

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

SPECIAL MEETING : TRANSCRIPT OF RECORDED
: PROCEEDINGS
: _____ :

City Hall
3715 Palisade Avenue
Union City, New Jersey

Thursday, November 29, 2018
Commencing at 6:39 p.m.

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

MARGARITA GUTIERREZ
JOHN MEDINA
MIGUEL ORTIZ
DAVID W. PRESSEY
JOSEPH D. BONACCI, Vice Chairman

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

VICTOR M. GRULLON
LIBERO MAROTTA, Chairman

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

CARLOS VALLEJO, Secretary to the Board
TOMAS R. PANEQUE, ESQ., Board Attorney
DAVID SPATZ, Consultant
Community Housing and Planning Associates

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

ADOLFO L. LOPEZ, ESQ.,
Attorney for Applicant, Segundo Mora

ADOLFO L. LOPEZ, ESQ.,
Attorney for Applicant, Mapal Zahan, LLC

MARIO GONZALEZ, JR., ESQ.,
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Ministerio Rio de Amor, Inc.

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

BIANCA P. PEREIRAS, ESQ.,
Attorney for Applicant, Yonus Jasari

BIANCA P. PEREIRAS, ESQ.,
Attorney for Applicant, Al Ventures, LLC

BIANCA P. PEREIRAS, ESQ.,
Attorney for Applicant, Nabila Tadros

BIANCA P. PEREIRAS, ESQ.,
Attorney for Applicant, 1117 Summer (sic) Ave., LLC

BIANCA P. PEREIRAS, ESQ.,
Attorney for Applicant,
Forest Wood Investments, LLC

BIANCA P. PEREIRAS, ESQ.,
Attorney for Applicant, Jose Avalos

BIANCA P. PEREIRAS, ESQ.,
Attorney for Applicant, 4415-4421 NY Ave, LLC

I N D E X

	<u>PAGE</u>
CALL TO ORDER	10
SALUTE TO FLAG	10
ROLL CALL	11
APPROVAL OF PREVIOUS MEETING MINUTES	224
RESOLUTIONS	226
HEARINGS	
Segundo Mora	19
Mapal Zahan, LLC	14
Ministerio Rio de Amor, Inc.	12
1707 Palisade Ave., LLC	59
Hung Fat, Inc.	78
Yonus Jasari	147
A1 Ventures, LLC	166
Nabila Tadros	210
1117 Summer (sic) Ave, LLC	214
Forest Wood Investments, LLC	217
Jose Avalos	220
FOR DISCUSSION PURPOSES ONLY	
4415-4421 NY Ave, LLC	200
ADJOURNMENT	228

I N D E XSegundo Mora - 526 40th StreetWITNESSPAGE

Jose Izquierdo

21

SWORN PUBLIC

Larry Price

44

I N D E X1707 Palisade Ave., LLC - 1707 Palisade Ave.WITNESS PAGE

Orestes Valella 60

SWORN PUBLIC

Larry Price 69

E X H I B I T SNO. DOCUMENT PAGE

A-1 Packet of Photographs (7) 75

I N D E XHung Fat, Inc. - 1214 Summit AvenueWITNESSPAGE

Manuel Pereiras

79

Michael D. Kauker

85

SWORN PUBLIC

Larry Price

113

I N D E XYonus Jasari - 118-120 18th StreetWITNESSPAGE

Manuel Pereiras

148

E X H I B I T SNO. DOCUMENTPAGE

A-1 Photograph Sheet

147

I N D E X

A1 Ventures, LLC - 418 11th Street

<u>WITNESS</u>	<u>PAGE</u>
Manuel Pereiras	167

I N D E X

4415-4421 NY Ave, LLC
4415-4421 New York Avenue

WITNESSPAGE

Manuel Pereiras

202

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

3 Please take notice that on Thursday,
4 November 29, 2018, at 6:30 p.m., a Special
5 Meeting is scheduled for the Union City Zoning
6 Board of Adjustment, to be held in the Municipal
7 Chamber, located on the Second Floor, 3715
8 Palisade Avenue, Union City, New Jersey.

9 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 and has been made available on the public in the
17 Office of the Municipal Clerk.

18 Everybody kindly can rise to salute the
19 flag, please?

20

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

23

24 THE SECRETARY: Thank you.

25

1 **ROLL CALL:**

2

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

5 Libero Marotta? Absent.

6 Joseph Bonacci?

7 VICE CHAIRMAN BONACCI: Here.

8 THE SECRETARY: Victor Grullon? Absent.

9 Margarita Gutierrez?

10 MS. GUTIERREZ: Here.

11 THE SECRETARY: Miguel Ortiz?

12 MR. ORTIZ: Here.

13 THE SECRETARY: 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
20 meeting.

21 * * *

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23

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25

1 **Ministerio Rio de Amor, Inc. - 529-533 3rd Street:**

2

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

5 We are going to call -- give me two
6 seconds.

7 Ministerio Rio de Amor, 529-533 3rd Street.

8 Mr. Gonzalez, please?

9 MR. PANEQUE: Mr. Gonzalez, stand up.

10 MS. DILLON: Right over here.

11 MR. PANEQUE: Right on the microphone.

12 MS. DILLON: Your appearance --

13 MR. GONZALEZ: Good evening.

14 MS. DILLON: -- please.

15 MR. GONZALEZ: Thank you so much.

16 Mario Gonzalez from Gonzalez Law Group.

17 Some inconsistencies were presented to us.

18 We'd like to pull our application at this time
19 and reschedule, perhaps, in January, if that's --

20 THE SECRETARY: January 10.

21 VICE CHAIRMAN BONACCI: January 10th.

22 THE SECRETARY: January 10.

23 MR. GONZALEZ: January 10?

24 THE SECRETARY: Yes.

25 MR. GONZALEZ: Thank you.

1 MR. PANEQUE: The matter is going to be
2 rescheduled to January 10th.

3 Mr. Gonzalez, you would need to publish in
4 the newspaper and send out your notices.

5 Keep in mind that the tax list that you are
6 going to be using has to be at least only three
7 weeks old. So, you might need to get a new tax
8 list from the Tax Assessor's Office with all
9 property owners within 200 feet.

10 MR. GONZALEZ: Okay.

11 MR. PANEQUE: Okay?

12 For any members of the public who are here
13 on application number three, for the property
14 located at 529-533 3rd Street, that application is
15 being pulled and will not be heard tonight.

16 It will be renoticed for the January 10th
17 meeting.

18 Thank you, Mr. Gonzalez.

19 MR. GONZALEZ: Thank you very much.

20 MS. GUTIERREZ: Thank you.

21

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

24

* * *

25

1 **Mapal Zahan, LLC - 514 14th Street:**

2

3 THE SECRETARY: All right.

4 Like I mentioned before, we change a little
5 bit the order of tonight's agenda.

6 We are going to go to number two.

7 Mapal Zahan, LLC, 514 --

8 One second, please.

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

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

13 Mapal Hazan (sic) (phonetic) or Zahan, LLC,
14 514 14 Street.

15 Mr. --

16 MR. PANEQUE: Lopez.

17 MR. SPATZ: Lopez.

18 THE SECRETARY: -- Lopez?

19 MR. LOPEZ: I'm appearing for Mr. Diaz.
20 Correct.

21 Good evening, Mr. Chairman, members of the
22 Board.

23 On this matter, we would like to submit
24 jurisdictional documents, gain jurisdiction.

25 Unfortunately, my architect is here, the -- his

1 planner, Mr. Izquierdo, is not prepared to
2 proceed this evening, so we would respectfully
3 ask that it be carried after I submit
4 jurisdictional documents.

5 Mr. Paneque?

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

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

9 MR. PANEQUE: For the record, I've been
10 provided with the following documentation:

11 I've been provided with an Affidavit of
12 Service, signed by Mr. Luis E. Diaz, Esquire,
13 indicating that notice of tonight's hearing, with
14 respect to the property at 514 14th Street in
15 Union City, was given to all property owners
16 within the 200 foot radius of the property in
17 question on November 6, 2018.

18 Said Affidavit is signed by Mr. Diaz and
19 notarized by Anna Noris, an attorney-at-law.

20 I've also been provided with an Affidavit
21 of Publication from The Jersey Journal, which
22 indicates that notice of tonight's hearing was
23 published in The Jersey Journal on November 6.

24 And the notice indicates it's for the
25 property at 514 14th Street and the meeting is to

1 take place at the Union City City Hall, 3715
2 Palisade Avenue.

3 I've also been provided with a -- the copy
4 of the 200 foot list, indicating all property
5 owners within the 200 foot radius, as well as the
6 certified mail receipts, with a postmark -- with
7 a date of November 6th, and the green cards that
8 have come back to date, as well as the envelopes
9 that have come back either unable to forward or
10 unclaimed.

11 Based on the documentation that has been
12 provided -- I also have a copy of the notice that
13 went out to the property owners. That's noted
14 for the record.

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

18 Now, Mr. Lopez, it's your request that the
19 matter be carried?

20 MR. LOPEZ: With the Board's -- respectful
21 request to the Board that it be carried, only for
22 that reason.

23 I also asked Mr. Valella if he wanted to
24 put on his presentation tonight. It's his belief
25 that rather than do a bifurcated presentation,

1 | that it should all flow at one meeting, since it
2 | has to return anyway, so --

3 | MR. PANEQUE: Okay.

4 | MR. LOPEZ: I don't know what date Mr.
5 | Vallejo can provide us.

6 | VICE CHAIRMAN BONACCI: January 10.

7 | THE SECRETARY: January --

8 | MS. GUTIERREZ: January 10.

9 | THE SECRETARY: -- 10, 2019.

10 | Are you waiving all the time limits?
11 | Right?

12 | MR. LOPEZ: I -- absolutely. Yes.

13 | THE SECRETARY: Thank you.

14 | MR. PANEQUE: Is there a motion?

15 | VICE CHAIRMAN BONACCI: Make a motion to
16 | adjourn the meeting.

17 | MS. GUTIERREZ: I'm seconding.

18 | THE SECRETARY: Motion by Mr. Bonacci.

19 | Second by Ms. Gutierrez.

20 | Roll call on the motion to adjourn this
21 | application for January 10, 2019.

22 | No new notice required.

23 | Mr. Bonacci?

24 | VICE CHAIRMAN BONACCI: Yes.

25 | THE SECRETARY: Ms. Gutierrez?

1 MS. GUTIERREZ: Yes.

2 THE SECRETARY: Mr. Pressey?

3 MR. PRESSEY: Yes.

4 THE SECRETARY: Mr. Medina?

5 MR. MEDINA: Yes.

6 THE SECRETARY: Mr. Ortiz?

7 MR. ORTIZ: Yes.

8 THE SECRETARY: Five in favor.

9 Motion carries.

10 MR. LOPEZ: Thank you.

11 MS. GUTIERREZ: You're welcome.

12 THE SECRETARY: Thank you.

13 MR. PANEQUE: For anybody here in the
14 audience who came for the application of 514 14th
15 Street, that application is being carried to the
16 January 10th meeting.

17 No further notices will be sent out. So,
18 if you're here and you want to be heard, you have
19 to come back on the 10th of January, 2019.

20 * * *

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1 **Segundo Mora - 526 40th Street:**

2

3 THE SECRETARY: Okay.

4 Next application on tonight's agenda,

5 Segundo Mora, 526 40th Street.

6 Mr. -- Mr. Diaz?

7 I'm sorry, sir.

8 MR. LOPEZ: Mr. Vallejo, I think --

9 THE SECRETARY: I apologize.

10 MR. LOPEZ: If I didn't need you, I'd call
11 you a wise guy.

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

14 Adolfo Lopez, appearing on behalf of the
15 applicant, Segundo Mora.

16 And I have no -- stay.

17 They're -- they're here this evening.
18 They're sitting on the second row.

19 And I have Mr. Izquierdo who will testify
20 as the architect and planner.

21 And also, on these -- on this application,
22 Mr. Paneque, if I may submit the jurisdictional
23 documents to you?

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

1 MR. PANEQUE: For the record, I've been
2 provided with the following documentation by Mr.
3 Lopez:

4 I have an Affidavit of Service indicating
5 that notice of tonight's hearing with respect to
6 the property at 526 40th Street was sent to all
7 property owners within the 200 foot radius of
8 said property.

9 Said Affidavit is signed by Mr. Diaz and
10 notarized by Anna Noris, an attorney-at-law of
11 New Jersey.

12 I also have an Affidavit of Publication
13 from The Jersey Journal, indicating that notice
14 was published on November 12th.

15 Said notice indicates that there will be a
16 meeting tonight, the 29th day of November, for the
17 property in question, 526 40th Street, and the
18 meeting will take place at 6:30 p.m., at this
19 address, 3715 Palisade Avenue.

20 I've also been provided with a list of
21 property owners within the 200 foot radius,
22 promulgated from the Tax Assessor's Office in
23 Union City. Said report consists of four pages
24 and it's dated November 7th, 2018.

25 I've also been provided with a copy of the

1 notice that went out, indicating that notice of
2 tonight's hearing with respect to the property in
3 question was sent -- was given to the property
4 owners.

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

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

12 MR. LOPEZ: Thank you, Mr. Paneque.

13 MS. DILLON: Would you like me to --

14 THE SECRETARY: Thank you.

15 MS. DILLON: -- swear Mr. Izquierdo now?

16 MR. LOPEZ: We might as well. Yeah.

17 Jose?

18 MS. DILLON: Please raise your right hand.

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

21 MR. IZQUIERDO: Yes, I do.

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

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

1 03385.

2 MS. DILLON: Thank you.

3 VICE CHAIRMAN BONACCI: We accept his --
4 yeah.

5 MR. LOPEZ: Once again, Mr. Chairman,
6 members of the Board, Adolfo Lopez, appearing on
7 behalf of the applicant.

8 Very briefly, the base -- the basic aspect
9 of the application is the legalization of an
10 existing basement apartment.

11 For the Board's information, the applicant
12 waited until there was a free apartment upstairs,
13 so they would not have to relocate -- well,
14 remove from their home a family that was living
15 in the basement.

16 They waited for that to happen. That
17 family is now living upstairs and will remain
18 there until the apartment is fully built out, if
19 you should approve it.

20 Our architect and planner for this process
21 is Jose Izquierdo, which I'd like to introduce at
22 this point.

23 VICE CHAIRMAN BONACCI: Mr. Izquierdo, you
24 testified before this Board before.

25 Right?

1 MR. IZQUIERDO: Yes, I have.

2 VICE CHAIRMAN BONACCI: All right. We
3 accept your qualifications.

4 Thanks for being here this evening.

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

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

9 MR. IZQUIERDO: Yes, they were.

10 MR. LOPEZ: And are you familiar with the
11 site and have you visited the site, in
12 anticipation of the preparation of the project
13 and the plans?

14 MR. IZQUIERDO: Yes, I have.

15 MR. LOPEZ: And you're ready to testify
16 relating to these plans this evening?

17 MR. IZQUIERDO: Yes, I am.

18 MR. LOPEZ: First, let's start out with the
19 basic architectural design; please go through it
20 at this time.

21 MR. IZQUIERDO: Good evening, members of
22 the Board.

23 There were two drawings submitted with the
24 application, SP-1 and drawing A-1. It's a set of
25 two. The first drawing identifies the -- the

1 survey of the property being the existing
2 conditions, also, the list of variances or zoning
3 schedule, and it also has the basement level how
4 it's proposed to be done.

5 The second sheet shows the existing
6 conditions, and with reference to the basement
7 level, it shows the basement how it presently
8 exists.

9 The house is an existing three family, and
10 as it is located in the residential R zone, it is
11 an allowed use. And as such, it is a legal use.
12 Because the house is a three family house, no
13 variances for lot area or for lot width are
14 required, because for a three family house,
15 you're required 25 by a hundred. And now that
16 we're jumping into a four family house, now we're
17 required to have a 50 by a hundred.

18 So, two of the variances that are required
19 pertain to lot area and to lot width, only
20 because in terms of zoning only, we're changing
21 the use from a three family to a four family.

22 MR. LOPEZ: The footprint is not being
23 expanded.

24 MR. IZQUIERDO: No. The footprint is not
25 being expanded in one of the options that I have.

1 In terms of the -- of the Building Code,
2 changing from a three family to a four family
3 does not constitute a change of use, but it
4 triggers handicap accessibility to the first
5 level, where a residential use occurs. And that,
6 in our case, is, conveniently enough, our
7 basement level.

8 Drawing SP-1 shows two architectural
9 options to gain physical accessibility to the
10 apartment. The accessibility -- the
11 accessibility features within, as the shower
12 heads and the bathroom and the dimensions, the
13 kitchen, all of those are addressed on the inside
14 of the apartment. But in terms of accessing that
15 apartment, physically, because it would be a
16 person that has physical impairability, not
17 somebody that has maybe lobster hands, or
18 somebody that is deaf, or somebody that is mute,
19 it also falls under the ADA, but we don't have
20 necessarily physical accessibility to somebody
21 that is paraplegic or -- or just physically
22 impaired.

23 So, there are two options, and both of them
24 are described in drawing SP-1.

25 One is what is called the alternate ramp,

1 | which is just constructing a ramp, with all the
2 | features for the handicap, going downstairs into
3 | that basement level, a total of -- it shows -- it
4 | shows in the plan, probably, a total about 44, 46
5 | inches going down.

6 | The other option is to create a set of
7 | stairs wide enough to allow to have a -- a chair,
8 | an electric chair -- wrong -- you know, no pun
9 | intended, but it's a chair that is electrically
10 | connected to the rail of the stairs and allows
11 | the physically impaired person to sit on the
12 | chair and go to the lower level, mechanically
13 | transported.

14 | MR. LOPEZ: Mr. Izquierdo, either option --

15 | MR. IZQUIERDO: Because -- because the --
16 | the mechanical option to gaining accessibility to
17 | the -- to the basement level depends on
18 | electricity, there is a required emergency plans
19 | that goes -- a generator system that goes with
20 | that chair, in order to make sure that in the
21 | event of a fire, not only the sprinklers and all
22 | the fire ratings, which we have to do, but the
23 | second means of egress is always accessible, even
24 | in the event of a fire.

25 | MR. LOPEZ: Either of these scenarios would

1 | comply with the ADA requirements in a usage such
2 | as this.

3 | MR. IZQUIERDO: Yes.

4 | MR. LOPEZ: Is that correct?

5 | MR. IZQUIERDO: Yes. I -- I present them
6 | both because I am not certain how the Board feels
7 | about the application, or actually in terms of
8 | how the application deals with the accessibility
9 | requirement, now that we become a four family
10 | house.

11 | MR. LOPEZ: All right.

12 | Continue with other aspects of the
13 | application, Mr. Izquierdo.

14 | MR. IZQUIERDO: Okay.

15 | The accessibility to this apartment is
16 | actually the positive criteria that associates
17 | this apartment and distinguishes it from other
18 | applications.

19 | To my knowledge, within the 200 feet radius
20 | here, there's not an accessible apartment. This
21 | building actually is kind of like a -- not a
22 | Siamese, because it's not attached to anybody,
23 | but it -- it is equidistant from a center
24 | property line that separates it from the property
25 | to the west.

1 And even though this one has three feet six
2 inches, this other one has three feet six inches,
3 each one, by itself, allows a handicapped person
4 to get to the rear yard of the -- of the
5 building, without the necessity of having to
6 require an easement.

7 A wheelchair person, in order to -- to have
8 an accessible route, which is what we need to
9 create, an accessible route from 40th Street, down
10 the side yard, all the way to the rear yard, and
11 then, either through the mechanical
12 transportation down, or the ramp down.

13 In either case, that is actually the
14 positive criteria that differentiates this
15 application.

16 So, in my opinion, as a planner, this --
17 this application by itself is making the property
18 owner invest in the property in situations that
19 are required by law specifically for the
20 handicapped apartment.

21 This would have to be a handicapped
22 apartment and that basically -- that's basically
23 -- it meets the positive criteria for the
24 application.

25 The only other variance -- the only

1 variance that is exacerbated by this application
2 is the parking variance, because we have, right
3 now, three three bedroom apartments, we're
4 required to have 7.2 parking spaces, or seven.
5 And now that we have three three bedrooms on the
6 upper floors that are existing, and the
7 additional one bedroom that we're creating on the
8 ground floor, that becomes nine. So, we're
9 exacerbating the deficiency by two.

10 The Board can take judicial note, actually,
11 that we have a municipal parking lot right across
12 the street from us. It's less than a hundred
13 feet away. I'm actually parked there right now.

14 MR. LOPEZ: And Mr. Izquierdo, by the
15 number, this is the 500 block of 40th Street,
16 which is between --

17 MR. IZQUIERDO: Kennedy.

18 MR. LOPEZ: -- Kennedy Boulevard and
19 Bergenline Avenue.

20 MR. IZQUIERDO: Correct.

21 MR. LOPEZ: Could you -- are you aware of
22 the transportation, public transportation options
23 available in that part of our city?

24 MR. IZQUIERDO: Well, yeah. When -- when
25 you're on 40th Street, all you have to do is walk

1 to Bergenline Avenue. You make the left hand
2 turn and you're right at the -- at the path --
3 the light rail, which is on -- what is it, 40 --

4 MR. LOPEZ: 48th.

5 MR. IZQUIERDO: -- 48th? So, it's only a
6 few blocks away. Bergenline Avenue also has a
7 lot of jitney buses and whatnot. There are
8 jitney buses also and -- and N.J. Transit buses
9 on Kennedy Boulevard. If somebody was going to
10 go to New York, he has a number of options. He
11 can take the light rail, he can walk to Kennedy
12 and take a -- or take -- actually, take the
13 jitney all the way to 32nd Street and the post
14 office, and from there -- you know, has his
15 choice of many bus lines.

16 MR. LOPEZ: So that -- would you agree that
17 that is a positive criteria, the fact that there
18 is plenty of public transportation available in
19 this part of town?

20 MR. IZQUIERDO: And there -- yes. As well
21 as having a municipal paid, metered parking of, I
22 don't know, 300, whatever, spaces are located on
23 the lot that is between 40th Street and 39th into
24 38th and whatnot.

25 MR. LOPEZ: And are you aware, also, that

1 three blocks away the City is putting up deck
2 parking for that area of the city?

3 MR. IZQUIERDO: No, actually, I wasn't, but
4 that's very encouraging, good news.

5 MR. LOPEZ: Mr. Izquierdo, can you please
6 go into the size of this proposed apartment in
7 the basement, and tell us if it complies with our
8 Ordinance?

9 MR. IZQUIERDO: Yes. Actually, there --
10 there's -- we're not seeking a density variance.
11 This is strictly a D-1, actually, use variance
12 and I apologize for that.

13 This Board gains jurisdiction of this
14 application. This is an application for site
15 plan approval and D-1 building use variance to
16 allow a four family house in the R zone, which is
17 not a permitted use in our city. Variances are
18 also required for lot area, lot width, which
19 differentiates a four family from a three family
20 and are exacerbated by this application, the side
21 yard is another variance, but that's an existing
22 conditions of the way the house has been built.
23 Actually, the way the house is built is all the
24 bedrooms face onto that 42 inch mirror image
25 property line that both face.

1 And then, again, the parking variance,
2 which is the application increases the deficiency
3 by a number of two spaces.

4 MR. LOPEZ: And what is the size of the
5 proposed bedroom unit? How many square feet?

6 MR. IZQUIERDO: The bedroom?

7 MR. LOPEZ: I'm sorry. The basement unit.

8 MR. IZQUIERDO: Oh, yeah.

9 Yeah. The bedroom (sic) unit is a one
10 bedroom and it's a 655 square feet. Apartment
11 number one is a three bedroom, which is existing
12 and is 902 square feet. Apartment two and three
13 are 977 square feet.

14 Our Ordinance requires that a three bedroom
15 apartment be 950 square feet. Apartments two and
16 three comply. Apartment number two is just shy
17 of the 950 square feet required.

18 And the basement, as a one bedroom,
19 complies and exceeds.

20 MR. LOPEZ: Is -- is not -- does the
21 Ordinance not require 900 square feet for three
22 bedrooms?

23 MR. IZQUIERDO: Nine hundred and fifty, if
24 I'm not mistaken.

25 Nine hundred? Okay.

1 MR. SPATZ: Um hum.

2 MR. IZQUIERDO: So, I stand --

3 MR. LOPEZ: So all units comply.

4 MR. IZQUIERDO: All units comply with the
5 new Ordinance, yes.

6 MR. LOPEZ: I have nothing else relating to
7 this presentation.

8 VICE CHAIRMAN BONACCI: Just real quick,
9 since we're on the square footage.

10 So, the existing units, the apartments that
11 are currently legal are all 900 plus.

12 Correct?

13 MR. LOPEZ: Correct.

14 MR. IZQUIERDO: Yes.

15 VICE CHAIRMAN BONACCI: Okay.

16 The apartment in question, which would be
17 the basement, how many square feet is that one?

18 MR. IZQUIERDO: Six hundred and fifty-five.

19 VICE CHAIRMAN BONACCI: But that one's not
20 going to be a three bedroom.

21 Correct?

22 MR. IZQUIERDO: No. Actually, that is a
23 two bedroom, now, and we're converting it from a
24 two bedroom into a studio.

25 VICE CHAIRMAN BONACCI: Okay.

1 MR. IZQUIERDO: Into a one bedroom. I'm
2 sorry.

3 VICE CHAIRMAN BONACCI: So, it's going to
4 be a one bedroom --

5 MR. IZQUIERDO: And the three --

6 VICE CHAIRMAN BONACCI: -- apartment.

7 MR. IZQUIERDO: Yeah, and the three three
8 bedrooms on top.

9 VICE CHAIRMAN BONACCI: Okay.

10 So that one three bedroom apart -- I'm
11 sorry. That one --

12 MR. IZQUIERDO: One bedroom.

13 VICE CHAIRMAN BONACCI: -- is a one
14 bedroom, which now, currently, is 655 square
15 feet.

16 MR. IZQUIERDO: Yes.

17 VICE CHAIRMAN BONACCI: Okay.

18 MR. LOPEZ: It will remain same square
19 footage, but it will be reduced to one bedroom
20 only.

21 VICE CHAIRMAN BONACCI: Okay.

22 MR. IZQUIERDO: Yeah. Because it has to be
23 made -- made more ample. The dimensions are
24 different.

25 VICE CHAIRMAN BONACCI: Okay.

1 Do you guys have any other testimony?

2 MR. LOPEZ: Nothing else.

3 VICE CHAIRMAN BONACCI: Just Mr. Izquierdo.

4 MR. LOPEZ: Just Mr. Izquierdo.

5 VICE CHAIRMAN BONACCI: And he's testifying
6 as the architect and the planner.

7 MR. IZQUIERDO: Yes.

8 VICE CHAIRMAN BONACCI: Okay. Architect
9 and slash planner.

10 Mr. Izquierdo, you testified earlier that
11 this would be in the R zone.

12 MR. IZQUIERDO: Yes.

13 VICE CHAIRMAN BONACCI: And that this was
14 an allowed use.

15 MR. IZQUIERDO: The three family existing
16 is an allowed use.

17 VICE CHAIRMAN BONACCI: Before the basement
18 apartment gets --

19 MR. IZQUIERDO: Before the basement
20 apartment gets legalized.

21 VICE CHAIRMAN BONACCI: Right.

22 MR. IZQUIERDO: Once the basement apartment
23 gets -- gets -- there's an application for that,
24 this Board gains jurisdiction because converting
25 it to a four family house is not an allowed use

1 in -- in the city.

