

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

REGULAR MEETING : TRANSCRIPT OF RECORDED
: PROCEEDINGS
:
:

City Hall
3715 Palisade Avenue
Union City, New Jersey

Thursday, April 11, 2019
Commencing at 6:10 p.m.

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

MARGARITA GUTIERREZ
LIBERO MAROTTA, (Left at 7:28 p.m.)
MIGUEL ORTIZ, (Arrived at 6:24 p.m.)
DAVID W. PRESSEY
ROSIO PENA, Alternate No. 1
GERALDINE PEREZ, Alternate No. 2
RAYMOND CETINICH, Alternate No. 3
MINDRY WATLEY, Alternate No. 4
VICTOR M. GRULLON, Vice Chairman
JOSEPH D. BONACCI, Chairman

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

JOHN MEDINA

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, Mapal Zahan, LLC

ADOLFO L. LOPEZ, ESQ.,
Attorney for Applicant, 132-134 49th Street, LLC

ADOLFO L. LOPEZ, ESQ.,
Attorney for Applicant, Maria E. Montalvo

J. ALVARO ALONSO, ESQ.,
Attorney for Applicant, 1015 West Street, LLC

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

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

BIANCA P. PEREIRAS, ESQ.,
Attorney for Applicant, Calles 519 11th Street

BIANCA P. PEREIRAS, ESQ.,
Attorney for Applicant, 527 39th Street, LLC

BIANCA P. PEREIRAS, ESQ.,
Attorney for Applicant, 1219 Bergenline Avenue, LLC

BIANCA P. PEREIRAS, ESQ.,
Attorney for Applicant, Donna Jacobsen

BIANCA P. PEREIRAS, ESQ.,
Attorney for Applicant, S&R Realty Group, LLC

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1 MS. DILLON: On the record.

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

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

6 THE SECRETARY: Notice of this meeting has
7 been provided as follow:

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

15 Mr. Paneque, please?

16 MR. PANEQUE: Yes.

17 Good evening.

18 Tomas R. Paneque, attorney for the Board.

19 I'd like to bring to everyone's attention
20 that the Mayor has appointed four alternates that
21 we have here this evening.

22 The alternates that have been appointed are
23 Rosio Pena.

24 Is she here?

25 MS. PENA: Yep. I'm here.

1 MR. PANEQUE: Okay. Raise your hand.

2 Welcome.

3 Geraldine Perez. Welcome.

4 Raymond Cetinich.

5 MR. CETINICH: Here.

6 MR. PANEQUE: Did I say that correct?

7 MR. CETINICH: Yes.

8 MR. PANEQUE: Okay. Welcome.

9 And Mindry Watley.

10 MS. WATLEY: Here.

11 MR. PANEQUE: Welcome.

12 All right. So, these are four new members,
13 alternates, that have been appointed to the
14 Board.

15 On behalf of all the Board members, I'd
16 like to extend a welcome and let's roll up our
17 sleeves and start to work.

18 Okay?

19 By the way, just so that the record's
20 clear, all the members have been sworn in?

21 MS. PEREZ: Yes.

22 MR. PANEQUE: Okay. That's what I was told
23 so, again, welcome.

24 THE SECRETARY: Thank you, Mr. Paneque.

25 Welcome to the new members.

1 Okay.

2 Before we roll call for this evening
3 meeting, can everybody rise to salute the flag
4 please?

5

6 (Whereupon, the Pledge of Allegiance was
7 said by all.)

8

9 THE SECRETARY: Thank you.

10 Oh, I'm sorry. I got to go to --

11 Please take notice that on Thursday, April
12 11, 2019, six p.m., a Regular Meeting is
13 scheduled for the Union City Board of Adjustment,
14 to be held in the Municipal Chambers, located on
15 the Second Floor, 3715 Palisade Avenue, Union
16 City, New Jersey.

17

18 **ROLL CALL:**

19

20 THE SECRETARY: Roll call for tonight's
21 meeting.

22 Mr. Bonacci?

23 CHAIRMAN BONACCI: Yes.

24 THE SECRETARY: Mr. Grullon?

25 VICE CHAIRMAN GRULLON: Here.

1 THE SECRETARY: Mr. Marotta?

2 MR. MAROTTA: Here.

3 THE SECRETARY: Ms. Gutierrez?

4 MS. GUTIERREZ: Here.

5 THE SECRETARY: Mr. Ortiz is absent.

6 Mr. Pressey?

7 MR. PRESSEY: Here.

8 THE SECRETARY: Mr. Medina is absent.

9 Mrs. Pena?

10 MS. PENA: Here.

11 THE SECRETARY: Mrs. Perez?

12 MS. PEREZ: Here.

13 THE SECRETARY: Mr. Cetinich?

14 MR. CETINICH: Here. I'm here.

15 THE SECRETARY: Ms. Watley?

16 MS. WATLEY: Here.

17 THE SECRETARY: Let the record indicate

18 that we have nine members present.

19 So, we have a super-quorum.

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1 **APPROVAL OF PREVIOUS MEETING MINUTES:**

2

3 (1) Regular Meeting held on March 14, 2019

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5 THE SECRETARY: We are going to approval of
6 previous meeting minutes from March 14, 2019.

7 The members who was present at the previous
8 meeting -- meeting was Mr. Bonacci, Mr. Grullon,
9 Ms. Gutierrez.

10 MS. GUTIERREZ: No, I wasn't here.

11 THE SECRETARY: You wasn't here? Oh, I'm
12 sorry. She was absent.

13 MS. GUTIERREZ: Yes.

14 THE SECRETARY: Mr. Pressey. Mr. Ortiz, he
15 was not here, was absent.

16 All right.

17 Can I have a motion to approve the previous
18 meeting minutes?

19 CHAIRMAN BONACCI: I'll make a motion.

20 THE SECRETARY: Motion by Mr. Bonacci.

21 Second by?

22 VICE CHAIRMAN GRULLON: Second.

23 THE SECRETARY: By Mr. Grullon.

24 Roll call on the motion.

25 Mr. Bonacci?

1 CHAIRMAN BONACCI: Yes.

2 THE SECRETARY: Mr. Grullon?

3 VICE CHAIRMAN GRULLON: Yes.

4 THE SECRETARY: Mr. Pressey?

5 MR. PRESSEY: Yes.

6 THE SECRETARY: Three in favor.

7 Motion carries.

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

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3 THE SECRETARY: We are going to the first
4 application on tonight's agenda.

5 Mapal Zahan, LLC, 514 14th Street.

6 Mr. Lopez?

7 MR. LOPEZ: Good evening, Mr. Chairman --

8 CHAIRMAN BONACCI: Good evening.

9 MR. LOPEZ: -- members of the Board.

10 I'm going to ask that this matter be
11 adjourned until the next hearing. We had
12 submitted these plans to a -- they had been
13 reviewed by a proposed builder and certain
14 modifications were suggested, very minor. No
15 change in the number of units or anything, but
16 modifications which will make the project much
17 easier to build. So, we'd like the opportunity
18 to submit those plans.

19 Mr. Valella has worked on them, and they
20 are ready to be submitted in the next couple of
21 days.

22 CHAIRMAN BONACCI: I'm sorry, Mr. Lopez.

23 Are we talking about the 14th Street --

24 MR. LOPEZ: That's correct.

25 CHAIRMAN BONACCI: -- application?

1 Okay.

2 MR. LOPEZ: That's correct.

3 The first one.

4 CHAIRMAN BONACCI: Does he need to
5 establish jurisdiction?

6 MR. MAROTTA: That's Mapal Zahan.

7 MR. LOPEZ: That's correct.

8 MR. PANEQUE: Okay.

9 MR. LOPEZ: And we would waive any
10 jurisdictional requirements.

11 MR. PANEQUE: Mr. Lopez, this matter's been
12 carried from November 29th of last year.

13 MR. LOPEZ: Yes.

14 MR. PANEQUE: At that time, did you
15 establish jurisdiction?

16 MR. LOPEZ: We did. We did.

17 MR. PANEQUE: And your proof of mailings
18 and so forth.

19 MR. LOPEZ: Yes. Everything had been
20 submitted and --

21 MR. PANEQUE: All right.

22 So, --

23 MR. LOPEZ: -- we had jurisdiction on the
24 project.

25 MR. PANEQUE: -- you're asking this Board

1 to carry the matter with no further notice or
2 publication.

3 MR. LOPEZ: Correct. And no further
4 adjournments. That will be the last -- that will
5 be the last hearing date.

6 MR. PANEQUE: Okay. And you'll have the
7 revised plans introduced at least ten days prior
8 to the --

9 MR. LOPEZ: Yes.

10 MR. PANEQUE: -- the meeting which you will
11 be scheduled.

12 MR. LOPEZ: That's correct.

13 MR. PANEQUE: All right.

14 Any questions from the Board?

15 MR. MAROTTA: Well, I -- I have a request
16 of Mr. Lopez.

17 MR. LOPEZ: Yes, sir.

18 MR. MAROTTA: Would you have your architect
19 -- I notice on his plans where he says relief
20 requested. He makes reference to a statute.
21 Would you please ask him to be specific, because
22 we don't have the statute here and we're going to
23 -- if you want us to take the time, we'll just
24 take -- bring the statute, open it. Each one of
25 us will read it. Take maybe a half hour.

1 So, instead of giving me the title, please
2 give me --

3 MR. LOPEZ: And that will be -- the plans
4 you're looking at are from our planner, who
5 happens to be Mr. Izquierdo, is here.

6 MR. MAROTTA: Well --

7 MR. LOPEZ: And he's listening to your
8 request --

9 MR. MAROTTA: I know he's listening --

10 MR. LOPEZ: -- and I'm sure he'll comply.

11 MR. MAROTTA: -- to my request.

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

13 MR. MAROTTA: Thank you.

14 MR. PANEQUE: Is there a -- a motion on the
15 floor?

16 CHAIRMAN BONACCI: I make a motion to
17 adjourn.

18 THE SECRETARY: Motion --

19 MS. GUTIERREZ: I second it.

20 THE SECRETARY: -- to adjourn this
21 application by Mr. Bonacci.

22 Seconded by Ms. Gutierrez.

23 Roll call on the motion.

24 Mr. Marotta?

25 MR. MAROTTA: Yes.

1 THE SECRETARY: Mr. Bonacci?
2 CHAIRMAN BONACCI: Yes.
3 THE SECRETARY: Mr. Grullon?
4 VICE CHAIRMAN GRULLON: Yes.
5 THE SECRETARY: Ms. Gutierrez?
6 MS. GUTIERREZ: Yes.
7 THE SECRETARY: Mr. Pressey?
8 MR. PRESSEY: Yes.
9 THE SECRETARY: Ms. Pena?
10 MS. PENA: Yes.
11 THE SECRETARY: Ms. Perez?
12 MS. PEREZ: Yes.
13 THE SECRETARY: Mr. Cetinich?
14 MR. CETINICH: Yes.
15 THE SECRETARY: Ms. Watley?
16 MR. WATLEY: Yes.
17 THE SECRETARY: Nine in favor.
18 Motion carries.
19 MR. LOPEZ: Thank you.
20 MR. SPATZ: May 9th.
21 MR. PANEQUE: Just as a point of
22 clarification --
23 THE SECRETARY: May -- May 9.
24 MR. PANEQUE: May 9.
25 THE SECRETARY: No new notice required.

1 MR. LOPEZ: Thank you, Mr. Vallejo.

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

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1 **1015 West Street, LLC - 601 11th Street:**

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3 THE SECRETARY: Okay.

4 We are going to change a little bit the
5 order of tonight agenda.

6 We are going to call number 4, 1015 West
7 Street, LLC, 601 11th Street.

8 Mr. Alonso, please?

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

11 For the record, Alvaro Alonso, Alonso
12 Navarette, on behalf of the applicant.

13 I've provided counsel with my proof of
14 publication and notices for jurisdictional
15 purposes.

16 So while he's reviewing that, I'm going to
17 be requesting an adjournment. Our planner's not
18 available this evening and I'd like to make this
19 application in one -- at one time.

20 MR. PANEQUE: All right.

21 For the record, I've been provided by Mr.
22 Alonso with the following documentation:

23 I've been provided with an Affidavit of
24 Service, which is signed by Mr. Alonso, and it's
25 notarized by Monica Cardenas, C-A-R-D-E-N-A-S,

1 | indicating that notice of tonight's hearing with
2 | respect to the application for 601 -- is it 611
3 | or 610?

4 | MR. ALONSO: It's 10 -- well, it's 1015
5 | West Street, also known as 601 11th Street.

6 | MR. PANEQUE: Okay.

7 | 601 11th Street, also known as 1015 West
8 | Street, or vice-versa, was given to all property
9 | owners within the 200 foot radius on or about
10 | March 30th, 2019.

11 | I've also been provided with an Affidavit
12 | of Publication from The Jersey Journal,
13 | indicating that notice of the hearing with
14 | respect to 1015 West Street was published in the
15 | newspaper on March 30th, 2019, giving notice of
16 | tonight's hearing on April 11, at six p.m., at
17 | this location, 3715 Palisade Avenue.

18 | I've also been provided with a copy of the
19 | notice that was sent to all property owners.

20 | I've also been provided with the Tax
21 | Assessor's list, with a date of February 22nd,
22 | consisting of four pages, as well as the
23 | certified mail receipts, which have a postmark
24 | stamp date of March 30th, 2019.

25 | Based on the documentation that has been

1 provided by Mr. Alonso, this Board has
2 jurisdiction to proceed and hear this matter.

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

4 MR. PANEQUE: Now, Mr. Alonso, you're
5 asking that the matter be adjourned?

6 MR. ALONSO: That's correct.

7 MR. PANEQUE: To the next meeting?

8 MR. ALONSO: That's correct.

9 MR. PANEQUE: Okay.

10 CHAIRMAN BONACCI: Mr. Alonso, you know
11 that the next meeting is May 9th.

12 Right?

13 MR. ALONSO: Yes.

14 CHAIRMAN BONACCI: Okay.

15 THE SECRETARY: Can I have a motion to
16 adjourn this meeting --

17 CHAIRMAN BONACCI: I'll make a motion.

18 THE SECRETARY: -- for May 9, no new notice
19 required?

20 VICE CHAIRMAN GRULLON: Second.

21 THE SECRETARY: Motion by Mr. Bonacci.

22 VICE CHAIRMAN GRULLON: I second.

23 THE SECRETARY: Seconded by Mr. Grullon.

24 Thank you.

25 Roll call on the motion to adjourn this

1 application.

2 Mr. Bonacci?

3 CHAIRMAN BONACCI: Yes.

4 THE SECRETARY: Mr. Gullon?

5 VICE CHAIRMAN GRULLON: Yes.

6 THE SECRETARY: Mr. Marotta?

7 MR. MAROTTA: Yes.

8 THE SECRETARY: Ms. Gutierrez?

9 MS. GUTIERREZ: Yes.

10 THE SECRETARY: Mr. Pressey?

11 MR. PRESSEY: Yes.

12 THE SECRETARY: Ms. Pena?

13 MS. PENA: Yes.

14 THE SECRETARY: Ms. Perez?

15 MS. PEREZ: Yes.

16 THE SECRETARY: Seven in favor.

17 Motion carries.

18 MR. ALONSO: Thank you very much.

19 Have a good evening.

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1 **132-134 49th Street, LLC - 132-134 49th Street:**

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3 THE SECRETARY: Now, we are going to go
4 back to item number 2.

5 132-134 49th Street, LLC.

