN BONACCI: The best that --

22 |         MR. MULKAY: -- that used that language.

23 |         VICE CHAIRMAN BONACCI: The best that I can  
24 | give you tonight is if you come back with a more  
25 | clear definition of what the use will be, there's

1 a better chance that you'll gain approval from  
2 this Board.

3 So, I'm not going to make a motion right  
4 now. But I'm going to suggest that we clearly  
5 define what the use is that you guys are looking  
6 for, and that we don't just call it a social  
7 hall.

8 Because like I said, if it exchanges hands  
9 later, the property, then we approved a use for  
10 somebody else to use it as a social hall. And  
11 then, they can use their interpretation of --

12 MR. MULKAY: But -- but --

13 VICE CHAIRMAN BONACCI: -- what they want  
14 that to be.

15 MR. MULKAY: But -- but they can't, because  
16 they have to go to the Building Department.  
17 That's what the Building Department is for.

18 VICE CHAIRMAN BONACCI: Right.

19 MR. MULKAY: So, for example, the alcohol  
20 and the parties, they would have to go to the  
21 Building Department and get approval to do that.  
22 They would have to have -- if a new person comes  
23 in, a new owner comes in, they have to get a CO.  
24 And they would -- and you would be able to police  
25 it. It's not this Board's job to police that.

1 VICE CHAIRMAN BONACCI: Right.

2 MR. MULKAY: This Board has an application  
3 before it, this is what they're using it for.  
4 You're worried about a domino that may happen in  
5 the future, and that's why we have the police,  
6 the ABC Board --

7 VICE CHAIRMAN BONACCI: Right.

8 MR. MULKAY: -- and the Building  
9 Department.

10 If this changes hands, they need to apply  
11 for a CO, and the next person has to say what  
12 they're going to use it for, and they would have  
13 to get approvals. And if they approve -- if their  
14 use is going to have -- they're going to have  
15 parties, they're going to have social gatherings  
16 and they're going to serve alcohol there, they  
17 would have to come back before this Board.

18 VICE CHAIRMAN BONACCI: I need to know what  
19 the definition of that use is going to be.

20 MR. PANEQUE: Okay.

21 VICE CHAIRMAN BONACCI: And if I have a  
22 clearer definition --

23 MR. MULKAY: Right.

24 VICE CHAIRMAN BONACCI: -- than maybe we  
25 can make a determination on that.

1 MR. MULKAY: Right.

2 MR. PANEQUE: Mr. Mulkay, Vice Chairman,  
3 let's take a three minute adjournment.

4 I'm going to speak to the -- the Chairman  
5 as a sidebar here, and the Board. Okay. And  
6 maybe we can resolve this tonight.

7 MR. MULKAY: Okay.

8 Thank you.

9

10 (Whereupon, the Board recessed from 9:14  
11 p.m. to 9:18 p.m.)

12

13 THE SECRETARY: Have your attention,  
14 please?

15 Back on record.

16 MR. PANEQUE: Mr. Mulkay, we're back on the  
17 record.

18 I've had an opportunity to speak to the  
19 Board members and as well as to you, we're asking  
20 that, as part of your application, you narrow  
21 down the specific purpose for which your client  
22 wants to use this property.

23 Never mind that they've been using it as  
24 such but --

25 MR. MULKAY: Right.

1           MR. PANEQUE:  If you can enlighten this  
2 Board with more --

3           MR. MULKAY:  I -- I --

4           MR. PANEQUE:  -- information as to that.

5           MR. MULKAY:  I can.

6           So, I would like to amend the application  
7 here today and just to clarify the use, it's for  
8 an assembly hall, and it's for an assembly hall  
9 for a particular organization.

10           The name of the organization is the Circle  
11 for the Investigation of Gnostic Anthropology.

12           I have the constitution of the organization  
13 here.  It's a world organization, pretty much  
14 like the Masons.  They're throughout the entire  
15 world.  They're in Italy, they're all over the  
16 world.

17           And the purpose of the organization is to  
18 help guide people of all nations in educational,  
19 cultural, social and spiritual field, by means of  
20 conducting seminars and lectures that will guide  
21 the audiences in self-help, conducive to their  
22 advancement.

23           And they do this -- they go throughout the  
24 world.  They -- they just came back from Mexico.  
25 They've been in Central America.  They've been in

1 Africa.

2 And they go around the world and they try  
3 to help people to teach them how to be -- how to  
4 lead better lives with the stuff that they have  
5 to them.

6 That's the purpose of this organization.  
7 They've been doing it for 20 years here. They've  
8 been meeting for 20 years here and they meet to  
9 meditate and to plan and to do stuff, to go out  
10 around the world and do stuff. They're going to  
11 Italy next year.

12 I have the constitution here and I would  
13 like to submit it to the Board, if we can. It's  
14 not -- as I realize, it's not the entire  
15 constitution, but at least the first page, which  
16 includes the purpose of the organization.

17 MR. PANEQUE: Okay.

18 We'll have that marked as P-1.

19 MS. DILLON: A-1.

20 MR. PANEQUE: A-1.

21 Back again. Back in my trial days.

22 A-1.

23

24 (Whereupon, Circle for the Investigation of  
25 the Gnostic Anthropology Inc., (CIGA)

1 Constitution, Page One, was received and marked  
2 as Exhibit A-1.)

3

4 VICE CHAIRMAN BONACCI: So -- so we're  
5 going to amend the use --

6 MR. PANEQUE: Well, just so that we're  
7 clear, --

8 MR. MULKAY: Yes.

9 MR. PANEQUE: -- Mr. Mulkay, are you  
10 amending your application seeking that this Board  
11 grant a specific approval for the specific use of  
12 this particular organization at that  
13 establishment, and nothing else?

14 MR. MULKAY: Correct.

15 MR. PANEQUE: Okay.

16 So, if I may just read that into the  
17 record?

18 The request that is being asked is for this  
19 Board to approve the corporation operating as  
20 Circle for the Investigation of Gnostic  
21 Anthropology, Inc., in parenthesis, C-I-G-A --  
22 okay -- to continue its assembly meetings at the  
23 location which is the subject of this  
24 application.

25 The -- if the Board deems fit to approve

1 | this application, there will be a restriction  
2 | placed, along with the Resolution, that no other  
3 | use can be implemented at this location --

4 | MS. GUTIERREZ: Um hum.

5 | MR. PANEQUE: -- that goes outside the  
6 | scope of what the bylaws, rules and regulations  
7 | of this organization are.

8 | Now, Mr. Mulkay, you've provided us with  
9 | just the first page of the bylaws.

10 | MR. MULKAY: Correct.

11 | MR. PANEQUE: I'm going to implore you and  
12 | ask you that you provide us with the complete --

13 | MR. MULKAY: I will.

14 | MR. PANEQUE: -- set of the --

15 | MR. MULKAY: I will do, if I just --

16 | MR. PANEQUE: -- bylaws so that it can  
17 | become part of the record, so that later on, this  
18 | organization doesn't turn around and -- and  
19 | conduct other activities that were not  
20 | represented to this Board as having been  
21 | conducted.

22 | MR. MULKAY: Will do.

23 | MR. PANEQUE: Okay?

24 | So, --

25 | VICE CHAIRMAN BONACCI: Yeah.