2 MR. LOPEZ: Mr. Chair?

3 MR. IZQUIERDO: In the R zone.

4 MR. LOPEZ: If I may, Mr. Chairman?

5 VICE CHAIRMAN BONACCI: Yeah.

6 MR. LOPEZ: We -- we tried to, like many
7 times over in the city, the clients purchased the
8 property believing it was a four family house.
9 Unfortunately, they were unable to find evidence
10 of a preexisting nonconforming use, which would
11 have taken it into the 1970s.

12 VICE CHAIRMAN BONACCI: Right.

13 MR. LOPEZ: They don't know when it was
14 converted. So, Mr. Izquierdo is treating it as a
15 legal three family house, even though there's
16 always been a fourth apartment there. We
17 acknowledge that it's illegal.

18 VICE CHAIRMAN BONACCI: Okay. So,
19 currently --

20 MR. IZQUIERDO: It has all the meters and
21 everything that would be required for a four
22 family.

23 VICE CHAIRMAN BONACCI: Currently, it's two
24 bedrooms, but you guys are going to reduce it to
25 one.

1 MR. IZQUIERDO: Yes. For -- for the
2 basement apartment.

3 VICE CHAIRMAN BONACCI: Okay. I got you.

4 MR. IZQUIERDO: And the bathroom and the
5 kitchen and all the features inside are going to
6 be made compliant to that accessibility. I would
7 -- I would impose on the Board to give me -- to
8 give me their opinion as to which, if the Board
9 is -- is so moved to -- to grant this
10 application, which -- which Board -- which mode
11 of access do you prefer? The mechanical
12 approach, with the electric chair, or the
13 physical built ramp with --

14 VICE CHAIRMAN BONACCI: Let's go back to
15 the parking for a second, because that's another
16 requirement that -- another relief that you guys
17 are requesting.

18 Right?

19 MR. IZQUIERDO: Correct.

20 VICE CHAIRMAN BONACCI: Okay.

21 So, how many parking spaces is it that you
22 guys need to meet the --

23 MR. IZQUIERDO: For the existing --

24 VICE CHAIRMAN BONACCI: -- requirements?

25 MR. IZQUIERDO: For the existing three

1 family, for each of them being three bedrooms,
2 we're required to have 7.2 spaces because the
3 Residential -- Residential Site Improvement
4 Standards, Table 4.4, says that for a three
5 bedroom, we need 2.4. So that's 7.2. That's
6 rounded down to the less. So, it's seven.

7 To the 7.2, I add the 1.8 that I am
8 required to have for the one bedroom.

9 VICE CHAIRMAN BONACCI: So, a total is --

10 MR. IZQUIERDO: Nine.

11 VICE CHAIRMAN BONACCI: Okay.

12 MR. LOPEZ: And Mr. Izquierdo --

13 VICE CHAIRMAN BONACCI: Nine spots.

14 MR. LOPEZ: -- on the subject of parking,
15 we -- we did not address this before the Board,
16 but I ask you, is there any way, given the way
17 this property is built, to accommodate parking on
18 40th Street?

19 MR. IZQUIERDO: No. As fate would have it,
20 I mean, not even the neighbors can get together
21 and say, let's have a common -- you know, common
22 scheme here, with a driveway to the back and an
23 easement on each other's properties, so that we
24 can gain access to the back.

25 Because when you get 3.5 and 3.5, seven.

1 And in seven feet, you do not generate a driveway
2 to the back.

3 So, it's physically impossible to provide
4 parking spaces on any portion of 40th Street,
5 actually.

6 VICE CHAIRMAN BONACCI: Mr. Lopez, do you
7 know when it was that your clients purchased the
8 -- the property, to begin with?

9 MR. LOPEZ: I do have it.

10 VICE CHAIRMAN BONACCI: Okay.

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

13 MR. PANEQUE: We have it, Mr. Lopez.

14 MR. LOPEZ: You have the deed?

15 VICE CHAIRMAN BONACCI: Yeah.

16 MR. LOPEZ: Yeah. Sorry.

17 VICE CHAIRMAN BONACCI: It says here
18 October of 2006.

19 So, that's 12 years.

20 MR. LOPEZ: Yes.

21 VICE CHAIRMAN BONACCI: Has your client
22 been renting out the basement the whole time?

23 MR. LOPEZ: They were -- they had been
24 renting out the basement. They -- it has now
25 been vacant for approximately six months. They

1 waited -- again, there was a family there. They
2 didn't want to just kick them out.

3 VICE CHAIRMAN BONACCI: Right.

4 MR. LOPEZ: They waited for one of the
5 apartments in the front to empty out. That
6 family has been moved to one of the front
7 apartments. The -- the current basement unit has
8 been vacant since.

9 VICE CHAIRMAN BONACCI: And the basement is
10 fully functional as its own apartment; kitchen,
11 bathroom, all that kind of stuff?

12 MR. IZQUIERDO: Yup.

13 MR. LOPEZ: It is -- it is now, but it will
14 have to be modified to accommodate ADA
15 accessibility, if -- if this application is
16 granted.

17 But it was a fully functional apartment, as
18 Mr. Izquierdo indicated. There are full utility
19 services, electric and gas meters, which are
20 directly associated to the apartment, giving an
21 indication that it's been there for quite a long
22 time.

23 VICE CHAIRMAN BONACCI: Okay.

24 MR. LOPEZ: We just -- we have no idea,
25 there's no evidence as to when it was built,

1 | though, Mr. Chairman.

2 | VICE CHAIRMAN BONACCI: Okay.

3 | So, 655 square feet is the unit itself.

4 | MR. IZQUIERDO: Yes.

5 | VICE CHAIRMAN BONACCI: In the basement.

6 | MR. IZQUIERDO: Yeah.

7 | VICE CHAIRMAN BONACCI: Mr. Izquierdo, how
8 | many square feet is the bed -- the bedroom going
9 | to be? I'm sure it's here in the plans.

10 | MR. IZQUIERDO: Yes. It is -- it is about
11 | 127 square feet.

12 | VICE CHAIRMAN BONACCI: Mr. Spatz?

13 | MR. SPATZ: Yes.

14 | VICE CHAIRMAN BONACCI: Just quick question
15 | for you.

16 | Six hundred and fifty-five square feet
17 | meets the requirements of a one bedroom unit.

18 | MR. SPATZ: Yes. Our Ordinance would
19 | require 550 square feet.

20 | VICE CHAIRMAN BONACCI: Okay.

21 | MR. SPATZ: So it's about a --

22 | VICE CHAIRMAN BONACCI: So, it's over.

23 | MR. SPATZ: Right.

24 | VICE CHAIRMAN BONACCI: And then, for the
25 | bedroom, 127 square feet.

1 MR. SPATZ: We don't -- we don't have any
2 requirement for bedroom size, but it is a
3 reasonable sized bedroom.

4 VICE CHAIRMAN BONACCI: Okay.

5 Let's just get back to the ADA requirement.

6 So, you got two options; an alternative
7 ramp, and then, the stairs that have the electric
8 chair, whatever it is.

9 Right?

10 MR. IZQUIERDO: Yes. The -- yeah. The --

11 MR. LOPEZ: Well, we have two -- two
12 alternatives.

13 MR. IZQUIERDO: The --

14 VICE CHAIRMAN BONACCI: Right.

15 MR. IZQUIERDO: -- emergency plans.

16 MR. LOPEZ: Yes.

17 VICE CHAIRMAN BONACCI: Okay.

18 MR. IZQUIERDO: Yes.

19 VICE CHAIRMAN BONACCI: And you guys
20 haven't decided which way you're going to go with
21 this yet.

22 MR. IZQUIERDO: It's your --

23 VICE CHAIRMAN BONACCI: Which is what
24 you're going to -- you're asking us how we --

25 MR. IZQUIERDO: Your opinion.

1 VICE CHAIRMAN BONACCI: Right.

2 MR. IZQUIERDO: If -- if you'd be so moved,
3 because if -- if I build a ramp, then there's
4 excavation. I have to go, like I said, right on
5 the -- on the property line on this side so that
6 the ramp gains access to that part of the
7 apartment.

8 And it may effect the neighbor -- you know,
9 because it's -- it's a physical construction.

10 The other one, it's just the enlargement of
11 the rear shed that gains access to those steps,
12 making those steps compliant with the electric
13 chair, the emergency plans --

14 VICE CHAIRMAN BONACCI: Right.

15 MR. IZQUIERDO: -- and everything good.

16 VICE CHAIRMAN BONACCI: So, the big thing
17 in question here is the parking, which obviously,
18 there's nothing that you guys can really do about
19 that.

20 MR. LOPEZ: Correct.

21 VICE CHAIRMAN BONACCI: There's no way of
22 providing any kind of parking. There never
23 really was.

24 And now, the ADA requirement.

25 Okay.

1 So, we just need to figure out which of the
2 options to go with, moving forward.

3 Members of the Board?

4 MR. ORTIZ: No.

5 VICE CHAIRMAN BONACCI: Members of the
6 public?

7 MS. DILLON: Over here.

8 Please raise your right hand.

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

11 MR. PRICE: I do.

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

14 MR. PRICE: Larry Price, 1006 Palisade
15 Avenue.

16 MS. DILLON: Thank you.

17 MR. PRICE: Okay. Mr. Izquierdo, one
18 question.

19 Looking at your diagram here, or whatever,
20 it says in the basement apartment, ceiling
21 height, six feet 11 inches.

22 MR. IZQUIERDO: Yes.

23 MR. PRICE: I thought a basement ceiling
24 had to be seven and a half feet.

25 MR. IZQUIERDO: It has to be underpinned.

1 It has to be underpinned. The entire apartment
2 has to be reconstructed. This is not going to be
3 an alteration scope of work, with the State of
4 New Jersey Rehabilitation Subcode. This is going
5 to be a reconstruction.

6 Part of the thing that has to happen is
7 that the -- the ground floor, the basement
8 apartment has to be sprinklered, it has to be
9 provided with the two hour rating. And that
10 floor is going to have to be --

11 MR. PRICE: And you have to dig a thing --

12 MR. IZQUIERDO: -- underpinned. It has to
13 be underpinned, because it's not -- it's not
14 constant. Actually, at this rear portion, it's a
15 lot less. But as for this portion, it has to be
16 underpinned. It would never meet the Building
17 Department, if it's -- if it's not underpinned.

18 MR. PRICE: Okay. So the 6.11 will change
19 to --

20 MR. IZQUIERDO: It has to be --

21 MR. PRICE: -- at least --

22 MR. IZQUIERDO: -- at least 7.2.

23 MR. PRICE: Okay.

24 MR. IZQUIERDO: But now that you're
25 underpinning, then what's your pleasure? You

1 know, you -- you would want to exceed Code, you
2 don't want to -- to put all this money and just
3 leave it at 7.2. You can go a little more.

4 MR. PRICE: Okay. Okay.

5 By the way, I would point out, a D-1 use
6 variance requires testimony about particular
7 suitability, which means there has to be evidence
8 that -- why this site is different from any other
9 site. The site looks like every other site on
10 40th Street. I don't think there was testimony
11 required for particular suitability.

12 MR. IZQUIERDO: The difference be --

13 MR. PRICE: And --

14 MR. IZQUIERDO: -- what separates this
15 building and the building next door to it is what
16 I indicated in terms of the -- of the side
17 property line and the mirror image condition.
18 Whereas each one of the properties has a 42 inch
19 clearance, and because these two buildings are
20 identical in construction, identical in
21 elevation, and identical just being a mirror
22 image from that property line, both of them allow
23 an accessible route to be placed from the rear of
24 the buildings.

25 So the other properties on 40th Street, and

1 | what distinguishes them is they're right there,
2 | right on the property. They're -- they're right
3 | there on the front yard. The -- the front yard
4 | is very small.

5 | So, if any apartment is -- if any house is
6 | going to be providing accessibility for the
7 | handicapped, it would have to be on the basement
8 | level of any of these buildings, it could not be
9 | on the upper level because that's a lot higher.
10 | And your front yard condition on 40th Street does
11 | not allow you to build a ramp. For you to build
12 | a ramp, you would have to build it from the back.
13 | And that's where the accessible route and the 42
14 | inches come in.

15 | MR. PRICE: Wait a minute. What you're
16 | saying is this house has 40 -- 40 -- which is
17 | three and a half feet.

18 | MR. IZQUIERDO: Yes.

19 | MR. PRICE: Three and a half feet from the
20 | side of the house to the property line.

21 | MR. IZQUIERDO: And the other one has --

22 | MR. PRICE: And the other one has the
23 | mirror image, so that there's seven feet between
24 | the two houses.

25 | MR. LOPEZ: Just under.

1 MR. PRICE: And that's a unique
2 configuration on 40th Street.

3 MR. IZQUIERDO: Yes. Oh, yeah. It's
4 unique. The other houses -- the other buildings
5 on 40th Street don't have access to the rear yard.

6 MR. PRICE: The apartment's empty. I think
7 it probably should stay empty.

8 I mean, this is -- a D-1 use variance is
9 supposed to be -- you know, a heavy duty lifting
10 kind of variance. And --

11 MR. IZQUIERDO: The problem with that
12 thinking is because the four family use is not an
13 allowed use in the city, in the Zoning Ordinance,
14 there's nowhere in the Zoning Ordinance that says
15 you're allowed to have a four family house in the
16 R zone, even as a conditional use, if you meet
17 these conditions. It's non-existent.

18 So, any time a person wants to do from a
19 three to a four --

20 MR. PRICE: It's a --

21 MR. IZQUIERDO: -- then it has to provide
22 the accessibility.

23 MR. PRICE: It's a prohibited -- a four
24 family is a prohibited use in the --

25 MR. IZQUIERDO: So then, so are our

1 accessibility -- so -- so then, so are the
2 handicapped. Then they are prohibited, as well.

3 MR. PRICE: Effectively --

4 MR. IZQUIERDO: Are they not?

5 MR. PRICE: -- that is the judgement of the

6 --

7 MR. IZQUIERDO: Zone.

8 MR. PRICE: -- because --

9 Well, wait a minute.

10 MR. IZQUIERDO: I understand.

11 MR. PRICE: You could -- you could have a
12 three family that was fixed up. The -- the
13 Construction Code requires ADA accessibility if
14 it's four families or more.

15 In other words, we only make a provision in
16 the law for ADA accessibility when it's four
17 families or greater. And the governing body of
18 this city has said four families are prohibited
19 --

20 MR. IZQUIERDO: I --

21 MR. PRICE: -- in the R zone.

22 MR. IZQUIERDO: I understand.

23 MR. PRICE: So --

24 MR. IZQUIERDO: It's just --

25 MR. PRICE: But --

1 MR. IZQUIERDO: Then the reasoning is that
2 only the handicapped can live in the very nice
3 condominium buildings that we build with
4 elevators and everything. We cannot provide a
5 market rate unit, on a basement level, on 40th
6 Street, because what? It's not allowed to have a
7 handicapped person here?

8 I don't understand.

9 MR. PRICE: Okay.

10 But I would still say it's -- you know, the
11 governing body of this city has prohibited four
12 families in -- in R zones. And --

13 MR. IZQUIERDO: And that's what -- that's
14 what the -- what the city fathers have -- have
15 enacted in the Zoning Ordinance. A four family
16 house is not an allowed use.

17 MR. LOPEZ: Mr. Price, we're saying that we
18 are providing a socially acceptable alternative
19 on this property, which is not really considered
20 overall by our --

21 MR. PRICE: But you're not -- you're not
22 providing this -- this -- you know, admittedly --

23 MR. IZQUIERDO: Special reason.

24 MR. PRICE: -- a laudable purpose -- you
25 know, out of the goodness of your heart, which

1 | you're required, by the law, if you have four
2 | families, four units, rather --

3 | MR. LOPEZ: Correct.

4 | MR. PRICE: -- that one of them must be ADA
5 | accessible.

6 | MR. LOPEZ: And it has been an issue that's
7 | been discussed before this Board in the past that
8 | we have zones in the city which allow -- allow
9 | you -- in the CN zone, for example, in certain
10 | parts, you have all the units go upstairs.

11 | MR. PRICE: Not anymore.

12 | MR. IZQUIERDO: No. All the units go
13 | upstairs. That's what he said. It's exactly --

14 | MR. LOPEZ: That's part of --

15 | MR. IZQUIERDO: -- correct.

16 | MR. LOPEZ: -- the problem.

17 | MR. PRICE: But it's only three units
18 | permitted upstairs. That's --

19 | MR. IZQUIERDO: So then the handicapped --

20 | MR. PRICE: Take it up --

21 | MR. IZQUIERDO: The handicapped --

22 | MR. PRICE: Take it up with the governing
23 | body of the city. I mean, I --

24 | MR. IZQUIERDO: I'm not suggesting we don't
25 | have to. What I'm saying is, then a four -- a

1 person seeking a -- an apartment accessible to
2 the handicap, in the City of Union City, then has
3 to go to one of the elevator buildings, because
4 otherwise, we're not going to provide any of
5 that.

6 VICE CHAIRMAN BONACCI: Gentlemen?

7 MR. IZQUIERDO: It's -- it's --

8 VICE CHAIRMAN BONACCI: I just want to make
9 sure --

10 MR. IZQUIERDO: Okay.

11 VICE CHAIRMAN BONACCI: -- if Mr. Price has
12 any more questions, because I want to open it to
13 other members of the public, too.

14 MR. PRICE: Actually, I had only one
15 question. The rest of it was a statement.

16 VICE CHAIRMAN BONACCI: Okay.

17 Any other members of the public, questions
18 on this application?

19 Okay.

20 I know members of the Board may have
21 another question or two, so we're going to come
22 back here. Okay?

23 MR. LOPEZ: Yeah.

24 MR. MEDINA: I have a question.

25 Mr. Izquierdo, can this unit having a

1 | sprink (sic) (phonetic) system?

2 | VICE CHAIRMAN BONACCI: He's asking about a
3 | sprinkler system.

4 | MR. MEDINA: A sprink (sic) (phonetic)
5 | system.

6 | MR. IZQUIERDO: Yes.

7 | MR. MEDINA: Yes?

8 | MR. IZQUIERDO: Yes.

9 | MR. MEDINA: Okay.

10 | MR. IZQUIERDO: And it's most probably
11 | going to be a 13R system, which is not going to
12 | require the opening of the street.

13 | However, if in the Code analysis of the
14 | building, the design -- the sprinkler designer
15 | finds it desirable to have a standpipe or
16 | something in the common stairs, not only
17 | providing this benefit of the -- of the Code
18 | improvements to the ground floor apartment, but
19 | also making the one exit that the building has,
20 | with a standpipe, although it already has a fire
21 | escape in the back.

22 | But the answer to your question is yes.

23 | MR. MEDINA: Okay.

24 | Thank you.

25 | VICE CHAIRMAN BONACCI: Okay.

1 Allow me, if I may?

2 Not to dismiss what Mr. Price brought up,
3 with four families not being permitted, but three
4 units --

5 MR. IZQUIERDO: Yes.

6 VICE CHAIRMAN BONACCI: -- being permitted,
7 this is unique, from my point of view, in that
8 this is not a new construction. This is
9 something that -- you know, you guys are dealing
10 with the cards that you were dealt, which I
11 understand. And the reality of this application
12 is that this is an apartment that's been occupied
13 as -- a basement that's been occupied as an
14 apartment for the last 12 years, illegally.

15 And I understand that you guys are coming
16 before the Board to legalize this unit, and not
17 only do that, but make it ADA accessible.

18 MR. IZQUIERDO: Correct.

19 MR. LOPEZ: That's correct.

20 VICE CHAIRMAN BONACCI: With that being
21 said, whatever option that you guys choose, just
22 as long as you fulfill the requirement, however
23 you guys decide to do that is up to you.

24 MR. LOPEZ: Okay.

25 VICE CHAIRMAN BONACCI: And then, going

1 forward, you'd have to deal with the Building
2 Department, as far as whether those -- whether
3 the option that you chose is -- you know --

4 MR. LOPEZ: Mr. Chairman, I don't mean it
5 in a disrespectful way, but this Board is
6 rightfully punting and saying, whatever the
7 Building Department --

8 VICE CHAIRMAN BONACCI: Yeah.

9 MR. LOPEZ: -- give them --

10 VICE CHAIRMAN BONACCI: I -- I --

11 MR. LOPEZ: -- both options.

12 VICE CHAIRMAN BONACCI: -- I wouldn't
13 necessarily say that --

14 MR. IZQUIERDO: Which we have.

15 VICE CHAIRMAN BONACCI: -- we're punting.
16 But we're not in a position to --

17 MR. LOPEZ: Correct.

18 VICE CHAIRMAN BONACCI: -- make -- you
19 know, to make an option for you.

20 MR. IZQUIERDO: In terms of the --

21 VICE CHAIRMAN BONACCI: Just as long as
22 there is an option and that you meet the
23 requirement, is all that we're asking.

24 MR. IZQUIERDO: In terms of the Building
25 Department, the drawings that were submitted to

1 | this Board and the Board -- and the drawings on
2 | -- which this Board is either going to rule
3 | favorably or unfavorably, they show both options.

4 | VICE CHAIRMAN BONACCI: Right.

5 | MR. IZQUIERDO: So, it's not a zoning
6 | issue, should the designer, because of cost or
7 | whatever, it may be better to provide the ramp
8 | and not the electric chair.

9 | VICE CHAIRMAN BONACCI: So, whichever
10 | option you decide that's --

11 | MR. IZQUIERDO: They both meet Code.

12 | MR. LOPEZ: Yes.

13 | VICE CHAIRMAN BONACCI: -- that's best, as
14 | long as it meets the requirements, then going
15 | forward, I don't think that there should be a
16 | problem.

17 | MR. IZQUIERDO: And what the Building
18 | Department may feel more comfortable with,
19 | because in conversations with the fire official,
20 | they may feel that just a ramp is better than a
21 | -- than a mechanical feature. So, both options
22 | are open in that -- in a matter.

23 | VICE CHAIRMAN BONACCI: So, with that being
24 | said, it seems that the positive impact on -- you
25 | know, bringing this up to ADA requirements, is a

1 -- a healthy and safety welfare of the residents
2 of Union City, I'd like to make a motion to grant
3 the application.

4 THE SECRETARY: Motion to grant the
5 application by Mr. Bonacci.

6 Any second the motion?

7 MS. GUTIERREZ: Second.

8 THE SECRETARY: Motion by --
9 Second by Ms. Gutierrez.

10 Roll call on the motion.

11 Mr. Bonacci?

12 VICE CHAIRMAN BONACCI: Yes.

13 THE SECRETARY: Ms. Gutierrez?

14 MS. GUTIERREZ: Yes.

15 THE SECRETARY: Mr. Pressey?

16 MR. PRESSEY: Yes.

17 THE SECRETARY: Mr. Medina?

18 MR. MEDINA: Yes.

19 THE SECRETARY: Mr. Ortiz?

20 MR. ORTIZ: Yes.

21 THE SECRETARY: Five in favor.

22 Motion carries.

23 Thank you.

24 MR. LOPEZ: Thank you so much, Board
25 members.

1 MS. GUTIERREZ: You're welcome.

2 MR. LOPEZ: Have a good evening.

3 THE SECRETARY: Thank you, Mr. Diaz.

4 Oh, I'm sorry. I mean, Mr. Lopez.

5

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

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1 **1707 Palisade Ave., LLC - 1707 Palisade Ave.:**

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3 THE SECRETARY: Next application on
4 tonight's agenda, 1707 Palisade Avenue, LLC, 1707
5 Palisade Avenue.

6 Ms. Pereiras, please?

7 MS. PEREIRAS: Thank you.

8 Good evening, Mr. Chairman, counsel,
9 members of the Board.

10 May it please the Board, Bianca Pereiras,
11 on behalf of 1707 Palisade Avenue, LLC.

12 We were here on October 11th, and at that
13 time, jurisdiction was obtained. However, no
14 testimony was presented at that time.

15 What we are proposing is a three family
16 home. We're located in the R low density
17 residential. While a three family home is
18 normally a permitted use, we are respecting and
19 mimicking the Re-Examination Report and trying to
20 move in the same direction as Union City and its
21 future. So, we are requesting a D-6 height
22 variance to match the Re-Examination Report.

23 We have one expert to testify before the
24 Board this evening, and that is our architect,
25 Orestes Valella.

1 MS. DILLON: Please raise your right hand.

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

4 MR. VALELLA: I do.

5 MS. DILLON: Please state your name and
6 spell it for the record.

7 MR. VALELLA: Sure.

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

9 And my professional offices are at 5809
10 Madison Street in West New York, New Jersey. And
11 I am licensed in the State of New York and New
12 Jersey.

13 MS. PEREIRAS: And Mr. Valella has
14 testified before the Board in the past, and I ask
15 that he be accepted as an expert in the field of
16 architecture.

17 VICE CHAIRMAN BONACCI: We accept your
18 qualifications.

19 Thanks for being here.

20 MR. VALELLA: Thank you.

21 MS. PEREIRAS: Mr. Valella, are you
22 familiar with the property at --

23 MR. VALELLA: Yes.

24 MS. PEREIRAS: -- 1707 Palisade?

25 MR. VALELLA: Right.

1 MS. PEREIRAS: And did you prepare the
2 drawings before the Board?

3 MR. VALELLA: Yes.

4 MS. PEREIRAS: Would you kindly describe
5 the project?

6 MR. VALELLA: Sure.

7 Presently, the property is a 25 by 100 lot,
8 Lot number 4 in Block --

9 MS. PEREIRAS: Eighty-nine.

10 MR. VALELLA: -- 89, between 18th and 17th
11 Street on Palisade.

12 It is an empty lot at the moment and then,
13 it's also, adjacent to it is another empty lot
14 that makes the corner.