6 Mr. Lopez, please?

7 MR. LOPEZ: Thank you, once again.

8 Mr. Chairman, members of the Board, Adolfo
9 Lopez, appearing on behalf of the applicant,
10 132-134 49th Street, LLC.

11 And this is the first hearing on this
12 matter. Mr. Paneque, the jurisdictional
13 documents for your review.

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

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

17 MR. PANEQUE: Let the record show that I've
18 been provided with the following documentation:

19 I have an Affidavit of Service, which is
20 signed by Mr. Lopez, indicating that notice of
21 tonight's hearing was given at least ten days
22 prior to tonight, with respect to the property at
23 132-134 49th Street in Union City.

24 I've also been provided with a copy of an
25 -- strike that -- the original affidavit from The

1 Jersey Journal, with a publication date of March
2 21st, indicating that notice of the application
3 with respect to the property located at 132-134
4 49th Street was placed in the paper, giving notice
5 of tonight's hearing at this location.

6 I've also been provided with a copy of the
7 notice that went out to all property owners
8 within the 200 foot radius, as well as the Tax
9 Assessor's list, with a date of January 31st,
10 consisting of two pages.

11 I've also been provided with the receipts
12 from the post office, which have a notation that
13 they went out on March 17, as well as the green
14 cards that have come back to date.

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

18 MR. LOPEZ: May I?

19 CHAIRMAN BONACCI: Um hum.

20 THE SECRETARY: Thank you.

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

22 I'd like to call up Jose Izquierdo, who
23 will provide testimony as an architect and a
24 planner.

25 And just before we get started with Mr.

1 Izquierdo's testimony -- with Mr. Izquierdo's
2 testimony, just a bit of an explanation --

3

4 (Whereupon, Miguel Ortiz arrived at 6:24
5 p.m.)

6

7 MR. LOPEZ: -- because this property has
8 somewhat of a history and it's best that the --

9 MR. ORTIZ: Good evening.

10 MR. LOPEZ: -- Board be fully aware.

11 When my clients purchased this property, it
12 contained three units.

13 THE SECRETARY: Mr. Lopez, allow me one
14 second, please?

15 Let the record indicate that Mr. Ortiz
16 arrived to the meeting.

17 Go ahead, Mr. Lopez.

18 MR. LOPEZ: When the property was acquired
19 by my clients, the property contained three
20 units.

21 The Building Department didn't have records
22 as to one of the units. They elected to take out
23 permits to remove that unit altogether. And
24 then, they consulted with Mr. Izquierdo as to the
25 best use of the property. And Mr. Izquierdo will

1 provide more descriptive testimony as to what his
2 recommendations and what is before you today.

3 CHAIRMAN BONACCI: Okay.

4 MS. DILLON: Mr. Izquierdo, please raise --

5 MR. MAROTTA: Excuse me?

6 You say that originally it was three units?

7 MR. LOPEZ: It -- when they purchased, it
8 was three units. They later discovered, Mr.
9 Marotta, that one of the units was probably
10 illegal.

11 The Building Department didn't have the
12 appropriate records to show the validity of that
13 third unit, so they removed it altogether. So --

14 MR. MAROTTA: We have a memo here from the
15 Building Department that says it was originally a
16 two unit structure.

17 MR. LOPEZ: It's --

18 MR. MAROTTA: Okay?

19 MR. LOPEZ: Legally, it's a two unit
20 structure. And that's what's here today.

21 MR. MAROTTA: Okay.

22 MR. LOPEZ: Two -- two units.

23 MS. GUTIERREZ: Okay.

24 MS. DILLON: Mr. Izquierdo, please raise
25 your right hand.

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

3 MR. IZQUIERDO: I do.

4 MS. DILLON: Please state your name for the
5 record.

6 MR. IZQUIERDO: My name is Jose Izquierdo,
7 registered architect 09143, registered planner
8 03385.

9 MS. DILLON: Thank you.

10 MR. LOPEZ: Mr. Bonacci, he -- Mr.
11 Izquierdo has been qualified.

12 CHAIRMAN BONACCI: We accept your
13 qualifications, --

14 MR. LOPEZ: Thank you.

15 CHAIRMAN BONACCI: -- Mr. Izquierdo.

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

17 Good evening, members of the Board.

18 As -- as counselor indicated, when the
19 applicant purchased this property, it was origin
20 -- it was a three family house and there was an
21 illegal basement apartment there.

22 By the time that he called me to see the
23 property, the basement apartment had already been
24 removed. So, it was only a two family -- two
25 family house, with an unfinished basement.

1 So, in looking at the property and -- and
2 determining, in terms of zoning, what is -- what
3 -- what the Ordinance allows and what the Master
4 Plan says that the property should be, you notice
5 that this property is 45 by 95.

6 So, if it was to be two lots, as opposed to
7 the two merged lots, and we would come to a minor
8 subdivision before the Planning Board, I would
9 end up with two properties, 22.6 by 95, in a
10 minor subdivision. And according to the zoning,
11 I would be allowed to build either a two family
12 or a three family in each.

13 Seeing that trying to build a three family
14 house in a 22.6 by 95 property, and knocking down
15 this building in any -- in any event, we wouldn't
16 gain much.

17 So, my feeling was the basement was high
18 enough, because the -- the applicant doesn't need
19 to underpin or anything. I can get a very nice
20 basement apartment at eight feet, accessible both
21 from the front stairs and also has a rear entry.

22 So, since we have, right now, a storage
23 structure in the back that didn't even appear in
24 the survey, what we determined was, let's knock
25 down the -- the shed structure, let's knock down

1 the garage, the one -- the one family -- the one
2 car brick garage, and just construct one
3 apartment in the basement and a fourth unit on
4 the ground level, which would be accessible to
5 the handicap, would have all the needs for -- it
6 would have its own parking space, the parking
7 space would have the five foot turning radius and
8 anything for the disabled person. So --

9 MR. LOPEZ: Mr. Izquierdo, let me interrupt
10 you one second, because the survey that was used
11 on the --

12 MR. IZQUIERDO: It does show the frame
13 shed.

14 MR. LOPEZ: But this one does not, so I
15 would like to mark this, so Mr. Izquierdo can
16 refer to it.

17
18 (Whereupon, Survey was received and marked
19 as Exhibit A-1.)

20
21 MR. IZQUIERDO: The document that the
22 attorney has given is -- is a survey of what
23 presently exists on that property, and that frame
24 shed is shown, and the one story brick garage is
25 shown.

1 Both of those structures are going to be
2 removed. And what's going to -- to occur, which
3 is the application, we would be erecting a 27
4 feet nine inch wide by 18 feet ten inch long one
5 story rear yard addition.

6 MR. LOPEZ: Mr. Izquierdo, the survey that
7 you are referring to is what has been marked as
8 A-1.

9 Is that correct?

10 MR. IZQUIERDO: Yes.

11 MR. LOPEZ: And this is what shows the two
12 structures that are proposed that you indicated
13 in your testimony we are proposing to raze and
14 remove altogether.

15 MR. IZQUIERDO: To demolish --

16 MR. LOPEZ: Is that correct?

17 MR. IZQUIERDO: -- them. Yes.

18 MR. LOPEZ: Okay. So --

19 Mr. Paneque, I'm going to submit to the
20 Chairman the survey showing the -- the structures
21 that are proposed to be removed.

22 Go ahead, Mr. Izquierdo.

23 MR. IZQUIERDO: So, this is an application
24 for a D-1 building use variance, because we're --
25 we're proposing to convert the existing two

1 family house into a four family house. And a
2 four family structure is not an allowed use in
3 the R zone.

4 In addition to the -- to the variances for
5 -- to the D-1 building use variance, applicant is
6 seeking variances for lot area, where 5,000
7 square feet would be required and we have 4,275
8 square feet.

9 I call that to be a C-1 variance, Mr.
10 Marotta, because that would fall under the
11 hardship standard, because the present size of
12 the property that we have, 45 by 95, is a result
13 of the subdivision originally created for the
14 Master Plan and not due to any of applicant's
15 actions.

16 So, thereby, it's not subject to a positive
17 and negative criteria sort of argument. It's not
18 like the C-2, flexible C variance.

19 Additionally, applicant is seeking a
20 variance for the lot width. Again, a C-1
21 variance, because the present lot is 45 feet
22 wide. And the Ordinance would require it to be
23 50 feet.

24 The lot depth, which is a hundred feet, we
25 exist at 95 feet. That is also a C-1 hardship

1 variance.

2 The front yard allowed is ten feet, we have
3 nine feet ten inches. That is going to remain as
4 it is. Actually, we're going to have one parking
5 space in that nine feet ten inch setback that we
6 have in the front.

7 And the side yard, it's required to be six
8 feet and six feet. The existing house is .78
9 feet away from the property line. We're not
10 exacerbating that, but when we do the addition in
11 the back, that's why I'm seeking to have a side
12 yard variance where we're going to continue that
13 one foot setback from the property line, that is
14 a C-2 variance.

15 MR. LOPEZ: But that's only on one side.
16 The other side --

17 MR. IZQUIERDO: That's only the one side.

18 MR. LOPEZ: The other side has the parking
19 lot, which is --

20 MR. IZQUIERDO: The --

21 MR. LOPEZ: -- approximately --

22 MR. IZQUIERDO: Twenty-one feet six inches
23 away.

24 The building height conforms.

25 We're allowed to have three stories and

1 | actually, we're just building a one story in the
2 | back and the existing structure is two and a half
3 | stories.

4 | The building coverage 60 percent. We're
5 | actually increasing it from 34.21 to 48.39
6 | percent, which complies.

7 | And lot -- the lot coverage, because of the
8 | parking requirements, we have a 75 percent
9 | requirement, but the existing lot is already 95
10 | percent, because it's totally paved, but it's
11 | used in terms of the number of -- of parking
12 | spaces it can accommodate. And we're proposing
13 | to bring that to 99 percent. That is a C-2
14 | flexible variance, whereas I can argue that the
15 | benefits of having the additional four percent of
16 | impervious coverage substantially outweigh the
17 | detriments created by the runoff, because we can
18 | get more parking.

19 | In terms of the -- of the residential off-
20 | street parking space, again the two family house
21 | is not subject to those requirements, although it
22 | conforms with the four parking spaces.

23 | And with the four apartments that we would
24 | be building, we would be required to have a total
25 | of eight spaces, according to RSIS, which is also

1 | which echoes the City of Union City Zoning
2 | Ordinance. We're required to have eight spaces
3 | and we're proposing seven. That is a flexible C-
4 | 2 variance.

5 | The minimum unit size; apartment number one
6 | conforms at 824; apartment number two at 964;
7 | apartment number three at 758, that's a two
8 | bedroom; and a studio, which is the ADA
9 | apartment, the new one that we're proposing,
10 | being 484 square feet.

11 | MR. LOPEZ: And that also complies?

12 | MR. IZQUIERDO: Complies.

13 | MR. LOPEZ: Okay.

14 | MR. IZQUIERDO: The drawing submitted in
15 | conjunction with the application was drawing A-1,
16 | that shows the building -- the basement and the
17 | addition floor plan, together with the parking
18 | being the site plan of the application, a section
19 | through the new construction, the zoning
20 | schedule, and also to comply with site plan
21 | approval criteria, all the floor plans and
22 | elevations of the building.

23 | MR. LOPEZ: Mr. Izquierdo, the proposed
24 | construction is mainly in the rear portion of the
25 | property.

1 Is that correct?

2 MR. IZQUIERDO: Only. Only in the rear
3 portion of the property.

4 MR. LOPEZ: And can you describe the
5 apartment that is being proposed all the way in
6 the rear? The handicap apartment?

7 MR. IZQUIERDO: The building facing on 49th
8 Street has a front door entrance that leads you
9 access to unit on the second floor, to units on
10 the first floor, and also has an interior access
11 to the basement apartment, which is apartment
12 number three.

13 The building will also have a rear
14 entrance, with the lobby and the intercom and
15 everything for security purposes. And that rear
16 entrance is going to be the one used by the
17 parking -- by the people that park in the -- in
18 the parking lot, because we have four units with
19 seven parking spaces, so our residents will be
20 able to park there.

21 When they come into the rear entrance of
22 the building, they can gain access to unit number
23 three, the basement, to unit number one, the
24 ground floor, not unit number two, but unit
25 number four.

1 So, there are three units accessible from
2 the front, three units accessible from the back.

3 MR. LOPEZ: The -- the --

4 MR. IZQUIERDO: Units one and three have
5 two entrances.

6 MR. LOPEZ: The handicapped accessible unit
7 that you are proposing, unit number four, does it
8 have its own parking space which is also a
9 handicapped accessible space?

10 MR. IZQUIERDO: Yes. And it -- it has its
11 own -- his own entrance, its own apartment and
12 everything. It's all on the grade level. It
13 doesn't have any -- any bedrooms or anything.
14 It's just one large studio.

15 MR. LOPEZ: And --

16 MR. IZQUIERDO: Being 484 square feet.

17 MR. LOPEZ: And that would be parking space
18 number seven, which is immediately adjacent to
19 the unit.

20 MR. IZQUIERDO: Yes.

21 MR. LOPEZ: Is that correct?

22 MR. IZQUIERDO: Yes.

23 MR. LOPEZ: So, do you have anything else
24 in your testimony on the architectural aspect?

25 MR. IZQUIERDO: The creation of a front

1 entrance, with lobby and intercom and everything,
2 to gain security to -- to the building, as well
3 as the creation of a rear entrance for the -- for
4 the parking spaces and the residents parking
5 thereof, is all protected and it's all part of
6 the security system in the building.

7 We're also having a rolling gate in the
8 front, so that the access to the parking spaces
9 be regulated to the tenants only.

10 In terms of the -- of the planning aspects,
11 I would like to add, this is a building use
12 variance, but as I indicated previously, a minor
13 subdivision could grant us maybe two, two family
14 houses with -- which would have the same density
15 and would have the same requirement for the
16 number of parking spaces.

17 However, in this specific case, because the
18 apartments on the -- on the second floor and on
19 the first floor of that building are also very
20 nicely kept, this gives us an opportunity not to
21 have just a -- a new building, but to transform
22 an existing building within the fabric of the
23 city and turn it into a Code compliant four
24 family house.

25 MR. LOPEZ: And Mr. Izquierdo, would you

1 | agree that this design, as you had indicate -- as
2 | you had indicated to me when we were discussing
3 | these plans, is more amenable to parking than
4 | having two, two family houses, or two, three
5 | family houses.

6 | MR. IZQUIERDO: Yes. It's less -- it's
7 | less impersonal. The two family houses is a
8 | little more impersonal.

9 | MR. LOPEZ: And parking is also on a much
10 | narrower lot. To put another structure would
11 | make parking much more difficult, would it not?

12 | MR. IZQUIERDO: That, as well.

13 | Also, in a two family situation, you would
14 | have eight parking spaces, but four of them would
15 | be in a tandem condition. We don't have any
16 | parking spaces in a tandem condition.

17 | Additionally, our neighbor to the Broadway
18 | side, is the big five story church. So,
19 | basically, what our parking lot has is just a
20 | five story concrete block wall. So, we're not
21 | taking away the view or we're not taking away
22 | light and air from any of the residents or
23 | anything.

24 | MR. LOPEZ: Please continue with your
25 | testimony as a planner.

1 MR. IZQUIERDO: So, in weighing out the
2 positive and negative criteria for -- for like
3 instances in the increase of the impervious
4 coverage, or in the rear yard of the -- of the
5 building, the positive criteria, by -- by
6 creating an -- an apartment accessible to the
7 handicap, creating the seven parking spaces,
8 albeit a variance for one, for the four units,
9 substantially outweigh -- outweigh whatever --
10 whatever benefit that rear yard and the four
11 percent of increased impervious coverage would
12 be.

13 I have nothing further.

14 MR. LOPEZ: And obvious --

15 MR. IZQUIERDO: It's a better zoning
16 alternative for the property rather than it -- it
17 maintains the density, but it's a better zoning
18 alternative for the property. It just --

19 MR. LOPEZ: Besides the parking, have you
20 looked at public transportation alternatives for
21 this location? This is 49th Street.