1 MR. PANEQUE: -- with that being said, the  
2 application, as requested to be amended, is  
3 deemed amended and that is what this Board has  
4 now to decide on.

5 VICE CHAIRMAN BONACCI: Yeah. Mr. Mulkay  
6 -- you know, I'm not trying to get you worked up,  
7 I was just looking for a more clear definition of  
8 what the use was going to be, because if we just  
9 went with social hall, that's like a very vague  
10 thing, a social hall.

11 MR. MULKAY: Understood.

12 VICE CHAIRMAN BONACCI: I mean, look how  
13 Mr. Price interpreted it.

14 MR. MULKAY: Right. I got it.

15 VICE CHAIRMAN BONACCI: Imagine how  
16 somebody else would interpret it.

17 MR. MULKAY: I got it.

18 VICE CHAIRMAN BONACCI: So, now, I feel a  
19 little bit more comfortable that we have it on  
20 record, as we know what's going to be going on  
21 there.

22 MS. GUTIERREZ: Um hum.

23 VICE CHAIRMAN BONACCI: So, with that  
24 condition, I'll make a motion to approve the  
25 application.

1 THE SECRETARY: Motion to approve the  
2 application by Mr. --

3 MS. GUTIERREZ: And I'm seconding.

4 THE SECRETARY: -- Bonacci.

5 Second by Ms. Gutierrez.

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

8 Mr. Bonacci?

9 VICE CHAIRMAN BONACCI: Yes.

10 THE SECRETARY: Ms. Gutierrez?

11 MS. GUTIERREZ: Yes.

12 THE SECRETARY: Mr. Grullon?

13 MR. GRULLON: Yes.

14 THE SECRETARY: Mr. Pressey?

15 MR. PRESSEY: Yes.

16 THE SECRETARY: Mr. Medina?

17 MR. MEDINA: Yes.

18 THE SECRETARY: Five in favor.

19 Motion carries.

20 Thank you, Mr. Mulkay.

21 MR. MULKAY: Thank you.

22 Thank you.

23 MS. GUTIERREZ: You're welcome.

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

1     **3305 Pleasant Ave., LLC - 3305 Pleasant Avenue:**

2

3             THE SECRETARY: Next application on  
4 tonight's agenda, 3305 Pleasant Avenue.

5             Ms. Pereiras, please?

6             MS. PEREIRAS: Thank you.

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

9             THE SECRETARY: Okay, 3305 Pleasant Avenue,  
10 LLC.

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

14            I have a Certification as to publication  
15 and service indicating that notice of tonight's  
16 hearing was sent to all property owners within  
17 the 200 foot radius of the property in question,  
18 3305 Pleasant Avenue, Union City, New Jersey, as  
19 well as having been published in the newspaper,  
20 The Jersey Journal.

21            I have also been provided with an Affidavit  
22 of Publication from The Jersey Journal. Said  
23 Affidavit of Publication indicates that on  
24 September 29<sup>th</sup>, the notice was published.

25            That notice reads that on 11<sup>th</sup> day of

1 | October, six p.m., this Board will hear an  
2 | application with respect to 3305 Pleasant Avenue  
3 | at the location of 3715 Palisade Avenue, the  
4 | Courthouse.

5 | I just couldn't find it in the notice.

6 | MS. PEREIRAS: Okay.

7 | MR. PANEQUE: Sorry.

8 | MS. PEREIRAS: You made me nervous.

9 | MR. PANEQUE: No. It's -- I'm trying to --  
10 | my eyes are not focusing as well --

11 | MS. PEREIRAS: Oh.

12 | MR. PANEQUE: -- as they should.

13 | I've also been provided with the certified  
14 | mail receipts that have a stamp date of September  
15 | 28<sup>th</sup>, as well as the notice from the Tax  
16 | Assessor's Office, with a date of September 24<sup>th</sup>,  
17 | listing all property within the 200 foot radius  
18 | of 3305 Pleasant Avenue. Set consists of nine of  
19 | nine pages.

20 | I've also been provided with the green  
21 | cards that have come back to date, as well as  
22 | some of the envelopes that have been returned  
23 | unclaimed or unable to forward.

24 | Based on the documentation that's been  
25 | provided, this Board has jurisdiction to proceed

1 and hear this matter.

2 MS. PEREIRAS: Thank you, counsel.

3 Again, Bianca Pereiras, on behalf of the  
4 applicant, for property at 3305 Pleasant Avenue.

5 This property actually has a little bit of  
6 a history. The prior owner came before this  
7 Board, back in 2006, and obtained approvals to do  
8 a three family at that time.

9 When my client purchased this property last  
10 year, we came in, under the Permit Extension Act,  
11 and requested an extension, and this Board  
12 granted that extension.

13 However, when my client went to the  
14 Building Department with construction documents  
15 and a copy of the Resolution, the Building  
16 Department asked for the signed drawings from  
17 2006.

18 Your Board Secretary looked tirelessly for  
19 them, but he could not find them anywhere.

20 I think this is somewhat of a blessing in  
21 disguise, because now we're here before this  
22 Board again for a three family, but we're able to  
23 make a little bit of a better application.

24 We're able to mimic what is required of us  
25 in the Re-Examination Report, so I think we have

1 a much better project for this Board.

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

5 MR. PEREIRAS: I recognize I am still under  
6 oath, still Manny Pereiras.

7 MS. PEREIRAS: Mr. Pereiras, are you  
8 familiar with 3305 Pleasant Avenue?

9 MR. PEREIRAS: I am.

10 MS. PEREIRAS: And did you prepare the  
11 drawings before the Board?

12 MR. PEREIRAS: I did.

13 MS. PEREIRAS: And would you kindly  
14 describe the project?

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

16 For purposes of the record, the same  
17 drawings that were submitted to the Board are the  
18 drawings to the easel on my right.

19 The Board has heard me present this same  
20 project already multiple times. What we did is,  
21 we took the Master Plan and we basically copied  
22 exactly what it says to a T.

23 Now, there are some differences in  
24 tonight's application from what you've seen in  
25 the past, and that's because of the site itself.

1           We have a slightly irregular site, even  
2 though it conforms with our requirements. We  
3 have, in the front, it's 26.13 feet wide. In the  
4 rear, it's 24.07 feet.

5           So, we have a total lot size that is 2,509  
6 square feet. So, it's bigger than our minimum,  
7 but it's -- that skew kind of triggers another  
8 side yard variance in the back, and I'm going to  
9 go into in detail.

10           So, our application, and I will note, first  
11 and foremost, the reason we're before this Board  
12 is because the new -- the existing Ordinance  
13 still has this marked as an RM zone. So, we have  
14 a variance, a use variance for our three family.  
15 But it would be in accordance with the -- the  
16 Master Plan and with the future Ordinance, in the  
17 R zone, and fully adhering in the new -- in the  
18 future Ordinance of Union City.

19           So, just to turn now to page Z02, we see  
20 our site plan. We pushed our building back ten  
21 feet from the front. We pushed our building away  
22 three feet on the -- on the one side. We pushed  
23 our building back, actually, almost three feet  
24 along the front, because as the building, we  
25 wanted to keep it square, we wanted to make sure

1 | that the parking worked.

2 |         Since the site gets a little bit shorter in  
3 | the top, it's only one foot two at that point  
4 | back there. But the overwhelming majority of the  
5 | building is set back even all the way up to two  
6 | foot 11, so it tapers from 2.11 to one foot two,  
7 | all the way in the back, whereas the Ordinance  
8 | says two feet.