15 I took the liberty of bringing some photos
16 of the neighborhood with me, so that you could
17 get a better feel for context.

18 What we are seeking this evening is to have
19 a three family, a new three family built on the
20 lot. It is an empty lot, as I mentioned. It's
21 25 by 100 and we'd like to proceed with the
22 proposal for a new three family home.

23 Basically, we have done what is a very
24 traditional scheme for the three family, where we
25 would like to have the garage on the ground

1 floor, and then, have three dwelling units, one
2 on the second, third and fourth floors.

3 The unit -- the building would have --
4 would be built to the front yard, which is the
5 prevailing -- prevailing setback. It would have
6 a three foot one and a two foot oh setback on the
7 ground floor, for a total of five. And it would
8 have a five foot rear yard.

9 The home would have a total of 45 foot
10 height, in -- in total.

11 The ground floor is comprised of the
12 entrance hallway, an elevator to give access to
13 the units, two fire stairs, there's a garbage
14 room in the rear, and it has parking for six
15 cars.

16 The typical apartment; the ground floor is
17 1,965 square feet. It is a three bedroom unit,
18 with two bathrooms, kitchen. It has a utility
19 closet with a washer/dryer. And it's accessible
20 by both fire stairs and the private elevator.

21 That unit repeats on the third and on the
22 fourth floors. They're all pretty much
23 identical. They are 1,965 square feet.

24 An additional feature of this project is
25 that the ceiling height would be nine foot four

1 clear. It would be finished in masonry, with the
2 front of the building facing Palisade being in
3 finished brick. You can see that on our
4 elevations.

5 So, basically -- you know, it is an -- an
6 evolving building type. In the old days, we
7 would have the garage on the front and then the
8 third apartment in the rear. This is a much
9 better urban solution, where we accommodate not
10 only -- the entire ground floor is dedicated to
11 garages and we can accommodate a greater amount
12 of vehicles there. And also, on the upper
13 floors, where the apartments are, they get to be
14 a little bigger and more -- more handsome.

15 And also, having the building being brick
16 and be a little more up to the street line, where
17 the prevailing setback is, it gives it a better
18 urban character.

19 That -- it's a very basic simple building
20 type that we're proposing.

21 The property is located in the R low
22 density residential and we're proposing a three
23 family.

24 The required lot area would be 2500. We
25 have 2500.

1 Lot width would be 25. We have 25.

2 Lot depth would be a hundred. We have a
3 hundred.

4 The front yard requirement would be ten
5 feet, or the prevailing setback. We -- the
6 prevailing setback is zero, so we have chosen to
7 go to zero, not only because it's the prevailing,
8 but it's also the better urban response. It
9 keeps all the cars enclosed. You don't see the
10 cars outside on the street, generally, in the
11 driveway.

12 The side yards, two feet for one would be
13 the minimum, five feet total. We are doing three
14 feet on one and four -- the upper floors, we are
15 bumping a foot, so there, we have a one foot side
16 yard and that would be four foot total.

17 The rear yard, the requirement is 25
18 percent of the lot depth, which would be 25 in
19 our case, and we have five.

20 Building coverage, maximum permitted is 60
21 percent, we're at 79.

22 And lot coverage permitted is 85 percent,
23 we're at a hundred.

24 The maximum stories is three for the zone
25 and we are at four.

1 Maximum height is 40, we're at 45.

2 And the parking requirement would be six
3 and we are at six.

4 VICE CHAIRMAN BONACCI: Do you have any
5 other testimony?

6 MS. PEREIRAS: No. This is our only expert
7 today.

8 VICE CHAIRMAN BONACCI: Okay.
9 Just give me a second or two.

10 MR. VALELLA: Sure.

11 VICE CHAIRMAN BONACCI: All right? Just to
12 -- my brain doesn't work so fast after a certain
13 point.

14 MR. VALELLA: None of ours.

15 In fact, if you give me a second, I just
16 got to take a pill.

17 VICE CHAIRMAN BONACCI: Three stories, 40
18 feet is allowed. And proposed, four stories.
19 Variance and stories.

20 Parking, seven required and you guys are
21 going to have six.

22 Okay.

23 Maximum lot coverage, 60 percent is
24 permitted, a hundred percent proposed.

25 MR. VALELLA: Yes.

1 VICE CHAIRMAN BONACCI: Okay.

2 Impervious coverage, 85 percent permitted,
3 a hundred proposed.

4 MR. VALELLA: No, no. Building coverage,
5 60 percent is permitted, we're at 79.

6 VICE CHAIRMAN BONACCI: And that's for
7 maximum lot coverage or impervious coverage?

8 MR. VALELLA: That's for building coverage.
9 That's the building.

10 VICE CHAIRMAN BONACCI: Okay.

11 MR. VALELLA: The lot is the impervious.
12 That would be 85.

13 VICE CHAIRMAN BONACCI: Okay. That's
14 what's permitted.

15 MR. VALELLA: Yes.

16 VICE CHAIRMAN BONACCI: You guys are at a
17 hundred.

18 MR. VALELLA: Yes.

19 VICE CHAIRMAN BONACCI: Is there any way --
20 because it's an empty lot, you guys are doing
21 this from scratch.

22 MR. VALELLA: Yes.

23 VICE CHAIRMAN BONACCI: I -- I understand
24 --

25 MR. VALELLA: The answer is yes.

1 VICE CHAIRMAN BONACCI: I understand the
2 height. You're adding a story because the bottom
3 deck is going to be parking.

4 MR. VALELLA: Yes, sir.

5 VICE CHAIRMAN BONACCI: Which helps you get
6 six spots and that's six spots that are off the
7 street.

8 MR. VALELLA: Yeah.

9 MS. PEREIRAS: Um hum.

10 VICE CHAIRMAN BONACCI: So that's good. I
11 understand the height.

12 Is there any -- it's -- it's an empty lot,
13 so my question is, is there any way to do this
14 and still conform to the building coverage,
15 what's permitted?

16 MR. VALELLA: No, not the building coverage
17 because to go to 60 percent building coverage, we
18 would not be able to park the cars. The cars
19 would be going back into the street.

20 VICE CHAIRMAN BONACCI: Okay.

21 MR. VALELLA: However, we can pursue green
22 strategies with regards to lot coverage. We can
23 do all our paving as pervious pavers. And
24 instead of being at a hundred percent, we're
25 probably closer to 85 percent. We could probably

1 meet the lot -- the lot coverage in that case.

2 VICE CHAIRMAN BONACCI: So that's -- you
3 guys can do that?

4 MR. VALELLA: Yes, because the paving
5 around the building is the additional 20 percent.
6 So we can come very close to it by just doing a
7 green paver strategy.

8 VICE CHAIRMAN BONACCI: Okay.

9 MR. VALELLA: So, yes.

10 VICE CHAIRMAN BONACCI: If that's an
11 option.

12 MR. VALELLA: Yes.

13 VICE CHAIRMAN BONACCI: Let's go with that.

14 MS. PEREIRAS: We'll be happy to do that.

15 VICE CHAIRMAN BONACCI: Okay.

16 MR. VALELLA: Yes.

17 VICE CHAIRMAN BONACCI: That's all I got
18 for you right now.

19 I'll open it up for other members of the
20 Board.

21 So with that alternative, with the paving,
22 you'll be able to most likely get --

23 MR. VALELLA: Eighty-five percent.

24 VICE CHAIRMAN BONACCI: Okay. Which is
25 better than --

1 MR. VALELLA: Which meets.

2 VICE CHAIRMAN BONACCI: Which meets it.

3 MR. VALELLA: Yes.

4 MS. PEREIRAS: Um hum.

5 VICE CHAIRMAN BONACCI: If it meets it,
6 let's go that route.

7 MR. VALELLA: Yeah.

8 VICE CHAIRMAN BONACCI: That's even better.

9 MR. VALELLA: Yeah.

10 VICE CHAIRMAN BONACCI: Okay.

11 Anybody, questions?

12 You guys are good?

13 Members of the public?

14 If you can do it without needing the
15 variance, do it.

16 Right?

17 MR. PANEQUE: Um hum.

18 MR. PRICE: I'm still under oath. Still
19 Larry Price.

20 MS. DILLON: Thank you.

21 MR. PRICE: Okay.

22 Mr. Valella, your comment about the front
23 yard setback was --

24 MR. VALELLA: Um hum.

25 MR. PRICE: -- it's -- requirement is ten

1 feet or prevailing. You said the prevailing is
2 zero.

3 MR. VALELLA: Yes.

4 MR. PRICE: What are you referring to?

5 MR. VALELLA: The adjacent houses to the
6 right. Their front steps all go to the property
7 line.

8 MR. PRICE: Okay. The -- the sites to the
9 left, 1701, 1703 and 1705 are empty lots right
10 now.

11 MR. VALELLA: Yes.

12 MR. PRICE: There is no prevailing there.

13 MR. VALELLA: No.

14 MR. PRICE: Correct?

15 MR. VALELLA: So that's why I went to the
16 right --

17 MR. PRICE: Okay. If you --

18 MR. VALELLA: -- where there are no
19 buildings.

20 MR. PRICE: If you went to the right, I
21 guess, maybe the steps come out.

22 MR. VALELLA: Yes.

23 MR. PRICE: But the buildings themselves --

24 MR. VALELLA: No, the building it -- the
25 building itself is set back, but we reviewed this

1 and the steps are a zoning -- it's a permanent
2 structure. It's part of the setback. It's a
3 zero setback.

4 MR. PRICE: That, I think, is a very
5 questionable application. Reason? You're going
6 to have six cars in that garage. They have to
7 back out. They have to back out across a
8 sidewalk on Palisade Avenue. This is a block
9 from the Emerson Middle School. This is -- you
10 know, lot of -- lot of traffic there. And
11 Palisade Avenue is a busy street. And there's
12 going to be zero -- remember, you're backing out
13 and the garage entrance is on the property line,
14 right next to the sidewalk.

15 And -- and you know, he's -- the driver is
16 going to have the back end of his car in the --
17 halfway into the sidewalk before he personally is
18 out of the garage. That, I think, is a very --
19 you know, unwise -- you know, unwise -- you know,
20 part of the application -- I think really safe.
21 Particularly given -- a large number of school --
22 as a resident on Palisade Avenue, I Can tell --
23 you know, a lot of kids walking up and down that
24 sidewalk.

25 MR. VALELLA: What I normally --

1 I'm sorry.

2 MR. PRICE: No, no.

3 MR. VALELLA: I didn't mean to interrupt
4 you.

5 What I normally recommend in -- in
6 instances like this is a traffic light that goes
7 -- you know, red or green, and also two way
8 mirrors that alert not only the pedestrians, but
9 the motorists. And we've done that very
10 successfully all across town.

11 VICE CHAIRMAN BONACCI: So that's a
12 possible solution to Mr. Price's --

13 MR. VALELLA: Well, I would -- yes.

14 VICE CHAIRMAN BONACCI: Okay.

15 MS. GUTIERREZ: Um hum.

16 MR. VALELLA: Yeah. And I would -- I would
17 do that anyway.

18 VICE CHAIRMAN BONACCI: I'm going to ask
19 Mr. Spatz about that in a second, too, about the
20 setback.

21 Do you have any more questions for them?

22 MR. PRICE: That's it.

23 That's it.

24 VICE CHAIRMAN BONACCI: Okay. Members of
25 the public, anybody else?

1 Okay.

2 Closed to the public.

3 VICE CHAIRMAN BONACCI: Mr. Spatz?

4 MR. SPATZ: Yes, sir.

5 VICE CHAIRMAN BONACCI: To piggyback off of
6 Mr. Price's comments, concerns about the setback,
7 under the new Master Plan for this structure,
8 what would the setback be and how does it relate
9 to this proposal that we're talking about here?

10 MR. SPATZ: Well, the -- the Ordinance that
11 you need to address, the existing Ordinance, does
12 have either zero or the prevailing setback. And
13 you take -- you take the average of the
14 developable lots.

15 VICE CHAIRMAN BONACCI: Um hum.

16 MR. SPATZ: The stairs are included. So,
17 they could come up to the property line. I think
18 -- it is a wide sidewalk there, and I think a
19 solution to that is to -- is to have some sort of
20 a combination of mirrors and -- and lights or --
21 or a sound or something.

22 If you set the building back further, you
23 would either eliminate the rear yard totally, you
24 then increase that impervious coverage again,
25 because you would not have any grass area in the

1 rear. You also probably would not be able to fit
2 the six cars within the garage, because you --
3 you'd be losing probably ten foot of space within
4 that garage.

5 So, I think that you have to weigh the
6 tradeoff of having the parking onsite, with
7 having the -- the setback.

8 VICE CHAIRMAN BONACCI: Okay.

9 So, Mr. Valella, we could do the traffic
10 light, mirrors, something to that effect to --

11 MR. VALELLA: Yes. Absolutely.

12 VICE CHAIRMAN BONACCI: Okay.

13 MR. VALELLA: I would encourage that
14 anyway.

15 VICE CHAIRMAN BONACCI: So then, we got the
16 coverage thing down and the traffic light,
17 mirrors, however --

18 MR. VALELLA: Um hum.

19 VICE CHAIRMAN BONACCI: -- you guys can
20 make --

21 MR. VALELLA: Combination of both.

22 VICE CHAIRMAN BONACCI: -- that safer. And
23 then, you guys are down a couple of requirements
24 there.

25 MR. VALELLA: Um hum.

1 VICE CHAIRMAN BONACCI: So, I'm good on my
2 end.

3 Any questions from members of the Board?
4 Okay.

5
6 (Whereupon, Packet of Photographs (7) was
7 received and marked as Exhibit A-1.)

8
9 MS. DILLON: Mr. Chairman, I marked the
10 package of photographs as A-1.

11 VICE CHAIRMAN BONACCI: Okay. A-1.

12 MR. PANEQUE: Anybody else from the public?

13 VICE CHAIRMAN BONACCI: Huh?

14 MR. PANEQUE: Anybody else from the public?

15 VICE CHAIRMAN BONACCI: I closed it to the
16 public.

17 MR. PANEQUE: You closed it?

18 VICE CHAIRMAN BONACCI: Yeah.

19 Okay.

20 Being that this is a positive impact on the
21 safety and welfare of the residents of Union
22 City, we addressed many concerns with regards to
23 this application, I'd like to make a motion to
24 approve this application.

25 THE SECRETARY: Motion on the table to

1 approve the application by Mr. Bonacci.

2 Any second on the motion?

3 MS. GUTIERREZ: Seconding.

4 THE SECRETARY: Seconded by Mrs. Gutierrez.

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

7 VICE CHAIRMAN BONACCI: Okay.

8 THE SECRETARY: Mr. Bonacci?

9 VICE CHAIRMAN BONACCI: Yes.

10 THE SECRETARY: Ms. Gutierrez?

11 MS. GUTIERREZ: Yes.

12 THE SECRETARY: Mr. Pressey?

13 MR. PRESSEY: Yes.

14 THE SECRETARY: Mr. Medina?

15 MR. MEDINA: Yes.

16 THE SECRETARY: Mr. Ortiz?

17 MR. ORTIZ: Yes.

18 THE SECRETARY: Five in favor.

19 Motion carries.

20 Thank you.

21 MR. VALELLA: Thank you.

22 MS. PEREIRAS: Thank you all very much.

23 MS. GUTIERREZ: Thank you.

24 MS. PEREIRAS: Thank you.

25 VICE CHAIRMAN BONACCI: I just want to make

1 a comment to anybody who's here for any more
2 applications.

3 We're just going to take a brief five
4 minute recess. And then, on or about ten o'clock
5 is where we cut the meeting off for the night.

6 So, I guess, when we get close to that,
7 we'll figure out what we're going to be able to
8 finish up tonight and --

9 MS. GUTIERREZ: And the next one.

10 VICE CHAIRMAN BONACCI: -- what we may have
11 to carry over.

12 Okay.

13 MR. PANEQUE: Off the record.

14 THE SECRETARY: Five minute break.

15

16 (Whereupon, the Board recessed from 7:45
17 p.m. to 8:01 p.m.)

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1 **Hung Fat, Inc. - 1214 Summit Avenue:**

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3 MS. DILLON: Okay, Carlos. Sorry.

4 THE SECRETARY: Next application on
5 tonight's agenda, Hung Fat, Inc., 1214 Summit
6 Avenue.

7 Ms. Pereiras, please?

8 MS. PEREIRAS: Yes.

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

11 MS. PEREIRAS: Again, Bianca Pereiras, on
12 behalf of the applicants.

13 We were also here back on October 11th. At
14 that time, jurisdiction was acquired. However,
15 no testimony was presented.

16 We all know this building. This is located
17 at 1214 Summit Avenue. This was the old
18 quadraplex, or where we used to watch our movies.

19 MS. GUTIERREZ: Um hum. Yup.

20 MS. PEREIRAS: The applicant has taken a
21 lot of care to work with the architect, to try to
22 find the right fit for the space. We wanted to
23 pay homage to the existing building, to its
24 history. And what the applicant has chosen to do
25 is to rent out the space to a non-for-profit

1 | basketball team, the basketball team that
2 | normally practiced out of Mother Seton School on
3 | 15th Street. They're going to be doing their
4 | practices here.

5 | We are proposing -- you might remember, we
6 | had this application in front of this Board, or a
7 | similar one maybe about a year ago. However,
8 | we've reduced the unit counts. That was one of
9 | the comments that we heard from the Board, that
10 | the Board was not happy. There was a unit on the
11 | ground floor that we were proposing, to meet our
12 | ADA requirement. However, we've reduced that and
13 | we've added an elevator into the building.

14 | We have two experts to testify before the
15 | Board. I'd like to begin the presentation with
16 | our architect, Mr. Manual Pereiras.

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

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

20 | MR. PEREIRAS: I do.

21 | Manny Pereiras, P-E-R-E-I-R-A-S, with
22 | Pereiras Architects Ubiquitous, 1116 Summit
23 | Avenue, Union City.

24 | MS. DILLON: Thank you.

25 | MS. PEREIRAS: Mr. Pereiras, are you

1 familiar with the property at 1214 Summit Avenue?

2 MR. PEREIRAS: I am very familiar with it.

3 MS. PEREIRAS: And did you prepare the
4 drawings before the Board?

5 MR. PEREIRAS: I did.

6 MS. PEREIRAS: And would you kindly
7 describe the project for the Board?

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

9 Counsel described it very well. If you
10 remember, last time we were here, we basically
11 listened to everything you said, particularly,
12 you, Mr. Chairman. You sent me some very
13 specific recommendations and we're back before
14 this Board complying with exactly what you asked
15 for. So, hopefully, the Board will deem
16 favorable on us.

17 We are looking at a beautiful existing
18 theater. Union City had -- used to have so many
19 theaters. They're a part -- rich part of our
20 history.

21 We're looking to not demolish this and
22 actually salvage the building. As you could see
23 in the photograph and I made sure that I kept a
24 nice photograph of it on the -- on the front page
25 of the documents. And here's a colored rendition

1 of it. There's some beautiful character to it.
2 There is a beautiful cornice. There's a nice
3 pediment. There are nice features along the
4 windows.

5 So what we're looking to do is to restore
6 that and find some type of adaptive reuse for
7 this existing theater.

8 Currently, on the ground floor, there are
9 businesses, and then the back of it is a movie
10 theater.

11 By the way, for purposes of the record, I'm
12 using the same drawings that were submitted to
13 the Board, starting with sheet Z01, turning now
14 to sheet Z02, and they're simply on the easel for
15 ease of presentation.

16 As you could see, the building sits on the
17 property line on all four sides. We have a depth
18 of the building along the south side of 101.2
19 feet. On the north side, it's 99.25 feet. The
20 entire width of the building along Summit Avenue
21 is 90 feet exactly. And in the back it's 89.98.
22 And the building fits that footprint.

23 The front of the building has a two story
24 portion and then the back is the -- what used to
25 be the theater, which is currently divided into

1 four separate theaters. What we're looking to do
2 is break all those walls and make it into one
3 large volume, that could be used for sports
4 activities. It's a -- you could have a small
5 basketball court there. We provided bathrooms
6 for that facility and locker rooms.

7 And then, the front of the building, one of
8 the things that the Board asked for was to remove
9 all the residential from the ground floor to be
10 more in compliance with the Code. And we did
11 that. We removed all the residential apartments.
12 And by doing that, it triggers ADA accessibility
13 requirements.

14 So, we introduced an elevator, which was
15 the second thing that the Board wanted.
16 They wanted to have an elevator building so that
17 this building would be accessible to more
18 citizens of Union City.

19 So, we're keeping the existing commercial
20 spaces. One's a barber shop, the other one's a
21 dental lab, along the front. And then, another
22 space, which is being created from the -- the old
23 movie theater lobby.

24 We're creating a new residential lobby.
25 Before we had it along the side of the building.

1 The Board did not like that it was on the side,
2 so what we did is we gave it a central location.
3 We made it nice and prominent in the building,
4 and created that residential lobby, with a small
5 ramp to have access to the elevator and to the
6 back. And that elevator and those stairs lead us
7 to the second floor.

8 In the second floor, we see what becomes a
9 typical floor plan and what we're constructing
10 above.

11 We have very simply three apartments per
12 floor. Very beautiful simple apartments; a two
13 bedroom, a one bedroom and a two bedroom.

14 So, the one bedroom is 574 square feet.
15 The two bedroom is 981 square feet and 609 -- and
16 another one -- I'm sorry -- it's two one bedrooms
17 and a two bedroom.

18 The one bedrooms are 574 and 609. And the
19 two bedroom is 981 square feet. And we have the
20 same thing on three floors. And they're very
21 simple, very beautiful apartment layouts.

22 Basically, you walk in and you enter into a
23 big open space, that's both living room, kitchen
24 and dining room. And then, the bedrooms off to
25 the side; two on the two bedroom, and one on the

1 side. They're ample size bedrooms, ample size
2 closets.

3 Just to give you an idea of what the
4 bedrooms are, they're 11 by 12, 11 by 13.4, 12 by
5 12. So they're good sized bedrooms, typical of
6 the housing stock. Actually, a little bit bigger
7 than the normal housing stock in the area.

8 And that is typical on the third and fourth
9 floor.

10 Just to mention, there is a small mezzanine
11 area at the basketball area. So, over the
12 bathrooms, there is a small mezzanine that
13 overlooks the gymnasium space.

14 The elevation is -- does a great
15 improvement and help satisfy -- satisfy the
16 positive criteria, which our planner is going to
17 continue to talk about.

18 We're taking the existing building and
19 creating this addition above that mimics it, yet
20 is modern, simple, clean, very safe and will meet
21 all of today's standards, as far as building
22 code.

23 I could probably talk at length. This is
24 my neighborhood. This is where I grew up. I
25 love this area. I love this building, but I'll

1 -- I'll open it up to questions. I'm sure we'll
2 get into more dialogue.

3 VICE CHAIRMAN BONACCI: Okay. So besides
4 Manny, you have other --

5 MS. PEREIRAS: We have a planner.

6 VICE CHAIRMAN BONACCI: Okay.

7 MR. PEREIRAS: Um hum.

8 VICE CHAIRMAN BONACCI: Let's do that and
9 then --

10 MS. PEREIRAS: Sure.

11 VICE CHAIRMAN BONACCI: -- we'll come back
12 to the questions.

13 MS. PEREIRAS: Mr. Kauker?

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

16 MR. KAUKER: Good evening.

17 MS. DILLON: Mr. Kauker, please raise your
18 right hand.

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

21 MR. KAUKER: I do.

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

24 MR. KAUKER: Should I grab the mic?

25 MS. DILLON: No, no. You --

1 MR. KAUKER: Oh, no?

2 MS. DILLON: Just you --

3 MR. KAUKER: Okay.

4 MS. DILLON: -- can stand right there.

5 You're -- you're good.

6 MR. KAUKER: I'm loud enough?

7 MS. DILLON: You're good.

8 MR. KAUKER: Okay.

9 Michael D. Kauker. Last name spelled K-A-
10 U-K-E-R. My business address is 356 Franklin
11 Avenue in Wyckoff, New Jersey.

12 MS. DILLON: Thank you.

13 MS. PEREIRAS: And Mr. Kauker has also
14 appeared before this Board numerous times.

15 VICE CHAIRMAN BONACCI: Thanks for --

16 MS. PEREIRAS: I ask that he be accepted as
17 an expert.

18 VICE CHAIRMAN BONACCI: Thanks for being
19 here, Mr. Kauker.

20 MR. KAUKER: Thank you. It's a pleasure to
21 be here again.

22 MS. PEREIRAS: Mr. Kauker, are you familiar
23 with the address of 1214 Summit Avenue?

24 MR. KAUKER: I am, yes.

25 MS. PEREIRAS: And have you had an

1 opportunity to review the drawings?

2 MR. KAUKER: I did. In -- in preparation
3 for my testimony this evening, I had an
4 opportunity to review the plans that were
5 prepared by Mr. Pereiras. I had an opportunity
6 to review the Zoning Ordinance, the most recent
7 Master Plan of Union City. In addition, I
8 visited the site on a couple of occasions.

9 With respect to the application, as Mr.
10 Pereiras said, what we're looking to do -- and
11 just I know briefly he noted the difference.
12 Obviously, we were here on a -- on a previous
13 similar application. He highlighted the
14 differences.

15 Previously had a -- an apartment on the
16 ground floor. That was eliminated. We added an
17 elevator to the building, as well.

18 So, those were the substantive changes to
19 the application.

20 I'm sure the Board's familiar, so I won't
21 go into detail about the site itself. It's an
22 existing property. It has an existing building
23 on the property that was formerly occupied by a
24 movie -- as a movie theater. It's my
25 understanding that the movie theater had four

1 separate theaters, with about 250 seats each, for
2 a total of about a thousand seats.

3 The property itself is located along Summit
4 Avenue. It is actually -- it's located on
5 Summit, between 12th and 13th Street.

6 For purposes of identification, it's
7 identified as Block 58, Lots 26, 27 and 28 in the
8 tax records of Union City. And the subject
9 property has a lot area of 9,018 square feet.

10 One thing I would point out in relation to
11 the lot area is it's actually larger than the
12 minimum lot area required for the area, which is
13 2500. And it's larger than many of the other
14 lots in the immediate area that front along
15 Summit Avenue.

16 And from a zoning standpoint, the
17 property's located in the CN, which is the
18 neighborhood commercial district.

19 With respect to the surrounding conditions
20 itself, I'll just briefly go over the conditions
21 immediately adjacent to the property.