22 MR. IZQUIERDO: Yeah. Well, 49th Street, I
23 mean, if you walk a couple of blocks to
24 Bergenline Avenue, you're already at the -- at
25 the N.J. Transit -- the rail path. It's one of

1 the advantages that -- that the city offers to --
2 to any of its residents.

3 If you go down Palisade, not Palisade, but
4 you could go Broadway or Park, you have numerous
5 accesses to public transportation. Even on
6 Boulevard East, which is not far away from this
7 either. You have accesses to public
8 transportation and -- and --

9 MR. LOPEZ: Okay.

10 MR. IZQUIERDO: Which is also a benefit to
11 the -- of the location.

12 MR. LOPEZ: I have nothing else, Mr.
13 Chairman, members of the Board.

14 CHAIRMAN BONACCI: Just a couple quick
15 questions.

16 In my hands, I have the Building Department
17 memo, because you guys brought that up in your
18 testimony earlier.

19 Okay. So, Lot 12 was originally two unit
20 structure. Somewhere along the lines, it became
21 three. Now you guys want to make it four.

22 And according to Mr. Spatz's memorandum,
23 it's low density residential zone, so that's R.
24 And four family dwellings are not permitted
25 there.

1 Now, with that said, I just want to make
2 sure that I have the variances that you guys are
3 seeking; C-1, D-5, D-1, C-2.

4 Did I miss any?

5 MR. IZQUIERDO: D-5, Mr. Spatz maybe
6 identified, because we have a three bedroom in
7 unit number one, which is 824 square feet, and
8 not 950 square feet, which is what the Ordinance
9 --

10 MR. SPATZ: It requires 900 square feet.
11 And --

12 MR. IZQUIERDO: Nine hundred.

13 MR. SPATZ: And you're short of that.

14 MR. LOPEZ: Nine hundred.

15 MR. IZQUIERDO: So, Mr. Spatz --

16 MR. LOPEZ: Right.

17 MR. IZQUIERDO: -- has identified a
18 variance that I did not identify. I did circle
19 it because once you convert it, you -- it -- it
20 has to comply.

21 CHAIRMAN BONACCI: Now, in addition to
22 those, there's the parking requirement, too.

23 MR. IZQUIERDO: Of one. Yes.

24 CHAIRMAN BONACCI: So, we're -- we're
25 looking at about --

1 MR. LOPEZ: We're short one -- one parking
2 space.

3 CHAIRMAN BONACCI: So, like five variances.

4 MR. LOPEZ: Yes.

5 CHAIRMAN BONACCI: So, this was originally
6 a two unit structure, that became a three. And
7 now, you guys want to make it four.

8 MR. IZQUIERDO: Legally.

9 CHAIRMAN BONACCI: So, I mean, I
10 understand. I'm just --

11 MR. LOPEZ: Mr. Bonacci, just for
12 clarification, not the original structure. What
13 we are -- we are proposing four units on an
14 enlarged structure.

15 CHAIRMAN BONACCI: Yeah. I'm just going by
16 what the memo says.

17 MR. LOPEZ: No, correct. But you indicated
18 that we wanted to put four units on the
19 structure. This is -- we're proposing a larger
20 structure.

21 CHAIRMAN BONACCI: Two extra from what's --
22 what was originally there.

23 MR. IZQUIERDO: Yes.

24 MR. LOPEZ: Yes. Correct.

25 CHAIRMAN BONACCI: Yeah.

1 MR. IZQUIERDO: Yes.

2 CHAIRMAN BONACCI: But see, it's in the R
3 zone, and four is not permitted there.

4 MR. LOPEZ: Correct.

5 CHAIRMAN BONACCI: And to Mr. Spatz's point
6 in the memo, unit one on the ground floor, it's
7 too small, so you need the D-5 for that.

8 MR. IZQUIERDO: Yes.

9 CHAIRMAN BONACCI: If you made that a two
10 bedroom, then you would meet the parking
11 requirement, and then that would be one less
12 variances that you would need.

13 MR. IZQUIERDO: I will have no problem in
14 -- in turning the -- the three bedroom into a --

15 MR. LOPEZ: Into a two bedroom.

16 MR. IZQUIERDO: -- into a two bedroom.

17 MS. GUTIERREZ: Two bedroom.

18 CHAIRMAN BONACCI: So, you'd have a studio,
19 a one bedroom and two, two bedrooms.

20 MR. LOPEZ: Correct.

21 MR. IZQUIERDO: Yes.

22 MR. LOPEZ: And Mr. Bonacci, and members of
23 the Board, the -- you are correct in your
24 description. What we are saying is that if you
25 consider all of the alternatives where you can

1 put technically two, two family houses, it would
2 be much more intrusive. While yes, we are now
3 creating a four unit nonconforming structure,
4 overall, bulk wise, it takes up much less room,
5 creates much more accessible parking. And as Mr.
6 Izquierdo indicated, it's probably the better
7 zoning alternative.

8 You are absolutely correct that it doesn't
9 strictly comply with the Ordinance.

10 CHAIRMAN BONACCI: One more thing for me
11 and then I'll let these guys ask some questions,
12 too.

13 The minimum rear yard?

14 MR. IZQUIERDO: It's 25 percent of the --
15 of the lot depth. In this case, it would be
16 74.15, the structure. So, our lot -- our rear
17 yard would be 23.75 feet.

18 We presently have 31 feet ten inches. That
19 is our existing rear yard.

20 I'm -- I'm assuming that the frame shed and
21 the garage structure that is there are
22 demolished, because if I take it to the frame
23 shed, I have three feet of an existing rear yard.
24 If I take it to the garage, I have a one foot of
25 the rear yard.

1 And what we're proposing is to knock down
2 the frame shed, knock down the one car garage,
3 and in its place, have the unit number four.

4 CHAIRMAN BONACCI: Okay.

5 The only reason I'm bringing it up is
6 because I'm reading the memo; minimum rear yard,
7 23.75 required.

8 MR. IZQUIERDO: Correct.

9 CHAIRMAN BONACCI: The enlarged building
10 will have a rear yard of one foot.

11 MR. IZQUIERDO: Yes.

12 MR. LOPEZ: The only thing to consider is
13 that the existing structures there do not comply
14 with the 23 feet either. Some --

15 MR. IZQUIERDO: The frame shed and the --
16 and the one car garage are, in essence, occupying
17 the entirety of the rear yard. We don't have a
18 rear yard, in essence.

19 CHAIRMAN BONACCI: Are you -- are you
20 saying that what's there now is on the property
21 line?

22 MR. LOPEZ: It's -- if I can --

23 MR. IZQUIERDO: The --

24 MR. LOPEZ: If you could look at --

25 MR. IZQUIERDO: The garage is.

1 CHAIRMAN BONACCI: Yeah.

2 MR. LOPEZ: If you could look at what's
3 been marked as A-1 --

4 CHAIRMAN BONACCI: Um hum.

5 MR. LOPEZ: -- Mr. Chairman, that would
6 show the -- the structures all the way in the
7 back, which take up, in essence, the rear yard.

8 CHAIRMAN BONACCI: That's a garage and a
9 shed.

10 MR. LOPEZ: Yes.

11 CHAIRMAN BONACCI: Now, what you guys are
12 going to put there is a building.

13 MR. LOPEZ: On --

14 MR. IZQUIERDO: A one story building.

15 MR. LOPEZ: On one portion. The other
16 portion --

17 MR. IZQUIERDO: Is just parking.

18 MR. LOPEZ: Is just parking. Correct.

19 CHAIRMAN BONACCI: My only concern is, in
20 the event of an emergency, you've only got one
21 foot to get somebody in and out of there.

22 MR. LOPEZ: That would not be used as -- as
23 an emergency egress at all.

24 MR. IZQUIERDO: No, because I don't have
25 any windows or anything. The entire -- the

1 entire building and the entire property faces
2 onto the parking lot.

3 CHAIRMAN BONACCI: Okay. So, you're saying
4 that you would have enough room, where it says
5 macadam drive.

6 MR. IZQUIERDO: Yes.

7 CHAIRMAN BONACCI: Okay.

8 All right.

9 I'll open it up for members of the Board.

10 VICE CHAIRMAN GRULLON: I have a question,
11 Mr. Izquierdo.

12 The existing building, are you planning to
13 demolish that building or --

14 MR. IZQUIERDO: No.

15 VICE CHAIRMAN GRULLON: No. You're keeping
16 the existing.

17 MR. IZQUIERDO: Yeah.

18 VICE CHAIRMAN GRULLON: Two -- two story
19 building with the basement.

20 MR. IZQUIERDO: Yes.

21 VICE CHAIRMAN GRULLON: Any construction
22 proposed to that section of the building?

23 MR. IZQUIERDO: We're going to renovate the
24 front of the building, I believe.

25 VICE CHAIRMAN GRULLON: Yeah. Okay.

1 MR. IZQUIERDO: Yeah.

2 VICE CHAIRMAN GRULLON: And the only
3 construction proposed is only that extra unit.

4 MR. IZQUIERDO: One story addition in the
5 back.

6 VICE CHAIRMAN GRULLON: In the back.

7 MR. IZQUIERDO: Yeah, which is 27 -- 27.9
8 by 18.10.

9 VICE CHAIRMAN GRULLON: And again, just for
10 my information, the bedroom counts, you're going
11 to bring the three -- the three bedrooms to two
12 bedrooms?

13 MR. LOPEZ: Yes.

14 MR. PANEQUE: Yes.

15 MR. IZQUIERDO: Yeah. Yes.

16 MR. LOPEZ: And we will fully comply with
17 the parking requirements at that point.

18 MR. IZQUIERDO: No. We won't.

19 MR. LOPEZ: No? No. Parking is still --
20 we -- we eliminate the one variance --

21 MR. IZQUIERDO: Because from the three
22 bedroom --

23 MR. LOPEZ: -- on the size.

24 MR. IZQUIERDO: -- to the two bedroom, it's
25 only from 2.1 to 2.0.

1 VICE CHAIRMAN GRULLON: Yeah.

2 MR. IZQUIERDO: So, it's only --

3 MR. LOPEZ: Yes.

4 MR. IZQUIERDO: -- .1.

5 VICE CHAIRMAN GRULLON: But you will have
6 the --

7 MR. IZQUIERDO: But in the bedroom count,
8 we have --

9 VICE CHAIRMAN GRULLON: -- opportunity to
10 make the bigger bedrooms. Correct? Right now,
11 I'm seeing bedrooms like 9.7 by --

12 MR. LOPEZ: Right.

13 VICE CHAIRMAN GRULLON: -- by 10.8, which
14 are very small bedrooms.

15 MR. IZQUIERDO: Yeah. You mean, in the --
16 in the upper floors.

17 VICE CHAIRMAN GRULLON: Yes.

18 MR. IZQUIERDO: Yes.

19 MS. GUTIERREZ: Um hum.

20 MR. IZQUIERDO: Yes. That apartment would
21 have larger --

22 VICE CHAIRMAN GRULLON: You're going to
23 enlarge those bedrooms.

24 MR. LOPEZ: Yes.

25 MR. IZQUIERDO: -- bedrooms. Yes.

1 VICE CHAIRMAN GRULLON: Thank you.

2 That's my question.

3 MR. MAROTTA: I have a question or two.

4 Mr. Izquierdo, at the beginning of your
5 testimony, you mentioned something about a
6 subdivision of this property. Did you get a
7 subdivision? Was there a subdivision?

8 MR. IZQUIERDO: No. No.

9 MR. MAROTTA: Then you're assuming if there
10 was a subdivision, because you claim that because
11 of that, there was a hardship.

12 MR. IZQUIERDO: No, no, no, no, no. No,
13 no.

14 What I indicated at the beginning of my
15 testimony was at the time that my client
16 approached me, and asked me to give him an
17 opinion, a professional opinion, as to what could
18 be done on the structure, on what could be done
19 on the property, based on the Zoning Ordinance,
20 based on the Master Plan, looking that we have
21 two lots, which both in totality give me 45 by
22 95, one of the alternatives that they had was to
23 demolish that existing two family house, and go
24 to a minor subdivision before the Planning Board,
25 to erect two, two family homes, albeit in

1 smaller, nonconforming lots, 22.6 by 95.

2 But there was never an application for the
3 Planning Board. It was just one of the
4 alternatives that the applicant had in order to
5 develop the -- the value of his property.

6 MR. LOPEZ: And you chose this --

7 MR. MAROTTA: You -- you --

8 MR. LOPEZ: -- one instead.

9 MR. IZQUIERDO: Yes.

10 MR. MAROTTA: You used the term hardship
11 and your hardship made reference to a
12 subdivision. Now, what hardship is there?

13 MR. IZQUIERDO: No, that is the totally
14 hypothetical question, because I'm not before a
15 subdivision.

16 MR. MAROTTA: No, you said there was a
17 hardship.

18 MR. IZQUIERDO: There's --

19 MR. MAROTTA: I want to know what the
20 hardship is.

21 MR. IZQUIERDO: That the existing lot, as
22 it was subdivided by the city fathers, when the
23 city was first incorporated, or when it was first
24 subdivided, it was created into a lot that is
25 only 95 feet long, and each one of -- of the two

1 lots is 22 feet, six inches.

2 That is a hardship on the applicant because
3 he's not bringing this upon himself. This is
4 part of the -- of the physical description of the
5 lot. It is an undersized lot.

6 MR. MAROTTA: I understand what you're
7 saying. I might not -- I might not agree with
8 what you say.

9 MR. IZQUIERDO: I understand.

10 MR. MAROTTA: But I understand what you're
11 saying.

12 Let me ask you this.

13 Could this lot be -- I mean, strike that.

14 What you're looking to do here is to create
15 a nonconforming use in this zone.

16 Isn't that correct?

17 MR. IZQUIERDO: That is a D-1 building use
18 variance, that is a definition of the -- of D-1,
19 yes.

20 MR. MAROTTA: It's a nonconforming use that
21 you want to put in.

22 MR. IZQUIERDO: Yes. It's a D-1 building
23 use variance.

24 MR. MAROTTA: Well, why are you afraid to
25 say nonconforming use?

1 MR. IZQUIERDO: It's --

2 MR. LOPEZ: Because he's using the right --

3 MR. IZQUIERDO: Because once it's -- once
4 it's approved, then it's going to be made conform
5 --

6 MR. MAROTTA: Well, but it hasn't been
7 approved yet.

8 MR. IZQUIERDO: I'm not extending a
9 nonconforming use. I have a conforming use, and
10 I want to create a use that is not allowed.

11 MR. MAROTTA: Yeah.

12 MR. IZQUIERDO: Create a nonconforming use.

13 MR. MAROTTA: A use that -- that is not
14 allowed is a nonconforming use.

15 MR. IZQUIERDO: Yes.

16 MR. MAROTTA: Is that correct?

17 So, what you're trying to do here is to
18 create a nonconforming use on this property.

19 Isn't that correct?

20 MR. IZQUIERDO: That is correct.

21 MR. MAROTTA: And that's inconsistent with
22 our zoning law.

23 Isn't it?

24 MR. IZQUIERDO: Because a four family house
25 -- it doesn't matter where you want to put it in

1 the City of Union City, it's not an allowed use
2 in any part of the city.

3 MR. MAROTTA: You -- you --

4 MR. IZQUIERDO: That is a four family
5 house.

6 MR. MAROTTA: Mr. Izquierdo, the problem
7 I've had with you over the years is you don't
8 answer the question. So please answer my
9 question.

10 MR. IZQUIERDO: Can you repeat it, please?

11 MR. MAROTTA: Sure.

12 Creating a nonconforming use on this
13 property is not consistent with our zoning law.

14 Isn't that correct?

15 MR. IZQUIERDO: That is correct.

16 MR. MAROTTA: So, when -- when an applicant
17 is trying to create something that's inconsistent
18 with the zoning law, the applicant must be
19 disapproved.