9 |         So, we're -- we're not perfectly in  
10 | compliance there, but this is the blind side of  
11 | the building, it's tapering along the back. I  
12 | think it's perfectly suitable for this area and I  
13 | think the site conditions really explained why we  
14 | had to do that as far as variance.

15 |         Everything else will be in compliance with  
16 | what the Master Plan suggests. We have five feet  
17 | from the rear yard and -- and coverage as  
18 | permitted in the Master Plan. So, we have a  
19 | coverage of 95.5 percent lot coverage.

20 |         Our parking is the exact diagram that the  
21 | Master Plan recommends, which is four cars along  
22 | -- tandem along the side, and two additional cars  
23 | on the side of the building. We're proposing one  
24 | curb cut, 13 feet wide. We're proposing  
25 | landscaping along the front on each side of the

1 | curb cut and on the side yard setback, so that we  
2 | have some nice greenery in the front of this  
3 | building.

4 |         This is an elevator building. And then, we  
5 | have pancake above is three levels of three  
6 | bedroom apartments.

7 |         You come up the elevator or the stairs, and  
8 | you're -- you're presented with a large dining  
9 | room, living room, kitchen area, then three  
10 | bedrooms, including one master bedroom.

11 |         And then, finally, because we have  
12 | condensers on the roof, we have both stairs  
13 | heading up to the roof. Very simple, flat roof  
14 | so that we're in compliance with all height  
15 | requirements of the Master Plan.

16 |         However, our dimension to the top of our  
17 | parapet is at 45 feet, which is another variance  
18 | in the -- actually, we're in the RM district, so  
19 | building height -- actually, we're permitted at  
20 | 45 feet. So, we are permitted and no variance is  
21 | required as far as height, but we're in  
22 | compliance with what the Master Plan says.

23 |         Our building materials.

24 |         We have metal panels, metal siding, and  
25 | vinyl siding throughout the building.

1 I do want to make one note.

2 For some reason, the side elevations say  
3 metal wood siding. Obviously, a typographical  
4 error. Just for it to be on the record, when the  
5 Building Department reviews it, that will be  
6 vinyl siding along the side of the building, and  
7 along the rear of the building it will be vinyl  
8 siding, which is in compliance with the -- the  
9 Ordinance.

10 I could speak at length, but I think this  
11 is a very simple one.

12 VICE CHAIRMAN BONACCI: Just to clarify,  
13 okay.

14 So, RM zone, medium residential.

15 MR. PEREIRAS: Yes.

16 VICE CHAIRMAN BONACCI: And this would be  
17 three unit, one bedroom that's totally medium  
18 residential.

19 MR. PEREIRAS: So, it will be --

20 VICE CHAIRMAN BONACCI: I mean, it -- what  
21 I'm saying is, it totally fits the description of  
22 the use as medium residential.

23 MR. PEREIRAS: Our proposed use of  
24 residential I think fits well in this  
25 neighborhood and it fits absolutely well with the

1 intent of our Master Plan. And more than likely,  
2 our future Ordinance.

3 VICE CHAIRMAN BONACCI: And you were able  
4 to provide six total parking spaces, which is  
5 excellent because it takes away from the hardship  
6 of the parking.

7 MR. PEREIRAS: Yes, sir.

8 VICE CHAIRMAN BONACCI: You already  
9 testified to the safety component.

10 The elevators fits the handicap  
11 requirements.

12 You gave us material testimony, as to the  
13 materials that are going to be used.

14 And it conforms with our future Master  
15 Plan.

16 The one thing I just wanted to touch base  
17 on was, we talked a little bit about the height.  
18 So, the height requirement, four story, 45 feet  
19 and that's what you guys are, 45 feet, 40 is  
20 allowed. So, you're only off by five feet. So,  
21 you do, in fact, need a variance for that.

22 Right?

23 MR. PEREIRAS: Actually, I think in this  
24 district --

25 VICE CHAIRMAN BONACCI: Right.

1 MR. PEREIRAS: -- it's 45 feet.

2 VICE CHAIRMAN BONACCI: Okay.

3 MR. PEREIRAS: So, we're -- no variance is  
4 required and we're not --

5 VICE CHAIRMAN BONACCI: But even if you did  
6 --

7 MR. PEREIRAS: -- requesting a variance.

8 VICE CHAIRMAN BONACCI: -- it's only five  
9 feet.

10 MR. PEREIRAS: Right.

11 And I -- I believe the Master Plan has it  
12 at 45 feet.

13 VICE CHAIRMAN BONACCI: Okay.

14 MR. PEREIRAS: So, we're exactly where  
15 we're supposed to be.

16 VICE CHAIRMAN BONACCI: Okay.

17 I don't have anymore questions.

18 You guys good?

19 MR. GRULLON: No, we're good.

20 VICE CHAIRMAN BONACCI: Members of the  
21 public?

22 MR. GRULLON: No other questions.

23 MS. GUTIERREZ: We're good.

24 VICE CHAIRMAN BONACCI: Questions?

25 Closed to the public.

1 Hang on one sec.

2 Being that the positive impact on health,  
3 safety and welfare of the residents of the City,  
4 there's no substantial impact on traffic, no  
5 substantial impairment of Zoning Ordinance or  
6 Master Plan, and it meets the purposes of the  
7 Municipal Land Use Law, so with that, I'd like to  
8 make a motion to approve the application.

9 THE SECRETARY: Motion to approve the  
10 application --

11 MR. GRULLON: Second.

12 THE SECRETARY: -- by Mr. Bonacci.

13 Second by Mr. Pressey back there.

14 Roll call on the motion to approve this  
15 application.

16 Mr. Bonacci?

17 VICE CHAIRMAN BONACCI: Yes.

18 THE SECRETARY: 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: Five in favor.

2 Motion carries.

3 MS. PEREIRAS: Thank you all very much.

4 THE SECRETARY: Thank you.

5 VICE CHAIRMAN BONACCI: Yeah. Absolutely.

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1 **DISCUSSION:**

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3 VICE CHAIRMAN BONACCI: We just need to  
4 talk about --

5 MS. PEREIRAS: Sure.

6 VICE CHAIRMAN BONACCI: -- our special  
7 meeting.

8 MS. PEREIRAS: Sure.

9 VICE CHAIRMAN BONACCI: Mr. Paneque, do you  
10 want to touch base on that, for the date and what  
11 we're going to be carrying over to that special  
12 meeting?