22 There are two other residential buildings
23 that are located on either side. There's a six
24 story building that's located, I believe, to the
25 south of the subject property.

1 And there was another, I think it was a
2 four or five story building that's located on the
3 corner, as well, which was actually -- I'm sorry,
4 immediately adjacent to the north, there's a
5 three story building. But next to that, there's
6 a four or five story building. I don't recall
7 exact.

8 With respect to the proposed development --
9 you know, as I had mentioned before, what we're
10 doing is we're eliminating one of the units. So
11 now, what's ultimately proposed is commercial on
12 the ground floor, the gymnasium -- gymnasium in
13 the back which is essentially an indoor
14 commercial recreation space. And then, there are
15 nine residential units that are going to be
16 located three on each floor, the second floor,
17 the third floor and the fourth floor.

18 As Mr. Pereiras mentioned, all construction
19 will be done in accordance with modern day
20 building standards and bring any conditions that
21 exist in the building now up to Code.

22 As I mentioned before, I did have an
23 opportunity to review the Master Plan. The
24 Master Plan was -- the comprehensive plan was
25 adopted in 2009, most recently updated in 2018.

1 I had an opportunity to review the goals
2 and objectives. It was my opinion that it does
3 not conflict with any of the specific goals, and
4 also that it does promote the following goals and
5 objectives:

6 Number one.

7 To provide a balance of land uses and
8 balanced development patterns in appropriate
9 locations; to promote and reinforce the City as a
10 desirable residential location, an attractive
11 shopping, entertainment and recreation
12 destination; and also to improve the quality of
13 life of the residents of Union City.

14 Also, I want to specifically point out page
15 two of the 2018 Re-Examination, which talks about
16 preservation and adaptive reuse of old and
17 historic buildings.

18 Basically, this should be encouraged,
19 instead of demolishing a building and rebuilding
20 from scratch. And that's essentially, really,
21 what we're doing here in a nutshell.

22 With respect to the zoning, as I mentioned,
23 it's located in the CN neighborhood commercial
24 district.

25 Last time we were here, there were

1 | basically two components that we didn't meet.
2 | Essentially, in the CN commercial district,
3 | you're permitted to have apartments. Apartments
4 | are permitted on the upper floors of
5 | nonresidential uses. We had an apartment on the
6 | ground floor, which was not permitted.

7 | In addition to that, we do have an indoor
8 | commercial use. Indoor commercial uses are not
9 | among the permitted uses in the CN zone. So, we
10 | still require a D-1 use variance for that
11 | component, although before we required, I guess,
12 | I'll call two separate components with the D-1
13 | use variance, having the apartment on the ground
14 | floor, which was eliminated, but we still
15 | maintain the indoor commercial recreation space
16 | in the building.

17 | One of the things I did also want to point
18 | out with respect to that, there are some uses
19 | that are permitted in the CN zone, that this is
20 | somewhat consistent with.

21 | For example, health clubs are permitted.
22 | So, obviously, the recreational component is
23 | consistent with that of a health club. And
24 | really, in my opinion, I think that what is
25 | proposed is going to be something that's less

1 intense than a typical health club. You know, a
2 fitness center or a gym, whatever it might be, a
3 New York Sports Club type of facility.

4 You know, so I do think that even though
5 it's not specifically permitted, it's something
6 that's consistent and compatible with the
7 existing -- or with the permitted uses in the CN
8 district.

9 As I mentioned before, we need a D-1 use
10 variance for the indoor commercial recreation
11 component. In order for the -- and I'm the
12 Board's aware of this, I'll just go over it
13 briefly for the record, in order for the Board to
14 grant a D-1 use variance, the applicant must make
15 an affirmative showing of the positive and the
16 negative criteria.

17 The positive criteria states that a
18 variance can only be granted in particular cases
19 and for special reasons.

20 The negative criteria consists of two
21 parts. You must show that the proposed use can
22 be granted without substantial detriment to the
23 public good, namely the surrounding area, the
24 neighbors on either side and in -- in the
25 vicinity.

1 And that there must not be a substantial
2 impairment to the intent and purpose of the zone
3 plan or the Zoning Ordinance of the community.

4 With respect to the D-1 use variance, there
5 is also an enhanced quality of proof that must be
6 shown reconciling the omission of this particular
7 use from the plan.

8 With respect to the positive criteria, I
9 just submit to the Board, the most often cited
10 purpose is Purpose A of the Municipal Land Use
11 Law, which deals with promotion of the general
12 welfare.

13 Any one of the purposes of zoning can be a
14 special reason in and of itself.

15 With respect to this site, it's my opinion
16 that Purpose A, the promotion of the general
17 welfare is promoted because the site is
18 particularly suited for the proposed use.

19 It's my opinion that it's particularly
20 suited for a number of reasons, the first being
21 that what we're doing is we're proposing an
22 adaptive reuse of this building. I think that
23 that's something that is preferable, as I said,
24 as opposed to demolishing a building, which is a
25 very nice older historical building, and -- and

1 | adapting it to what we're proposing here today,
2 | updating it with the modern day building
3 | standards.

4 | As I mentioned before, the building is very
5 | large. It can accommodate the gymnasium and the
6 | commercial. And as Mr. Pereiras testified to,
7 | the additional two floors are going up,
8 | basically, inside the existing footprint of the
9 | building, so it won't go wall-to-wall.

10 | And it's something, if you look at his
11 | rendering, I think he did a very nice job and I
12 | think what's proposed there really enhances the
13 | existing building on the site.

14 | As I mentioned before, the site is -- is
15 | larger than most of the other sites in the area,
16 | which differentiates it from other properties in
17 | the area.

18 | In addition, as I said, it's also larger
19 | than the minimum lot area; 9,018 square feet
20 | exists, 2500 is the minimum square footage
21 | required for the CN district.

22 | As I also mentioned, I think that the
23 | proposed gymnasium use is going to be something
24 | that's less intense than the former, even with
25 | the additional residential uses, less intense

1 | than the former use of the property, being a
2 | theater.

3 | So, for those reasons, I think that we meet
4 | the positive criteria of the statute.

5 | In addition, it's also my opinion that we
6 | do promote purposes of the Municipal Land Use
7 | Law.

8 | In addition to Purpose A, also promotion of
9 | a desirable visual environment, which is one of
10 | the promotion -- or one of the purposes of
11 | zoning.

12 | Also, the promotion of a State policy has
13 | been found to advance the general welfare and
14 | serve as the basis for the grant of a variance.
15 | And that was a court case called Anfuso and
16 | Seeley.

17 | In my opinion, the proposal promotes the
18 | New Jersey State Development and Redevelopment
19 | Plan. Essentially, it -- this property is
20 | located in Planning Area 1.

21 | Just briefly, the plan breaks up the State
22 | into different planning areas, 1 through 5. Most
23 | urban areas, you're designated as Planning Area
24 | 1, which are designated growth areas, pursuant to
25 | the plan.

1 Basically, it -- it recommends that
2 development is focused in areas that are already
3 developed, with infrastructure that has the
4 ability to accommodate the development.

5 Moving on to the C variances.

6 There's one C variance that's required and
7 that's for parking.

8 Now, with respect to the parking, there are
9 a couple things that I -- I just wanted to point
10 out.

11 The number of parking spaces that are
12 required, pursuant -- and I don't know -- I
13 didn't see Mr. Spatz's memorandum. I don't
14 recall if there was a difference between his
15 memorandum and what Mr. Pereiras had calculated,
16 but 48 spaces for the residential component,
17 where there -- actually, there would be one --
18 there -- there's 17 spaces for the residential
19 component, for the -- for the one bedroom, and
20 then, the six one bedrooms and the two three
21 bedroom uses -- I'm sorry -- the three two
22 bedroom uses. So, there's --

23 Let me just go over that again.

24 There are six one bedrooms and then there
25 are three two bedrooms.

1 Is that still accurate?

2 MR. PEREIRAS: That's correct.

3 MR. KAUKER: The indoor commercial
4 component. There's a parking requirement for
5 that. And then, the commercial retail
6 development, there's also a requirement for that.

7 A couple things I did want to point out.
8 There's a provision in your Ordinance, it's
9 Section 223-46A.2.E and it basically says, no
10 off-street parking spaces shall be required for
11 the first six dwelling units in a building
12 located on Bergenline Avenue between 30th and
13 47th, or on Summit Avenue between 5th and 18th
14 Street, which this property falls within.

15 So, that mean -- would mean there's a
16 requirement for those three additional
17 residential units.

18 One other thing I wanted to point out with
19 respect to the commercial component, there is a
20 recommendation in your Master Plan that along
21 Summit Avenue, that parking shall not be required
22 for nonresidential uses. And that's for,
23 actually, more than Summit Avenue, for lots with
24 frontage on Bergenline Avenue or Summit Avenue.
25 But that -- that is only a recommendation of the

1 Master Plan.

2 With respect to the positive criteria, I
3 would submit to the Board that I believe that
4 there's a hardship related to the site,
5 obviously, because of the existing -- the
6 existence of the existing building, it's very
7 difficult to provide parking on the property.

8 One of the other things I would like to
9 point out is that there's mass transit in the
10 area. There's actually a bus stop that's located
11 on Summit, between 12th and 13th Street. So, just
12 a couple properties to the south of the subject
13 property. So I think that that's a mitigating
14 factor.

15 One of the other things I looked at, too,
16 which was quite interesting, is that the former
17 theater -- obviously there's no parking onsite,
18 but the former theater, if you take a look at
19 what's required per the Code, they're required
20 one space per every three seats. What that
21 equates to, with a thousand seats, is 333 parking
22 spaces. So, there was a much larger parking
23 demand on this property previously than there is
24 now.

25 So for those reasons, I feel that -- you

1 know, that we meet the positive criteria related
2 to the C variance for parking.

3 Now, finally, moving on to negative
4 criteria.

5 With respect to any detriment to the public
6 good, as I pointed out, this is an existing
7 building. We're -- you know, the building
8 exists. You know, the height requirement meets
9 the height requirement, so there's no variance
10 requested for that, or no impact that would be
11 resulting from that.

12 So, I -- I think that the proposed adaptive
13 reuse of the structure would have a positive
14 impact on the neighborhood.

15 And again, I think given the fact that the
16 total parking demand has been reduced, I think is
17 another positive aspect of the application.

18 Also, dealing with any substantial
19 impairment to the intent and purpose of the
20 Master Plan or Zoning Ordinance, I previously
21 referenced a number of goals and objectives of
22 the plan that, in my opinion, that this
23 application is consistent with.

24 Also, with respect to the enhanced quality
25 of proof, reconciling the omission -- you know, I

1 -- I think that this site is something that is --
2 with respect to the development that's gone on in
3 the area, I think is consistent. And I think is
4 consistent with the existing development that
5 exists along this portion of Summit Avenue.

6 So, for those reasons, I think that the
7 negative criteria is satisfied as well.

8 Having said all that, it's my opinion that
9 I feel that the applicant has met its burden of
10 proof with respect to this application, and I
11 believe the Board can feel confident in granting
12 the requested variances.

13 Thank you.

14 VICE CHAIRMAN BONACCI: Thanks, Mr. Kauker.

15 MS. GUTIERREZ: Thank you.

16 VICE CHAIRMAN BONACCI: So that concludes
17 your testimonies.

18 Right?

19 MS. PEREIRAS: Yes, that's correct.

20 VICE CHAIRMAN BONACCI: Okay.

21 Any members of the Board have any questions
22 right now?

23 MR. PRESSEY: Yeah. I have one. I'm going
24 back to page Z02.

25 Let me see. Let me get the right page.

1 Let me -- let me get the right page.

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

4 MR. PRESSEY: The one where you said -- it
5 says one bedroom and it's listed as two.

6 MR. PEREIRAS: Yeah. It's -- it's a one
7 bedroom.

8 MR. PRESSEY: Right.

9 MR. PEREIRAS: There's a typo on the
10 drawing. It actually says the number two, but
11 it's a one bedroom and it's --

12 MR. PRESSEY: My question --

13 MR. PEREIRAS: -- drawn as a one bedroom.

14 MR. PRESSEY: My question was, if this
15 application was approved, would that part have to
16 be redone?

17 VICE CHAIRMAN BONACCI: The -- in the
18 plans?

19 MR. PRESSEY: Yes.

20 MR. PANEQUE: These plans that are
21 presented to the Board are for variance
22 approvals. It would -- we would take note, based
23 on what was placed on the record, that that
24 apartment is a one bedroom.

25 Okay?

1 And -- and that's your statement --

2 MR. PEREIRAS: That is my statement.

3 MR. PANEQUE: -- Mr. Pereiras?

4 So, Mr. Pressey, then the Board can take
5 note that it's a one bedroom and if the -- the
6 variance were to be approved, I can make a note
7 of that in the Resolution.

8 MR. PRESSEY: All right.

9 Thanks.

10 MR. PEREIRAS: And just to be clear, we
11 have three two bedrooms, six one bedrooms, so the
12 record is straight.

13 MR. PRESSEY: Thanks.

14 VICE CHAIRMAN BONACCI: Before I open it up
15 for any members of the public that would like to
16 ask any questions or have any comments on -- you
17 know, with regards to this application, I just
18 wanted to say -- you know, addressing the
19 concerns that I have earlier, when you guys have
20 presented this before, I appreciate that you guys
21 -- you know, went back to the drawing board to
22 address those concerns.

23 No decision that we come up with comes
24 lightly. So, we take a lot of thought and
25 consideration into all these -- you know,

1 decisions that we make, which I'm sure that you
2 guys already know that by now. That's why we sit
3 here for hours and hours and -- you know, go
4 through these things with like a fine tooth comb,
5 to get the best result.

6 It seems as though -- before I open it up
7 to members of the public, it seems as though that
8 there's a lot going on here with this
9 application, as far as the building goes. But I
10 think Mr. Spatz had a question that he wanted to
11 ask, so I'll let him go first.

12 MR. SPATZ: Okay.

13 Thank you.

14 Question I have is regarding parking.
15 First, because the first six units do not require
16 parking, residential units, the total number of
17 spaces required is 37 spaces.

18 The question that I have is -- is really is
19 regarding the use of the basketball facility. I
20 think there was an indication that it's being
21 used by a nonprofit in the neighborhood.

22 Are they the sole users of it? Will it be
23 then opened up to other agencies, organizations?

24 I think it was mentioned that the nonprofit
25 is using another court somewhere else for

1 | basketball. How close are they? How do people
2 | get there? Is there parking on that site that
3 | they can park on that site, walk to this
4 | building?

5 | Just maybe a little bit of a discussion
6 | about how that's handled.

7 | MR. PEREIRAS: I'd be very happy to.

8 | First, I'm going to speak not even as an
9 | architect, from personal experience, as someone
10 | who grew up in the neighborhood, that was part of
11 | this basketball program.

12 | This was -- this basketball program that
13 | we're talking about was a huge impact on my life.
14 | It was every Sunday, with -- as -- it was church
15 | and basketball. Those were the things and if you
16 | talk to the majority of the -- the young men in
17 | this neighborhood, so many of them went through
18 | this program, and it -- it has been so much
19 | impact on their life.

20 | So by that, I mean, this is a local
21 | program. We're not having people driving to this
22 | location, we're not having -- you know, people
23 | coming from out of -- it's a program that -- that
24 | benefits the young kids from the neighborhood.

25 | It was in existence when I was a kid. It's

1 in existence now. It is currently running
2 partially out of --

3 And I can't think of the name right now.

4 MS. PEREIRAS: Mother Seton.

5 MR. PEREIRAS: No. It was Mother Seton,
6 and right now, because there were problems with
7 Mother Seton, it's running out of Kerrigan and
8 14th. What school is that?

9 A CITIZEN: Gilmore.

10 MR. PEREIRAS: Gilmore.

11 MS. PEREIRAS: Gilmore.

12 MR. PEREIRAS: Gilmore School.

13 So right now, it's running out of Gilmore
14 School. There are a lot of schedule conflicts.
15 It's difficult to get time on the court and
16 that's why they're looking for this facility, so
17 that they could run a more adequate program out
18 of it.

19 The -- right now, there is a -- a lease in
20 place. I can't guarantee it for -- that that
21 lease will be in place. It is a nonprofit. They
22 -- they do rely on donations to -- to exist. It
23 would be, I think, beneficial to this Board to
24 reflect on what other uses we could have and
25 permit on that location, should this basketball

1 court not be in existence in the future.

2 And what I suggest is that this -- if this
3 not-for-profit isn't in use, that it reverts back
4 to commercial, which is a permitted use in the
5 district. It's what would be allowed. It's the
6 existing space. The Resolution could read as
7 such, just to protect any future potential -- you
8 know, uses of the site, so that we feel
9 comfortable.

10 And that way, we could allow this nonprofit
11 to succeed and -- and work and help our community
12 now. And if there was -- you know, 20 years from
13 now, if it would revert back and they were no
14 longer in existence, it goes back to being a
15 strictly commercial permitted use in the area.

16 VICE CHAIRMAN BONACCI: Okay.

17 So, Manny, the issue that -- you know, is
18 staring us right in the face is that the
19 basketball court is not a permitted use, --

20 MR. PEREIRAS: Um hum.

21 VICE CHAIRMAN BONACCI: -- which we know.
22 So then, if we were to think for a moment if we
23 were to allow that use --

24 MR. PEREIRAS: Um hum.

25 VICE CHAIRMAN BONACCI: -- and like you

1 | said, it's going to be used for Mother Seton,
2 | that's right now at Gilmore.

3 | MR. PEREIRAS: Um hum.

4 | VICE CHAIRMAN BONACCI: And let's say
5 | something were to happen to the nonprofit, and
6 | it's not available for Mother Seton in the
7 | future, but that basketball court that's brand
8 | new is still there, is there -- would there be
9 | busing involved? Would there be out-of-district
10 | kids that are coming in to use the facility?

11 | And then, when I think about the basketball
12 | court, and the use, it's obviously all positive.
13 | But then, part of our job is -- you know, we got
14 | to weigh out the negative.

15 | MR. PEREIRAS: Um hum.

16 | VICE CHAIRMAN BONACCI: So, what would be
17 | the negative?

18 | Well, when I think of the use, and then the
19 | building, and then the fact that there's
20 | commercial there, and residential, I'm thinking
21 | about kids that are going to be in the same
22 | building where people reside, and then where
23 | people are working, and then where there's a lot
24 | of traffic because there's a commercial space
25 | where people might be going to do business. And

1 | this is all in the realm of where there's kids
2 | playing basketball.

3 | And that presents a concern for me because
4 | I'm thinking about what could go wrong when
5 | there's kids playing basketball in a building
6 | where there's people living, who have guests that
7 | they want to bring over. And then, there's the
8 | commercial space, where business is being
9 | conducted. And all of these things have to work
10 | together.

11 | MR. PEREIRAS: Um hum.

12 | VICE CHAIRMAN BONACCI: And I could just
13 | see the problems happening because I have to
14 | outweigh the positive and the negative together.
15 | So right now, obviously, I'm leaning heavily on
16 | the negative.

17 | And I don't see that being safe for the
18 | children unless there was some sort of -- there's
19 | security guards there, there's teachers there,
20 | there's -- like -- like the way it is in a
21 | school. But this is not a school, this would be
22 | a nonprofit. There would have to be security
23 | guards. There'd have to be some sort of police
24 | officers available, because we don't know what
25 | could possibly go wrong. We could only imagine

1 | what could go wrong if there's a bunch of kids
2 | playing basketball in a nonprofit program --
3 | nonprofit, there's not enough money to pay the
4 | extra people to supervise the kids.

5 | And you can see where I'm going with this.

6 | It would almost be more beneficial if it
7 | was just a movie theater, where people come, go
8 | see the movie, pay for the movie, leave and go
9 | home, and then you don't really have to worry
10 | about the parking or any of that stuff.

11 | You understand where I'm going?

12 | MR. PEREIRAS: I hear you --

13 | VICE CHAIRMAN BONACCI: Okay.

14 | MR. PEREIRAS: -- loud and clear.

15 | VICE CHAIRMAN BONACCI: Yeah.

16 | MR. PEREIRAS: And I'd like to make two
17 | very separate statements in response to your
18 | comment.

19 | The first statement is that the landlord
20 | has been holding onto this property for a long
21 | time. We went through the process. We were
22 | denied once before. The pockets are hurting.
23 | It's difficult. We need to move forward and we
24 | need to find a positive solution for this.

25 | So, if at the end of the day, you're

1 | telling me that the issue is the basketball
2 | court, allow us to revise the drawing and we
3 | would eliminate the basketball court and we would
4 | do simply commercial space on that ground floor,
5 | if that were the Board's opinion.

6 | And we ask you to allow us that
7 | opportunity.

8 | That said, in defense of the basketball
9 | program, we took a lot of care in how we designed
10 | it. First and foremost, the residential portion
11 | has a separate and distinct entrance. The
12 | commercial spaces have a separate and distinct
13 | spaces. And the basketball court is lit, it's in
14 | the middle, it's open. Something that we're not
15 | strange to in Union City. We're one of the most
16 | densely populated cities in -- in the country.
17 | Actually, the world. We are -- understand the
18 | proximity to things. And anything we do in Union
19 | City is going to be close to commercial, close to
20 | retail, close to residential.

21 | We also have this same situation happening
22 | in other areas, even on Summit Avenue. We went
23 | before this Board and we have a facility approved
24 | on 23rd and Summit, which is a baseball facility.
25 | It's exactly the same thing. There's commercial

1 spaces. It's right next to houses. We have a
2 baseball program running out of that facility.
3 And it's running really well. Even Union City
4 High School uses that same program to -- to help
5 train certain students.

6 So, we have the same thing for baseball,
7 and what we're asking to do is just a few blocks
8 away, have exactly the same thing for basketball.

9 So, I think it's a solution that works.
10 It's -- it's very possible, it's very easy to be
11 done in a very safe way.

12 That said, remember my first statement, our
13 -- our importance here is that the landlord, who
14 is our client, that he find a solution so that
15 this building, which is actually in desperate
16 need of repairs, their sprinkler systems are
17 failing, there's -- there's structural systems
18 that are failing, we have an infrastructure
19 problem. We have an old theater that is going to
20 get a lot worse if we don't do something. And
21 every day that passes, it gets worse and worse.

22 So, we really need to come to a solution
23 with the Board to make this work.

24 VICE CHAIRMAN BONACCI: And -- and I
25 understand that in the past, there's been

1 | different proposals for this --

2 | MR. PEREIRAS: Um hum.

3 | VICE CHAIRMAN BONACCI: -- you know,
4 | address; parts and all kinds of other things.
5 | So, I know that this has like been a thing that's
6 | been dragging in the mud for awhile.

7 | MR. PEREIRAS: Yes.

8 | VICE CHAIRMAN BONACCI: And it's a shame to
9 | see such a nice space go to waste, but my concern
10 | is that we do it right --

11 | MR. PEREIRAS: Um hum.

12 | VICE CHAIRMAN BONACCI: -- so that some of
13 | these problems that -- you know, I may be
14 | foreseeing in my head -- you know, they don't
15 | come to fruition.

16 | And also, I would suggest, before we open
17 | it up to any members of the public, that you and
18 | your clients work together to try to find some
19 | input from the community, to see -- you know,
20 | what people are open to and these -- those types
21 | of things.

22 | MR. PEREIRAS: And if you allow us to
23 | revise the drawings, we'd be happy to do that, at
24 | this moment.

25 | VICE CHAIRMAN BONACCI: And then, with

1 | that, I just want to open it up to members of the
2 | public.

3 | And if anybody wants to come forward with
4 | any questions, comments, concerns, now is the
5 | opportune time to come forward and get sworn in.

6 | MR. PANEQUE: Mr. Price.

7 | MR. PRICE: Larry Price, still under oath.

8 | I would be a little careful here. Let me
9 | -- you know, one of the thing -- I happen to be
10 | well acquainted with the baseball operation at
11 | 2300 Summit Avenue. We spent a little time in
12 | court on that one, until they change --

13 | Okay.

14 | At least initially on the approval, that
15 | was not a nonprofit. It is a commercial
16 | establishment. It has apartments -- you know,
17 | it's approved for apartments upstairs.

18 | VICE CHAIRMAN BONACCI: You're talking
19 | about the basketball program or you're talking
20 | about the --

21 | MR. PRICE: I'm talking about --

22 | VICE CHAIRMAN BONACCI: -- baseball
23 | program?

24 | MR. PRICE: -- the baseball program --

25 | VICE CHAIRMAN BONACCI: Okay.

1 MR. PRICE: -- at 2300. Okay.

2 And my feeling is, this one would be -- you
3 know, remember, a permitted use is a retail or
4 service establishment in the CN zone. If this
5 weren't a -- a nonprofit, have a regular operator
6 came in, he doesn't need a --

7 MR. PEREIRAS: That's true.

8 MR. PRICE: It's a permitted use.

9 VICE CHAIRMAN BONACCI: What do you mean,
10 regular operator?

11 I'm sorry.

12 MR. PRICE: A commercial operator.

13 VICE CHAIRMAN BONACCI: Okay.

14 MR. PRICE: A for-profit operator.

15 VICE CHAIRMAN BONACCI: Right. Like a
16 business.

17 MR. PRICE: So, basically, a business.

18 VICE CHAIRMAN BONACCI: Okay.

19 MR. PRICE: Exactly. So all you're doing
20 here, with all of these -- and he doesn't have to
21 make any promises. It is a permitted use. So,
22 all you're doing is discriminating against a
23 nonprofit operator, which I think is, to be
24 blunt, foolish.

25 VICE CHAIRMAN BONACCI: Mr. Price?

1 MR. PRESSEY: We're not discriminating.

2 VICE CHAIRMAN BONACCI: Did you --

3 Hold on a second.

4 Mr. Price, did you hear my concerns about
5 kids being in a building where there would be
6 adults who reside?

7 MR. PRICE: There are -- at 2300 Summit
8 Avenue, there are apartments --

9 VICE CHAIRMAN BONACCI: Okay.

10 MR. PRICE: -- approved on that site.

11 VICE CHAIRMAN BONACCI: But respectfully --

12 MR. PRICE: Now why don't --

13 VICE CHAIRMAN BONACCI: Respectfully, we're
14 not talking about 2300 Summit Avenue, we're
15 talking about this location that we're talking
16 about now.

17 So, I understand that you're comparing one
18 to another. But for purposes of just staying on
19 track with this application --

20 MR. PRICE: Wait a minute.

21 VICE CHAIRMAN BONACCI: -- those are the
22 issues --

23 MR. PRICE: Wait a minute.

24 But that --

25 VICE CHAIRMAN BONACCI: -- that I --

1 MR. PRICE: No.

2 VICE CHAIRMAN BONACCI: -- foresee going
3 forward.

4 MR. PRICE: You're misunderstanding what --
5 what I'm trying to say to you.

6 You have an athletic training facility.
7 You have a proposed training -- you have
8 apartments upstairs, you have proposed apartments
9 upstairs.