20 Correct?

21 MR. IZQUIERDO: That's what a public
22 hearing is for.

23 MR. MAROTTA: You also stated that this
24 property was, and I -- I wrote it down, not
25 subject to the positive or negative argument.

1 MR. IZQUIERDO: No. What I indicated is
2 when you have a lot area variance, that the --
3 the Ordinance requires 5,000 square feet and you
4 happen to have 4900 square feet, there's no
5 positive and negative criteria associated with
6 it, because you have no control over the -- over
7 -- over it. It's a stated fact.

8 MR. MAROTTA: But then you run into the
9 negative and positive criteria, didn't you?

10 MR. IZQUIERDO: For -- on another matter,
11 not on the lot area variance.

12 MR. MAROTTA: Let me ask you this question.

13 Could you tell me what Purpose of the Act
14 this application provides?

15 And I refer to Title 40:55D-2, the Purpose
16 of the Act. There's a list from A through O.
17 Could you tell me which one it applies to?

18 MR. IZQUIERDO: Yes.

19 MR. MAROTTA: Which one?

20 MR. IZQUIERDO: Those can also be
21 considered special reasons.

22 MR. MAROTTA: Now -- now look.

23 MR. IZQUIERDO: I understand.

24 MR. MAROTTA: No. No.

25 MR. IZQUIERDO: Those are the Purposes of

1 the Act.

2 MR. MAROTTA: Wait a minute. I'm going to
3 stop you there.

4 My question is, with respect to Title
5 40:55D-2, the Purpose of the Act, which lists
6 from A through O, Purposes of the Act. And the
7 application must fit the -- one of these
8 purposes.

9 I want you to tell me which one of these
10 purposes applies?

11 MR. IZQUIERDO: Can I mention a number of
12 them?

13 MR. MAROTTA: Mention as many as you want.
14 Here, you want the thing? Take this and
15 look at it.

16 MR. LOPEZ: Do you need it, Mr. Izquierdo?

17 MR. IZQUIERDO: No.

18 It complies with the energy resources
19 because we're not knocking down a building and
20 creating garbage. So, we're basically taking the
21 existing structure that we have and renovating
22 it. So, it complies with the -- with the energy
23 renewable.

24 It also protects the neighborhood --

25 MR. MAROTTA: I've got to -- I've got to

1 stop you there.

2 I don't see anything in the Act that says

3 --

4 MR. IZQUIERDO: I'm sorry. Let me --

5 MR. MAROTTA: -- energy renewable.

6 MR. IZQUIERDO: Yeah.

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

9 MR. IZQUIERDO: Item number zero, to
10 promote the maximum practical recovery and
11 recycling of recyclable materials from municipal
12 solid waste, through the use of planning
13 practices, designed to incorporate the state
14 recycling plan goals and to complement municipal
15 recycling programs.

16 The Board can take notice of the fact that
17 if the application would entail knocking down the
18 building, this building would generate a certain
19 portion of amount that is going to go to the
20 landfills. And this application does not have
21 any of that demolition. Actually, we're just --
22 we're just building.

23 Also, fits the promote of the utilization
24 of renewable energy resources. We already have a
25 paved road. We already have a sewer system. We

1 don't -- we don't require the extension of any of
2 the -- of the public utilities. We do not
3 require an extension of the water service or of
4 the gas service or of the electric service or of
5 the cable services.

6 And that meets number F, to encourage the
7 appropriate and efficient expenditure of public
8 funds, by the coordination of public development
9 with land use policies.

10 I already indicated that the -- the
11 application could be for two, two family houses,
12 and that would be subject to other things. But
13 it would be to promote the establishment of
14 appropriate population densities and
15 concentrations that will contribute to the
16 wellbeing of persons.

17 So, we're -- we're not requesting a density
18 variance. We're actually keeping the application
19 at number four.

20 All of the apartments, also, they provide
21 adequate light, air and open space. The building
22 is going to be sprinklered. It provides safety
23 from fire, flood, panic and other natural manmade
24 disaster.

25 And it promotes the -- the general safety,

1 health and welfare of the community.

2 CHAIRMAN BONACCI: Mr. Izquierdo, I just --

3 MR. MAROTTA: I -- I didn't finish
4 questioning him.

5 MR. IZQUIERDO: We also are providing a
6 desirable visual environment, by removing the --
7 the shed and the garages in the back, and -- and
8 also, this project is in -- is in compliance with
9 the American with Disabilities Act of 1986.

10 MR. MAROTTA: Now, Mr. Izquierdo, you're
11 both the architectural and planning expert.

12 Correct?

13 MR. IZQUIERDO: Yes, I am, sir.

14 MR. MAROTTA: Let me ask you this question.

15 Could this property reasonably be adapted
16 to a conforming use?

17 MR. IZQUIERDO: Yes.

18 MR. MAROTTA: It can?

19 MR. IZQUIERDO: Yes.

20 MR. MAROTTA: Well, isn't it true that
21 there is no undue hardship that exists when the
22 property in question can reasonably be adopted to
23 a conforming use?

24 Right?

25 MR. IZQUIERDO: Yes. I'm not -- I'm not

1 claiming hardship for the application. This is
2 not a hardship application.

3 MR. MAROTTA: I have no more questions, Mr.
4 Chairman.

5 MR. LOPEZ: Mr. Chairman, if I could just
6 --

7 CHAIRMAN BONACCI: Any -- hold on.
8 Any other members of the Board?

9 We just want to open it up to the public.

10 MR. LOPEZ: If I just make one comment to
11 the --

12 CHAIRMAN BONACCI: Sure.

13 MR. LOPEZ: -- Board, based upon something
14 alluded to by Mr. Marotta.

15 Mr. Marotta seemed -- questions Mr.
16 Izquierdo to elicit that we are creating a
17 nonconforming use. That is correct.

18 Mr. Izquierdo's testimony is very clear.
19 We could put two, two family houses on there,
20 same number of units. And it would be a
21 conforming use.

22 His testimony as a planner is that --

23 MR. IZQUIERDO: This is a better. Better.

24 MR. LOPEZ: -- this is a better
25 alternative. Yes, it's a nonconforming use, but

1 for the reasons indicated, it's much, much better
2 alternative and it's the same four units.

3 MR. IZQUIERDO: It has a mix of housing.
4 When you have two, two family houses, all those
5 apartments are the same. All those apartments,
6 you go up through stairs on top of a garage, and
7 you have bedrooms with -- with living rooms.

8 This is a mixture of -- of different
9 apartments. They're the three bedroom on the --
10 on the upper floor, the two bedroom on the lower
11 floor, the apartment for the handicap, the
12 basement apartment is for -- for different
13 variety of housing options, not just everybody
14 the same.

15 CHAIRMAN BONACCI: I'm just going to open
16 up to members of the public.

17 VICE CHAIRMAN GRULLON: Mr. Price.

18 MS. GUTIERREZ: Mr. Price.

19 MS. DILLON: Mr. Price, please raise your
20 right hand.

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

23 MR. PRICE: I do.

24 MS. DILLON: Your name and address for the
25 record, please.

1 MR. PRICE: Larry Price, 1006 Palisade
2 Avenue.

3 MS. DILLON: Thank you.

4 MR. PRICE: Usually I ask questions,
5 tonight I'll make a comment.

6 There's good news and there's bad news.
7 First of all, I think the bad news.

8 There was a lot of talk tonight justifying
9 this project, because the alternative would be
10 two, two family houses.

11 That's not a real alternative and the
12 reason for that being the 40 -- this -- if you
13 demolish this building, and did a subdivision of
14 4275 square feet. So the -- the two lots that
15 would be created would be undersized lots, which
16 would lack sufficient -- they already lack
17 sufficient depth, but that's an existing problem,
18 but they would also lack existing width.

19 And as Mr. Izquierdo correctly says, they
20 would need a C-1 hardship variance for that.

21 MR. IZQUIERDO: Correct.

22 MR. PRICE: The problem with that is that
23 that would be a self-created hardship. And as
24 one who's explored this with the courts recently,
25 let me tell you, courts don't like self-created

1 hardships.

2 So, the two, two family houses are really
3 not an alternative, and that's not a good
4 comparison.

5 MR. LOPEZ: If I may address that issue
6 only, Mr. Price?

7 MR. PRICE: Sure. Address that issue.

8 MR. LOPEZ: So, that would be correct if we
9 would have created the lots. It is a hardship
10 because the lots already exist.

11 This is not -- this is currently zoned as
12 Block 286, Lots 12 and 13. So, in essence, we
13 already have two undersized lots created there by
14 the city.

15 MR. PRICE: Well, this is not the time or
16 place for a discussion of the Lochner theory of
17 merging lots. So, I'll just --

18 CHAIRMAN BONACCI: Mr. Price, would you say
19 that the application that they presented is a
20 better alternative to the lots that they would
21 create --

22 MR. PRICE: I --

23 CHAIRMAN BONACCI: -- a hardship with?

24 MR. PRICE: I think it is, and I'll make
25 the second point.

1 MR. IZQUIERDO: That's the good part.

2 MR. PRICE: Which is -- actually, this is
3 the bad part coming. Okay?

4 Anyway, look, if they had 2500 square feet,
5 they would get a three family house if they were
6 starting fresh. They have 4275 square feet.
7 That's not enough for two lots, but it's -- you
8 know, it's -- whatever, 40 percent larger than
9 the standard lot. And they want one extra unit.

10 I think they're being a little piggy.
11 Three would work nicely. But four isn't really
12 --

13 MR. IZQUIERDO: So, the handicapped person
14 is out of the -- out of the question again.

15 MR. PRICE: Well, if you had three, then
16 you wouldn't need a handicapped --

17 MR. IZQUIERDO: You would not need a
18 handicapped person. So, in the -- in the sense,
19 that a four family house is not an allowed use,
20 anywhere in the City of Union City, not within
21 any of its municipal boundaries, it is not a
22 non-allowed use. So, then, if I go to a three
23 family house, am I not violating the purposes of
24 the American with Disabilities Act to -- to not
25 provide an apartment for the handicapped here?

1 CHAIRMAN BONACCI: Mr. Izquierdo, let me
2 just hear what -- he was in the middle. I want
3 to hear the rest.

4 MR. PRICE: Well, what I would say is --
5 you know, there's some times when I really find
6 four units to be offensive. And those guys end
7 up going to court with me. And they usually
8 lose.

9 I don't find this one offensive. It really
10 is a nonconforming use. But if the Board
11 approved it, I'm not going to take this to court.
12 I mean, it's an oversized lot. The lot does have
13 advantages. I mean, we have parking, real
14 parking on this lot.

15 MR. IZQUIERDO: Thank you.

16 MR. PRICE: Despite Mr. Izquierdo's worst
17 efforts -- whatever.

18 MR. LOPEZ: And interruptions.

19 MR. PRICE: And so, whatever.

20 It would be nicer a three, but you know,
21 four isn't really offensive when the lot is that
22 large. But it's because it works as a four unit
23 on a lot this size, not because you could do two,
24 two family houses. That's -- that's the only --

25 Thank you.

1 CHAIRMAN BONACCI: Thank you, --

2 MR. IZQUIERDO: That is exactly --

3 CHAIRMAN BONACCI: -- Mr. Price.

4 MR. IZQUIERDO: -- the same conclusion that
5 I arrived with, with my client, that even though
6 45 by 95, you could say, oh, I could get two, two
7 families here. In reality not, because then you
8 will be subdividing the 45 into two 22.6 and that
9 is a self-created hardship, because it's not the
10 law of merger. So, it's a totally different
11 animal.

12 But I agree with Mr. -- Mr. Price's --

13 CHAIRMAN BONACCI: Do we have any other
14 members of the public?

15 Okay.

16 Closed to the public.

17 Members of the Board?

18 Okay. What -- what do you guys think of
19 this?

20 If we made a Resolution that unit one on
21 the ground floor, instead of it being a three
22 bedroom apartment, needing a D-5 variance, you
23 would make it a two bedroom apartment. You
24 wouldn't need the D-5 variance. It would cut the
25 bedroom count down, and then you guys would meet

1 the parking requirement.

2 MR. IZQUIERDO: Correct.

3 MR. LOPEZ: We have no problem with that,
4 Mr. Chairman.

5 CHAIRMAN BONACCI: You guys are willing to
6 go --

7 MR. LOPEZ: That's a good compromise.

8 CHAIRMAN BONACCI: You go -- willing to go
9 along with that Resolution?

10 MR. IZQUIERDO: Yes, sir.

11 MR. LOPEZ: Yes.

12 CHAIRMAN BONACCI: Okay.

13 With that being said, I'd like to make a
14 motion to approve the application.

15 THE SECRETARY: Motion on the table to
16 approve the application by Mr. Bonacci.

17 MS. GUTIERREZ: I'm seconding.

18 THE SECRETARY: Second by Ms. Gutierrez.

19 MR. PANEQUE: Before we take a vote, Mr.
20 Vallejo, if Mr. Bonacci can just state the
21 reasons why he made an application to approve.

22 CHAIRMAN BONACCI: No problem.

23 MR. PANEQUE: Thank you.

24 CHAIRMAN BONACCI: It meets the standards
25 of the -- the safety standards, fire emergency

1 | purposes, beneficial use to the welfare in the
2 | community.

3 | There's no substantial detriment, and as
4 | you testified before, it's mixed use. Somebody
5 | can get a studio apartment, somebody could get a
6 | one bedroom.

7 | MR. IZQUIERDO: Mixed use. Mix of housing
8 | options.

9 | CHAIRMAN BONACCI: Right.

10 | So, with that being said, I'm making a
11 | motion to approve the application.

12 | THE SECRETARY: Motion on the table by Mr.

13 | --

14 | MS. GUTIERREZ: And I'm seconding.

15 | CHAIRMAN BONACCI: -- Bonacci to approve
16 | the application.

17 | Seconded by Ms. Gutierrez.

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

20 | Mr. Bonacci?

21 | CHAIRMAN BONACCI: Yes.

22 | THE SECRETARY: Mr. Grullon?

23 | VICE CHAIRMAN GRULLON: Yes.

24 | THE SECRETARY: Mr. Marotta?

25 | MR. MAROTTA: As a member of the Board, my

1 obligation is to approve when the applicant
2 proves his or her case.

3 In this instance, my opinion, the applicant
4 has failed to prove his case.

5 Number one.

6 The applicant testified, through his
7 expert, that this matter -- this property can
8 reasonably be adopted to a conforming use.

9 And he also testified that what he's
10 proposing here is inconsistent with the plan and
11 the zone of the City of Union City.

12 And for these reasons, I vote no.

13 THE SECRETARY: Ms. Gutierrez?

14 MS. GUTIERREZ: Yes.

15 THE SECRETARY: Mr. Pressey?

16 MR. PRESSEY: Yes, with the changes made.

17 THE SECRETARY: Mr. Ortiz?

18 MR. ORTIZ: Yes.

19 THE SECRETARY: Ms. Pena?

20 MS. PENA: Yes.

21 THE SECRETARY: Six in favor, one against.

22 Motion carries.

23 Thank you, Mr. Lopez.

24 MR. LOPEZ: Thank you.

25 Thank you so much, members of the Board.

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

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1 **Maria E. Montalvo - 523 48th Street:**

2

3 THE SECRETARY: Next application on
4 tonight's agenda, Maria E. Montalvo, 523 48th
5 Street.

6 Mr. Lopez, please?

7 MR. LOPEZ: Thank you.

8 Once again, Mr. Chairman, members of the
9 Board, Adolfo Lopez appearing on behalf of the
10 applicant.

11 And Mr. Paneque, for your review, the
12 jurisdictional documents?

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

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

16 MR. PANEQUE: Let the record show the
17 following:

18 I've been provided by Mr. Lopez with the
19 Affidavit of Service, indicating that notice of
20 tonight's hearing, with respect to the property
21 located at 523 48th Street was provided to all
22 property owners within the 200 foot radius on or
23 about March 19. That Affidavit is signed by Mr.
24 Lopez.