13 MR. PANEQUE: If I may?

14 MS. GUTIERREZ: Let's continue.

15 VICE CHAIRMAN BONACCI: No, no, no, no.

16 MS. GUTIERREZ: We have half an hour.

17 VICE CHAIRMAN BONACCI: It's good. It's  
18 good. It's good.

19 MS. GUTIERREZ: Okay.

20 MR. PANEQUE: Why don't we try to clear  
21 this?

22 Are you ready for MBP Hoist -- Hoist?

23 MS. PEREIRAS: We can proceed on that one.

24 MR. PANEQUE: There will be one less --

25 MS. GUTIERREZ: Um hum.

1 MR. PANEQUE: We still have half an hour.

2 VICE CHAIRMAN BONACCI: Okay. Okay.

3 MS. PEREIRAS: Sure.

4 MR. PANEQUE: Yeah. And then we -- the

5 Resolution --

6 VICE CHAIRMAN BONACCI: And then --

7 MR. PANEQUE: Yeah.

8 VICE CHAIRMAN BONACCI: You got three.

9 MR. PANEQUE: Yup.

10 VICE CHAIRMAN BONACCI: Okay. Well, two,  
11 because one's going on November 1<sup>st</sup>.

12 MR. PANEQUE: Yup.

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1 MBP Hoist and Crane, LLC - 1221 New York Ave.:

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3 THE SECRETARY: Next application on  
4 tonight's agenda --

5 VICE CHAIRMAN BONACCI: Sorry about that.

6 THE SECRETARY: -- MBP Hoist and Crane,  
7 LLC, 1221 New York Avenue.

8 Ms. Pereiras, please?

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

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

14 I have a Certification as to publication  
15 and service, indicating that notice of tonight's  
16 hearing was provided to all property owners  
17 within the 200 foot radius, as well as having  
18 been published in the newspaper for property in  
19 question, which is 1221 New York Avenue, Union  
20 City, New Jersey.

21 I have an Affidavit from The Jersey Journal  
22 showing that notice of tonight's hearing, with  
23 respect to the property at 1221, was published on  
24 September 29, 2018.

25 I've also been provided with copies of the

1 certified mail receipt with a date of September  
2 28, 2018, stamped by the post office, as well as  
3 the notices that have come back, as well as the  
4 envelopes that have been returned either for  
5 unclaimed or not deliverable as addressed.

6 I have a list from the Tax Assessor's  
7 Office, with a date of September 24<sup>th</sup>, with  
8 respect to the property in question, 1221 New  
9 York Avenue, one of three pages, two of three and  
10 three of three, showing all property owners  
11 within the 200 foot radius.

12 Based on the information that's been  
13 provided, this Board has jurisdiction to proceed  
14 and hear this matter.

15 MS. PEREIRAS: Again, Bianca Pereiras, on  
16 behalf of the applicant.

17 This is for property located at 1221 New  
18 York Avenue.

19 Normally, a similar application would go  
20 before the Planning Board. Because we are  
21 located in the CN neighborhood commercial zone,  
22 which allows residential over commercial,  
23 however, it allows apartments. And as we heard  
24 earlier in the evening, the interpretation by  
25 your planner is an apartment is four units or

1 more. In this case, we don't have four units, we  
2 have three units. Therefore, we're here in front  
3 of this Board.

4 We have one expert to testify before the  
5 Board this evening, Mr. Manuel Pereiras.

6 MR. PEREIRAS: Manny Pereiras. I recognize  
7 I am still under oath.

8 MS. PEREIRAS: Mr. Pereiras, did you  
9 prepare the drawings for 1221 New York Avenue?

10 MR. PEREIRAS: I have.

11 MS. PEREIRAS: And would you kindly  
12 describe the project for the Board?

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

14 The drawings to my right are on an easel.  
15 They are the same drawings that were submitted  
16 before the Board.

17 We actually submitted a -- a very similar  
18 project, a substantially different -- that  
19 doesn't -- a substantially -- we submitted  
20 another application to this Board on this site  
21 that was denied. It was kind of in the moment  
22 right before the transition before the Master  
23 Plan came out. Now, we have the Master Plan and  
24 we know exactly what the City wants.

25 We also heard comments from the Board,

1 particularly about parking. So, we -- we believe  
2 that in this application, we fully satisfied your  
3 -- your concerns. And I'd be happy to present  
4 this to you.

5 We're on the corner of 13<sup>th</sup> and New York  
6 Avenue, so the southwest corner. Currently,  
7 there's a mixed use building there.

8 What we're proposing to do is basically in  
9 compliance with the current Ordinance. We are in  
10 the CN district. We are -- we are asking for no  
11 variance except for parking, but we're actually  
12 making the parking situation significantly better  
13 than it is now and -- and better than what even  
14 the Master Plan anticipates.

15 So, what we're proposing to do is a mixed  
16 use building, commercial on the ground floor,  
17 with three apartments on three floors above. So,  
18 it's a four story building, exactly how the  
19 Master Plan is recommending, which is still  
20 compliance with the current zone.

21 And what we're doing is, we're leaving the  
22 rear yard, since we're on a corner, to provide  
23 parking for two cars very comfortably, and spaces  
24 for our garbage for the building. And instead of  
25 having what our previous application had, an

1 | apartment on the lower level, we eliminated that  
2 | completely and we're providing more parking on  
3 | that level.

4 |         So, we have a total of five cars on the  
5 | site. We could probably fit and squeeze six  
6 | cars, and the unit owner will probably have seven  
7 | cars in there. But by standards of parking  
8 | dimensions, we have five cars provided along the  
9 | site, all accessed through 13<sup>th</sup> Street.

10 |         We have a commercial space along the front  
11 | of the property of 630 square feet. And then, as  
12 | you go upstairs, there are two staircases that  
13 | lead you to floors above. We have three very  
14 | beautiful, very simple apartments.

15 |         You go upstairs and you have a big living  
16 | room, dining room, kitchen area, and then two  
17 | bedroom apartments behind. So, they're modest  
18 | two bedroom apartments. One of them being a  
19 | master room with its own walk-in closet and  
20 | master bath, and the other one having the  
21 | bathroom from the hallway.

22 |         That's it.

23 |         Simple in design.

24 |         Four stories.

25 |         Very simple.

1           Very beautiful.

2           And the façade, I was able to play with  
3 this and do something that I think is beautiful.  
4 We have a very nice simple, four story, brick  
5 building. It's brick on both -- on both sides,  
6 so on both New York Avenue and 13<sup>th</sup> Street you see  
7 a beautiful brick façade. Glass storefront, so  
8 it really brings a lot of light into that store.

9           The residential entrance is along 13<sup>th</sup>  
10 Street, so we're removing the residential  
11 component from New York Avenue, bringing it along  
12 the side, to the more residential side of it.

13           We have the garage spaces for three  
14 individual cars there, plus two more outside the  
15 building in the rear yard of the building. And  
16 very simple windows with stone lintels, very  
17 beautiful, very simple in design, fits really  
18 well in the neighborhood. There's a multifamily  
19 building to the south of it that's a lot larger.  
20 This brings it down, the scale a lot lower to  
21 meet the residential character that's along 13<sup>th</sup>  
22 Street.

23           Across the street from 13<sup>th</sup> Street, there's  
24 a very large multifamily building that has an  
25 excess of parking. That building has a lot more

1 parking than it's even required to have. So,  
2 it's actually one of the locations in Union City  
3 where once that building across the street is  
4 finished, parking is not an issue whatsoever, as  
5 well as us providing five parking spaces here.

6 Again, perfectly in compliance with  
7 everything that the Master Plan is recommending.

8 And we're here because of that technicality  
9 of four units classifies as an apartment  
10 building. Apartments above, we have apartments  
11 above a store, therefore -- but this site is  
12 definitely particularly suited. That's the  
13 standard we have to meet and obviously, if it  
14 meets the -- the purposes of the Master Plan, it  
15 is definitely particularly suited.