10 VICE CHAIRMAN BONACCI: Right.

11 MR. PRICE: Actually, I think there are
12 existing apartments upstairs.

13 MR. PEREIRAS: Um hum. Yeah.

14 MR. PRICE: Okay?

15 MR. PANEQUE: Not on 23rd.

16 MR. PRICE: There are no restrictions at --

17 MR. PEREIRAS: There's five --

18 MR. PRICE: -- 2300 --

19 MR. PEREIRAS: -- legalized --

20 MR. PRICE: -- Summit Avenue.

21 MR. PEREIRAS: -- approved apartments.

22 MR. PRICE: And there can't be. The Board
23 doesn't have the right to oppose those kind of
24 operating restrict -- and you have no way of
25 monitoring.

1 So you're -- you're voicing all these
2 concerns and I'm saying all you're doing --

3 VICE CHAIRMAN BONACCI: Right.

4 MR. PRICE: -- is discriminating against a
5 nonprofit entity.

6 If a commercial operator came in and
7 proposed exactly the same operation, exactly the
8 same nine apartments --

9 VICE CHAIRMAN BONACCI: Right.

10 MR. PRICE: -- upstairs, you couldn't --
11 you couldn't do anything. At -- that's an
12 approval --

13 VICE CHAIRMAN BONACCI: Well, I don't know
14 if you heard me earlier when I said, I -- it
15 almost feels as though this use would be better
16 suited to be a movie theater, where people just
17 come in.

18 MR. PRICE: Wait a minute.

19 VICE CHAIRMAN BONACCI: It's a business.

20 MR. PRICE: But that's not -- that's not
21 the application.

22 VICE CHAIRMAN BONACCI: Right.

23 MR. PRICE: What I'm saying is that all
24 you're doing is discriminating against a
25 nonprofit entity. And I think that verges on an

1 area that you --

2 VICE CHAIRMAN BONACCI: So would --

3 MR. PRICE: -- don't want to go.

4 VICE CHAIRMAN BONACCI: Would you say that
5 my concern for children who might go play
6 basketball there, I should just forget about the
7 safety of the kids that may go play basketball
8 there?

9 MR. PRICE: I think you're - you're --
10 frankly, I think your concerns are un --
11 ungrounded.

12 VICE CHAIRMAN BONACCI: Okay.

13 MR. PRICE: Unwarranted.

14 VICE CHAIRMAN BONACCI: I would
15 respectfully disagree with you.

16 MR. PRICE: Okay.

17 Then, why -- why don't you urge the
18 governing body to -- when it's a commercial
19 operator, a for-profit operator, face those same
20 considerations?

21 Actually, you don't have the right to put
22 that kind --

23 VICE CHAIRMAN BONACCI: You're right.

24 MR. PRICE: -- of condition.

25 VICE CHAIRMAN BONACCI: I don't. And

1 | that's not what I'm trying to do.

2 | MR. PRICE: Well, what you're -- what
3 | you're saying is, here, you got a D-1 use
4 | variance application and I won't approve it
5 | unless you have --

6 | VICE CHAIRMAN BONACCI: I didn't say I
7 | wouldn't --

8 | MR. PRICE: -- bodyguards for the kids.

9 | VICE CHAIRMAN BONACCI: -- approve
10 | anything.

11 | MR. PRICE: Okay.

12 | VICE CHAIRMAN BONACCI: Now you're putting
13 | words in my mouth. I never said I wouldn't
14 | approve anything.

15 | MR. PRICE: Okay.

16 | VICE CHAIRMAN BONACCI: I just said that
17 | these are the concerns that I foresee if this
18 | were to be allowed tonight.

19 | MR. PRICE: Okay.

20 | VICE CHAIRMAN BONACCI: And if they could
21 | do something without our permission, they
22 | wouldn't be here. They wouldn't be here if they
23 | didn't need us to say okay.

24 | MR. PRICE: And --

25 | VICE CHAIRMAN BONACCI: So, there's a

1 reason why they're here.

2 MR. PRICE: Okay.

3 VICE CHAIRMAN BONACCI: There's a reason
4 why they're seeking the approval of this Board.
5 And I'm just trying to work with them to come to
6 some sort of middle ground, so that they can get
7 what they want.

8 MR. PRICE: Okay.

9 My advice to you, to the Board, is you have
10 to be careful about how far you push a property
11 owner.

12 VICE CHAIRMAN BONACCI: I don't think I'm
13 pushing anybody. I think that my questions are
14 pretty reasonable and I --

15 MR. PRICE: No --

16 VICE CHAIRMAN BONACCI: -- think my
17 concerns are pretty reasonable.

18 MR. PRICE: You --

19 VICE CHAIRMAN BONACCI: And I think that if
20 there's --

21 MR. PRICE: No.

22 VICE CHAIRMAN BONACCI: -- anybody here in
23 the --

24 MR. PRICE: Please.

25 VICE CHAIRMAN BONACCI: -- public who have

1 children --

2 MR. PRICE: Mr. Bonacci --

3 VICE CHAIRMAN BONACCI: -- they would
4 appreciate that I'm asking those questions.

5 MR. PRICE: If you deny this application --

6 VICE CHAIRMAN BONACCI: Does anybody want
7 to send their kids to a place to play basketball
8 that's unsafe? I don't think the answer to that
9 question is yes.

10 MR. PRICE: I don't think it's been
11 established that it's unsafe.

12 How do they get to Sara Gilmore? They all
13 walk there. They're going to walk to this place.
14 Okay.

15 Okay? How do they get --

16 VICE CHAIRMAN BONACCI: But there's people
17 --

18 MR. PRICE: -- to 2300 Summit Avenue?

19 VICE CHAIRMAN BONACCI: Mr. Price, there
20 are people who work at Gilmore School that
21 supervise the kids. They're not left unattended.
22 This is going to be a nonprofit organization,
23 that may or not have enough money to -- you know,
24 complete their operation. And we don't even know
25 if they're going to have enough people --

1 MR. PRICE: Okay.

2 VICE CHAIRMAN BONACCI: -- to watch the
3 kids that are going to go there.

4 Or keep an eye on strangers that may or not
5 being going into the building. That's all I'm
6 saying.

7 MR. PRICE: Mr. Bonacci, what I'm saying to
8 you, you push this property owner too hard, he's
9 got one choice. One is, he could sell this to a
10 profit operator -- to another person --

11 VICE CHAIRMAN BONACCI: Right.

12 MR. PRICE: -- who would put -- or he could
13 keep the property and propose it for a for-profit
14 operator.

15 VICE CHAIRMAN BONACCI: Right. But my
16 concern is --

17 MR. PRICE: And that -- and then --

18 VICE CHAIRMAN BONACCI: -- not for the
19 property owner.

20 MR. PRICE: Then --

21 VICE CHAIRMAN BONACCI: My concern is for
22 the people who live in this town. My concern is
23 for the kids who live in this town. My concern
24 is for the --

25 MR. PRICE: How have you --

1 VICE CHAIRMAN BONACCI: -- kids who might
2 operate in this town.

3 MR. PRICE: -- solved that problem when --
4 when the property owner can turn around and get a
5 for-profit operator and his need for a D-1 use
6 variance disappears?

7 Okay.

8 Or the second choice he has is he just
9 says, since the building is deteriorated, the
10 heck with it, I'll just demolish it and I'll put
11 up three stores, with three -- each one, three
12 apartments upstairs.

13 VICE CHAIRMAN BONACCI: Right.

14 MR. PRICE: So you still get nine
15 apartments, whatever.

16 VICE CHAIRMAN BONACCI: That's fine but --

17 MR. PRICE: And you get --

18 VICE CHAIRMAN BONACCI: -- then it's not
19 tar --

20 MR. PRICE: -- three more stores.

21 VICE CHAIRMAN BONACCI: Then it's not
22 targeting children to come there. So then, it's
23 not really needing any sort of the detriment that
24 I'm pointing out.

25 So if it becomes a commercial space, that's

1 | just going to be used as a business, then my
2 | whole argument about are the kids safe is out the
3 | window, because then it's not a facility that's
4 | targeting kids to go play there. Then it's just
5 | a business.

6 | MR. PRICE: It's still a basketball court.

7 | VICE CHAIRMAN BONACCI: That's if we grant
8 | it as that use.

9 | MR. PRICE: No. No. If a commercial
10 | operator comes in, it's still a basketball court.
11 | Just as -- you know, it's still a training
12 | facility, just the way 2300 Summit Avenue is a
13 | training facility, with no special requirements
14 | because you can't impose them. It's a permitted
15 | use.

16 | VICE CHAIRMAN BONACCI: Like I said
17 | earlier, Mr. Price, --

18 | MR. PANEQUE: May I --

19 | VICE CHAIRMAN BONACCI: -- we're trying to
20 | work to come to --

21 | MR. PRICE: Yes.

22 | VICE CHAIRMAN BONACCI: -- some sort of
23 | middle road and that's what we're trying to do
24 | here. I'm not pushing any owner. I'm just
25 | asking some questions.

1 And the reason I'm asking the questions is
2 because what kind of Zoning Board would we be if
3 we didn't ask questions about the detriment or
4 the substantial impairment to the community, and
5 we just granted applications?

6 Okay. Great. Build a basketball court and
7 just green light everything.

8 We're not granting variances here like
9 we're giving away Jolly Ranchers. We need to
10 know what's going to go on. We need to raise
11 these questions before we approve anything.
12 That's the way we've always done things here, as
13 long as I've been here. And you know that,
14 because you're here every month.

15 So, I'm not doing anything on this
16 application that I haven't done on all the
17 applications that we've heard before.

18 MR. PRICE: I think --

19 VICE CHAIRMAN BONACCI: And you know that.

20 MR. PRICE: I think Mr. Paneque had a
21 remark -- comment to make.

22 MR. PANEQUE: I have a -- a question.

23 Maybe the architect or even the applicant
24 can answer this, and -- and that's as follows:

25 Why do we need to get into the nonprofit

1 organization aspect of it? May I ask this? Is
2 this organization that's going to occupy that
3 space going to occupy it a hundred percent rent
4 free with no fees whatsoever?

5 MR. PEREIRAS: No.

6 MR. PANEQUE: Okay.

7 So, why do we even need to know that it's a
8 nonprofit? It's a -- it's a red herring.

9 Okay?

10 The bottom line is that unless your client
11 is an altruist and he's giving away this property
12 free of charge, okay, this nonprofit, whether
13 it's the Red Cross or a basketball organization,
14 is going to be giving him some kind of -- some
15 kind of remuneration, whether it's in the form of
16 tax payments, in the form of some kind of rent.

17 So, your application, noting that it's a
18 nonprofit, might have been thrown in there for
19 purposes of trying to take this Board in -- into
20 a rabbit hole of trying to say, hey, they're --

21 MR. PEREIRAS: Charity.

22 MR. PANEQUE: -- doing something good for
23 the -- for the community. But it's completely a
24 red herring.

25 MR. PEREIRAS: Um hum.

1 MR. PANEQUE: You understand where I'm
2 going with this?

3 MR. PEREIRAS: I do.

4 MR. PANEQUE: So, Mr. Price, the fact that
5 you're raising that this is a -- we should just
6 strike out the nonprofit part of it and just call
7 it for what it is.

8 It's -- it's an applicant for -- it's --
9 it's going to be commercial. Okay.

10 MR. PEREIRAS: Um hum.

11 MR. PANEQUE: A basketball court that's
12 rented out to a nonprofit -- it could be a
13 nonprofit, or it could be LeBron James Training
14 Facility, for all we care. Okay. They're still
15 going to be paying rent.

16 Once rent is paid, it's no longer a
17 nonprofit for -- with respect to the landlord.

18 MR. PEREIRAS: That's right.

19 MR. PANEQUE: This landlord is taking
20 money.

21 MR. PEREIRAS: And the applicant is the
22 landlord.

23 MR. PANEQUE: And the applicant is the
24 landlord.

25 So, let's leave the nonprofit aspect out of

1 | it. The application that we have here is a
2 | commercial use on the ground floor, with a
3 | proposed dental lab?

4 | MR. PEREIRAS: There's an existing dental
5 | lab.

6 | MR. PANEQUE: There's an existing dental
7 | lab.

8 | MR. PEREIRAS: There's an existing barber
9 | shop.

10 | MR. PANEQUE: Barber shop.

11 | MR. PEREIRAS: There's a new --

12 | MR. PANEQUE: There's an empty --

13 | MR. PEREIRAS: -- empty space.

14 | MR. PANEQUE: -- now.

15 | MR. PEREIRAS: Yes.

16 | MR. PANEQUE: And a back space, which is a
17 | proposed basketball facility. Who runs it? We
18 | could care less. And that, I think, addresses
19 | your question --

20 | MR. PRICE: Then that's --

21 | MR. PANEQUE: -- Mr. Price.

22 | MR. PRICE: -- a service establishment.

23 | MR. PANEQUE: It's a service establishment.

24 | MR. SPATZ: No.

25 | Excuse me?

1 It isn't. It's a commercial -- it's a --

2 How is it described in the Ordinance --

3 MR. KAUKER: Commercial recreation.

4 MR. SPATZ: -- as a commercial recreation.

5 An indoor commercial recreation --

6 MR. PANEQUE: Okay.

7 MR. SPATZ: -- which is not permitted in
8 the CN zone.

9 MR. PANEQUE: But that --

10 MR. SPATZ: So they need a use variance --

11 MR. PANEQUE: You need a use --

12 MR. SPATZ: -- regardless --

13 MR. PANEQUE: Okay. But we don't --

14 MR. SPATZ: -- of how it's administered.

15 MR. PANEQUE: But --

16 MR. SPATZ: It still needs the use
17 variance.

18 MR. PANEQUE: The -- the nonprofit --

19 MR. SPATZ: Doesn't matter --

20 MR. PANEQUE: -- aspect of it --

21 MR. SPATZ: -- at all.

22 MR. PANEQUE: -- we could care less.

23 MR. SPATZ: It's just not permitted in the
24 zone --

25 MR. PANEQUE: Okay.

1 MR. SPATZ: -- as it is. And that's the
2 decision that the Board has to make.

3 So again, that -- that aspect of it as
4 you've indicated, is -- is not important.

5 MR. PANEQUE: Okay.

6 MR. SPATZ: It's -- that use is permitted
7 in other zones, but not in this zone.

8 MR. KAUKER: Can I make one comment?

9 MR. PANEQUE: Yes.

10 MR. KAUKER: And just as a -- because I've
11 been listening to the conversation. I think that
12 was a very good question, too, because regardless
13 of what it is, there's going to be children
14 there.

15 But so, I think there are two issues you
16 need to focus on.

17 Number one is separation.

18 VICE CHAIRMAN BONACCI: Yeah.

19 MR. KAUKER: And then the second is
20 supervision, which I think any use like this -- I
21 mean, is going to have some sort of supervision.
22 They're going to have --

23 VICE CHAIRMAN BONACCI: Yeah. You know,
24 just for the record, I don't want anybody to
25 think, going forward, that -- you know, I'm

1 | trying to discriminate against any sort of --

2 | MR. KAUKER: No. That's --

3 | VICE CHAIRMAN BONACCI: -- organization --

4 | MR. KAUKER: Yeah. That's not what I'm
5 | saying.

6 | VICE CHAIRMAN BONACCI: -- whether it's
7 | profit or nonprofit. You know, we --

8 | MR. KAUKER: No. That's not what I'm
9 | saying.

10 | VICE CHAIRMAN BONACCI: Yeah. No, no.

11 | MR. KAUKER: What I'm saying is --

12 | VICE CHAIRMAN BONACCI: I know you didn't
13 | say that.

14 | MR. KAUKER: -- in order to --

15 | VICE CHAIRMAN BONACCI: But yeah.

16 | MR. KAUKER: The solution.

17 | The other thing is separation because I was
18 | just looking at the plans before, and I think Mr.
19 | Pereiras testified to this, but I don't believe
20 | there's -- and I could be wrong, but I'm just
21 | looking at it, I don't believe -- and if the -- I
22 | don't believe there is any access from the
23 | residential or commercial to the basketball
24 | court. And if there is, I'm sure that could be
25 | changed so there isn't. And maybe -- you know,

1 | there could be some sort of pass through or
2 | something like that to provide that little bit of
3 | extra security in that basketball court.

4 | But I -- you know, so those are some
5 | thoughts that I have.

6 | VICE CHAIRMAN BONACCI: Mr. Price, did you
7 | have any more questions for Mr. Pereiras or Mr.
8 | Kauker?

9 | I just wanted to see if there's any other
10 | members of the public.

11 | MR. PRICE: Okay. Yeah.

12 | By the way, but I do have a question for
13 | Mr. Spatz.

14 | VICE CHAIRMAN BONACCI: Sure.

15 | MR. SPATZ: Yes, sir.

16 | MR. PRICE: The permitted use in the zone
17 | is personal service establishments.

18 | MR. SPATZ: Correct.

19 | MR. PRICE: You're saying a -- a training
20 | facility is not a personal service establishment?

21 | MR. SPATZ: The Ordinance in other zones;
22 | the CC zone, the CG zone has a use of indoor
23 | commercial recreation. So, a basketball court,
24 | where people will come in and play it -- a gym is
25 | not permitted. The movie theater that used to be

1 | there, actually, is not permitted now. A bowling
2 | alley would not be permitted. That's why they
3 | need a use variance.

4 | MR. PRICE: Okay.

5 | MR. SPATZ: The CN zone doesn't include
6 | that.

7 | MR. PRICE: Okay.

8 | VICE CHAIRMAN BONACCI: So, Mr. Spatz, are
9 | you saying that there's like a list of things
10 | that we can give them that they would know these
11 | are not permitted uses, so that if, let's say, we
12 | didn't come to some sort of agreement tonight, or
13 | we didn't approve the application tonight --

14 | MR. SPATZ: Um hum.

15 | VICE CHAIRMAN BONACCI: -- they'd be able
16 | to come back and know what are proposed uses for
17 | this space?

18 | MR. SPATZ: Yes. The -- I'm -- you know,
19 | I'm sure Mr. Pereiras, he's very familiar with
20 | the Ordinance. There's a whole list of uses that
21 | are permitted in the zone.

22 | If the Board does not care for the
23 | commercial indoor recreation, they can choose
24 | others that -- and then, you just have to -- you
25 | know, determine --

1 MR. PEREIRAS: And Mr. Chairman, like I
2 said before, the applicant is the landlord. We
3 hear you loud and clear. You've painted a very
4 clear picture for us.

5 Allow us to adjourn so that we could update
6 these drawings.

7 VICE CHAIRMAN BONACCI: Would we be able to
8 -- you know what? Never mind. We'll just leave
9 it at that and okay.

10 Just keep going. I'm sorry. I didn't mean
11 to cut you off.

12 MR. PEREIRAS: Yeah, if you'd give us the
13 opportunity to adjourn, really talk to our client
14 to figure out what the appropriate use is for
15 that back space that's really large, we'll come
16 back before this Board with revised drawings.
17 We'll have a dialogue with Mr. Spatz, make sure
18 it's a use that is appropriate and safe for
19 everyone.

20 And -- and we could continue. And that
21 way, we could salvage -- you know, the -- you
22 know, the -- and make sure that there's not a
23 detriment to the neighborhood with this building
24 that's going to dilapidate, and -- and we could
25 do something that's timely and beneficial for

1 everyone.

2 VICE CHAIRMAN BONACCI: Yeah. You know,
3 and just for the record, I just wanted to say
4 that -- you know, your plans are -- you know,
5 fantastic. And you know, I just -- what the heck
6 are we doing if we don't raise some of these
7 questions?

8 MR. PEREIRAS: We hear you.

9 VICE CHAIRMAN BONACCI: We're not doing a
10 service to anybody.

11 MR. PEREIRAS: Um hum.

12 VICE CHAIRMAN BONACCI: And we're not --
13 you know, using the time usefully if we don't
14 address some of these things that could
15 potentially be a problem. You know?

16 MR. PEREIRAS: Um hum.

17 VICE CHAIRMAN BONACCI: In a perfect world,
18 it's not a problem, ever.

19 MR. PEREIRAS: Um hum.

20 VICE CHAIRMAN BONACCI: But if there's a
21 chance that something could -- you know, go
22 wrong, we want to make sure it doesn't go wrong.

23 MR. PEREIRAS: We hear you.

24 VICE CHAIRMAN BONACCI: And for the record,
25 again, we're not trying to discriminate against

1 any nonprofit organization or land owner or
2 anything.

3 MR. PEREIRAS: Um hum.

4 VICE CHAIRMAN BONACCI: But you know, we're
5 just trying to weigh out all the cost benefit
6 issues.

7 MS. PEREIRAS: Mr. Chairman, we -- we have
8 the same goal.

9 VICE CHAIRMAN BONACCI: Okay. Yeah.

10 MS. PEREIRAS: We'd like to maintain this
11 building. It has a rich history in our town,
12 especially for us. This is a block from our
13 office.

14 VICE CHAIRMAN BONACCI: Yeah.

15 MS. PEREIRAS: So we have a -- a certain
16 care for it, as well.

17 It's such a large space that really, when
18 we were trying to come up with ideas as to what
19 would be the best use --

20 VICE CHAIRMAN BONACCI: Yeah.

21 MS. PEREIRAS: -- this is what we thought
22 of.

23 VICE CHAIRMAN BONACCI: Sure.

24 MS. PEREIRAS: But again, we're willing --
25 the applicant needs to move forward on this. We

1 want to be able to build and construct, so
2 they're willing to eliminate that basketball
3 court and maybe in the future, Mr. Pereiras, and
4 if you agree --

5 MR. PEREIRAS: Um hum.

6 MS. PEREIRAS: -- maybe in the future we
7 can come back, when we think of a better use.
8 But again, we're trying to preserve this
9 building, which is really quite beautiful, as
10 timely as possible. Allow the apartments, and
11 we'll hold off on that space, and just leave it
12 empty until we can come up with something a
13 little --

14 VICE CHAIRMAN BONACCI: Let me just --

15 MS. PEREIRAS: -- more creative.

16 VICE CHAIRMAN BONACCI: -- check with --
17 did you want to adjourn it and just leave it open
18 and he'll apply it when you --

19 MR. PEREIRAS: We're happy to get the
20 approval on the residential and come back for
21 another application for the back. Or we'll
22 adjourn it and get it all approved in one shot.
23 However this --

24 VICE CHAIRMAN BONACCI: To be --

25 MR. PEREIRAS: -- Board thinks is right.

1 VICE CHAIRMAN BONACCI: -- to be honest
2 with you, and to be fair, it's something that
3 it's all kind of moving parts --

4 MR. PEREIRAS: Um hum.

5 VICE CHAIRMAN BONACCI: -- that I think it
6 would be best for this Board to get a clear
7 picture of how everything is going to work in
8 conjunction, before we make any sort of
9 approvals.

10 MR. PEREIRAS: That's fair.

11 MR. KAUKER: Would a basketball court still
12 be on the table with appropriate safeguards? I
13 mean, if --

14 VICE CHAIRMAN BONACCI: I mean, I --

15 MR. KAUKER: -- we can show you --

16 VICE CHAIRMAN BONACCI: -- you know, if --
17 if Mr. Spatz has a list of nonpermitted uses and
18 there's permitted uses, I would say go with the
19 permitted use.

20 MR. KAUKER: Well, yeah. No. What I'm
21 saying, there are permitted uses. Any -- any use
22 that's not listed as a permitted use would be a
23 non-permitted use.

24 But for example -- I mean, there are a
25 number -- there are a varied list of uses. I

1 mean, for example, bars, banks, health clubs,
2 childcare centers are permitted. So they can --

3 VICE CHAIRMAN BONACCI: Right.

4 MR. KAUKER: Childcare centers are a
5 permitted use. So you could have that and
6 obviously --

7 VICE CHAIRMAN BONACCI: And we could have
8 the same problem that we --

9 MR. KAUKER: -- draw children.

10 VICE CHAIRMAN BONACCI: -- did with the
11 basketball court.

12 MR. KAUKER: Right. So you know, I mean
13 for my thinking, the way that I was thinking is
14 try to come up with appropriate safeguards. And
15 if there's a dialogue between the Board and the
16 applicant, maybe there's a way that we could come
17 to some sort of --

18 But maybe what I'm saying is, we -- if we
19 could come back with different alternatives,
20 maybe that could still be on the table. I don't
21 know what the applicant's going to say. I just
22 --

23 VICE CHAIRMAN BONACCI: I mean that's
24 possible.

25 MR. KAUKER: Some thoughts.

1 VICE CHAIRMAN BONACCI: I would say -- you
2 know, check with your client and see how they
3 feel about it all. And then, when you guys are
4 ready to come back -- you know, we'll be here.

5 MS. PEREIRAS: So respectfully, what we're
6 asking, if we could adjourn this?

7 VICE CHAIRMAN BONACCI: Sure.

8 MS. PEREIRAS: Hopefully, we'll put our
9 heads together some more and --

10 VICE CHAIRMAN BONACCI: Make a motion to
11 adjourn this application.

12 THE SECRETARY: Motion to adjourn this
13 application by Mr. Bonacci.

14 Next -- next hearing date will be January
15 10, 2019.

16 And I -- go ahead.

17 Motion to adjourn this application by Mr.
18 Bonacci.

19 Second by Mr. Ortiz.

20 Roll call on the motion.

21 Mr. Bonacci?

22 VICE CHAIRMAN BONACCI: Yes.

23 THE SECRETARY: Ms. Gutierrez?

24 MS. GUTIERREZ: Yes.

25 THE SECRETARY: Mr. Pressey?

1 MR. PRESSEY: Yes.

2 THE SECRETARY: Mr. Medina?

3 MR. MEDINA: Yes.

4 THE SECRETARY: Mr. Ortiz?

5 MR. ORTIZ: Yes.

6 THE SECRETARY: Five in favor.

7 Motion carries.

8 MS. PEREIRAS: Thank you.

9 THE SECRETARY: Let the record --

10 MR. PANEQUE: Ms. Pereiras?

11 THE SECRETARY: -- indicate that --

12 MR. PANEQUE: Mr. Vallejo?

13 THE SECRETARY: One second, please.

14 MR. PANEQUE: One concern that's being
15 raised and brought to my attention by Mr. Spatz
16 is that depending on the type of changes that you
17 make, you may require --

18 MR. SPATZ: You may need to renote --

19 MR. PANEQUE: -- new notices.

20 MR. SPATZ: -- anyway if it's different.
21 So, maybe there's no need to sort of force you to
22 get something in by January 10th.