25 I've also been provided with an Affidavit

1 from The Jersey Journal, indicating that notice
2 of tonight's hearing, on the 11th of April, with
3 respect to the property located at 523 48th
4 Street, was placed on The Jersey Journal on March
5 19th, giving notice of tonight's hearing at this
6 location.

7 I've also been provided with a copy of the
8 notice that went out to all property owners, as
9 well as the Tax Assessor's list, with -- which
10 consists of four pages, with a date of January
11 31st.

12 I've also been provided with the certified
13 mail receipts, with a postmark date, appears like
14 March 25th and March 23rd, as well as the receipts
15 that have come back to date and the envelopes
16 that have been returned to sender.

17 Based on the documentation that has been
18 provided by Mr. Lopez, this Board has
19 jurisdiction to proceed and hear this matter.

20 MR. LOPEZ: Thank you, Mr. Chairman.

21 Just very briefly, this is probably the
22 smallest variance anyone has ever presented
23 before this Board.

24 My client is only requesting an increase of
25 170 square feet. It becomes, as Mr. Izquierdo

1 will testify, it becomes incredibly important
2 because of the room that it will provide and the
3 access for the upper floors. And the additional
4 testimony that I think the Board will find quite
5 appropriate is the proposed changes to the front
6 of the building.

7 As you can see from the photographs that
8 have been submitted, and what Mr. Izquierdo will
9 testify to, the entire front of the building will
10 now be -- will be replaced with brick, as opposed
11 to the existing.

12 And the testimony you'll hear is that it
13 will certainly be conforming to many, many of the
14 buildings in Union City.

15 But Mr. Izquierdo, if you could please
16 enter your appearance and -- and describe the
17 project for us.

18 MR. IZQUIERDO: Good evening, members of
19 the Board.

20 Jose Izquierdo, architect and planner.

21 MS. DILLON: Mr. Izquierdo was previously
22 sworn.

23 MR. IZQUIERDO: Yes.

24 Thank you.

25 By way of background, this property came

1 | before the Zoning Board of Adjustment in 2011,
2 | under the amnesty program that was legalizing
3 | illegal units.

4 | At that time, there were two basement
5 | apartments in this building, and there was one
6 | apartment in the attic. So, that application was
7 | to convert a two family house into a four family
8 | house. And that approval was granted in 2011.

9 | The apartment in the basement was
10 | constructed. It's accessible to the handicapped.
11 | It has all the -- all the things for the showers,
12 | and it has everything for those disabled people.
13 | So, we have the apartment on the -- on the ground
14 | floor. It's already built. It has passed
15 | inspection by the City of Union City. It is
16 | fine.

17 | Under that approval, the attic apartment,
18 | the only thing that we received approval for was
19 | to take the existing roof beams and dormer them,
20 | so that the height of the apartment would be
21 | eight feet.

22 | Right now, the ground floor, the basement
23 | unit, has been built, but the apartment that was
24 | approved in 2011, what the applicant wants to do
25 | is enlarge the apartment by the -- the square

1 | footage that I said --

2 | MR. LOPEZ: A hundred and seventy.

3 | MR. IZQUIERDO: -- 107 (sic) square feet,
4 | so that the front of the building comes all the
5 | way to the front and the attic is not recessed,
6 | so that we can have the entire building up in
7 | front to be brick.

8 | The elevation of the building is actually a
9 | standard elevation along all of Palisade Avenue,
10 | along New York Avenue. It's -- it's a very
11 | classical front elevation for four story houses
12 | in -- in the northeast, particularly in Hudson
13 | County in New Jersey.

14 | So, this increase of -- of size will allow
15 | her also to build up the roof somewhat, so that
16 | she can have insulation and everything. So, the
17 | unit remains exactly as approved as a studio.
18 | The only thing that the applicant is seeking is
19 | to change the front of the building by increasing
20 | the apartment, actually 47 square feet in the
21 | front, 68 square feet on one side, and 55 feet on
22 | the other side. And that requires a D-2,
23 | extension of a nonconforming use.

24 | Again, because the four family house is a
25 | nonconforming use that was made legal by the

1 variance granted by this Board, but now, since we
2 would be extending the size of that fourth unit,
3 that requires a D-2 variance.

4 All of the other variances in the
5 application are the same. They're existing.
6 They have not -- they will not be changed or
7 exacerbated in any way, shape or form. But the
8 height of the building that was approved at 35
9 feet one inch would now become 40 feet 11 inch.
10 So, it's just 11 inches over that allowed.

11 The allowed height in this R residential
12 district is for a three story building or 40
13 feet. The -- the existing building is four
14 stories, and that was made legal by that approval
15 in 2011. But now, since we're adding five feet
16 ten inches to the height, it would be a C-2
17 variance, not a D-6 building height variance.

18 MR. LOPEZ: Mr. Izquierdo, you testified --
19 your testimony was as to what is proposed for the
20 front of the structure and what is -- the work
21 that's being done in the attic.

22 Can you use your drawings to explain to the
23 Board exactly what the changes are?

24 MR. IZQUIERDO: Yeah. Well, essentially,
25 what happens is, the front of the building, this

1 part here, is set back. So, in adding the 47
2 square feet here, we're able to take the entire
3 building front and this octagonal volume, just
4 make the whole thing in brick from the ground
5 floor all the way up. She wants the whole
6 building to be in brick.

7 MR. LOPEZ: And what are your feelings as
8 to that design and how it fits into the
9 neighborhood?

10 MR. IZQUIERDO: Well, this is the only
11 structure in that block that is actually four
12 stories. All the houses in that block are all
13 three stories. This is the one that just has
14 that little bit of an attic that sticks up. So,
15 now, we will just turn that little bit of an
16 attic that is just like an add-on, and just
17 complete it into a four story structure.

18 MR. LOPEZ: And in terms of aesthetics,
19 what is your --

20 MR. IZQUIERDO: Oh, it raises the -- it
21 raises the market value of the property, because
22 I mean, she would just be -- she -- she's
23 spending money on something that is not adding to
24 the rent or anything like that. It just adds to
25 the quality of the building. It adds to the

1 | quality of the structure. And it -- it adds to
2 | the architecture of the street.

3 | MR. LOPEZ: And from a planning
4 | perspective, can you give us testimony as to what
5 | your beliefs are --

6 | MR. IZQUIERDO: There's no -- there's no
7 | impact. I mean, we have a four family house,
8 | remains a four family house. The fourth
9 | apartment is the studio, because the -- the one
10 | is -- is the handicapped one. The fourth
11 | apartment is the studio. It will remain a
12 | studio. The parking is not changed. She still
13 | has the two parking spaces. She uses them. So,
14 | I don't see any negative criteria with anything,
15 | other than the increased aesthetics of the
16 | building.

17 | MR. LOPEZ: I have nothing else, Mr.
18 | Chairman.

19 | CHAIRMAN BONACCI: Okay.

20 | Again, Building Department memo, originally
21 | two unit structure.

22 | So, you guys want to make it a four.

23 | MR. LOPEZ: No.

24 | CHAIRMAN BONACCI: And add height on top of
25 | it.

1 MR. IZQUIERDO: No.

2 MR. LOPEZ: No, no, no, no.

3 MS. GUTIERREZ: No.

4 MR. LOPEZ: It's a four right now. It was
5 originally two, but by variance in two thousand
6 and --

7 MR. IZQUIERDO: Eleven.

8 MR. LOPEZ: -- '11, it was four units.

9 MR. IZQUIERDO: Approved as a four.

10 CHAIRMAN BONACCI: Okay.

11 MR. LOPEZ: Approved as a four. We have
12 four units right now.

13 MR. IZQUIERDO: And we have building
14 permits for the four.

15 CHAIRMAN BONACCI: I -- I understand what
16 you guys are saying. But what I'm reading here,
17 the date is April 11, 2019, implemented January
18 4th, 2011, the number of legal units for a
19 property must be verified. Zoning Board
20 application process. According to Building
21 Department records, the property you had inquired
22 about was originally a two unit structure.

23 And you guys need the height. I think we
24 might be reaching on this one.

25 MR. LOPEZ: Mr. Bonacci, I would --

1 | unfortunately, we don't have the benefit of this
2 | memo ahead of time, but certainly we have the
3 | proofs that this is a four. Currently, a legal
4 | four unit structure. We're certainly --

5 | CHAIRMAN BONACCI: Yeah.

6 | MR. LOPEZ: We're not seeking to create a
7 | four unit. We are just, for the reasons
8 | indicated so --

9 | CHAIRMAN BONACCI: I -- I understand what
10 | you guys are saying. How it got that way, I
11 | don't know. Maybe you guys don't know.

12 | MR. LOPEZ: Well, your --

13 | Certainly you're reading what your -- what
14 | was given to you --

15 | CHAIRMAN BONACCI: Yeah.

16 | MR. LOPEZ: -- and it shows. So, if that
17 | is the case, we'd certainly like to submit
18 | additional evidence to this Board to show that
19 | it's currently a four -- a legal four unit
20 | structure.

21 | MR. IZQUIERDO: And the building permits
22 | that we have, too.

23 | CHAIRMAN BONACCI: You guys have that stuff
24 | now?

25 | MR. LOPEZ: I don't have that here with me

1 | because I didn't expect --

2 | CHAIRMAN BONACCI: Let --

3 | MR. LOPEZ: -- this to be an issue.

4 | CHAIRMAN BONACCI: Let's see if anybody has
5 | any other --

6 | MR. LOPEZ: Yeah.

7 | CHAIRMAN BONACCI: -- questions first.

8 | MR. LOPEZ: Yes.

9 | CHAIRMAN BONACCI: Members of the Board?
10 | Open to the public.

11 | MR. PRICE: Larry Price, 1006 Palisade.

12 | Mr. Izquierdo, this approval from two to
13 | four in 2011, what exactly was the approval?

14 | MR. IZQUIERDO: At that time, the
15 | application was as follows:

16 | The basement level had two units. Only one
17 | unit was submitted. We -- we testified that
18 | there were two units there that were illegal, but
19 | were just converted into a one unit for ADA and
20 | it was a one bedroom.

21 | And then, the apartment on the second
22 | floor, and the apartment on the third floor are
23 | all three bedroom apartments existing.

24 | And then, the attic is a studio that had an
25 | existing footprint. And that existing footprint

1 | was not approved to be extended. It was only
2 | that the roof was going to be increased somewhat
3 | in height.

4 | MR. PRICE: Okay.

5 | But my question is, the 2011, you say you
6 | came before the Zoning Board --

7 | MR. IZQUIERDO: Yes.

8 | MR. PRICE: -- and got --

9 | MR. IZQUIERDO: From two to four.

10 | MR. PRICE: You got a D-1 use variance in
11 | two --

12 | MR. IZQUIERDO: It was under the amnesty.

13 | MR. PRICE: Wait a minute. Wait a minute.
14 | Wait a minute.

15 | My question was, did you come before this
16 | Board --

17 | MR. IZQUIERDO: Yes.

18 | MR. PRICE: -- and get -- forget the
19 | amnesty bit, approval from this Board --

20 | MR. IZQUIERDO: I don't remember.

21 | MR. PRICE: -- a D-1?

22 | MR. IZQUIERDO: Now that you ask me, I
23 | don't remember. I -- I --

24 | MR. PRICE: Okay.

25 | MR. IZQUIERDO: -- remember the attorney

1 was Mr. Luis Diaz.

2 And I -- I remember that we came before the
3 Board and then we were told something else.

4 But my recollection of your -- of your
5 question, I don't know the answer to that.

6 MR. PRICE: Okay.

7 This has come up several times before. And
8 one of the things was, at one point, the City
9 passed an Ordinance allowing the Construction
10 Code Official to legalize apartments.

11 I challenged that Ordinance, and both the
12 Law Division and the Appellate Division said
13 Board -- Construction Code Official cannot do
14 that. It came up once before on a -- whatever,
15 and I --

16 Okay.

17 So, if you're relying on an approval from
18 the Construction Code Official from 2011, that
19 has been invalidated by the courts. It remains a
20 two unit building. And that's what you're left
21 with. And I'll -- whatever --

22 If you came before the Board in 2011 and
23 got a D-1 use variance, well then that's what
24 this Board is for. And that would be good.

25 MR. IZQUIERDO: I don't remember.

1 MR. PRICE: But I have a feeling this is
2 one of those --

3 MR. IZQUIERDO: I don't remember.

4 MR. PRICE: -- where they said there was an
5 amnesty and Mr. -- you know, Mr. Martinetti said
6 it was okay. And the court said, no, it's not
7 okay.

8 So, I would be questionable about exactly
9 what --

10 CHAIRMAN BONACCI: Mr. Lopez?

11 MR. PRICE: -- that two thousand --

12 CHAIRMAN BONACCI: Do you have copies of
13 the tax records?

14 MR. LOPEZ: I do.

15 CHAIRMAN BONACCI: What's your client
16 paying? Two or four?

17 MR. LOPEZ: I will submit A-1, which are
18 the tax records from the City of Union City,
19 which is four units.

20

21 (Whereupon, Tax Records were received and
22 marked as Exhibit A-1.)

23

24 MR. LOPEZ: And as part of the submit --
25 submission to the City by the Building

1 Department, there are, in fact, construction
2 permits which permitted the conversion of the
3 property from two units to four units. And this
4 is a permit going back to 2013.

5 And that's A-2.

6
7 (Whereupon, Construction Permit was
8 received and marked as Exhibit A-2.)

9
10 CHAIRMAN BONACCI: So, your client's been
11 paying the taxes as a four --

12 MR. PRICE: The --

13 CHAIRMAN BONACCI: -- unit structure.

14 MR. PRICE: Sorry.

15 The construction permit doesn't mean
16 anything. That is a construction permission. It
17 is not a zoning permission.

18 MR. LOPEZ: I have no problems with that.
19 He's --

20 MR. PRICE: And -- and --

21 CHAIRMAN BONACCI: Just asking about the
22 tax records. That's all.

23 MR. PRICE: So, but in terms of the status,
24 then we're back to -- you know, if they want to
25 come before this Board with an application to go

1 from two to four legally, they can -- they're
2 always permitted to do that. But it's this Board
3 that must grant that permission and not the --
4 the --

5 And -- and any permissions that were by the
6 Construction Board Official are meaningless at
7 this point.

8 So, it's a -- unless this Board, in 2011,
9 approved a four unit building, it's still a two
10 family.

11 MR. LOPEZ: I -- I can't disagree with Mr.
12 -- what Mr. Price is saying. He's absolutely
13 correct, if -- if that were the case, but that's
14 not the case.

15 And the Building Department does not,
16 certainly, in 2013, the Building Department would
17 never approve a conversion without first getting
18 a variance from -- from this Board.

19 So, I mean, I've submitted what I have
20 today. Certainly, if the Board wants other
21 proofs, I'll -- I'll get the prior approval.

22 MR. MAROTTA: Mr. Lopez, if you would
23 agree, I would recommend, so that we have a clear
24 record here, that this matter be carried.

25 MR. LOPEZ: Not a problem.

1 MR. MAROTTA: If -- if Louie represented
2 the applicant at that time, he was your partner
3 before he retired, you might have a record of
4 that.