16 VICE CHAIRMAN BONACCI: That's all you guys  
17 have with testimony.

18 Right?

19 MS. PEREIRAS: That's correct.

20 MR. PEREIRAS: Yeah, it's --

21 VICE CHAIRMAN BONACCI: Okay.

22 I'm looking over the Building Department  
23 memo.

24 Department records, property you had  
25 inquired about, 1221 New York Ave., originally a

1 one unit, two commercial structures. That's what  
2 it originally was.

3 Right?

4 MR. PEREIRAS: That is correct.

5 VICE CHAIRMAN BONACCI: Is that what it is  
6 right now?

7 MR. PEREIRAS: It is that right now. I  
8 believe it's vacant, but that's what it is. We  
9 propose to demolish the existing building.

10 VICE CHAIRMAN BONACCI: So it's all new  
11 construction.

12 MR. PEREIRAS: Yes, sir.

13 VICE CHAIRMAN BONACCI: Okay.

14 Now, I'm looking at our agenda, and it  
15 states applicants are proposing mixed use  
16 building, consisting of three residential, one  
17 commercial unit, application number two.

18 What did we -- so, there was a previous  
19 application.

20 MR. PEREIRAS: So, there was. So, in the  
21 previous application, just to refresh your mind,  
22 --

23 VICE CHAIRMAN BONACCI: Yeah.

24 MR. PEREIRAS: -- we had a commercial unit  
25 on the ground floor, we had another apartment in

1 -- in the back of that unit, and then we had  
2 additional four apartments upstairs. And they  
3 were smaller apartments on two floors.

4 So, we talked to this Board. Mr. Grullon  
5 had a very significant concern about parking and  
6 that's why we addressed it.

7 So, one of the things we did is we removed  
8 that apartment from the ground floor. We put  
9 parking in its place, which I think is a huge  
10 difference, night and day. And then, we reduced  
11 the density of our building from -- from five  
12 residential to only three residential in total.  
13 So, we reduced the density like that.

14 And one of the things and the reasons you  
15 saw that application, because it was before the  
16 Master Plan was even out.

17 VICE CHAIRMAN BONACCI: Right.

18 MR. PEREIRAS: So, we didn't know what the  
19 City wanted at that point. We were experimenting  
20 there. Now, we know exactly what the City  
21 wanted, and we're providing exactly that, and  
22 doing a little bit better because of Mr.  
23 Grullon's comments. We wanted to make sure that  
24 he felt comfortable with this, so we added more  
25 parking than -- in addition to -- to the Master

1 Plan.

2 VICE CHAIRMAN BONACCI: And how long ago  
3 was the first application?

4 Was I here?

5 MR. PEREIRAS: Yes, you were. Yeah.

6 MS. PEREIRAS: You were here.

7 VICE CHAIRMAN BONACCI: Was I --

8 MS. PEREIRAS: You were not the Chairman.

9 VICE CHAIRMAN BONACCI: Okay.

10 MS. PEREIRAS: Mr. Marotta was here.

11 VICE CHAIRMAN BONACCI: Right. I'm just  
12 trying to remember. It's a lot of stuff going  
13 on.

14 I'm just confused with why you guys need a  
15 use variance.

16 MR. PEREIRAS: It's really, really weird.  
17 Okay?

18 Because in the zone, --

19 VICE CHAIRMAN BONACCI: Yeah.

20 MR. PEREIRAS: -- we're in the CN zone.

21 Okay? So, the CN zone reads that you're allowed  
22 to have commercial on the ground floor and  
23 apartments above.

24 VICE CHAIRMAN BONACCI: Okay.

25 MR. PEREIRAS: That's what we have.

1 Right?

2 VICE CHAIRMAN BONACCI: Right.

3 MR. PEREIRAS: That's what we thought, too.

4 But to be very technical, Mr. Spatz reads,  
5 apartments above, and if you go to the -- the  
6 Ordinance and you read the definition of  
7 apartments, it says four or more units in a  
8 building.

9 We're only three. So, technically, we're  
10 not an apartment building.

11 VICE CHAIRMAN BONACCI: But it's four  
12 units, with the commercial.

13 Right?

14 MR. PEREIRAS: Right. So technically --

15 VICE CHAIRMAN BONACCI: It's a unit.

16 MR. PEREIRAS: -- if we had --

17 VICE CHAIRMAN BONACCI: Commercial is a  
18 unit.

19 MR. PEREIRAS: -- more units --

20 VICE CHAIRMAN BONACCI: Right.

21 MR. PEREIRAS: -- we would be in  
22 compliance. It's kind of weird and messed up.

23 VICE CHAIRMAN BONACCI: But with the three  
24 residential and the one commercial, you got four  
25 units. So you don't really need a use variance.

1 You already got it.

2 MR. PEREIRAS: Unfortunately, it was  
3 determined by Mr. Spatz that we need a use  
4 variance and we're here.

5 MR. PANEQUE: Technically, the commercial  
6 unit doesn't fall under the definition of what  
7 the apartment building is, when you're talking  
8 about the units.

9 And if -- if you read Mr. Spatz's memo, --

10 VICE CHAIRMAN BONACCI: Right.

11 MR. PANEQUE: -- the reason that it comes  
12 before this Board needing a use variance is  
13 because they're in the CN zone, which requires  
14 commercial on the ground floor, with a minimum of  
15 four units above.

16 Since they're only proposing three, they  
17 don't meet the criteria of the CN unit. And as  
18 such, they're actually proposing a lesser density  
19 --

20 VICE CHAIRMAN BONACCI: Right.

21 MR. PANEQUE: -- with three units.

22 VICE CHAIRMAN BONACCI: Right.

23 MR. PANEQUE: But technically, they're  
24 asking this Board for permission to deviate from  
25 what the standard is --

1 VICE CHAIRMAN BONACCI: To do less.

2 MR. PANEQUE: -- which would -- to do less.

3 So, they're not asking for -- to do more,  
4 they're asking to do less and this Board has the  
5 authority to -- to grant that if it so -- so  
6 chooses.

7 VICE CHAIRMAN BONACCI: And the Building  
8 Department memo came from where exactly?

9 I mean, I know it came from the Building  
10 Department.

11 MR. PEREIRAS: It's about an existing  
12 structure that doesn't matter to us --

13 VICE CHAIRMAN BONACCI: Right.

14 MR. PEREIRAS: -- because we're demolishing  
15 that; we're removing that.

16 VICE CHAIRMAN BONACCI: But was it the  
17 Building Department that asked you guys to come  
18 to us for the use?

19 MR. PEREIRAS: No. We're -- we want to  
20 design -- we want -- we're designing and building  
21 a brand new building.

22 VICE CHAIRMAN BONACCI: Right. Yeah. I --

23 MR. PEREIRAS: So that's --

24 VICE CHAIRMAN BONACCI: I got that part.

25 MR. PEREIRAS: -- why we're here.

1           VICE CHAIRMAN BONACCI: Now, does the  
2 application number one, and anything that we  
3 talked about in that previous application, and  
4 anything that Mr. Spatz had added in that first  
5 application, have any bearing on why we're trying  
6 to put together a use variance for this  
7 particular use?

8           MR. PEREIRAS: No. It really, -- it's  
9 another application. It's really a completely  
10 separate application. It's -- it's mentioned  
11 here more for historical value.

12          VICE CHAIRMAN BONACCI: Right.

13          MR. PEREIRAS: So that you understand and  
14 -- and you understand the history of it, but it  
15 has no bearing on this application.