23 MS. PEREIRAS: I understand. I'd rather
24 keep it alive, just in case we're able to.

25 MR. SPATZ: Right. Then -- then -- right.

1 So, it can be just -- you'll renote and
2 then --

3 MS. PEREIRAS: Sure.

4 MR. SPATZ: -- get it back on at the next
5 one. It doesn't --

6 THE SECRETARY: They --

7 MR. SPATZ: -- won't change anything that
8 way.

9 THE SECRETARY: They will need a revised
10 application, revised plans, too.

11 MR. SPATZ: They'll have to revise it.

12 THE SECRETARY: All right.

13 MR. SPATZ: We can continue the fees and
14 the escrows that have continued, because it's
15 really the same application. It just --

16 THE SECRETARY: Also, they are waiving the
17 time.

18 MR. PANEQUE: Well, the statutory time
19 limits, Ms. Pereiras, are waived by your client?

20 MS. PEREIRAS: Of course.

21 MR. PANEQUE: Yes.

22 THE SECRETARY: Thank you, sir.

23 Then the next hearing date --

24 MR. PANEQUE: So it's adjourned to the --

25 MR. SPATZ: You don't have to -- yeah. To

1 a future date and they'll have to renotece.

2 MR. PANEQUE: Adjourned to a future date.

3 THE SECRETARY: Future date.

4 MR. PANEQUE: Yeah. It's not going to be
5 the 10th.

6 THE SECRETARY: Let the record --

7 MR. PANEQUE: Adjourned to a future date --

8 THE SECRETARY: -- indicate it's adjourned
9 to the future date.

10 MR. PANEQUE: -- to be noticed.

11 MS. PEREIRAS: Well, we don't adjourn it to
12 a date certain?

13 MR. PANEQUE: No, because once you -- you
14 know what you're going to do, speak to Mr.
15 Vallejo. He'll get you on the next available
16 meeting. And then, he'll tell you notice for
17 that meeting.

18 It might be the 10th. It might be
19 February. Whenever you --

20 MR. SPATZ: You're going to have to
21 renotece anyway, probably, because it's going to
22 be a significantly -- the variance is going to be
23 different, because it may not be a use variance.

24 MS. PEREIRAS: Understood.

25 But are we able to carry it with these

1 notices, and in case I have to renotice, I will
2 do so.

3 MR. PANEQUE: But these --

4 MS. PEREIRAS: I just want to preserve the
5 notices, if there's any chance that I can. I may
6 not be able to.

7 MR. SPATZ: You --

8 MS. PEREIRAS: I understand that.

9 MR. SPATZ: I mean, you could schedule for
10 the 10th, and if, as we get closer to it, they're
11 not able to meet that --

12 MS. PEREIRAS: Right.

13 MR. SPATZ: -- then we can just adjourn it
14 and carry it -- you know, send a letter in and we
15 could adjourn it that way. That way, they
16 preserve that ability to do that.

17 And either way, renoticing or not.

18 MS. PEREIRAS: Most likely, we'll have to
19 but --

20 MR. SPATZ: Right. But if not, right. You
21 could always carry it at -- at the 10th meeting --
22 you know, by letter. And then they don't lose
23 anything.

24 MR. PANEQUE: I mean, the -- the reality is
25 that once they change the application, they'll

1 have to renotece.

2 MR. SPATZ: Right. Unless they decide to
3 come back with a basketball court that has some
4 safeguards, perhaps. But the -- most likely
5 they're going to have to renotece and then it
6 does -- ultimately, doesn't matter what --

7 MR. PANEQUE: What date it is.

8 MS. PEREIRAS: Right.

9 MR. SPATZ: -- what meeting date it is.

10 MR. PANEQUE: Okay.

11 MR. SPATZ: But perhaps they can figure a
12 way of doing it, and then this way, you give them
13 a date. It's just on the calendar as a place
14 holder.

15 THE SECRETARY: Now for clarification of
16 the record, Mr. Paneque, can you please?

17 MR. PANEQUE: Yes.

18 The -- if the application is coming back on
19 January 10th, without significant changes -- if
20 they're coming back with a -- let's say a
21 proposed basketball court with the safeguards
22 that have been requested by the Board, then this
23 application can be carried to the 10th, with the
24 existing notices.

25 If you make any other changes to it, if

1 you're coming back and now you're putting in,
2 let's say -- you know, a mega-barber shop, okay,
3 which might be -- which is a permitted use, and
4 you wouldn't need a D-1 variance, but any -- any
5 changes, you need to renotece.

6 MS. PEREIRAS: Understood.

7 MR. PANEQUE: Okay?

8 Any --

9 THE SECRETARY: Thank you.

10 MR. PANEQUE: -- comments, Mr. Price?

11 MR. PRICE: By the way, they might have to
12 go to the Planning Board.

13 MS. PEREIRAS: Possibly.

14 MR. PANEQUE: Well, yeah. Then --

15 MR. SPATZ: It might.

16 MR. PANEQUE: -- it might.

17 MR. SPATZ: Depends on what it is.

18

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

21 * * *

22

23

24

25

1 **Yonus Jasari - 118-120 18th Street:**

2

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

5 Next -- next application on tonight's
6 agenda, Yonus Jasari, 118-120 18th Street.

7 Ms. Pereiras, please?

8 MS. PEREIRAS: Thank you.

9

10 (Whereupon, Photograph Sheet was received
11 and marked as Exhibit A-1.)

12

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

15 I have a Certification as to publication
16 and service indicating that notice of tonight's
17 hearing with respect to the property at 118-120
18 18th Street was sent out to all property owners
19 within the 200 foot radius on November 19.

20 I also have an Affidavit from The Jersey
21 Journal, indicating that notice of tonight's
22 hearing, with respect to 118-120 18th Street, was
23 published in The Jersey Journal on November 16.

24 I've also been provided with a copy of the
25 200 foot list, consisting of four pages, with a

1 date of November 16.

2 I've also been provided with the certified
3 mail receipts with a date of November 19.

4 Cutting it close there.

5 And I've also been provided with the green
6 cards that have come back to date.

7 Based on the documentation that's been
8 provided, this Board does have jurisdiction to
9 proceed and hear this matter.

10 MS. PEREIRAS: Thank you.

11 Again, Bianca Pereiras, on behalf of Yonus
12 Jasari for property at 118-120 18th Street, Block
13 178, Lots 24 and 25.

14 This is a little different of an
15 application that's come before this Board,
16 because we're actually proposing a one family; a
17 single, one family. Normal -- this is obviously
18 a permitted use in the town, but we are exempt
19 from site plan review because it is a single
20 family use.

21 We do trigger some variances, so we have
22 one expert to testify before the Board this
23 evening, Mr. Manuel Pereiras.

24 MR. PEREIRAS: Manny Pereiras.

25 I recognize that I am still under oath.

1 MS. PEREIRAS: Mr. Pereira, are you
2 familiar with the property in question?

3 MR. PEREIRAS: I am.

4 MS. PEREIRAS: And did you prepare the
5 drawings for the Board?

6 MR. PEREIRAS: I am. I did.

7 MS. PEREIRAS: And can you kindly walk us
8 through the application?

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

10 I'm actually extremely happy to present
11 this project. We are talking about a -- someone
12 who was -- grew up in Union City and now, he
13 wants to establish his roots here and build his
14 one family house here, in an open 25 by 100 lot.
15 And yes, it's a 25 by a hundred, so you normally
16 see us doing three families. Well, we're not
17 doing a three family. We're not doing a two
18 family. We're doing a one family house.

19 And if this were to come before the Board,
20 after our new Ordinance, we wouldn't even be
21 before this Board. We could build as of right.
22 The only reason we're here is because the new
23 Ordinance hasn't passed, so we have a few
24 variances, C variances, actually, because it is a
25 permitted use. But since no site plan approval

1 is required, we're coming before this Board.

2 So, it's a bit of a technicality why we're
3 before this Board, but we have a very simple,
4 very clean, very beautiful project. And I'm
5 going to walk through it quickly, because not --
6 not to -- we don't have to dwell on it.

7 It's a 25 by 100 lot. We have a rear yard
8 setback to the deck, to the building itself,
9 that's 16 feet 11, and to the stairs that's five
10 foot eight.

11 Our current Ordinance requires 25 percent
12 of the lot, which is 25 feet, and so that's a C
13 variance. However, like I said before, in the
14 future Ordinance and in accordance with our
15 Master Plan, that wouldn't be a variance.

16 With -- in regard to side yard, we have
17 three foot one on one side. And then, on the
18 other side, we actually have three foot 11. So,
19 we're exceeding the requirements of our -- of the
20 zone, as well. And we're doing that because the
21 existing house next to it, we wanted to create a
22 little bit of space. The applicant's parents
23 live right next door, so they wanted to create
24 some nice space between the two houses. And the
25 existing steps of the house actually overlap the

1 property line a little bit.

2 The front yard setback, we're respecting
3 the current Ordinance, the future Ordinance.
4 We're at ten feet and that gives us the
5 opportunity to create a lot of landscaping along
6 the front, too.

7 So, we have landscapings on both sides of
8 the pedestrian path and -- and we have a nice
9 paved driveway.

10 Turning now to the floor plan. We're
11 providing parking for two cars. So, we have a
12 one family residence with two cars. Technically,
13 we need a waiver because they are in tandem. So,
14 you need a technical waiver for that. But we're
15 providing two cars, so we are compliant with that
16 aspect.

17 You come into a foyer, and you have the rec
18 room along the back of the house, you have your
19 stairs that lead you upstairs, to the formal
20 seating and dining room and living room.

21 There is a central stair that gives you
22 circulation for the house, kitchen, and then a
23 big family room along the back with beautiful
24 windows, opening up to the rear deck.

25 When you go upstairs, you find simply three

1 bedrooms; one master and two bedrooms for the
2 kids.

3 The façade is absolutely beautiful. We
4 have a brick façade along the front. We're
5 providing a lot of architectural detail, a very
6 beautiful cornice, some -- some headers,
7 beautiful decorative headers over the windows.
8 And it's just -- I think it's going to be a
9 stunning, beautiful space, both the front façade,
10 the rear façade, everything around this building
11 is actually going to be absolutely lovely. I
12 wish every application I had could be as -- as
13 simple as this one.

14 So that said, I am going to conclude my
15 testimony. I'm open for your questions.

16 VICE CHAIRMAN BONACCI: No other testimony.
17 Right?

18 MR. PEREIRAS: No.

19 VICE CHAIRMAN BONACCI: Okay.

20 So, it's new construction, three story,
21 single family dwelling.

22 Manny, from the aerial view of the --

23 MR. PEREIRAS: Um hum.

24 VICE CHAIRMAN BONACCI: -- there's a three
25 car garage back there.

1 MR. PEREIRAS: There is.

2 VICE CHAIRMAN BONACCI: Who's three car
3 garage is that?

4 MR. PEREIRAS: That is the adjacent house,
5 that would be demolished.

6 VICE CHAIRMAN BONACCI: That goes down,
7 too?

8 MR. PEREIRAS: Yes.

9 VICE CHAIRMAN BONACCI: So that's not part
10 of your --

11 MR. PEREIRAS: That's not part of our
12 application.

13 Technically, if we want -- and if we want
14 to be safe on this application, we could say that
15 we have a C variance for parking, because
16 technically, the existing house to the right,
17 we're removing parking from them. So that would
18 trigger a variance.

19 So, in order to be safe, and I think we
20 noticed for that, as well, we would require a C
21 variance for parking, just to be on the safe
22 side. But we're building a one family house with
23 two parking spaces.

24 VICE CHAIRMAN BONACCI: The neighbor's okay
25 with that --

1 MR. PEREIRAS: Yes.

2 VICE CHAIRMAN BONACCI: -- going bye-bye?

3 MR. PEREIRAS: It's -- they're -- they're
4 perfectly fine with that.

5 VICE CHAIRMAN BONACCI: Okay.

6 I don't have any more questions.

7 Members of the Board?

8 Open -- open to the public.

9 MR. PANEQUE: Mr. Spatz has a question.

10 VICE CHAIRMAN BONACCI: Mr. Spatz?

11 MR. SPATZ: I do have a question.

12 The applicant -- application, as listed, is
13 two lots, 24 and 25. Your plan shows the two
14 lots.

15 Are they -- do you have -- are they
16 separate lots in separate ownership? Are they --
17 is it one lot with the one building on it and
18 then the driveway area? And if that's the case,
19 then perhaps you need to subdivide. Or are you
20 going to have two principal dwellings on one lot,
21 in which case, that would be a variance.

22 MR. PEREIRAS: I believe they're two
23 separate lots.

24 MR. SPATZ: Okay.

25 MS. PEREIRAS: I'm looking at the survey.

1 MR. SPATZ: Right. Yeah. Only because you
2 show them as -- as the application is for two
3 lots.

4 MS. PEREIRAS: Right.

5 MR. SPATZ: But --

6 MS. PEREIRAS: We listed Lot 24 and 25.

7 MR. SPATZ: Right.

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

10 MR. PEREIRAS: So, it's actually one lot
11 with two -- with two -- two buildings.

12 MR. SPATZ: Okay. So, it is one lot. So
13 that is having two principal --

14 MR. PEREIRAS: Structures.

15 MR. SPATZ: -- structures on. You need to
16 request that variance from the Board.

17 MR. PEREIRAS: And we formally do so.

18 MR. PANEQUE: Just so that we're clear, Mr.
19 -- Ms. Pereiras, are you asking for this Board to
20 approve two buildings -- two principal structures
21 on one lot?

22 Or are you asking this Board for a
23 subdivision?

24 Because you have --

25 MR. PEREIRAS: Well, this Board doesn't

1 have the jurisdiction for a subdivision.

2 Right?

3 MR. PANEQUE: Correct.

4 MR. PEREIRAS: So we would be requesting --

5 MR. PANEQUE: You're in the wrong Board.

6 MS. PEREIRAS: Right. So we would --

7 MR. PEREIRAS: Yeah.

8 MR. PANEQUE: It would have to be before
9 the Planning Board.

10 MR. PEREIRAS: So we're asking for two --

11 MS. PEREIRAS: Two principal uses.

12 MR. PEREIRAS: -- principal buildings on
13 one lot.

14 MR. PANEQUE: Okay. And then, you're also
15 now eliminating --

16 MS. PEREIRAS: Park --

17 MR. PANEQUE: -- the parking on the
18 existing --

19 MR. PEREIRAS: From one.

20 MR. PANEQUE: -- house.

21 MR. PEREIRAS: Right.

22 MR. PANEQUE: Okay. So you are creating a
23 parking detriment to the neighborhood by moving
24 off-street parking from an existing house and
25 creating -- there will be a parking variance

1 | there --

2 | MR. SPATZ: Correct.

3 | MR. PANEQUE: -- Mr. Spatz?

4 | MS. PEREIRAS: Yes.

5 | MR. PEREIRAS: Correct.

6 | MR. SPATZ: They would be creating a
7 | parking variance for the existing --

8 | MR. PEREIRAS: Correct.

9 | MR. SPATZ: -- structure that's there.

10 | MR. PANEQUE: Okay.

11 | MS. PEREIRAS: And I think that's why we
12 | called it for --

13 | MR. PEREIRAS: We called for a parking
14 | variance.

15 | MS. PEREIRAS: We called a parking
16 | variance. I think we --

17 | MR. PANEQUE: Now, the parking variance
18 | that you're calling for is for the -- the
19 | proposed house or the existing house?

20 | MR. PEREIRAS: It's for the existing house.
21 | The proposed house does not require a parking
22 | variance.

23 | MR. PANEQUE: You're putting in parking for
24 | that.

25 | MR. PEREIRAS: Yes.

1 MS. PEREIRAS: Correct.

2 MR. SPATZ: Right.

3 MR. PANEQUE: Okay.

4 And what is the bedroom count on the
5 existing house?

6 MR. PEREIRAS: The existing house? Not
7 sure if I have it.

8 How many bedrooms do you have?

9 A VOICE: Two bedrooms.

10 MR. PANEQUE: Mr. Spatz --

11 MS. PEREIRAS: Two?

12 MR. PANEQUE: -- does that make a
13 difference on the --

14 MR. PEREIRAS: It's a two bedroom?

15 MR. PANEQUE: -- on the parking?

16 MR. SPATZ: It would, yes.

17 MR. PANEQUE: Okay.

18 MR. PEREIRAS: The existing house is a two
19 bedroom house.

20 MR. SPATZ: I'll let you know how much
21 parking it is.

22 One family -- one and a half spaces.

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

25 MR. PANEQUE: Mr. Spatz, on your

1 memorandum, you --

2 MR. SPATZ: Yes.

3 MR. PANEQUE: -- refer to a 2500 square
4 foot being required for this property, but it --
5 does that still apply when we're asking for two
6 principal structures on one lot? Because what we
7 have here is a lot that's, in the front, 46.25,
8 in the rear, 48.65, with an existing home
9 already. And then, it's a hundred feet deep.

10 So, does that change your planning
11 analysis?

12 MR. SPATZ: Well, I mean, we reviewed it as
13 if it was a separate individual lot.

14 MR. PANEQUE: Um hum.

15 MR. SPATZ: And that's how we did it. You
16 could look at it as each lot is -- each structure
17 is on the 25 by a hundred lot, although it is
18 merged into one site in -- in making your
19 determination as to whether there's sufficient
20 area and --

21 MR. PANEQUE: Yeah.

22 MR. SPATZ: -- and how it's designed. I
23 mean, it is a single family home. Basically, if
24 this is a -- it's a -- it's a zone that permits
25 two families. And so, technically, you have two

1 families on the property.

2 MR. PANEQUE: Yeah.

3 MR. SPATZ: It's just -- on a 50 -- you
4 have two units on a 50 by a hundred lot, which is
5 permitted.

6 MR. PANEQUE: Except that it's --

7 MR. SPATZ: It's just that it's two --

8 MR. PANEQUE: -- 40 --

9 MR. SPATZ: -- buildings. Well, --

10 MR. PANEQUE: It's 46.

11 MR. SPATZ: -- it only needs to be the --
12 the two units need to be on 25 by a hundred, and
13 they're on --

14 MR. PANEQUE: Forty-six.

15 MR. SPATZ: -- 46 and change by --

16 MR. PEREIRAS: So, we're oversized.

17 MR. SPATZ: -- by a hundred.

18 So, it's really just that the two units are
19 in two separate structures is really the
20 variance, not any other aspect of it.

21 MR. PANEQUE: Okay.

22 So, there's no need to change your planning
23 analysis.

24 MR. SPATZ: No. I mean, the numbers would
25 be different, but the variances ultimately will

1 be the same.

2 MR. PANEQUE: Okay.

3 So that we're clear with respect to the
4 application, Mr. and Mrs. Pereiras, the request
5 is for this Board to approve two principal
6 structures on one lot. That would be the
7 variance being required, along with the C
8 variances that are required here. And the
9 parking, which would be 1.5?

10 MR. SPATZ: Correct.

11 MR. PANEQUE: Parking spaces for the
12 existing home.

13 Okay?

14 MR. PEREIRAS: Yes.

15 MR. PANEQUE: Any other variances being
16 required?

17 MR. PEREIRAS: Rear yard.

18 MR. SPATZ: We did not -- yeah. We did not
19 look at the -- I did not look at the other -- at
20 the existing structure -- you know, to determine
21 whether -- but those are all -- those are all
22 preexisting conditions. Potentially, I guess,
23 the side yard is being reduced for that because
24 we have a new structure there.

25 VICE CHAIRMAN BONACCI: Would you be able

1 to give us any sort of testimony as to safety
2 standards? Fire safety, et cetera? Anything
3 like that?

4 MR. PEREIRAS: Absolutely.

5 So, it would be considered -- in the Code
6 perspective, this will be considered an R5
7 structure.

8 An R5 structure, we had to follow all the
9 guidelines of the International Residential Code.
10 So, we had to follow all those life safety
11 standards for fire separations and everything in
12 accordance with that.

13 It's going to have 110 volt interconnected
14 system within the house. And the garage is going
15 to have a two hour separation between the garage
16 portion and the rest of the house, fully
17 compliant and -- and will meet all Code
18 standards.

19 VICE CHAIRMAN BONACCI: And you can testify
20 that as far as building materials go, everything
21 would be --

22 MR. PEREIRAS: In --

23 VICE CHAIRMAN BONACCI: -- you know, up to
24 Code with materials that we've talked about in
25 this Board in the past?

1 MR. PEREIRAS: Absolutely. It will meet
2 all the requirements of the Master Plan and all
3 of local Union City Ordinances.

4 And as you could see from the façade that
5 we presented, it's a brick façade, very
6 beautiful.

7 VICE CHAIRMAN BONACCI: Okay.

8 I already opened and closed it to the
9 public.

10 Right?

11 MR. PANEQUE: I -

12 You have?

13 MS. GUTIERREZ: Yeah, you did already.

14 MS. DILLON: You -- you need --

15 VICE CHAIRMAN BONACCI: Okay.

16 MS. DILLON: -- to close it.

17 VICE CHAIRMAN BONACCI: If there's any
18 other members of the public that would like to
19 speak on this application, please do so at this
20 time.

21 Okay.

22 Closed to the public.

23 Any other members of the Board?

24 Okay.

25 Just to have it on the record, I don't see

1 any substantial impact on traffic or impairment
2 of the Zoning Ordinance or Master Plan.

3 So with that, I'd like to make a motion to
4 approve this application.

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

7 Any second the motion?

8 MS. GUTIERREZ: Second.

9 THE SECRETARY: Seconded by Ms. Gutierrez.

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

12 Mr. Bonacci?

13 VICE CHAIRMAN BONACCI: Yes.

14 THE SECRETARY: Ms. Gutierrez?

15 MS. GUTIERREZ: Yes.

16 THE SECRETARY: Mr. Pressey?

17 MR. PRESSEY: Yes.

18 THE SECRETARY: Mr. Medina?

19 MR. MEDINA: Yes.

20 THE SECRETARY: Mr. Ortiz?

21 MR. ORTIZ: Yes.

22 THE SECRETARY: Five in favor.

23 Motion carries.

24 Congratulations.

25 MS. PEREIRAS: Thank you all very much.

1 Thank you.

2

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

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1 **A1 Ventures, LLC - 418 11th Street:**

2

3 THE SECRETARY: Next application on
4 tonight's agenda, A1 Ventures, LLC, 418 11th
5 Street.

6 Ms. Pereiras, please?

7 MS. PEREIRAS: Thank you.

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

10 MR. PANEQUE: For the record, been provided
11 by Ms. Pereiras with the following documentation:

12 I have a Certification as to publication
13 and service, with respect to the property at 418
14 11th Street, indicating that notice of tonight's
15 hearing was sent out to all property owners on
16 November 19th.

17 I've also been provided with an Affidavit
18 of Publication, which notice was published in The
19 Jersey Journal on November 16, giving notice of
20 tonight's hearing with respect to 418 11th Street.
21 Notice for tonight's hearing to be taken place at
22 3715 Palisade Avenue.

23 I've also been provided with the certified
24 mail receipts, with a postmark date of November
25 19, as well as the 200 foot list from the Tax

1 Assessors, consisting of four pages, with a date
2 of November 7.

3 I've also been provided with the certified
4 mail green cards that have come back to date, as
5 well as the envelopes that came back unclaimed or
6 returned, unable to forward.

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

10 MS. PEREIRAS: Thank you.

11 Again, Bianca Pereiras, on behalf of the
12 applicant, for property located at 418 11th
13 Street, Block 52, Lot 23.

14 This is similar to an application you heard
15 earlier and similar to ones you've heard in the
16 past few months, where we are proposing a three
17 family, consistent with the Re-Examination Report
18 that is the new direction that the City is
19 taking.

20 We have one expert to testify before the
21 Board, and that is Mr. Pereiras, our architect.

22 MR. PEREIRAS: Manny Pereiras, I recognize
23 I am still under oath.

24 MS. PEREIRAS: Mr. Pereiras, are you
25 familiar with the property at 418 11th Street?

1 MR. PEREIRAS: I am.

2 MS. PEREIRAS: And did you prepare the
3 drawings before the Board?

4 MR. PEREIRAS: I have.

5 MS. PEREIRAS: And would you kindly
6 describe the project?

7 MR. PEREIRAS: So, as counsel said, it's
8 basically the same thing as what you approved
9 earlier tonight. However, we have members of the
10 public who live adjacent to this house on the
11 same block, and they're not familiar with all the
12 zoning criteria and everything. So, I'm going to
13 take a little bit of time to just walk them
14 through, so that they understand what's going on
15 and what -- why we have the variances that we
16 have.

17 So, Union City has two major documents that
18 we design based upon, using their guidelines.
19 One is the Master Plan and one is the Zoning
20 Ordinance.

21 The Master Plan that we have has been
22 recently reexamined and adopted as a new Master
23 Plan.

24 The Ordinance that Union City has has still
25 not caught up to the Master Plan. So, we are --

1 in existence, we have a Board that has to comply
2 with this Ordinance, however there is a Master
3 Plan guidelines that is the future Ordinance, and
4 therefore, we designed this building in what the
5 future of Union City should be and what we want
6 to be.

7 So, what we're proposing is a building that
8 is a hundred percent, in every aspect, compliant
9 with the Master Plan and what it -- and what the
10 requirements of that Master Plan are, even though
11 we have a series of variances, including a height
12 variance that brings us to this Board.

13 So, I'm going to walk through and talk
14 about those variances, just like that previous
15 application did. But just to be clear, it's
16 honestly just a matter of time. As soon as the
17 Ordinance were to come into place, this Board
18 wouldn't even have to see us. It would just be
19 an as of right application to build this.

20 So that said, what we're proposing is a
21 three family house. What is -- and permitted
22 currently in the district and in the -- and in
23 the future Ordinance, as well.

24 What deviates a little bit is the
25 distribution of that. The current Ordinance says

1 that we're only allowed a three story house,
2 whereas the Master Plan proposes and allows us to
3 have a four story. Why does it have that? Very
4 important, because all our neighbors, everyone's
5 very concerned about parking. We want to have
6 parking.

7 So, the new future Ordinance takes that
8 into consideration, so that we could elevate the
9 building, so that we could have parking on the
10 ground floor, and then three apartments above
11 that to alleviate a lot of the parking pressure
12 of Union City. We all know how hard it is to
13 find a parking space.