5 And I'll ask our Secretary to check back in
6 --

7 MR. LOPEZ: Yup.

8 MR. MAROTTA: -- the year 2011, to see if
9 there was an application before this Board.

10 MR. LOPEZ: I have no problem with that,
11 Mr. Marotta.

12 MR. MAROTTA: Okay.

13 MR. LOPEZ: It's the right thing to do.

14 MR. MAROTTA: This way we could clear it
15 up.

16 MR. LOPEZ: Yup.

17 MR. PRICE: Thank you.

18 CHAIRMAN BONACCI: And if you guys could
19 find the tax records -- you know, that makes a
20 big difference, if he's paying for four units or
21 as opposed to two.

22 MR. LOPEZ: Well, the tax records that were
23 submitted as A --

24 CHAIRMAN BONACCI: I thought that was a
25 build -- a construction --

1 MR. LOPEZ: No, A --

2 CHAIRMAN BONACCI: -- permit.

3 MR. LOPEZ: A-1 shows --

4 MR. PANEQUE: No.

5 MR. LOPEZ: -- four units.

6 CHAIRMAN BONACCI: Okay.

7 All right.

8 MR. LOPEZ: So, yeah.

9 MR. PANEQUE: They're currently paying --

10 MR. LOPEZ: Certainly, they're paying for
11 it.

12 MR. PANEQUE: -- as four units.

13 MR. LOPEZ: Yeah.

14 And -- but certainly, it's a valid point.

15 We'll submit the records to show it's a valid
16 four unit structure.

17 MR. PRICE: Okay.

18 CHAIRMAN BONACCI: So you guys want to --

19 MR. PRICE: The --

20 CHAIRMAN BONACCI: -- adjourn this until
21 May?

22 MR. LOPEZ: If possible, yes.

23 CHAIRMAN BONACCI: All right.

24 I'll make a motion to adjourn this
25 application until the May meeting.

1 VICE CHAIRMAN GRULLON: Second.

2 THE SECRETARY: Motion to adjourn this
3 application for May 9, no new notice required, by
4 Mr. Bonacci.

5 Seconded by Mr. Grullon.

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

8 Mr. Bonacci?

9 CHAIRMAN BONACCI: Yes.

10 THE SECRETARY: Mr. Grullon?

11 VICE CHAIRMAN GRULLON: Yes.

12 THE SECRETARY: Mr. Marotta?

13 MR. MAROTTA: Yes.

14 THE SECRETARY: Ms. Gutierrez?

15 MS. GUTIERREZ: Yes.

16 THE SECRETARY: Mr. Pressey?

17 MR. PRESSEY: Yes.

18 THE SECRETARY: Mr. Ortiz?

19 MR. ORTIZ: Yes.

20 THE SECRETARY: Ms. Pena?

21 MS. PENA: Yes.

22 THE SECRETARY: Seven in favor.

23 Motion carries.

24 MR. LOPEZ: Thank you so much.

25 THE SECRETARY: Thank you.

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

3 MR. PANEQUE: No notice required.

4 THE SECRETARY: No new notice required.

5

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

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

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3 THE SECRETARY: We are going -- now we are
4 going to --

5 We are going to item number 5.

6 Hung Fat, Inc., 1214 Summit Avenue.

7 Ms. Pereiras, please?

8 MS. PEREIRAS: Good evening, Mr. Chairman,
9 members of the Board.

10 May it please the Board, Bianca Pereiras,
11 on behalf of the applicants.

12 Counsel, Mr. Chairman, members, I
13 understand that this matter was relisted this
14 evening because I believe the Chairman had a
15 question as to whether we had provided
16 substantial proof from our planner.

17 I'd like to remind this Board that that
18 meeting, or that application went on for several
19 meetings. I had an opportunity to review the
20 transcripts from those meetings and I believe
21 that the planning testimony that we provided was
22 more than adequate to substantiate this Board's
23 approval.

24 And I believe that any dialogue continuing
25 on this matter is actually inappropriate because

1 | this matter was brought to a conclusion following
2 | this approval.

3 | So, I would ask that no further comments be
4 | made on this application.

5 | CHAIRMAN BONACCI: Yeah, I just want to,
6 | for the record, say that this application was
7 | heard many times.

8 | And we had some compromise --

9 | MS. PEREIRAS: Um hum.

10 | CHAIRMAN BONACCI: -- with what we thought
11 | was -- you know, a good use --

12 | MS. PEREIRAS: Um hum.

13 | CHAIRMAN BONACCI: -- on that location.
14 | And you guys complied with that.

15 | MS. PEREIRAS: We did.

16 | CHAIRMAN BONACCI: And we were concerned
17 | about the gymnasium, basketball court, --

18 | MS. GUTIERREZ: Um hum.

19 | CHAIRMAN BONACCI: -- and you guys conceded
20 | on that.

21 | MS. PEREIRAS: We did.

22 | CHAIRMAN BONACCI: And I do remember early
23 | on the testimony that you guys did present, which
24 | was the planner.

25 | MS. PEREIRAS: We did.

1 CHAIRMAN BONACCI: And there was a motion
2 to grant the application.

3 MS. PEREIRAS: Correct.

4 CHAIRMAN BONACCI: So, I would like to
5 uphold that motion to grant the application that
6 we made maybe two meetings ago.

7 MS. PEREIRAS: That's correct.

8 Thank you.

9 MR. MAROTTA: Now, the point of order, Mr.
10 -- Mr. Chairman?

11 CHAIRMAN BONACCI: Go ahead.

12 MR. MAROTTA: I read the transcript of this
13 matter and I -- I read where this Board adopted a
14 motion approving the application.

15 My question -- I have several questions
16 here.

17 One question, and I understand the matter
18 is before the Board now to introduce new
19 evidence.

20 MS. PEREIRAS: That is not correct.

21 MR. MAROTTA: Well, that's what I was
22 initially told, that the -- the matter is here so
23 that a planner could testify.

24 MS. PEREIRAS: Our planner testified at
25 several meetings. We have no new testimony to

1 provide.

2 CHAIRMAN BONACCI: You may have to go back
3 and check the other transcripts, because she was
4 here with the same application, maybe, four
5 times.

6 MS. PEREIRAS: Right.

7 MR. MAROTTA: Okay. Then it's not here for
8 a rehearing?

9 CHAIRMAN BONACCI: No. I think she just
10 wants reinforcement on her approval.

11 MR. MAROTTA: Well, there's been an
12 approval. She's got to be memorialized.

13 CHAIRMAN BONACCI: Right.

14 MR. PANEQUE: It's already been
15 memorialized.

16 MR. MAROTTA: It hasn't been memorialized
17 yet.

18 THE SECRETARY: Yeah. It was memorialized
19 --

20 MR. PANEQUE: It was memorialized.

21 THE SECRETARY: Yes.

22 MR. PANEQUE: Yes.

23 MR. MAROTTA: Was it memorialized?

24 THE SECRETARY: Yes.

25 MR. PANEQUE: Yes, Mr. Marotta, it was.

1 MS. GUTIERREZ: Um hum.

2 MR. MAROTTA: At last month's meeting?

3 MR. PANEQUE: The previous meeting.

4 MS. GUTIERREZ: The previous meeting.

5 THE SECRETARY: The previous --

6 CHAIRMAN BONACCI: Two meetings ago.

7 MS. GUTIERREZ: Two meetings ago.

8 CHAIRMAN BONACCI: February.

9 THE SECRETARY: If I -- if I don't mistake,
10 was on February 14th.

11 MS. GUTIERREZ: February.

12 THE SECRETARY: Or March 14.

13 Memorialization of -- no, memorialization. That
14 was approved.

15 MS. DILLON: It was?

16 THE SECRETARY: Yes. It was approved on --
17 on February 14. The Resolution was --

18 MS. GUTIERREZ: Um hum.

19 THE SECRETARY: -- was memorialized on --

20 MS. PEREIRAS: At the March meeting.

21 THE SECRETARY: Oh, no. We didn't -- we --
22 we didn't memorialize the Resolution because --

23 MR. SPATZ: You didn't have a March
24 meeting.

25 THE SECRETARY: -- we never presented at

1 the Board because of the missing presentation of
2 the planner accord -- according to Mr. -- Mr.
3 Marotta.

4 MR. PANEQUE: And last month, we didn't
5 have a quorum.

6 THE SECRETARY: No.

7 MR. PANEQUE: And we didn't memorialize any
8 -- any of the Resolutions.

9 MS. DILLON: Do you have the transcript?
10 The transcript's in.

11 THE SECRETARY: From the previous meeting?

12 MR. PANEQUE: You have the Resolution?

13 THE SECRETARY: Can we get a five minute
14 break?

15 CHAIRMAN BONACCI: Yeah.

16 MR. PANEQUE: Yes.

17 MS. GUTIERREZ: Yes.

18 THE SECRETARY: Thank you.

19

20 (Whereupon, Libero Marotta left the meeting
21 at 7:28 p.m.)

22

23 (Whereupon, the Board recessed from 7:28
24 p.m. to 7:50 p.m.)

25

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

3 THE SECRETARY: Back on record, please.

4 Mr. Paneque, 1214 Summit Avenue? Do I have
5 to do anything with it?

6 MR. PANEQUE: 1214 Summit Avenue, we're
7 going to have the memorialization of the
8 Resolution at the next meeting.

9 THE SECRETARY: Thank you, Mr. Paneque.
10 Let's --

11 MS. GUTIERREZ: So, that's approved
12 already.

13 Right, Mr. Paneque?

14 MR. PANEQUE: It's approved. We just have
15 to memorialize it at the next meeting. We had
16 the Resolution prepared, but because of the
17 change in the calendar --

18 MS. GUTIERREZ: Um hum.

19 MR. PANEQUE: -- from the last meeting, I
20 have to revise the dates.

21 MS. GUTIERREZ: All right.

22 Thank you.

23 CHAIRMAN BONACCI: And Libero's objection
24 has been resolved.

25 MR. PANEQUE: Yes.

1 Mr. Marotta's objection has been resolved,
2 as we explained to him that there was testimony
3 from a planner at the previous four meetings.

4 And the planner was Mr. Kauker.

5 MS. PEREIRAS: Correct.

6 MS. GUTIERREZ: Um hum.

7 THE SECRETARY: Thank you.

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1 **1117 Summer Ave., LLC - 1117-19 Summit Avenue:**

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3 THE SECRETARY: We are going to hearing
4 number 6.

5 1117 Summer Avenue, LLC, 1117-19 Summit
6 Avenue.

7 Ms. Pereiras, please?

8 MS. PEREIRAS: Again, Bianca Pereiras, on
9 behalf of the applicant.

10 Unfortunately, on this application, we had
11 adjourned it a few times. We received revised
12 architectural drawings just about ten days ago,
13 and on those drawings, there was a change in the
14 number of units.

15 I don't believe my notice is, therefore,
16 sufficient or appropriate, so I'm going to ask
17 not to adjourn it, but I'll re-notice, hopefully,
18 for the next meeting, if possible.

19 THE SECRETARY: This mean it's going to be
20 dismissed?

21 MR. PANEQUE: Are you withdrawing your
22 application? Or you're asking that the matter be
23 carried for the proper notices to be provided?

24 MS. PEREIRAS: Carry it for the proper
25 notices, please.

1 MR. PANEQUE: Okay. So, it's --

2 THE SECRETARY: I -- I will need a -- I
3 will need a motion for that?

4 MR. PANEQUE: -- it's in the form of an
5 adjournment.

6 Yeah. We do need a motion to carry the
7 matter.

8 Just so that the Board understands, I did
9 speak to Ms. Pereiras on this. Apparently, Ms.
10 Pereiras had provided notice going from a 12 unit
11 to a 13 unit.

12 MS. PEREIRAS: That's correct.

13 MR. PANEQUE: And the public was advised
14 that the application coming before this Board was
15 asking for a change from 12 units to 13.

16 Upon more carefully reviewing the plans,
17 she realized that they're actually going to 14
18 units.

19 MS. PEREIRAS: That's correct.

20 MR. PANEQUE: Therefore, the notice is not
21 adequate. And as such, she has to re-notice to
22 all property owners within the 200 foot radius,
23 as well as publish in the newspaper.

24 MS. PEREIRAS: Yes.

25 MR. PANEQUE: Your application still is

1 valid, however, you're going to carry it for re-
2 noticing purposes.

3 MS. PEREIRAS: Yes. Please, counsel.

4 MR. PANEQUE: All right.

5 Is there a motion to carry this to the next
6 available meeting?

7 VICE CHAIRMAN GRULLON: Motion.

8 MS. GUTIERREZ: Second.

9 THE SECRETARY: Motion by Mr. Grullon.

10 Seconded by Ms. Gutierrez.

11 Roll call on the motion to carry this
12 application for May 9, 2019.

13 New notice required.

14 MR. PANEQUE: With notice required.

15 THE SECRETARY: With notice required.

16 Yeah. New notice.

17 Mr. Bonacci?

18 CHAIRMAN BONACCI: Yes.

19 THE SECRETARY: Mr. Grullon?

20 VICE CHAIRMAN GRULLON: Yes.

21 THE SECRETARY: Ms. Gutierrez?

22 MS. GUTIERREZ: Yes.

23 THE SECRETARY: Mr. Pressey?

24 MR. PRESSEY: Yes.

25 THE SECRETARY: Mr. Ortiz?

1 MR. ORTIZ: Yes.

2 THE SECRETARY: Ms. Pena?

3 MS. PENA: Yes.

4 THE SECRETARY: Ms. Perez?

5 MS. PEREZ: Yes.

6 THE SECRETARY: Seven in favor.

7 Motion carries.

8 MS. PEREIRAS: Thank you.

9 THE SECRETARY: Thank you.

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1 Calles 519 11th Street, 519 11th Street, LLC:

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3 THE SECRETARY: We are going to item number
4 7.

5 Calles 519 11th Street, 519 11th Street.

6 Ms. Pereiras, please?

7 MS. PEREIRAS: Again, Bianca Pereiras, on
8 behalf of the applicants, 519 11th Street, LLC,
9 for Mr. Juan Calles.

10 The application before the Board this
11 evening -- we had submitted our jurisdictional
12 submissions last month.

13 The application before the Board this
14 evening is to legalize a ground floor apartment
15 in an existing multi-family home.

16 When my client acquired this property, back
17 in 2005, the apartment in question was existing.
18 There were tenants living there.

19 It recently came to my client's attention
20 that that apartment was not legal, and therefore,
21 this application is before the Board this
22 evening.

23 We have two experts to testify before the
24 Board. I'd like to begin the presentation with
25 our architect, Mr. Manuel Pereiras.

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. PEREIRAS: I do.

5 MS. DILLON: Name --

6 MR. PEREIRAS: Manny --

7 MS. DILLON: -- for the record.

8 MR. PEREIRAS: Manny Pereiras,
9 P-E-R-E-I-R-A-S, with Pereiras Architects
10 Ubiquitous, 1116 Summit Avenue, Union City.

11 MS. DILLON: Thank you.

12 CHAIRMAN BONACCI: We accept your
13 qualifications.

14 Just for new members of the Board, he's
15 appeared many times, so we're not going to ask
16 him to go through all his credentials, and where
17 he went to school and got his training, and all
18 that stuff, because we've heard him before.

19 But if it was somebody new that we didn't
20 know, we would ask them to provide -- you know, a
21 little bit more information.

22 MS. PEREIRAS: Mr. Pereiras, are you
23 familiar with the property located at 519 11th
24 Street?

25 MR. PEREIRAS: I am.

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

3 MR. PEREIRAS: I have.

4 MS. PEREIRAS: And would you kindly
5 describe the project for the Board?

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

7 Thank you, Mr. Chairman, thank you, Board
8 members.

9 And one credential I will say is that I'm
10 born and raised in Union City. So, there's --
11 there's a home aspect to this, and I know the
12 area very well.

13 The property we have in question for you
14 sits on a typical 25 by 100 lot. It's a
15 preexisting building. The building predates the
16 Ordinance.