16          VICE CHAIRMAN BONACCI: So, you can't do  
17 this without that use variance.

18          MR. PEREIRAS: That's correct.

19          VICE CHAIRMAN BONACCI: Yeah. I just don't  
20 understand why they need the use variance if it's  
21 -- it's -- it conforms.

22          MR. PANEQUE: Okay.

23          VICE CHAIRMAN BONACCI: They don't even  
24 need us for this.

25          MR. PANEQUE: I'm going to give you the

1 following example.

2           The -- I believe it's the CN zone on  
3 Bergenline Avenue --

4           VICE CHAIRMAN BONACCI: Right.

5           MR. PANEQUE: -- requires that the entire  
6 ground floor be commercial.

7           We've had several applications where --  
8 actually, some of them have been by --

9           VICE CHAIRMAN BONACCI: Right.

10          MR. PANEQUE: -- Mr. Pereiras.

11          VICE CHAIRMAN BONACCI: And they had to put  
12 the elevator in there.

13          MR. PANEQUE: No.

14          VICE CHAIRMAN BONACCI: Or they had to put  
15 residential behind the commercial.

16          MR. PANEQUE: They -- they came in  
17 requesting permission to put in an apartment in  
18 the rear.

19          VICE CHAIRMAN BONACCI: Right.

20          MR. PANEQUE: And -- and the justification  
21 that's been provided to this Board, in those  
22 applications, is that it doesn't make sense to  
23 have a 100 foot store that's unrentable because  
24 that space, nobody wants to rent a hundred feet,  
25 so they -- they separate that space into --

1 VICE CHAIRMAN BONACCI: Right.

2 MR. PANEQUE: -- a commercial that's  
3 rentable and a livable residential. That being  
4 said, that triggers a use variance.

5 This is the same thing. What triggers a  
6 use variance in this application is that they're  
7 not meeting the Code, which requires commercial  
8 on the ground floor.

9 VICE CHAIRMAN BONACCI: Right.

10 MR. PANEQUE: That part is met.

11 VICE CHAIRMAN BONACCI: Right.

12 MR. PANEQUE: But then, above the ground  
13 floor, they have to have minimum four units.

14 So, anything below four units -- three,  
15 two, one --

16 VICE CHAIRMAN BONACCI: Right.

17 MR. PANEQUE: -- requires them to come  
18 before the Board as per Mr. Spatz's memo.

19 VICE CHAIRMAN BONACCI: Would they have --

20 MR. PANEQUE: Now, if they -- just as a  
21 point that I'm going to --

22 If they had taken that second floor and  
23 created two apartments, they would have had two  
24 apartments on the second, one on the third, one  
25 on the fourth.

1 Right?

2 VICE CHAIRMAN BONACCI: And more density.

3 MR. PANEQUE: More density.

4 VICE CHAIRMAN BONACCI: Right.

5 MR. PANEQUE: And they would have had their  
6 four units and we wouldn't be here for a use  
7 variance.

8 Might have been here for something else.  
9 Some of the C variances, if any were needed or --  
10 but not on the use.

11 Okay?

12 VICE CHAIRMAN BONACCI: Right.

13 MR. PANEQUE: So, that's the explanation,  
14 as I'm interpreting Mr. Spatz's memo.

15 VICE CHAIRMAN BONACCI: Okay.

16 Now, this is -- Mr. Spatz gave us this  
17 interpretation because we kept running into the  
18 same issue, so he wanted to clarify it?

19 Because usually Mr. Spatz doesn't provide  
20 us with something before we hear the application.  
21 It's usually --

22 MR. PANEQUE: No. He usually gives us, in  
23 -- in all his memos --

24 VICE CHAIRMAN BONACCI: Okay.

25 MR. PANEQUE: -- if we need a use variance

1 --

2 VICE CHAIRMAN BONACCI: Correct.

3 MR. PANEQUE: -- the reason why a use  
4 variance is being sought.

5 VICE CHAIRMAN BONACCI: Okay.

6 MR. PANEQUE: And this is no different than  
7 any other memos that he's provided in the past,  
8 for every other application.

9 VICE CHAIRMAN BONACCI: Okay.

10 MR. PEREIRAS: Every application we come  
11 before this Board --

12 VICE CHAIRMAN BONACCI: Right.

13 MR. PEREIRAS: -- we have a lot of dialogue  
14 with Mr. Spatz.

15 VICE CHAIRMAN BONACCI: Okay. Yeah.

16 MR. PEREIRAS: I know other architects --

17 VICE CHAIRMAN BONACCI: I'm not trying to  
18 be difficult.

19 MR. PEREIRAS: -- don't do that.

20 VICE CHAIRMAN BONACCI: Yeah.

21 MR. PEREIRAS: But we have a lot of  
22 dialogue --

23 VICE CHAIRMAN BONACCI: Just wondered why  
24 you needed it.

25 MR. PEREIRAS: -- to determine which Board

1 we want to be before, and -- and the right way.

2 So, this is the proper way we feel that it  
3 is, because it -- we are meeting the intent of  
4 the Master Plan.

5 VICE CHAIRMAN BONACCI: Right.

6 MR. PEREIRAS: But there's no way of  
7 getting around the current Ordinance.

8 The current Ordinance, when they do a  
9 future Ordinance --

10 VICE CHAIRMAN BONACCI: Right.

11 MR. PEREIRAS: -- that verbiage will be  
12 changed, expectedly -- you know? Things will be  
13 corrected. But right now, it's just not written  
14 properly, so we're here before this Board.

15 VICE CHAIRMAN BONACCI: So, would you  
16 testify that with the future Master Plan, you  
17 wouldn't even need a variance for this? You  
18 could just do it.

19 MR. PEREIRAS: It -- we are in compliance  
20 with our Master Plan.

21 VICE CHAIRMAN BONACCI: Right.

22 MR. PEREIRAS: And whatever the future  
23 Ordinance is, and that may change.

24 VICE CHAIRMAN BONACCI: Right.

25 MR. PEREIRAS: There might be variations,

1 but if it's inline with what the Master Plan  
2 suggests and the Re-Examination Report and  
3 everything, then we will not even require that.

4 But right now, today, we do.  
5 Unfortunately.

6 VICE CHAIRMAN BONACCI: Okay.

7 I'm just trying to -- what if there was no  
8 commercial on the bottom? Would they still need  
9 a use variance?

10 MR. PEREIRAS: Yes.

11 MR. PANEQUE: Yes. The CN zone requires  
12 commercial on the ground floor.

13 VICE CHAIRMAN BONACCI: Okay.

14 MR. PANEQUE: And -- and as a point, going  
15 back to the first application, on that first  
16 application, they needed a use variance, not  
17 because of the number of residential units,  
18 because they were at five, they needed a use  
19 variance because they were putting in a  
20 residential unit on the ground floor --

21 VICE CHAIRMAN BONACCI: I remember that.

22 MR. PANEQUE: -- which under the CN,  
23 requires it to be --

24 VICE CHAIRMAN BONACCI: And elevator.

25 MR. PANEQUE: -- commercial.

1 VICE CHAIRMAN BONACCI: Right. And then --

2 MR. PANEQUE: Commercial.

3 VICE CHAIRMAN BONACCI: -- with the  
4 handicap stuff, they --

5 MR. PANEQUE: Handicap.

6 MR. PEREIRAS: Right.

7 VICE CHAIRMAN BONACCI: -- have to trigger  
8 with that.

9 MR. PANEQUE: So --

10 MR. PEREIRAS: And if we were to add four  
11 units --

12 VICE CHAIRMAN BONACCI: Right.

13 MR. PEREIRAS: -- then we would be required  
14 to have handicap compliance, which then this  
15 wouldn't work anyway. So --

16 VICE CHAIRMAN BONACCI: Okay.

17 MR. PEREIRAS: -- we're in a catch-22, and  
18 this is the only application that first of all,  
19 it meets everything, all the intentions of the  
20 Master Plan. And it -- it works for the City, it  
21 works for the applicant, it's the only thing that  
22 actually works based on Code.