14 So, this design allows us to have six
15 parking spaces, based on the diagram that Union
16 City gives us, so that we could have that. But
17 it triggers a variance in our current Ordinance,
18 actually a height variance, because we're at 45
19 feet. So, 45 feet is permitted in the future
20 Ordinance, but in our current Ordinance, we're
21 only permitted to do 40 feet and three stories.

22 So, we have a height variance for number of
23 stories, and we have a height variance for number
24 of feet of height, five feet over the Ordinance,
25 which is -- exceeds ten percent, which gives us

1 -- triggers us and makes it a D variance. That's
2 why we're before this Board.

3 I'm turning to page Z02, which describes
4 the site. And as you could see, we are meeting
5 the rear yard requirement.

6 Let me go back and forth.

7 Our rear yard requirement is five feet in
8 the future Ordinance. And that's what we're
9 proposing, a rear yard of five feet. Whereas,
10 the current Ordinance right now is 25 percent of
11 the lot, which would have been 25 feet. So, that
12 is a C variance, as well.

13 We are requiring and -- and I want to
14 correct my statement from before a little bit,
15 our front yard setback is at two feet from the
16 property line. And that is -- that is a variance
17 in both the new proposal and the old proposal.

18 So, we have a front yard setback of two
19 feet and we did that in order to provide a little
20 bit of landscaping. So, what we did is between
21 the garage entrance and the pedestrian entrance
22 to the building, we created a small landscaping
23 berm, so that we could have a little bit of
24 landscaping right there between the garage door
25 and the front door. Makes the -- the frontage a

1 | little bit more beautiful.

2 | And then, I'm going to walk you through the
3 | actual -- no, let's talk about coverage, too.
4 | So, because there are variances on -- on
5 | coverage.

6 | The maximum building coverage in the
7 | current Ordinance is 60 percent. We're at 74
8 | percent in our proposal. Whereas, the future
9 | Ordinance allows 80 percent. So, we would be
10 | compliant in the future Ordinance. Right now,
11 | technically, that's a C variance.

12 | And the maximum lot coverage, we are at 97
13 | percent, because we created that small
14 | landscaping berm in the front. Whereas, the
15 | future Ordinance allows us to be at a hundred
16 | percent. Why? Because we want to have parking
17 | on the lower level.

18 | Now, we have every floor shown on sheet
19 | Z02. The ground floor shows a lobby and driveway
20 | access to have six vehicles along the back, in
21 | compliance with the diagram that the Master Plan
22 | provides us.

23 | The elevator takes you up to the -- the
24 | three floors above, that opens up into a living
25 | room, dining room area, that has open to the

1 kitchen. And then, the more private area, which
2 is the master bedroom and two bedrooms along the
3 back.

4 There is a utility closet, a walk-in closet
5 for the master suite, along the rear. So, each
6 apartment will have two bathrooms. One as part
7 of the master suite, with the double sink, and
8 one regular bath.

9 The -- the floors above, three of them, are
10 matched with that equally.

11 And then, on the roof, we have our
12 condensers, because there is no space to put the
13 condensers in the rear yard. The Ordinance says
14 that it has to be clear and unobstructed, so the
15 condensers are on the roof, which allows us not
16 to have them in the side yard, so you don't have
17 any noisy condensers, so the condensers are up on
18 the roof.

19 The height of the building, and I'll talk
20 about the façade again, is 45 feet tall. That is
21 at the top of the -- measured to the top of the
22 parapet, actually. And we have a very simple,
23 very beautiful brick façade. We're accentuating,
24 popping out the center portion of it, to give
25 some architectural interest. And -- and very

1 simple, clean casement windows on the building.

2 We are proposing a small metal cornice
3 along the top, but very clean. We have siding
4 along the sides, both sides of the building, and
5 siding along the rear of the structure.

6 There is -- just to open the dialogue about
7 this now, to make things clearer and a little bit
8 more swift, the neighbors were significantly
9 concerned because their building sits on the
10 property line. They have zero setback off the
11 side.

12 MS. PEREIRAS: One moment, please.

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

15 MR. PEREIRAS: Has the Board noticed that
16 we have three buildings, all 418?

17 I knew something was wrong. I have one
18 small -- everything I said is accurate, except
19 for one thing. And I feel so relieved.

20 Our front yard setback is ten feet. So,
21 what we're proposing is a ten foot front yard
22 setback. Everything else is exactly the same of
23 -- of what I just described. The side yards are
24 the same, the rear yard's the same. We have the
25 building set back a full ten feet.

1 So that is in compliance with the future
2 Ordinance. It's compliant with the current
3 Ordinance. So, there is no front yard variance.

4 MR. SPATZ: Right. I was going to ask
5 that.

6 Yeah. I was going to --

7 MR. PEREIRAS: Thank you, Bianca.

8 MS. PEREIRAS: Right.

9 MR. SPATZ: -- ask that because it looks --

10 MS. PEREIRAS: And Mr. Pereiras, just to
11 clarify, I think --

12 MR. SPATZ: Right.

13 MS. PEREIRAS: -- you mentioned an elevator
14 in the building. I don't believe this building
15 --

16 MR. PEREIRAS: Yeah, that's right.

17 MS. PEREIRAS: -- has an elevator.

18 MR. PEREIRAS: This one does not have an --

19 MS. PEREIRAS: Correct?

20 MR. PEREIRAS: -- elevator. I want to
21 clarify that. This one does not have an
22 elevator.

23 And -- and that's a function of --

24 MS. PEREIRAS: (Indiscernible).

25 MR. PEREIRAS: Oh, okay.

1 I'm very confused. There's three
2 applications that are all 418. So, I got a
3 little confused.

4 But -- okay. So, this -- this is not --
5 they're not neighbors to this property, they're
6 neighbors to the other one.

7 So, the reason this one doesn't have an
8 elevator is very simple. We have a ten foot
9 front yard setback on this, so that there's less
10 room in the building. So, we don't have room for
11 the elevator. So, we did it as a walk-up.

12 Okay?

13 So, everything else that I said is
14 applicable and -- and is true. And this is a
15 hundred percent compliant with the future
16 Ordinance.

17 VICE CHAIRMAN BONACCI: Would you guys
18 allow us just a minute or two?

19 I just need to talk to Mr. Spatz about a
20 couple of things.

21 MR. PEREIRAS: Sure.

22 MS. PEREIRAS: Not a problem.

23 VICE CHAIRMAN BONACCI: And counselor, as
24 well.

25 MS. PEREIRAS: Not a problem.

1 VICE CHAIRMAN BONACCI: Okay?

2 MR. PEREIRAS: Sure.

3 MS. PEREIRAS: Of course.

4 VICE CHAIRMAN BONACCI: Thanks so much.

5 MS. DILLON: Off the record?

6 VICE CHAIRMAN BONACCI: Yeah.

7 THE SECRETARY: Off the record.

8

9 (Whereupon, the Board recessed from 9:27
10 p.m. to 9:32 p.m.)

11

12 THE SECRETARY: May I have your attention,
13 please?

14 On record.

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

17 VICE CHAIRMAN BONACCI: Okay. I just
18 wanted to run something by you guys before you go
19 any further.

20 Let me just start off by saying that it's a
21 very nice application, but there's a thing that
22 Mr. Spatz and I and counselor were talking about
23 earlier, before the meeting even started, that I
24 thought it would be best to let you guys know
25 this, because it might affect this application,

1 and maybe another application that you might
2 have, whether it be tonight or next month. You
3 guys come here a lot, so I think it would be best
4 to lay this out here now, so that it's not -- you
5 know, such a thing later on.

6 We've spoken a lot about the Re-Examination
7 Report and there's a lot of applications that are
8 coming before us that will meet the criteria of
9 the Re-Examination Report, but it just feels like
10 we're waiting and we're waiting and we're waiting
11 for it to become legit. And what we're supposed
12 to be doing is going by the current Ordinance
13 that we have now. And it's a little frustrating
14 that we haven't gotten there yet, because if we
15 do get there, or if we were there already,
16 there's a lot of variances that you wouldn't even
17 need us for. You'd just be -- you wouldn't need
18 to come before this Board to get the relief that
19 you seek now.

20 So with that, the Board is not going to be
21 able to approve any applications that will meet
22 the requirements of the Re-Examination Report
23 until it's part of our current Ordinance, so that
24 we could adjust it as so. So that we could look
25 at it and go, it applies to the Zoning Ordinance

1 now, therefore we can grant it.

2 But right now, we have to focus on the
3 Zoning Ordinance as it stands now.

4 So you may, Manny, have an as of right
5 application for when this is adopted and when it
6 goes through.

7 MR. PEREIRAS: Um hum.

8 VICE CHAIRMAN BONACCI: But as it currently
9 stands now, it doesn't.

10 So, even if we like a project, even if we
11 think that the project is good, even if we think
12 the application is -- meets all these things for
13 a month from now, two months from now, as it
14 currently stands with this Ordinance -- Zoning
15 Ordinance now, we're not going to be able to
16 approve that, until it meets the requirements of
17 that current --

18 And I know that that's frustrating --

19 MS. PEREIRAS: Well --

20 VICE CHAIRMAN BONACCI: -- because we're
21 trying to paint the picture of consistency here.

22 MS. PEREIRAS: Correct. And you --

23 VICE CHAIRMAN BONACCI: But we haven't --

24 MR. PEREIRAS: Right.

25 MS. PEREIRAS: You approved one this --

1 VICE CHAIRMAN BONACCI: We --

2 MR. PEREIRAS: Today.

3 MS. PEREIRAS: -- this very evening --

4 VICE CHAIRMAN BONACCI: Right.

5 MS. PEREIRAS: -- that was --

6 MR. PEREIRAS: So, an hour ago we were
7 good, but now we're not?

8 VICE CHAIRMAN BONACCI: What I'm saying is
9 -- you know, I just was advised and this is how I
10 feel going forward, so that's the way that we're
11 going to have to do that.

12 And I -- I'm letting you know now so that
13 it's not a problem for a future application
14 tonight, or any more this month, or next month,
15 or so on and so forth.

16 So I don't know what you want to do with
17 the application, but what I'm telling you is, I
18 can't grant it until that Zoning Ordinance comes
19 to fruition.

20 And then it is as of right, and then you
21 wouldn't need to come before this Board for most
22 of those things. However, with this specific
23 application, you do have the issue of the height.

24 So, I'm not going to be able to grant this
25 application as of right now, until we're able to

1 -- you know, have -- have an as of right
2 application on its own.

3 MR. PEREIRAS: It sounds borderline illegal
4 what you're saying.

5 You're telling -- you -- you approved a
6 project, right before today, and right before my
7 project, now you can't? Like it just doesn't --

8 VICE CHAIRMAN BONACCI: I'm trying to be --

9 MR. PEREIRAS: -- make any sense.

10 VICE CHAIRMAN BONACCI: I'm trying to be
11 nice about it. And I'm trying to put it in the
12 easiest terms possible. I'm trying to do it
13 without just denying the application.

14 MS. PEREIRAS: I -- I understand what
15 you're saying. I have a concern, even to my own
16 clients, --

17 VICE CHAIRMAN BONACCI: Right.

18 MS. PEREIRAS: -- where how do I tell one
19 client you were approved, and tell my other
20 client, you had the exact application, but you
21 were denied?

22 VICE CHAIRMAN BONACCI: I'm not --

23 MS. PEREIRAS: That's very hard --

24 VICE CHAIRMAN BONACCI: I'm not sure --

25 MS. PEREIRAS: -- to swallow.

1 VICE CHAIRMAN BONACCI: -- if you're going
2 to have both clients sitting there at the same
3 time and tell one that they were approved and the
4 other one that they were denied.

5 MS. PEREIRAS: Well, I'm not going to lie
6 to one of my --

7 VICE CHAIRMAN BONACCI: Right.

8 MS. PEREIRAS: -- clients.

9 VICE CHAIRMAN BONACCI: Of course not.

10 MR. PEREIRAS: But -- but what are you
11 going to tell them, when they come to this Board
12 and they put a lawsuit on the City because --

13 VICE CHAIRMAN BONACCI: I'm going to tell
14 --

15 MR. PEREIRAS: -- you approved someone --

16 VICE CHAIRMAN BONACCI: I'm --

17 MR. PEREIRAS: -- else but not them?

18 VICE CHAIRMAN BONACCI: I'm going to tell
19 them what I'm telling you.

20 As of right now, it doesn't meet the Zoning
21 Ordinance. And right now, I'm trying to go by
22 the Zoning Ordinance. And the Zoning Ordinance
23 is not --

24 MR. PEREIRAS: But an hour ago, it was
25 okay.

1 VICE CHAIRMAN BONACCI: I'm not talking
2 about an hour ago, I'm talking about right now.

3 I'm not a lawyer and I'm not a planner, but
4 the best that I can do is speak to them and get
5 the best advice from them going forward.

6 And if I didn't do that an hour ago, then
7 that's my mistake. But I did that now and this
8 is the decision that I'm making right now. And
9 I'm --

10 MS. PEREIRAS: If you could just give me
11 one minute?

12 VICE CHAIRMAN BONACCI: Yeah. Absolutely.

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

14 MR. PANEQUE: Off the record.

15 VICE CHAIRMAN BONACCI: Yes.

16 THE SECRETARY: Off the record.

17

18 (Whereupon, the Board recessed from 9:37
19 p.m. to 9:41 p.m.)

20

21 THE SECRETARY: Back in record.

22 VICE CHAIRMAN BONACCI: Okay. Back on the
23 record.

24 I -- I understand your concern. I
25 understand your frustration. And as you're

1 | frustrated, I'm equally as frustrated because I'm
2 | the guy who was here months ago asking you guys
3 | to be patient as I sort of was able to steer this
4 | Board onto some platform of consistency.

5 | It feels like we were getting there, but
6 | because of these other elements that are out of
7 | my control, the only thing I can do is just play
8 | by the rules that are presented to me. And if I
9 | deviate from that -- you know, I'm just trying to
10 | do my job to the best of my ability and -- and
11 | take the responsibility.

12 | So, I understand your frustration.

13 | MS. PEREIRAS: It's also out of our
14 | control.

15 | VICE CHAIRMAN BONACCI: But it's
16 | frustration on my part, too, because it seems to
17 | be something that's out of your control and mine,
18 | as well.

19 | MS. PEREIRAS: In fact, I think, other
20 | times, where we've had similar applications in
21 | the past --

22 | VICE CHAIRMAN BONACCI: Right.

23 | MS. PEREIRAS: -- this Board has
24 | congratulated us for following the Re-Examination
25 | Report.

1 VICE CHAIRMAN BONACCI: Right.

2 MS. PEREIRAS: So, it's -- it's very mixed
3 to tell us you're going in the right direction,
4 --

5 VICE CHAIRMAN BONACCI: Yeah.

6 MS. PEREIRAS: -- we appreciate this, and
7 all of a sudden, say, oh, you know what, even
8 though we approved it earlier today, we're not
9 approving it going forward.

10 VICE CHAIRMAN BONACCI: I -- I --

11 MS. PEREIRAS: That's very difficult.

12 VICE CHAIRMAN BONACCI: I get your
13 frustration. I do. I -- I wholeheartedly do.
14 But there --

15 MR. PANEQUE: From a legal perspective, Mr.
16 Bonacci, if I -- I'm just going to interject
17 here.

18 Because every application is its own
19 application. Okay? Every property is different
20 and distinct from every other property, even
21 properties that are adjacent to each other.

22 So, this Board might have deemed fit to
23 approve an application an hour ago, okay, and it
24 -- it's not proper or right to say that now we
25 come with the same application, because it's not.

1 You have a similar application. Once you
2 change into a property, even if you just move
3 over a foot, it's a whole different application.

4 And -- and there's case law on that and --
5 and the case law is quite clear that each
6 application has to stand on its own merits and
7 its own set of facts.

8 MS. PEREIRAS: I completely --

9 MR. PEREIRAS: But when you --

10 MR. PANEQUE: Okay. So --

11 MS. PEREIRAS: -- agree.

12 MR. PANEQUE: -- let's not dwell any more
13 on the fact that an hour ago we approved a
14 similar application, because the one that's
15 before this Board now is going to be taken on its
16 own merits.

17 Okay?

18 MR. PEREIRAS: I understand that, but there
19 has to be a substantial reason or difference why
20 you -- you choose and make your decision. It
21 can't be arbitrary and capricious.

22 And when you have two projects, on the same
23 night, that have the same side yard setback, the
24 same front yard setback, the same rear yard
25 setback, the same lot coverage, the same building

1 coverage, the same height, the same density, the
2 same number of bedrooms, the same parking layout,
3 the same façade, and everything is the same
4 except for displacement of location, and you
5 can't give me any information or any reason why
6 it's different, and there is none --

7 VICE CHAIRMAN BONACCI: I'm try --

8 MR. PEREIRAS: -- it sounds arbitrary and
9 capricious --

10 VICE CHAIRMAN BONACCI: I'm --

11 MR. PEREIRAS: -- to me.

12 VICE CHAIRMAN BONACCI: I'm trying --

13 MR. PEREIRAS: And it sounds --

14 VICE CHAIRMAN BONACCI: I'm trying to give
15 you an indication of where my thought process --
16 my thought process is leading me. Not only did I
17 mention -- you know, the future Zoning Ordinance,
18 that's not here yet --

19 MR. PEREIRAS: Um hum.

20 VICE CHAIRMAN BONACCI: -- but I also
21 mentioned that the height of this particular
22 project is an issue for me.

23 I don't know if other members of the Board
24 feel that way, but I can only tell you where I'm
25 heading with -- you know, my thought process on

1 | this.

2 | So, I understand your frustration.

3 | MR. PANEQUE: Mr. Spatz has a comment.

4 | MR. SPATZ: Just -- I hear you and I think
5 | that height is the concern there. Maybe what --
6 | if they could provide some testimony as to --
7 | because traditionally, the -- the height is --
8 | the case law that relates to height indicates
9 | that you can grant height variances when that
10 | height is consistent with the surrounding
11 | properties.

12 | So perhaps, if they put on some testimony,
13 | --

14 | MR. PEREIRAS: Right.

15 | MR. SPATZ: -- which I don't think was done
16 | earlier, as to --

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

18 | MR. SPATZ: -- this is a four story
19 | building that they're proposing, what -- what's
20 | the height of the other buildings in the area?

21 | MR. PEREIRAS: So --

22 | MR. SPATZ: And -- and that I think would
23 | go towards the Board's ability to grant the
24 | variance with it being consistent with the
25 | neighborhood.

1 MR. PEREIRAS: So, it's very thoughtful to
2 say that.

3 This building is right next to an enormous
4 warehouse that's a lot taller than this property,
5 significantly taller than this property. I'd say
6 it's somewhere -- it doesn't have -- it's a high
7 floor to floor, but it's somewhere around 50 feet
8 tall. And I haven't measured it, but we could
9 measure it.

10 So, our building and our proposal, which is
11 at 45 feet, is actually significantly less than
12 the adjacent -- immediately adjacent property.
13 So, it's very hard for me to understand that
14 there is a height issue, and maybe it's because I
15 didn't give the proper testimony, but I'm giving
16 that testimony now, that it is adjacent to a very
17 tall warehouse.

18 And if you know the neighborhood, adjacent
19 to this is a parking area with the warehouse,
20 behind that is Martin's Car Wash. And then, to
21 the east is more houses.

22 So, that's -- that's the neighborhood that
23 we're dealing with and that's the -- the height
24 in the neighborhood.

25 VICE CHAIRMAN BONACCI: Okay.

1 Just wanted to say that I understand that
2 there's a warehouse that's substantially higher
3 than your application. But with respect to your
4 comments, that's a warehouse and this is a low
5 density residential.

6 I don't have any more questions right now,
7 but I just want to see if any members of the
8 Board have any questions on this application.

9 MR. PRESSEY: Not from me.

10 MR. ORTIZ: I have a question to Mr.
11 Paneque.

12 MR. PANEQUE: Yes, sir.

13 MR. ORTIZ: If this Board approve an
14 application with rules that are not already
15 established, doesn't that leave this Board up for
16 a challenge legally?

17 MR. PANEQUE: We are not approving
18 applications with rules that have not been
19 established. Every application that has come
20 before this Board, where either Mr. Pereiras, as
21 an architect, or another architect has testified
22 as to the reorganization plan that's coming in
23 the future, that testimony has only been provided
24 for the edification of the Board in making its
25 decision as to what's going to, hopefully, be

1 coming down the road.

2 However, the -- the applications that are
3 being approved, that have been approved --

4 MR. ORTIZ: Being the --

5 MR. PANEQUE: -- are being approved under
6 the current Ordinance. And the variances that
7 are being granted are the variances that are
8 required under the current Ordinance.

9 Okay?

10 They're throwing this testimony about the
11 future plan, just so that this Board is made
12 aware that in the very near future, these
13 variances may no longer be an issue.

14 Okay?

15 For example, the -- the four story. As you
16 know, the three families that were previously
17 approved, and it was mentioned before, was with
18 the -- the third unit on the ground floor behind
19 the garages. Okay? Now, we're adding an extra
20 level so that the entire ground floor is going to
21 be parking. That's part of the reorganization
22 plan.

23 Correct?

24 MR. SPATZ: That was part of the Re-
25 Examination and with the idea that the benefit of

1 | having more parking onsite was -- was more
2 | beneficial than having a small unit downstairs, a
3 | one bedroom apartment downstairs. This would be
4 | three nice units, with a conforming amount of
5 | parking. Or nearly conforming amount of parking.

6 | MR. PANEQUE: Thank you.

7 | MR. SPATZ: Again, the Board needs to weigh
8 | the positive and the negative impact of this
9 | against the current zoning and against the
10 | neighborhood that it's located in.

11 | And if you feel that the positive outweighs
12 | the negative, in terms of how it effects the
13 | neighborhood as well, then you can grant the
14 | variance, forgetting what the Re-Examination
15 | Report says.

16 | So, you do have the ability to grant all of
17 | those variances, but that is, again, the Board's
18 | decision to make, based on the testimony that
19 | they hear and their knowledge of the
20 | neighborhood.

21 | MR. ORTIZ: All right.

22 | Thank you.

23 | VICE CHAIRMAN BONACCI: Members of the
24 | Board?

25 | MR. PRESSEY: Do you --

1 VICE CHAIRMAN BONACCI: Members of --

2 MR. PRESSEY: Do you really need that extra
3 five feet?

4 MR. PEREIRAS: So, let's -- let me clarify
5 my testimony so that we -- you know, we're clear
6 and we know what we're doing.

7 There was a little bit of confusion and I
8 know that -- let's just go over everything, step
9 by step, so we know exactly what we're talking
10 about.

11 Now, I said this before off the record, so
12 pardon me for repeating myself.

13 I'm just going to say it so that it's part
14 of the record that -- you know, we want to, as an
15 applicant, as the architect, as the -- the design
16 team, we want to design something that the City
17 wants, and City -- that's good for the
18 neighborhood, that's good for the applicant,
19 that's good for everyone. And we have certain
20 guidelines that are given to us in order to do
21 that and in order to accomplish those goals.

22 They are basically an outline, an
23 instruction manual for us. One of those pieces
24 is the Master Plan and it is not a future Master
25 Plan, it has been adopted. There was a -- a

1 reexamination of the reexamination. And that was
2 adopted.

3 And what we have done is we followed it not
4 closely, not similar, but exactly what it is.
5 So, on the record, I'd like to state that we took
6 your instructions and we followed them exactly as
7 we are.

8 And that said, I'm going to go through the
9 application, as if the Master Plan didn't even
10 exist right now. I'm going to talk simply in
11 respects to the Ordinance.

12 Okay?

13 Our Ordinance permits a three family house.
14 We are proposing a three family house. It has a
15 requirement of a lot size that is 25 by 100. We
16 have a lot that is 25 by 100. That means we
17 comply with lot width, we comply with lot depth,
18 and we comply with lot size, which is 2500 square
19 feet -- 2,500 square feet.

20 In addition to that, there are bulk
21 requirements that our Ordinance has. Our
22 Ordinance has a front yard requirement of ten
23 feet. We are currently in compliance with that
24 requirement. We have a ten foot front yard
25 setback.

1 Our Ordinance also has a requirement of
2 three feet on one side and two feet -- and five
3 feet total, as far as side yard setbacks. Our
4 application tonight is in compliance with those
5 requirements. We have three feet on one side and
6 we have two feet on the other.

7 Our Ordinance has a rear yard requirement
8 of 25 percent of the lot depth. That is
9 equivalent to 25 feet in our particular case. We
10 have -- we are proposing five feet. We have very
11 specific reasons why we are proposing five feet,
12 in addition to the reasons that I stated earlier.

13 But one of those reasons is because parking
14 is a significant and important aspect of life in
15 Union City. We care, as residents of Union City,
16 about parking tremendously, because it is in
17 short -- short availability.

18 Therefore, in order to provide parking for
19 three units, six spaces, we need a footprint of a
20 building that is adequate and equivalent to fit
21 six cars. Therefore, the rear yard setback is
22 reduced to five feet, in order to comply with
23 that.

24 That triggers an additional two variances,
25 as well. One is for lot coverage and one is for

1 building coverage.

2 The permitted building coverage in our
3 district is 60 percent, whereas our building is
4 at 67.17 percent. That is the minimum size that
5 I could do in order to provide for adequate
6 parking that we so desperately need.

7 And the lot coverage is at a hundred -- is
8 at 89 percent, what we're proposing, whereas 85
9 percent. Four percent difference, which is
10 somewhat de minimis because the counter aspect of
11 this is that we are providing parking.

12 So, by granting those three variances, rear
13 yard, building coverage and lot coverage, we are
14 allowing the City to have sufficient parking.

15 And I believe that that establishes
16 positive criteria, it really outweighs the
17 negative criteria imposed on those three
18 variances that I just mentioned.

19 The last aspect is building height. And
20 building height is integrally related to the same
21 topic that I just talked about, which is parking.

22 If we are limited to a three story high
23 building, that means that the apartment unit will
24 be located in the rear of the front, and there
25 will be not enough room to have six parking

1 spaces.

2 The only alternative allowed, due to
3 architecture constraints, and our Ordinance, is
4 to elevate that residential component, so that
5 the ground floor is free and has six parking
6 spaces.

7 By doing so, we are complying with the
8 parking requirement. However, the building
9 changes from being a three story structure to a
10 four story structure, which is what we're
11 proposing here tonight.

12 That height is, of course, equivalent and
13 equal to the height of the building. And that
14 brings us to 45 feet in height. That allows us
15 to have sufficient height for the parking, and
16 three apartments above.