17 There are a bunch of existing
18 nonconformities to this site. However, we do
19 have a conforming lot. It's 25 wide, hundred
20 feet deep, and 2,500 square feet in size.

21 We do have the existing nonconformities,
22 the first one being front yard. The building is
23 sitting on the property line. It's also sitting
24 on the side yard property lines.

25 We do have a conforming rear yard that's 29

1 feet eight inches. And we're conforming in
2 height, whereas we also have nonconformities for
3 parking for this building.

4 It's an existing multi-family building. My
5 -- our applicant, the client, purchased this
6 building in 2005. It had the -- it's in the same
7 condition as it is today. So, the applicant
8 hasn't built anything or done any changes, but
9 it's come to his -- he discovered that one of the
10 units is illegal.

11 So, what is currently legal in the building
12 is six units. We're looking to bring it to seven
13 and legalize one unit.

14 We're not proposing to make any changes to
15 the exterior of the building, but I'd like to
16 walk you through the interior.

17 There is a basement and three floors. The
18 basement is not habitable. The area in question
19 is the ground floor level.

20 As you could see on the upper levels, we
21 have an apartment on each of the two sides. And
22 then, on the ground floor, there is an apartment
23 on the right hand side, but on the left hand
24 side, it's a much longer space than everywhere
25 else on top. And that area was split at some

1 point in history into two apartments.

2 It actually might predate the Ordinance.
3 We don't know. We couldn't find any record of it
4 predating the Ordinance. But it looks likely.
5 The appliances are old. The -- the tile work is
6 old. The walls look like they're old, but we
7 can't date it, so we're here before this Board to
8 legalize that condition.

9 And this is a studio apartment. It is also
10 undersized for -- for Union City. It is 180
11 square feet, which, yes, it's very small. But
12 this is something that has been there. And one
13 of the main things that we want to do is not
14 displace any tenants. The tenant had -- that's
15 currently there has been living there for over
16 six years now.

17 We want to take this opportunity to
18 legalize this unit and bring it up to all Code
19 standards.

20 So what does that mean?

21 We're going to create fire ratings in this
22 unit by adding sheet rock to the walls and into
23 the ceilings. We're going to update the fire
24 alarm system to it. And we're going to do
25 everything else, from a Code standpoint, to make

1 | this into a safe unit and make the building
2 | itself a lot safer. So, it's a great opportunity
3 | to -- to correct this condition and make the
4 | tenants that are there right now, and the tenants
5 | in the building, and the neighbors into -- into a
6 | nice safe structure.

7 | Beyond that, we're not proposing to do any
8 | changes. There's really very little opportunity.
9 | I can't carve into any other space to increase
10 | the size of this unit. So, we're stuck with this
11 | 180 square foot studio. But then again, this is
12 | a preexisting condition.

13 | Okay?

14 | CHAIRMAN BONACCI: Okay.

15 | Does that conclude your testimony or --

16 | MS. PEREIRAS: We also have planning
17 | testimony.

18 | CHAIRMAN BONACCI: Okay.

19 | We'll save the questions until everybody's
20 | done.

21 | MR. PEREIRAS: Great.

22 | MS. PEREIRAS: Mr. Kauker?

23 | MS. DILLON: Manny, you can just keep the
24 | mic on.

25 | MR. PEREIRAS: I'll hold it.

1 MS. DILLON: Mr. Kauker, if you can just go
2 in front of that microphone.

3 MR. KAUKER: Sure.

4 MS. DILLON: And please raise your right
5 hand.

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

8 MR. KAUKER: I do.

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

11 MR. KAUKER: My name is Michael D. Kauker.
12 Last name is spelled K-A-U-K-E-R. I'm a licensed
13 --

14 MS. DILLON: Thank you.

15 MR. KAUKER: -- professional planner.

16 MS. DILLON: Thank you very much.

17 CHAIRMAN BONACCI: Mr. Kauker has also
18 testified before us a lot of times. We accept
19 your qualifications.

20 MR. KAUKER: Thank you very much.

21 MS. PEREIRAS: Mr. Kauker, are you familiar
22 with 519 11th Street?

23 MR. KAUKER: Yes, I am.

24 MS. PEREIRAS: And you've had an
25 opportunity to review the drawings prepared by

1 | Pereiras Architects?

2 | MR. KAUKER: I have. That's correct.

3 | MS. PEREIRAS: And would you kindly the
4 | project, from a planning perspective?

5 | MR. KAUKER: Certainly.

6 | Briefly, the project itself, we're seeking
7 | to legalize an existing apartment building. The
8 | property is located in the R residential
9 | district. We're here, we're seeking two
10 | variances -- actually, three variances. There --
11 | there's a D-2 variance for an expansion of a
12 | preexisting nonconforming use, which this
13 | property is. And then, a D-5 variance for --
14 | which is a density variance, as well.

15 | Just briefly, with respect to the
16 | surrounding conditions.

17 | The property is bounded by 11th Street to
18 | the north, a two story brick building to the
19 | east. There's a park, a public park that's
20 | located to the west. And then, there are a mix
21 | of residential type dwellings behind it, to the
22 | south.

23 | As Mr. Pereiras mentioned, the applicant
24 | proposes an existing unit there that they're
25 | legalizing, but essentially, we're proposing to

1 go from six to seven units.

2 As I mentioned before, we require two D
3 variances.

4 The first is a D-2 variance for an
5 expansion of a preexisting nonconforming use.
6 The second is a D-5, or a density variance.

7 With respect to the special reasons for the
8 D-2 and the D-5 variance, I would submit to the
9 Board that there are special reasons as follows:

10 Namely, for the D-2 variance, the site is
11 particularly suited because of the presence of
12 the existing building that's accommodated the
13 proposed use for many years.

14 It's my understanding that the building
15 itself, according to records and speaking with
16 the client, that it was built around 1910. So,
17 the building's rather old.

18 Because of the influence of the surrounding
19 land use conditions, it's consistent and
20 compatible with the existing land use conditions
21 or the surrounding land use conditions.

22 What essentially strikes me, when you look
23 at the property, is that there's the park
24 immediately adjacent to it. It's a rather large
25 park. That has a benefit with respect to

1 parking, because obviously that doesn't really
2 generate a parking demand from a residential
3 standpoint. There may be individuals who park
4 there that go to the park, but it looks primarily
5 like individuals who use the park reside in the
6 area. So, that's a benefit, in my opinion.

7 As I mentioned before, the longstanding use
8 of the property with the seven residential units.
9 As Mr. Pereiras mentioned, we're upgrading the
10 building, an older building, in conformance with
11 modern day building standards and it's going to
12 be a much safer building.

13 It's my opinion that the addition of one
14 studio apartment unit, going from six to seven
15 units, is not a substantial change from what
16 existed in the preexisting nonconforming
17 condition of the building, especially given the
18 fact there will be no change in the size of the
19 building.

20 It is my opinion also that the use can
21 accommodate it without any significant impact.

22 Also, it promotes certain purposes of
23 zoning. Promotion of a State policy has been
24 found to advance the general welfare, which is
25 Purpose A of -- of the purposes of zoning, as

1 contained in the Municipal Land Use Law.

2 The New Jersey State Development and
3 Redevelopment Plan essentially talks about
4 focusing growth in already developed areas, such
5 as this. And as I said before, we're not
6 enlarging the building. We're just providing an
7 additional unit which has been there in an
8 existing building.

9 Also, Purpose G, to provide sufficient
10 space in appropriate locations for a variety of
11 uses. With respect to the D-5 density variance,
12 the Coventry case applies. Essentially, what the
13 applicant needs to show is that the property can
14 accommodate the use. It's my opinion that it can
15 accommodate the use because it's going to be
16 located in an existing building, with no
17 enlargement.

18 So, for those reasons, I feel it meet --
19 the application meets the special reasons for the
20 D variances.

21 There is a C variance related to parking;
22 14 parking spaces are required and zero spaces
23 are provided.

24 This is an existing condition. I would
25 submit to the Board that it's a C-1 variance,

1 with respect to a hardship, related to the
2 exceptional -- exceptional situation and unique
3 characteristics of the existing building on the
4 property. Obviously, it -- it's difficult or
5 almost impossible for the applicant to provide
6 parking onsite. And this condition has existed
7 for many years, I said, somewhat mitigated
8 because of the fact that there's a public park.

9 Finally, with respect to the negative
10 criteria. The applicant must show there's no
11 substantial impairment or detriment to the public
12 good, no substantial impairment to the intent and
13 purpose of the Master Plan and Zoning Ordinance.

14 With respect to any detriment to the public
15 good or surrounding area, it's my opinion that
16 the proposed use will be contained in an existing
17 building. I -- I don't see any impacts related
18 to traffic, related to the addition of the studio
19 apartment.

20 And then, finally, it's my opinion that
21 there would not be a substantial impairment to
22 the Master Plan or Zoning Ordinance to the
23 community, as this use has existed on the site
24 for many years. It's a preexisting nonconforming
25 condition.

1 To sum up, I would conclude that the
2 applicant meets the burden of proof and I feel
3 the Board can grant the variances.

4 CHAIRMAN BONACCI: Okay. Okay.

5 That concludes the testimony.

6 Right?

7 MS. PEREIRAS: Yes.

8 CHAIRMAN BONACCI: Okay.

9 So, Mr. Pereiras said that most of the
10 variances that you guys are requesting,
11 preexisting, nonconforming things that are going
12 on in the building, which has been there since
13 about 1910, that's over a hundred years.

14 And what you guys are trying to do, what
15 you're going to do, your goal, is to meet the
16 Code standards and create a safer, livable, more
17 compliant dwelling.

18 MS. PEREIRAS: That is correct.

19 CHAIRMAN BONACCI: Members of the Board?

20 Going to open it to the public.

21 Open to the public.

22 Closed to the public.

23 Okay.

24 Being that this is an inherently beneficial
25 use for the community, and it's going to advance

1 the general welfare, I -- and it's consistent
2 with the rest of the neighborhood, I'd like to
3 make a motion to grant the application.

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

6 MS. GUTIERREZ: Second.

7 THE SECRETARY: Seconded by Ms. Gutierrez.

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

10 Mr. Bonacci?

11 CHAIRMAN BONACCI: Yes.

12 THE SECRETARY: Mr. Gullon?

13 VICE CHAIRMAN GRULLON: Yes.

14 THE SECRETARY: Ms. Gutierrez?

15 MS. GUTIERREZ: Yes.

16 THE SECRETARY: Mr. Pressey?

17 MR. PRESSEY: Yes.

18 THE SECRETARY: Mr. Ortiz?

19 MR. ORTIZ: Yes.

20 THE SECRETARY: Mr. (sic) Pena? Mrs. Pena?

21 MS. PENA: Yes.

22 THE SECRETARY: Ms. Perez?

23 MS. PEREZ: Yes.

24 THE SECRETARY: Seven in favor.

25 Motion carries.

1 MS. PEREIRAS: Thank you all very much.

2 MS. GUTIERREZ: You're welcome.

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1 **527 39th Street - 527 39th Street, LLC:**

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3 THE SECRETARY: Next application on
4 tonight's agenda, 527 39th Street.

5 Ms. Pereiras, please?

6 MS. PEREIRAS: Again, Bianca Pereiras, on
7 behalf of the applicants.

8 The application before the Board this
9 evening is to construct a new three family home.

10 Just for purposes of the record, we had
11 submitted our jurisdictional submissions at the
12 last meeting.

13 So, this is a new three family home that we
14 are proposing. We have two experts to testify
15 before the Board this evening.

16 I'd like to being the presentation with our
17 architect, Mr. Manual Pereiras.

18 MR. PEREIRAS: Still Manny Pereiras. Still
19 recognize I am still under oath.

20 CHAIRMAN BONACCI: Yes.

21 MS. PEREIRAS: Mr. Pereiras, are you
22 familiar with 527 39th Street?

23 MR. PEREIRAS: I am very familiar.

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

1 MR. PEREIRAS: I have.

2 MS. PEREIRAS: Would you kindly describe
3 the project?

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

5 We're proposing -- we have a 25 foot wide
6 lot and we have a lot that is just shy of being a
7 hundred feet long. It's actually 99.8. So,
8 we're two and a half inches short from being a
9 fully compliant lot. We're at 2,495 square feet.
10 So, these are extremely minor technical --
11 technicalities by two and a half inches that we
12 have for a preexisting variance, lot area and lot
13 depth.

14 What we have there currently is a two story
15 frame dwelling that's on the property line along
16 the back. What we're looking to do and -- and
17 for many reasons, it has no front yard setback.
18 What we're looking to do is to demolish that and
19 build exactly what our Master Plan lays out
20 almost like as a blueprint, and we're building
21 exactly to a T what we're -- what the future of
22 Union City wants.

23 And what we're doing is a three family
24 house that's four stories in height. We're
25 putting the front yard setbacks ten feet away

1 from the front.

2 We have three feet along one side. We have
3 two feet along the other, and we have a five foot
4 clear rear yard to the -- to the back.

5 And what that allows us to do, and we're
6 seeking variances for the rear yard, for lot area
7 and lot coverage, but by seeking those variances,
8 what we're able to do is create parking along the
9 front, the first level. So, by having those
10 variances, we're able to fit six cars and we're
11 using the layout that was provided, that the City
12 provided for us for providing these cars, so that
13 each of the apartments upstairs could have two
14 parking spaces.

15 As you could see, there is an apron along
16 the street. And you could drive the cars in
17 tandem. So, each apartment can have two cars.
18 There is a lobby that leads you to an elevator,
19 that takes you upstairs. And we have three
20 floors that are identical, exactly the same.

21 There is a -- with full windows along the
22 front. We have a dining room, living room,
23 kitchen area, which is a nice open floor plan,
24 very contemporary. And then, the more private
25 portion of the house, we have three bedrooms.

1 The smaller bedrooms are 13 by 11. And then, we
2 have a master bedroom that's a master suite with
3 a bathroom and a walk-in closet, that's 15.3 by
4 12.

5 There are two means of circulation in this
6 building. There's a stair along the rear and a
7 stair along the middle point, plus the elevator
8 itself. So, it's a very safe, very good
9 building. And it meets all the standards of the
10 Master -- of the Master Plan.

11 In elevation, we have a building that we're
12 using a combination of materials. We have
13 Alucobond panels as an accent, but the majority
14 of the building is brick, that we love brick so
15 much here in Union City. So, we're making the
16 majority of the building that.

17 And along the sides of the buildings, we
18 have mostly stucco and some combination of siding
19 in certain areas. As you could see, very simple,
20 very clean design.

21 And I think that will conclude my
22 testimony.

23 I'm open for questions.

24 CHAIRMAN BONACCI: Okay.

25 Three family dwelling.

1 Right?

2 MR. PEREIRAS: That is correct.

3 CHAIRMAN BONACCI: R zone. That's
4 permitted.

5 You're looking for D-6 height variance.

6 MR. PEREIRAS: That is correct.

7 CHAIRMAN BONACCI: So, 40 feet is allowed.
8 You'd only be going over by five feet.

9 MR. PEREIRAS: That is correct.

10 And there's specific reasons why we're
11 doing that. We have the -- and -- and four
12 stories, as well. So, we're asking for a
13 variance for number of stories. Three is
14 permitted in the current Ordinance. We're
15 looking at our Master Plan, and what we want to
16 do, and what we want to do is elevate the
17 building so that we could get parking below. So,
18 that's why we're requesting that variance.

19 CHAIRMAN BONACCI: And you guys are
20 providing a total of six parking spaces.

21 MR. PEREIRAS: That is correct.

22 CHAIRMAN BONACCI: Nice. Okay.

23 I don't have any more questions.

24 Members of the Board?

25 MR. PRESSEY: Can you go over the parking?

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

2 So, what we did is we basically took the
3 layout that the Master Plan says, and we applied
4 it directly here. It's tight. We know that.
5 There's no question it's very tight. We got to
6 move -- managle (sic) cars to get one in and out.
7 But we know how important parking is in Union
8 City. And we all do that.