23 VICE CHAIRMAN BONACCI: Yeah. I'm not just  
24 -- I'm not trying to be difficult.

25 MR. PEREIRAS: I understand.

1           VICE CHAIRMAN BONACCI: I was just asking  
2 -- you know, why you guys needed a use variance  
3 if you don't really need it? But now I  
4 understand why.

5           Thank you guys for clarifying that and  
6 dealing with my stubbornness.

7           All right.

8           So with that --

9           Do you guys have any questions?

10          MR. GRULLON: No.

11          MR. PANEQUE: Open to the public.

12          VICE CHAIRMAN BONACCI: Members of the  
13 public?

14          MS. GUTIERREZ: Closed to the --

15          VICE CHAIRMAN BONACCI: Closed to the  
16 public.

17                So, being that everything meets the  
18 purposes of the Municipal Land Use Law, no  
19 substantial impairment of the Zoning Ordinance or  
20 Master Plan, I'd like to make a motion to approve  
21 this application.

22                THE SECRETARY: Motion to approve the  
23 application by Mr. Bonacci.

24                MS. GUTIERREZ: And I'm seconding.

25                THE SECRETARY: Second by Ms. Gutierrez.

1           Roll call on the motion to approve this  
2 application.

3           Mr. Bonacci?

4           VICE CHAIRMAN BONACCI:   Yes.

5           THE SECRETARY:   Ms. Gutierrez?

6           MS. GUTIERREZ:   Yes.

7           THE SECRETARY:   Mr. Grullon?

8           MR. GRULLON:    Yes.

9           THE SECRETARY:   Mr. Pressey?

10          MR. PRESSEY:    Yes.

11          THE SECRETARY:   Mr. Medina?

12          MR. MEDINA:    Yes.

13          THE SECRETARY:   Five in favor.

14          Motion carries.

15          MS. PEREIRAS:   Thank you all very much.

16          Thank you.

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1 **DISCUSSION:**

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3 VICE CHAIRMAN BONACCI: All right. Should  
4 we go over the --

5 MR. PANEQUE: Yes.

6 Ms. Pereiras?

7 MS. PEREIRAS: Yes?

8 MR. PANEQUE: We have a special --

9 Mr. Price, you may want to hear this.

10 VICE CHAIRMAN BONACCI: Yeah. You're going  
11 to like this.

12 MR. PRICE: Olga Garcia (phonetic) is  
13 writing a ticket as we speak.

14 VICE CHAIRMAN BONACCI: This is right up  
15 your alley. You're going to love this.

16 MR. PANEQUE: Ladies and gentlemen and the  
17 public, we have a special meeting that this Board  
18 is going to try to put together for the 29<sup>th</sup> of  
19 November.

20 Now, the Board members have indicated that  
21 they can be here.

22 And Ms. Pereiras, what we'd like to do is  
23 have your applications carried to that date,  
24 okay, so that the -- we can address some of the  
25 backlog that we have with all of the cases.

1 Okay?

2 MS. PEREIRAS: I appreciate that.

3 Thank you.

4 MR. PANEQUE: Okay.

5 So, just for purposes of the applications  
6 that you still have pending for tonight, which  
7 are number eight, number nine and number 11,  
8 because ten we did, so --

9 THE SECRETARY: Can I call the  
10 applications?

11 MR. PANEQUE: Mr. Vallejo, if you could  
12 call the applications and then if there's a  
13 motion to --

14 THE SECRETARY: Sure.

15 MR. PANEQUE: -- move them to the 29<sup>th</sup>?  
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1 1707 Palisade Ave., LLC - 1707 Palisade Avenue:

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3 THE SECRETARY: All right.

4 Next application on tonight's agenda, 1707

5 Palisade Avenue, LLC, 1707 Palisade Avenue.

6 Ms. Pereiras, please?

7 MR. PANEQUE: Thank you.

8 For the record, I've been provided by Ms.

9 Pereiras with the following documentation:

10 I have a certification as to publication  
11 and service, indicating that notice of tonight's  
12 hearing was sent to all members of the 200 foot  
13 radius owners, and as well as published in the  
14 local newspaper.

15 I have an Affidavit of Publication from The  
16 Jersey Journal, which shows that the notice with  
17 respect to the property at 1707 Palisade Avenue,  
18 was published in the paper on September 29, 2018,  
19 giving notice of tonight's hearing.

20 I have also the certified mail receipts,  
21 with a postmark date of September 28<sup>th</sup> and the  
22 green cards that have come back to date, as well  
23 as the tax list from the Tax Assessor's Office  
24 date -- dated September 24<sup>th</sup>, 2018. Said tax list  
25 is six pages long and contains the names and

1 addresses of all property owners within the 200  
2 foot radius.

3 Based on the information that's been  
4 provided, this Board has jurisdiction to hear  
5 this application.

6 There -- this application is going to be  
7 carried to the Special Meeting of November 29.

8 Is there a motion on the floor?

9 MR. GRULLON: Motion.

10 THE SECRETARY: Motion to adjourn this  
11 application --

12 MS. GUTIERREZ: Second.

13 THE SECRETARY: -- for the Special Meeting  
14 on October 29.

15 MS. GUTIERREZ: Second.

16 VICE CHAIRMAN BONACCI: Whoa. Whoa.  
17 October or November?

18 MR. PANEQUE: November.

19 MR. GRULLON: November. November 29.

20 THE SECRETARY: November 29?

21 VICE CHAIRMAN BONACCI: Right.

22 MR. PANEQUE: November.

23 MS. GUTIERREZ: Oh, November or October?  
24 October?

25 MR. MEDINA: No. November.

1 MS. DILLON: November.

2 MR. PANEQUE: November.

3 VICE CHAIRMAN BONACCI: We said November.

4 MR. MEDINA: November 29.

5 VICE CHAIRMAN BONACCI: Yup. Because we  
6 got November 1<sup>st</sup> and then November 29<sup>th</sup>. So,  
7 they'll be, basically, a month in between,  
8 anyways.