17 It is variances that we are requesting
18 today. Those variances are in conformance with
19 the neighborhood. They're in conformance with
20 the -- the goals and merits of not only the
21 Master Plan, but even the previous Master Plan.
22 And we believe it is the best solution for this
23 site.

24 And we ask this Board to take all these
25 elements that I discussed into consideration when

1 | granting variances for the potential approval of
2 | this project.

3 | VICE CHAIRMAN BONACCI: Thank -- thank you,
4 | Manny.

5 | Any more members of the Board?

6 | Open to the public.

7 | Members of the public?

8 | Okay.

9 | Closed to the public.

10 | Thank you for reclarifying -- you know,
11 | some of the things that needed to be reclarified.

12 | You pointed out the things that did meet
13 | the Code. And I'm just going to briefly go over
14 | some things that don't meet the Code.

15 | According to Mr. Spatz's memorandum, you
16 | don't guys don't conform with the minimum rear
17 | yard. You also don't conform with the minimum
18 | side yards. You also don't conform with the
19 | maximum lot coverage, or the impervious coverage,
20 | or the height.

21 | The parking. You guys were great with
22 | trying to nail it. You're short one, but -- you
23 | know, I'm not even going to look at that one.

24 | With that being said, I'm going to make a
25 | motion to deny the application.

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

3 Any second the motion?

4 MR. ORTIZ: I'll second.

5 THE SECRETARY: Second by Mr. Ortiz.

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

8 Mr. Bonacci?

9 VICE CHAIRMAN BONACCI: Yes.

10 THE SECRETARY: Ms. Gutierrez?

11 MS. GUTIERREZ: Yes.

12 THE SECRETARY: Mr. Pressey?

13 MR. PRESSEY: Yes.

14 THE SECRETARY: Mr. Medina?

15 MR. MEDINA: Yes.

16 THE SECRETARY: Mr. Ortiz?

17 MR. ORTIZ: Yes.

18 THE SECRETARY: Five in favor.

19 Motion carries.

20

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

23 * * *

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1 **4415-4421 NY Ave, LLC -**

2 **4415-4421 New York Avenue:**

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4 MR. SPATZ: Carlos?

5 We're going to do --

6 THE SECRETARY: What are we going to do?

7 MR. SPATZ: We're going to do that --

8 number 12. The one you added on.

9 THE SECRETARY: Right.

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

12 THE SECRETARY: Mr. Paneque, are we going
13 to change --

14 MR. PANEQUE: We're going to change the
15 order.

16 VICE CHAIRMAN BONACCI: We're going to go
17 to this.

18 MR. PANEQUE: We're going to do number 12.
19 And then, the other --

20 THE SECRETARY: That's for discussion
21 purpose only.

22 MR. PANEQUE: Actually, it's going to be
23 presented to the Board and then the Board can
24 either decide to take a vote on it or not
25 tonight.

1 MS. GUTIERREZ: Okay.

2 MR. PANEQUE: Right?

3 THE SECRETARY: On 4415-442 New York
4 Avenue.

5 MR. PANEQUE: That's number 12?

6 THE SECRETARY: Yes.

7 MS. GUTIERREZ: Yes.

8 MR. PANEQUE: Yes.

9 MS. GUTIERREZ: Yeah, that's number 12.

10 VICE CHAIRMAN BONACCI: The discussion
11 thing?

12 MR. PANEQUE: Yes.

13 MS. GUTIERREZ: Yes.

14 MR. PANEQUE: All right.

15 Ms. Pereiras?

16 MS. PEREIRAS: Yes.

17 Thank you, Board members.

18 MR. PANEQUE: Call it, Mr. Vallejo.

19 THE SECRETARY: All right.

20 May I have your attention, please?

21 Next application on tonight's agenda, 4415

22 -- is 4415-4421 New York Avenue, LLC.

23 Ms. Pereiras, please?

24 MS. PEREIRAS: Thank you very much.

25 This is an application that came before

1 | this Board back in March of 2017. This Board
2 | approved this application. A Resolution was
3 | memorialized in April.

4 | My client has submitted his construction
5 | documents to the Building Department, along with
6 | the Resolution for permits and we hit a little
7 | bit of an obstacle.

8 | When we submitted, the architect, on his
9 | drawings, and I'm sure he's going to elaborate a
10 | little more than I do, because he knows
11 | construction, I do not, he focused on the fact
12 | that the foundation needed to be replaced.

13 | At that point, the Building Department
14 | questioned whether it triggered coming back
15 | before this Board. We've explained it makes no
16 | bearing on this application. There is no
17 | difference. The application maintains itself.
18 | It's the legalization of one unit and an addition
19 | to the building.

20 | But I'll have Mr. Pereiras elaborate a
21 | little more on his conversation with the Building
22 | Department.

23 | MR. PEREIRAS: Manny Pereiras. I recognize
24 | I am still under oath.

25 | This is a very kind of weird and confusing

1 | thing. But I -- I'll explain it by saying that
2 | our Building Department is very, very cautious.
3 | They don't want to do anything wrong, so they
4 | just want to be very, very clear. Okay?

5 | So, we had a building that we got approved
6 | and as part of the building, in our zoning
7 | application, we had demolishing it and
8 | reconstructing it. Very clear, very simple.

9 | However, when I was doing -- after zoning,
10 | after it was approved, I submitted drawings to
11 | the Building Department, and my assumption was
12 | that there were good footings underneath that
13 | building that we were going to demolish. So, why
14 | am I going to waste money or waste my client's
15 | money?

16 | So, I said, demolish the building, reuse
17 | the existing footings. Okay? When we went
18 | there, and they demolished the building, I looked
19 | at the footings, they were in very bad shape. I
20 | said, no, rip them out, let's redo them. And we
21 | submitted drawings to the Building Department to
22 | let them know we're going to redo the footings.

23 | That's what they're questioning.

24 | As far as the Board is concerned, nothing
25 | has changed. We're still demolishing and we're

1 reconstructing the building, whether the footings
2 were there, not there, whether I changed them. I
3 just wanted to be safe and wanted to fix the
4 footings, so I said, let's redo them.

5 It doesn't change what this Board approved,
6 which was demolishing and reconstructing the
7 building. But we're at that standstill. The
8 Building Department just wants to be very
9 cautious and therefore, we're here for your
10 interpretation of that.

11 MS. PEREIRAS: We're actually requesting an
12 amendment to the existing Resolution that says
13 that the footings or the replacement of the
14 footings doesn't effect the zoning application at
15 all.

16 MR. PANEQUE: Okay.

17 VICE CHAIRMAN BONACCI: Counsel?

18 MR. PANEQUE: Mr. Pereira, can you be very
19 specific as to which footings, so if this Board
20 is deemed fit to approve it, I can, in a
21 Resolution, specify the exact location of these
22 footings?

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

24 So, they're -- the existing building
25 occupied the entire lot. The south portion of

1 the building is what was demolished and
2 reconstructed. So, it's that south portion,
3 which has three walls. It has an east wall, a
4 west wall and a south wall, and it is the south
5 portion of the building.

6 MR. PANEQUE: And the dimensions. Do you
7 know them?

8 MR. PEREIRAS: I don't know them offhand,
9 but they were very clear on the zoning documents
10 that were presented. They were very clear on the
11 construction documents that were presented. And
12 very clear on how this Board approved it. And I
13 think we have a copy of it.

14 So, the construction documents, it is a
15 composite of 27 feet nine inches plus nine feet
16 nine inches. So, 36, 37 feet -- 37 feet six
17 inches in -- in distance, and 25 feet wide
18 because that's the width of the lot.

19 MR. PANEQUE: So, you're looking at,
20 basically, three footings; the west, the east and
21 the south.

22 MR. PEREIRAS: Yes.

23 MR. PANEQUE: And the south is the end,
24 which would be at 25 foot.

25 MR. PEREIRAS: Twenty-five foot long.

1 MR. PANEQUE: And then, the east and the
2 west are 37 feet each.

3 MR. PEREIRAS: Thirty-seven feet six.

4 MR. PANEQUE: Thirty-seven and a half.
5 Okay.

6 MR. PEREIRAS: Yes.

7 MR. PANEQUE: And you're asking this Board
8 to just clarify, in a new Resolution, that this
9 Board approved this addition to this property or
10 this new construction, along with those footings.

11 MR. PEREIRAS: Yes.

12 MR. PANEQUE: Okay. Now --

13 MS. PEREIRAS: Correct.

14 MR. PANEQUE: -- are there any changes to
15 the rest of the structure, as it was presented to
16 this Board?

17 MR. PEREIRAS: None.

18 MR. PANEQUE: The application is exactly
19 the same.

20 MR. PEREIRAS: Yes.

21 MR. PANEQUE: There's no difference in size
22 of the structure, in height?

23 Would the footings change the height of the
24 structure?

25 MR. PEREIRAS: No.

1 MR. PANEQUE: No?

2 MR. PEREIRAS: Footings are below grade.

3 MR. PANEQUE: Okay.

4 Now, these footings are replacement of what
5 was there and deteriorated?

6 MR. PEREIRAS: Unfortunately, the footings
7 that were there were almost nonexistent. They
8 were very deteriorated.

9 MR. PANEQUE: Okay.

10 MR. PEREIRAS: So, they have to comply with
11 current Code standards.

12 MR. PANEQUE: Okay.

13 Anything else from the Board?

14 VICE CHAIRMAN BONACCI: I don't have any
15 questions.

16 MS. GUTIERREZ: No.

17 MR. PANEQUE: Okay.

18 Mr. Spatz, anything you want to add to it?

19 MR. SPATZ: No. Nothing to add. Just as
20 long as there's no change in the variance
21 conditions --

22 MS. GUTIERREZ: Um hum.

23 MR. SPATZ: -- then the footings really
24 have no impact on what this Board approved.

25 MR. PANEQUE: Okay.

1 VICE CHAIRMAN BONACCI: So with that being
2 said, if there's no substantial detriment or
3 change, I'd like to make a motion to approve the
4 application.

5 THE SECRETARY: That will be the
6 modification of the --

7 MR. PANEQUE: It's a motion --

8 THE SECRETARY: -- Resolution.

9 MR. SPATZ: Right.

10 MR. PANEQUE: -- to approve a modification
11 of the Resolution.

12 VICE CHAIRMAN BONACCI: Making a motion to
13 approve the modification of the previous
14 Resolution.

15 THE SECRETARY: Motion by Mr. Bonacci.

16 MS. GUTIERREZ: Second.

17 THE SECRETARY: Second by Ms. --

18 No. Mr. Pressey. Back there, right?

19 MR. SPATZ: Yes.

20 MR. PRESSEY: Yes. I'm here.

21 THE SECRETARY: All right.

22 MR. SPATZ: Let's give him the glory.

23 THE SECRETARY: Roll call on the motion.

24 Mr. Bonacci?

25 VICE CHAIRMAN BONACCI: Yes.

1 THE SECRETARY: Ms. Gutierrez?

2 MS. GUTIERREZ: Yes.

3 THE SECRETARY: Mr. Pressey?

4 MR. PRESSEY: Yes.

5 THE SECRETARY: Mr. Medina?

6 MR. MEDINA: Yes.

7 THE SECRETARY: Mr. Ortiz?

8 MR. ORTIZ: Yes.

9 THE SECRETARY: Five in favor.

10 Motion carries.

11 MS. PEREIRAS: Thank you very much.

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1 **Nabila Tadros - 1207 Summit Avenue:**

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3 MR. PANEQUE: Ms. Pereiras?

4 MS. PEREIRAS: Yes.

5 MR. PANEQUE: You have matters eight, nine,
6 ten and 11.

7 Those matters are going to be carried, but
8 we need to establish jurisdiction --

9 MS. PEREIRAS: Sure.

10 MR. PANEQUE: -- please.

11 THE SECRETARY: Mr. Paneque, also, time
12 limits.

13 MR. SPATZ: Right. Extension of time.

14 MR. PANEQUE: Yes.

15 MS. GUTIERREZ: Time limit.

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

18 MR. PANEQUE: Call the first case.

19 THE SECRETARY: All right.

20 MR. PANEQUE: Number eight.

21 THE SECRETARY: Number eight.

22 Nabila Tadros, 1207 Summit -- Summit
23 Avenue.

24 Ms. Pereiras, please?

25 MS. PEREIRAS: Bianca Pereiras, on behalf

1 of the applicant.

2 MR. PANEQUE: For the record, I've been
3 provided with a Certification as to publication
4 and service by Ms. Pereiras, with respect to the
5 property located at 1207 Summit Avenue.

6 Certification indicates that on November
7 19th, notices were mailed to all property owners
8 within the 200 foot radius.

9 I've also been provided with an Affidavit
10 of Publication from The Jersey Journal,
11 indicating that notice of tonight's hearing was
12 given with respect to the property at 1207 Summit
13 Avenue.

14 I've also been provided with the certified
15 mail receipts, with a postmark date of November
16 19th , as well as the Tax Assessor's list
17 consisting of three pages, with a date of
18 November 7th, as well as the notices that have
19 come back to date.

20 This Board does have jurisdiction to
21 proceed and hear this matter.

22 Now, Ms. Pereiras, because of time
23 constraints, it's already about 10:03 in the
24 evening, the Board has a curfew at ten o'clock,
25 so this matter is going to be carried to the next

1 meeting, and that would be the meeting of January
2 10th.

3 THE SECRETARY: 2018 (sic).

4 MR. PANEQUE: '19.

5 Ms. Pereiras, do you waive all
6 jurisdictional time limits?

7 MS. PEREIRAS: Of course.

8 MR. PANEQUE: Thank you.

9 THE SECRETARY: Roll call --

10 Can I have a motion to adjourn this
11 application for January 10, 2018 (sic), no new
12 notice required?

13 VICE CHAIRMAN BONACCI: Make a motion.

14 THE SECRETARY: Motion by Mr. Bonacci.

15 MS. GUTIERREZ: Second.

16 THE SECRETARY: Second by Ms. Gutierrez.

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

19 Mr. Bonacci?

20 VICE CHAIRMAN BONACCI: Yes.

21 THE SECRETARY: Ms. Gutierrez?

22 MS. GUTIERREZ: Yes.

23 THE SECRETARY: Mr. Pressey?

24 MR. PRESSEY: Yes.

25 THE SECRETARY: Mr. Medina?

1 MR. MEDINA: Yes.

2 THE SECRETARY: Mr. Ortiz?

3 MR. ORTIZ: Yes.

4 THE SECRETARY: Five in favor.

5 Motion carries.

6 MR. PANEQUE: Anybody who was here on the
7 application for 1207 Summit Avenue; matter is
8 going to be carried to January 10th.

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1 **1117 Summer (sic) Ave., LLC - 1117-19 Summit**
2 **Ave.:**

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4 THE SECRETARY: Next application, 1117
5 Summit Avenue, LLC, 1117-19 Summit Avenue.

6 Ms. Pereiras, please?

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

10 I have a Certification as to publication
11 and service, indicating that notice of tonight's
12 hearing was sent out to all property owners
13 within the 200 foot radius of 1117 Summit Avenue
14 on November 19.

15 I've also been provided with an Affidavit
16 of Publication indicating that notice of
17 tonight's hearing with respect to 1117 Summit
18 Avenue was published on November 16, giving
19 notice of the hearing for tonight at this
20 address, 3715 Palisade Avenue.

21 I also have been provided with the
22 certified mail receipts with a postmark stamp
23 date of November 19th, as well as the 200 foot
24 list from the Tax Assessor's Office, consisting
25 of three pages, with a date of November 7th, as

1 well as the green cards that have come back to
2 date.

3 The jurisdictional proofs submitted gives
4 this Board jurisdiction to proceed and hear this
5 matter.

6 Ms. Pereiras, again, because of the time
7 constraints, the Board is going to carry this
8 matter to the January 10th meeting.

9 Is there a motion on the floor?

10 VICE CHAIRMAN BONACCI: Make a motion to
11 carry it.

12 THE SECRETARY: Motion --

13 VICE CHAIRMAN BONACCI: To adjourn it.

14 THE SECRETARY: -- to carry this to January
15 10, 2018 (sic) by Mr. Bonacci.

16 Any second on the motion?

17 Second by Mr. Pressey.

18 Roll call on the motion to carry this
19 application for January 10, 2018 (sic).

20 Mr. Bonacci?

21 VICE CHAIRMAN BONACCI: Yes.

22 THE SECRETARY: Ms. Gutierrez?

23 MS. GUTIERREZ: Yes.

24 THE SECRETARY: Mr. Pressey?

25 MR. PRESSEY: Yes.

1 THE SECRETARY: Mr. Medina?

2 MR. MEDINA: Yes.

3 THE SECRETARY: Mr. Ortiz?

4 MR. ORTIZ: Yes.

5 THE SECRETARY: Five in favor.

6 Motion carries.

7 MR. PANEQUE: Ms. Pereiras, you waive the
8 statutory time limits --

9 MS. PEREIRAS: Yes, I do.

10 MR. PANEQUE: -- on this application?

11 Thank you.

12 For members of the public, the application
13 on 1117 Summer (sic) Avenue is being carried to
14 January 10th, 2019.

15 No further notices will be either published
16 or sent out.

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1 **Forest Wood Investments, LLC - 418 6th Street:**

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3 THE SECRETARY: Next application on
4 tonight's agenda, Forest Wood Investment, LLC,
5 418 6th Street.

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, with respect to the property at 418 6th
13 Street, was sent out to all property owners
14 within the 200 foot radius on November 19th, 2018.

15 I've also been provided with the Affidavit
16 of Publication from The Jersey Journal,
17 indicating that notice was published on November
18 16th, giving notice of the application for 418 6th
19 Street. Notice is that the meeting will take
20 place tonight, at 3715 Palisade Avenue. Notice
21 seems to be proper as to form.

22 The -- I've also been provided with the
23 certified mail receipts, with a date of November
24 19th, as well as the 200 foot list, consisting of
25 seven pages, with a date of November 7th, and the

1 green cards that have come back to date.

2 Based on the jurisdictional proofs
3 submitted, this Board does have jurisdiction to
4 proceed and hear this matter.

5 Ms. Pereiras, again, due to time
6 constraints, it's now nine after ten p.m. this
7 Board is going to carry this matter to the
8 January 10, 2019 meeting.

9 And you waive statutory time requirements
10 limits?

11 MS. PEREIRAS: That's correct.

12 MR. PANEQUE: Is there a motion on the
13 floor?

14 VICE CHAIRMAN BONACCI: I make a motion to
15 carry it.

16 THE SECRETARY: Motion to carry this
17 application for January 10, 2019 --

18 MS. GUTIERREZ: I'm second.

19 THE SECRETARY: -- by Mr. Bonacci.

20 Second by Ms. Gutierrez.

21 Roll call on the motion to carry this
22 application, no new notice required.

23 Mr. Bonacci?

24 VICE CHAIRMAN BONACCI: Yes.

25 THE SECRETARY: Ms. Gutierrez?

1 MS. GUTIERREZ: Yes.

2 THE SECRETARY: Mr. Pressey?

3 Mr. Pressey?

4 MR. PRESSEY: Yes.

5 THE SECRETARY: Mr. Medina?

6 MR. MEDINA: Yes.

7 THE SECRETARY: Mr. Ortiz?

8 MR. ORTIZ: Yes.

9 THE SECRETARY: Five in favor.

10 Motion carries.

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1 **Jose Avalos - 2412 Central Avenue:**

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3 THE SECRETARY: Next application on
4 tonight's agenda, Jose Avalos, 2412 Central
5 Avenue.

6 Ms. Pereiras, please?

7 MR. PANEQUE: Appearance?

8 MS. PEREIRAS: Bianca Pereiras on behalf of
9 the applicant.

10 MR. PANEQUE: For the record, I've been
11 provided by Ms. Pereiras with a Certification as
12 to publication and service, indicating that
13 notice of tonight's hearing was sent out to all
14 property owners within the 200 foot radius of
15 2412 Central Avenue on November 19th, 2018.

16 I also have an Affidavit of Publication
17 from The Jersey Journal, indicating that notice
18 with respect to the 2412 Central Avenue
19 application was published on November 16, giving
20 notice of tonight's hearing, at 3715 Palisade
21 Avenue. Application notice appears to be proper
22 as to form.

23 I've also been provided with the certified
24 mail receipts, with a postmark date of November
25 19th, as well as the tax list from the Union City

1 Tax Assessor's Office consisting of four pages,
2 with a date of November 7, as well as the green
3 cards and envelopes that have come back returned,
4 unclaimed or unable to forward.

5 Based on the documentation of jurisdiction
6 provided, I find that this Board does have
7 jurisdiction to proceed and hear this matter.

8 Ms. Pereiras, once again, it is now ten
9 after ten p.m.

10 This Board is going to carry this
11 application because of the time constraints to
12 the January 10, 2019 meeting.

13 Do you waive all statutory time limits?

14 MS. PEREIRAS: Yes, I do.

15 MR. PANEQUE: Thank you.

16 Is there a motion on the floor?

17 VICE CHAIRMAN BONACCI: Make a motion.

18 THE SECRETARY: Motion to adjourn this
19 application for January 10, 2019 by Mr. Bonacci.

20 Second by Mr. Ortiz.

21 Roll call on the motion to adjourn this
22 application for January 10, 2019.

23 No new notice required.

24 Mr. Bonacci?

25 VICE CHAIRMAN BONACCI: Yes.

1 THE SECRETARY: Ms. Gutierrez?
2 MS. GUTIERREZ: Yes.
3 THE SECRETARY: Mr. Pressey?
4 MR. PRESSEY: Yes.
5 THE SECRETARY: Mr. Medina?
6 MR. MEDINA: Yes.
7 THE SECRETARY: Mr. Ortiz?
8 MR. ORTIZ: Yes.
9 THE SECRETARY: Five in favor.
10 Motion carries.
11 MS. PEREIRAS: Thank you.
12 And I don't think I have anything in front
13 of you for December, so I wish you all a very
14 Merry Christmas and a --
15 VICE CHAIRMAN BONACCI: You, too.
16 MS. PEREIRAS: -- Happy New Year.
17 MS. GUTIERREZ: Thank you.
18 Thank you.
19 VICE CHAIRMAN BONACCI: You, too.
20 Enjoy.
21 MS. GUTIERREZ: You, too.
22 MS. PEREIRAS: Thank you.
23 MS. GUTIERREZ: Thank you.
24 You, too.
25 MR. PEREIRAS: Merry Christmas, everyone.

1 VICE CHAIRMAN BONACCI: You, too, Manny.

2 MS. GUTIERREZ: Thank you.

3 You, too.

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1 **APPROVAL OF PREVIOUS MEETING MINUTES:**

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3 (1) Regular Meeting held on November 1, 2018

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5 THE SECRETARY: Stay with me one more
6 second.

7 MS. DILLON: Carlos, can you go back to the
8 mic?

9 THE SECRETARY: Yes, ma'am.
10 Okay.

11 Approval of Previous Meeting Minutes from
12 November 1st, 2018.

13 Can I have a motion?

14 VICE CHAIRMAN BONACCI: Make a motion.

15 THE SECRETARY: Motion by Mr. --

16 MS. GUTIERREZ: Second.

17 MR. MEDINA: Second.

18 THE SECRETARY: -- Mr. --

19 Motion by Mr. Medina.

20 Second by Ms. Gutierrez.

21 Roll call on the motion.

22 Mr. Bonacci?

23 VICE CHAIRMAN BONACCI: Yes.

24 THE SECRETARY: Ms. Gutierrez?

25 MS. GUTIERREZ: Yes.

1 THE SECRETARY: Mr. Pressey?

2 MR. PRESSEY: Yes.

3 THE SECRETARY: Mr. Medina?

4 MR. MEDINA: Yes.

5 THE SECRETARY: Mr. Ortiz?

6 MR. ORTIZ: Yes.

7 THE SECRETARY: Five in favor.

8 Motion carries.

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1 **ADOPTION OF RESOLUTIONS:**

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3 (1) 3329 Hudson Avenue, LLC, 3329 Hudson
4 Avenue, Block 200, Lot 31. The applicant
5 proposes to abolish bar use and add two
6 residential units to the existing four
7 residential units. The property would then
8 consist of six residential units. **Approved**

9 (2) 3311 Pleasant Assoc. LLC, 3311 Pleasant
10 Ave., Block 201, Lot 7. Applicants seek to
11 convert from two to four families. **Approved**

12 (3) Pilot Digital, LLC, 207 New York Ave.,
13 Block 8, Lot 4. Applicant proposes a new single
14 family dwelling in vacant lot. **Approved**

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16 THE SECRETARY: We have three Resolution on
17 tonight's agenda.

18 Resolution number 1.

19 3329 Hudson Avenue, LLC.

20 Number 2.

21 3311 Pleasant Association, LLC.

22 And number 3.

23 Pilot Digital, LLC, 207 New York Avenue.

24 Can I have a motion to adopt these

25 Resolutions?

1 Motion by Mr. Pressey.

2 MS. GUTIERREZ: Second.

3 MR. MEDINA: Second.

4 THE SECRETARY: Second by Ms. Gutierrez.

5 Roll call on the motion.

6 Mr. Bonacci?

7 VICE CHAIRMAN BONACCI: Yes.

8 THE SECRETARY: Ms. Gutierrez?

9 MS. GUTIERREZ: Yes.

10 THE SECRETARY: Mr. Pressey?

11 MR. PRESSEY: Yes.

12 THE SECRETARY: Mr. Medina?

13 MR. MEDINA: Yes.

14 THE SECRETARY: Mr. Ortiz?

15 MR. ORTIZ: Abstain. I was not present at

16 the --

17 THE SECRETARY: Mr. Ortiz --

18 MR. ORTIZ: -- meeting.

19 THE SECRETARY: -- abstained.

20 Four in favor, one abstained.

21 Motion carries.

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1 **ADJOURNMENT:**

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3 THE SECRETARY: Seeing no other application
4 on tonight's agenda, can I have a motion to end
5 tonight's meeting?

6 Motion by Mr. Pressey.

7 MS. GUTIERREZ: Second.

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

10 THE SECRETARY: All right.

11 Mr. Pressey.

12 And second by Ms. Gutierrez.

13 All in favor?

14

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

16

17 THE SECRETARY: The -- the ayes have it.

18 Let the record show that the meeting has
19 ended.

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21 (Whereupon, the proceedings were concluded
22 at 10:12 p.m.)

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1 STATE OF NEW JERSEY :

2 :

3 COUNTY OF ESSEX :

4

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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 SPECIAL
9 MEETING of the UNION CITY ZONING BOARD OF
10 ADJUSTMENT heard on Thursday, November 29, 2018
11 and digitally recorded.

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25 Monitored and proofread by: Deborah Dillon