9 MR. PANEQUE: Yes.

10 THE SECRETARY: Right.

11 This -- this application will be adjourned  
12 to November 29, 2018.

13 Motion by?

14 MR. GRULLON: I made a motion.

15 THE SECRETARY: By Mr. Grullon.

16 MS. GUTIERREZ: Second.

17 THE SECRETARY: Second by Ms. Gutierrez.

18 MR. PANEQUE: Started at 6:30, not six.

19 THE SECRETARY: Roll call on the motion to  
20 adjourn this application.

21 No new notice required.

22 Mr. Bonacci?

23 VICE CHAIRMAN BONACCI: Yes.

24 THE SECRETARY: Ms. Gutierrez?

25 MS. GUTIERREZ: Yes.

1 THE SECRETARY: Mr. Grullon?

2 MR. GRULLON: Yes.

3 THE SECRETARY: Mr. Pressey?

4 MR. PRESSEY: Yes.

5 THE SECRETARY: Mr. Medina?

6 MR. MEDINA: Yes.

7 VICE CHAIRMAN BONACCI: Six thirty, so  
8 everybody can get here.

9 THE SECRETARY: Five in favor.

10 Motion carries.

11 MS. PEREIRAS: Thank you.

12 MS. DILLON: Excuse me?

13 Mr. Vallejo, is the meeting going to be six  
14 o'clock or 6:30?

15 THE SECRETARY: Six thirty p.m.

16 VICE CHAIRMAN BONACCI: Okay.

17 THE SECRETARY: Six thirty p.m., November  
18 29.

19 VICE CHAIRMAN BONACCI: Okay.

20 MS. DILLON: I'm good that day.

21 VICE CHAIRMAN BONACCI: Okay.

22 That's right. We start the meeting, too.

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1     **Hung Fat Inc. - 1214 Summit Avenue:**

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3             THE SECRETARY: All right.

4             Let me call the next application.

5             Hung Fat I-N-C, 1214 Summit Avenue.

6             Ms. Pereiras, please?

7             MR. PANEQUE: For the record, I've been

8     provided by Ms. Pereiras with the following

9     documentation:

10            I have a certification as to publication  
11     and service, indicating that notice of tonight's  
12     hearing was sent to all property owners within  
13     the 200 foot radius, as well as having been  
14     published in the local paper.

15            I have an Affidavit from The Jersey  
16     Journal, indicating that notice was given of  
17     tonight's hearing with respect to the property at  
18     1214 Summit Avenue.

19            Said Affidavit indicates that notice was  
20     published on September 29, 2018.

21            I also have the certified mail receipts  
22     with a postmark date of September 28<sup>th</sup>, as well as  
23     the tax list from the Tax Assessor's Office with  
24     a postmark date of September 24<sup>th</sup>, consisting of  
25     three pages, listing all property owners within

1 the 200 foot radius, as well as the green cards  
2 that have come back to date and the envelopes  
3 that have come back unclaimed.

4 Based on the documentation provided, this  
5 Board has jurisdiction to hear this matter.

6 This matter is also being carried to the  
7 November 29<sup>th</sup> meeting at 6:30 p.m.

8 Is there a motion on the floor?

9 VICE CHAIRMAN BONACCI: Make a motion.

10 THE SECRETARY: Motion by Mr. Pressey.

11 Any second the motion?

12 Mr. Bonacci.

13 Roll call on the motion to adjourn this  
14 application for the Special Meeting on November  
15 29 at 6:30 p.m.

16 Mr. Bonacci?

17 VICE CHAIRMAN BONACCI: Yes.

18 THE SECRETARY: 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: Five in favor.

2 Motion carries.

3 No new notice required.

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1     **Pilot Digital, LLC - 207 New York Avenue:**

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3             VICE CHAIRMAN BONACCI:   What do you want to  
4 do about that last one, 11?

5             MS. PEREIRAS:   Yeah, so my final one, --

6             VICE CHAIRMAN BONACCI:   First?

7             MS. PEREIRAS:   -- unfortunately, we sent  
8 notices to everybody within 200 feet.

9             VICE CHAIRMAN BONACCI:   Right.

10            MS. PEREIRAS:   The Jersey Journal had a  
11 mistake and did not publish it.

12            I'd rather not wait until the 29<sup>th</sup>. I feel  
13 terrible for this gentleman already, so if we're  
14 able to hear it on the 1st, it is a very small  
15 application.

16            VICE CHAIRMAN BONACCI:   We -- we discussed  
17 that.   Yeah.

18            MS. GUTIERREZ:   It's a small application.

19            THE SECRETARY:   (Indiscernible).

20            MR. PANEQUE:   No. We -- we can't establish  
21 jurisdiction.

22            VICE CHAIRMAN BONACCI:   So it's got to be  
23 November 1<sup>st</sup>.

24            MR. PANEQUE:   It's got to be November --  
25 what -- today's the 11<sup>th</sup>? So you're going to have

1 time to publish for the 1st?

2 MS. PEREIRAS: Yes.

3 MR. PANEQUE: Okay.

4 MS. PEREIRAS: Yes.

5 MR. PANEQUE: Yeah. So --

6 MS. PEREIRAS: I would have to publish for  
7 the 1<sup>st</sup> or the 29<sup>th</sup>.

8 MR. PANEQUE: Yeah. So, there's nothing  
9 then to do tonight with this application, because  
10 there's no jurisdiction being established.

11 MS. PEREIRAS: That's fine. As long as I  
12 can confirm with Mr. Vallejo that I can still be  
13 on for the 1<sup>st</sup>, I'd appreciate it.

14 THE SECRETARY: Yes, carry --

15 MS. PEREIRAS: Thank you very much.

16 MR. PANEQUE: This one is adjourned to --

17 THE SECRETARY: -- the next meeting, the  
18 Regular Meeting.

19 VICE CHAIRMAN BONACCI: November 1<sup>st</sup>.

20 MS. PEREIRAS: Thank you.

21 THE SECRETARY: November 1<sup>st</sup>.

22 MR. PANEQUE: November 1<sup>st</sup> and you have to  
23 establish jurisdiction at that time.

24 MS. PEREIRAS: I will.

25 MR. PANEQUE: Okay.

1 MS. PEREIRAS: Thank you all very much.

2 Have a good night.

3 THE SECRETARY: All right.

4 MR. GRULLON: Good night.

5 MS. GUTIERREZ: Good night.

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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             MS. GUTIERREZ:   I make a motion.

7             THE SECRETARY:   Motion by Ms. Gutierrez.

8             Second by Mr. Medina?

9             Oh, Mr. Bonacci.   Sorry.

10            VICE CHAIRMAN BONACCI:   Oh, I got to stand  
11 up.

12            THE SECRETARY:   Roll call on the motion to  
13 adjourn this application -- I'm sorry -- to  
14 adjourn the meeting.

15            Mr. Bonacci?

16            VICE CHAIRMAN BONACCI:   Yes.

17            THE SECRETARY:   Mr. Grullon?

18            MR. GRULLON:   Yes.

19            THE SECRETARY:   Ms. Gutierrez?

20            MS. GUTIERREZ:   Yes.

21            THE SECRETARY:   Mr. Pressey?

22            MR. PRESSEY:   Yes.

23            THE SECRETARY:   Mr. Medina?

24            MR. MEDINA:   Yes.

25            THE SECRETARY:   Five in favor.

1           Let the record indicate that the meeting  
2 has ended.

3           Motion carries.

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5           (Whereupon, the proceedings were concluded  
6 at 9:56 p.m.)

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1 STATE OF NEW JERSEY :

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3 COUNTY OF ESSEX :

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6 I, DEBRA A. KASZNIAK, assigned transcriber,  
7 do hereby affirm that the foregoing is a true and  
8 accurate transcript in the matter of the REGULAR  
9 MEETING of the UNION CITY ZONING BOARD OF  
10 ADJUSTMENT heard on Thursday, October 11, 2018  
11 and digitally recorded.

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25 Monitored and proofread by: Deborah Dillon