9 So, in order to get car number one, you
10 actually have to pull number car three out, so
11 that you could do it. But it works very well,
12 because they're within the same family. So,
13 let's say a typical husband and wife, husband
14 leaves first. He pulls out his car. Later on,
15 the wife leaves, she pulls out her car. So, it
16 actually works very well. It's actually even
17 seen in the suburbs very often. People have a
18 single driveway. And you pull one out, and then,
19 the next one.

20 That's the condition that we have here.
21 So, we have these two that are for one unit,
22 these two are for another unit, and these two
23 that are for another unit, so that everyone has
24 the opportunity to maneuver the cars within their
25 household.

1 MR. PRESSEY: Okay.

2 CHAIRMAN BONACCI: Open to the public.

3 MR. PRESSEY: It is tight.

4 VICE CHAIRMAN GRULLON: I have a question
5 for --

6 CHAIRMAN BONACCI: I'm sorry.

7 VICE CHAIRMAN GRULLON: -- Mr. Pereiras.

8 Could you go over the existing condition of
9 the building?

10 MR. PEREIRAS: The -- the existing house?

11 VICE CHAIRMAN GRULLON: The existing house.
12 Yes.

13 MR. PEREIRAS: Yes.

14 VICE CHAIRMAN GRULLON: What's there and
15 you know, how high it is and --

16 MR. PEREIRAS: Sure.

17 It's a two story frame dwelling. Okay.

18 The house currently has violations or
19 nonconformities in -- in multiple ways.

20 Side yard, it's literally on the property
21 line. And then on the front yard, there's a -- a
22 porch and stairs along the front. I think it's
23 best described by the photograph that we have on
24 the front page.

25 If I turn to sheet Z01, you see the house

1 right here. So, it's older, it's siding.

2 VICE CHAIRMAN GRULLON: Yes.

3 MR. PEREIRAS: It's in a little bit of a
4 dilapidated state. This is a good opportunity to
5 --

6 VICE CHAIRMAN GRULLON: Is the house
7 occupied right now?

8 MR. PEREIRAS: So, the -- I believe the
9 owner --

10 VICE CHAIRMAN GRULLON: Do you have
11 tenants?

12 MR. PEREIRAS: If you give me one -- I
13 believe the applicant actually lives there, but
14 give me one second to verify.

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

17 MR. PEREIRAS: There -- there are two
18 apartments and those are occupied. It's a two
19 family.

20 MS. GUTIERREZ: Okay.

21 Mr. Pereiras --

22 MR. PEREIRAS: So, it's not rent
23 controlled. It's not -- it's a two family.

24 MS. GUTIERREZ: Mr. Pereiras, what's the
25 size of the apartment?

1 MR. PEREIRAS: I'd be happy to tell you.

2 So, they're all three bedrooms and they're
3 all 1,395 square feet. So, they're comfortable,
4 nice family size apartments.

5 MS. GUTIERREZ: Thank you.

6 MS. PEREIRAS: We also have a planner to
7 testify.

8 CHAIRMAN BONACCI: Okay. You know what?
9 Let's hear him and then --

10 MS. PEREIRAS: Okay.

11 Thank you.

12 MS. DILLON: Mr. Kauker was previously
13 sworn.

14 MS. PEREIRAS: Mr. Kauker, are you familiar
15 with 527 39th Street?

16 MR. KAUKER: I am, yes.

17 MS. PEREIRAS: And can you please describe
18 this three family, from a planning perspective?

19 MR. KAUKER: Certainly.

20 From a planning standpoint, the Board's
21 aware that it's located in the R residential
22 district. The proposed three family home is a
23 permitted use in the zone.

24 Just briefly, I wanted to note, and it's
25 important for this application, the surrounding

1 conditions.

2 There are other buildings in the area that
3 are four and five stories. There's a building
4 that's located directly across the street that's
5 a four and a five story building. And then,
6 there's a four story parking garage that's
7 located to the east, as well.

8 I'll -- the reason why that's important is
9 because we're requiring or we're requesting a D-6
10 height variance. It's -- it's a variance when
11 the height of the building is greater than ten
12 percent or ten feet than what's permitted in the
13 Ordinance.

14 There's another variance that's required,
15 or a couple variances that are classified as C
16 variances, under the Municipal Land Use Law.

17 Just briefly, with respect to the D-6
18 variance, the applicant must show -- there's a
19 case called Grasso versus Spring Lake. The Board
20 can grant a variance if it finds that the
21 proposed height of the building is consistent
22 with the heights of other buildings in the area.

23 That's why I mentioned those other
24 buildings, because in my opinion this building is
25 consistent. It's actually going to be lower than

1 the other existing buildings that are located in
2 the area.

3 For those reasons, I feel that the
4 applicant, or not the applicant, but the Board
5 could grant the height variance.

6 With respect to the C variances, Mr.
7 Pereiras mentioned that there were two
8 preexisting nonconforming conditions with respect
9 to lot area and lot depth. There's no additional
10 land for the applicant to buy around there or to
11 -- to add to this property, to make it
12 conforming.

13 There are three variances that we're going
14 to be requesting that are new variances.
15 Actually, I'm sorry.

16 There -- there are four variances.

17 There's a minimum rear yard variance.
18 There's a --

19 I'm sorry.

20 Three bulk variances. Minimum rear yard
21 variance, maximum building height, and also
22 maximum building coverage.

23 As Mr. Pereiras mentioned, in his
24 testimony, these variances are all related to the
25 fact that the applicant wants to try to provide

1 the parking onsite. So, in order to provide
2 those six parking spaces, the building needs to
3 be slightly larger. That's why we are requesting
4 deviations in the rear yard setback, in the
5 coverage for building coverage, and maximum lot
6 coverage, it's to accommodate the parking.

7 It's my opinion that those will be
8 justified as a C-2 variance. The benefit of
9 providing parking outweighs any deviation.

10 In addition, your recently adopted Master
11 Plan in -- in 2019 has specific requirements.
12 They recommend changes, which we are fully
13 compliant with, as well.

14 It's my opinion that with respect to the
15 negative criteria, there will not be a
16 substantial impairment to the surrounding area.
17 I talked about the height of the other buildings
18 that exist in the area. Nor will there be a
19 substantial impairment to the intent or purpose
20 of the zone plan or Master Plan.

21 As I mentioned before, we're fully
22 consistent with the proposed Master Plan that was
23 recently adopted by the Planning Board of Union
24 City.

25 For those reasons, it's my opinion that the

1 applicant meets the burden of proof related to
2 the application, and I feel confident that the
3 Board could grant the requested variances.

4 CHAIRMAN BONACCI: Thank you, Mr. Kauker.

5 MR. KAUKER: Thank you.

6 CHAIRMAN BONACCI: Members of the Board?

7 I don't have any questions for Mr. Kauker.

8 MR. KAUKER: Thank you.

9 CHAIRMAN BONACCI: Thank you.

10 Anybody for Mr. Kauker?

11 Okay.

12 Open to the public.

13 Okay.

14 MS. DILLON: Close the public?

15 CHAIRMAN BONACCI: Sorry?

16 MS. DILLON: Close.

17 MR. PANEQUE: Close.

18 CHAIRMAN BONACCI: Closed to the public.

19 Only got one person.

20 The D-6 height variance, the one parking
21 space that you're deficient, but you guys are
22 going to put in six. You're meeting the safety
23 standards. It's an inherently beneficial use for
24 the site and promotes the general welfare of the
25 community.

1 To Mr. Kauker's testimony, it's a permitted
2 use and the surrounding conditions are consistent
3 with what you guys are going to do there.

4 So, with that, I'd like to make a motion to
5 grant the application.

6 THE SECRETARY: Motion to grant the
7 application by Mr. Bonacci.

8 VICE CHAIRMAN GRULLON: Second.

9 THE SECRETARY: Seconded by Mr. Grullon.

10 Roll call on the motion to approve this
11 application.

12 Mr. Bonacci?

13 CHAIRMAN BONACCI: Yes.

14 THE SECRETARY: Mr. Grullon?

15 VICE CHAIRMAN GRULLON: Yes.

16 THE SECRETARY: Ms. Gutierrez?

17 MS. GUTIERREZ: Yes.

18 THE SECRETARY: Mr. Pressey?

19 MR. PRESSEY: Yes.

20 THE SECRETARY: Mr. Ortiz?

21 MR. ORTIZ: Yes.

22 THE SECRETARY: Ms. Pena?

23 MS. PENA: Yes.

24 THE SECRETARY: Ms. Perez?

25 MS. PEREZ: Yes.

1 THE SECRETARY: Seven in favor.

2 Motion carries.

3 MS. PEREIRAS: Thank you all very much.

4 THE SECRETARY: Thank you.

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

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1 **1219 Bergenline Avenue, LLC -**

2 **1219 Bergenline Avenue:**

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4 THE SECRETARY: Next application on
5 tonight's agenda, 1219 Bergenline Avenue, LLC.

6 Ms. Pereiras, please?

7 MS. PEREIRAS: Bianca Pereiras on behalf of
8 the applicant for property located at 1219
9 Bergenline -- Bergenline Avenue.

10 We had submitted our jurisdictional
11 submissions last month, as well.

12 Currently onsite, we have a vacant two
13 story building that we are looking to demolish
14 and replace with a -- with a mixed use building,
15 consisting of commercial space on the ground
16 floor, and three residential units above.

17 We're located in the CN neighborhood
18 commercial zone.

19 We have two experts to testify, and I'd
20 like to begin with our architect, Mr. Manuel
21 Pereiras.

22 MR. PEREIRAS: Manny Pereiras, and I
23 recognize that I am under oath.

24 MS. PEREIRAS: Mr. Pereiras, are you
25 familiar with 1219 Bergenline Avenue?

1 MR. PEREIRAS: Very familiar.

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

4 MR. PEREIRAS: I have.

5 MS. PEREIRAS: And could you please
6 describe the proposed development?

7 MR. PEREIRAS: I'll be very happy to.

8 First, to talk about what's there now. We
9 have a two story frame. It's been abandoned for
10 a long time and it's gotten to the point where
11 it's a problem. People are sneaking in. The
12 neighbors next door, which we did architectural
13 work for, have a problem with their backyard
14 because people are getting in there from this
15 property. We've been trying to secure it. It's
16 been a problem. It's been a nuisance. So, we
17 want to correct that with this application.

18 What we're looking to do is exactly what
19 the CN district calls for. You actually wonder,
20 why are we here before this Board then? Because
21 of actually a technicality.

22 What's -- what's permitted here is ground
23 floor commercial, with apartments above. We're
24 doing just that, but because of the technicality
25 of we have ground floor commercial. Above, we're

1 proposing three apartments. However, our
2 Ordinance defines apartments as four. So, if we
3 had one more apartment, we wouldn't even be
4 before your -- this Board. We'd be before the
5 Planning Board. But since we have only three
6 apartments, we're asking for less, we're here
7 before you.

8 But let me walk you through everything.

9 We have a building. We have zero lot line
10 front yard and side yards, and we have 20 feet in
11 the rear. Exactly what the Ordinance calls for.

12 However, on the second floor and third
13 floor, what we're doing is we're stepping the
14 building back in order to provide windows along
15 that side. So, we're actually giving it an
16 additional setback above.

17 We have a basement going into the building.
18 The purposes of the basement, it's for storage
19 for the commercial space. And then, we have
20 areas for people to like store their bicycle and
21 for stormwater management and all the utilities
22 of the building.

23 On the ground floor, we have a long
24 commercial space that occupies the entire floor,
25 exactly the way the Ordinance and the Master Plan

1 both suggest, with it's bath -- corresponding
2 bathroom.

3 The circulation for the building is through
4 two stairs, both located along the south side of
5 the building. You walk in and you have a
6 corridor that leads you to the rear stair, or it
7 takes you up to the stair above. That stair
8 loops around and brings you to the apartments.
9 We have three floors of exactly the same
10 footprint.

11 You come out of the apartment and you're
12 into a open contemporary design, living room,
13 dining room, kitchen area. And then, bedrooms.
14 The bedrooms are 13 by -- 13.10 by ten, 12.10 by
15 ten, and then a master bedroom with its own
16 bathroom and walk-in closet that's 14.2 by 13.2.
17 And then, finally the roof.

18 The façade of the building is strictly
19 brick along the front. It's a very beautiful,
20 very simple façade. We're actually doing several
21 of these on Bergenline Avenue right now, which is
22 going to create some continuity to Bergenline
23 Avenue. It has traditional elements, like the
24 stone lintel and stone sill, and a nice large
25 storefront for -- for commercial space.

1 There is one variance in the bulk standards
2 that we have, which is parking. Obviously, it's
3 Bergenline Avenue. We don't want to create a
4 curb cut on Bergenline Avenue. We want this to
5 be pedestrian friendly. So, that's a hardship
6 and that's -- it doesn't give us an opportunity
7 to provide parking.

8 So, we have -- the commercial space doesn't
9 require parking, but the apartments do. So, we
10 have a variance for that parking situation. And
11 that's the -- well, that variance plus the
12 technical variance that our planner is going to
13 talk about more, which is for the number of
14 units, which technically is a use variance.

15 CHAIRMAN BONACCI: Okay.

16 We'll hear Mr. Kauker.

17 MS. PEREIRAS: Fantastic.

18 Mr. Kauker, please?

19 CHAIRMAN BONACCI: Mr. Kauker's still under
20 oath.

21 MS. DILLON: Yes. Mr. Kauker was
22 previously sworn.

23 MR. KAUKER: Thank you.

24 MS. PEREIRAS: Mr. Kauker, are you familiar
25 with 1219 Bergenline Avenue?

1 MR. KAUKER: I am, yes.

2 MS. PEREIRAS: And could you please
3 describe the project for the Board, from a
4 planning perspective?

5 MR. KAUKER: Certainly.

6 From a planning standpoint, as Mr. Pereiras
7 mentioned, the property is located in the CN
8 neighborhood commercial district. It's located
9 along Bergenline Avenue and it's -- it's an
10 existing two story building. It's kind of set
11 back from the street, further back than the two
12 buildings that are located on either side of it.

13 So, it's -- and -- and there's somewhat of
14 a slight yard to it, so it's somewhat
15 incompatible with those two existing buildings on
16 either side.

17 The existing building, located to the
18 south, is a four story residential structure.
19 The -- or the -- the building that's located to
20 the north is a three story, mixed use development
21 with commercial on the ground floor and two
22 stories with residential on the upper floors.

23 The applicant, as Mr. Pereiras mentioned,
24 proposes to construct a brand new four story
25 building, with commercial on the ground floor.

1 And then, the second, third and fourth floors
2 will be occupied by residential units.

3 Also, as he noted before, we require a D-1
4 use variance because the Ordinance essentially
5 requires us, in order to be considered an
6 apartment, we have to have four or more units.
7 So, technically, we don't meet that requirement.
8 So, we need a D-1 use variance from the Board.
9 Although with the three units, it's obviously
10 going to be less impactful, less intense.

11 The other thing I just wanted to point out
12 real quick, related to that, is your 2019 Master
13 Plan, they recommend that no more than three
14 units be provided over ground floor commercial.
15 So, we're completely consistent with that
16 document.

17 In order for the Board to grant a D-1 use
18 variance, the applicant must show that there --
19 essentially, the applicant must show special
20 reasons or prove positive criteria.

21 The most often cited purpose is Purpose A,
22 essentially dealing with the fact that this site
23 is particularly suited for the proposed use.

24 It's my opinion that this site is
25 particularly suited because it's located along

1 Bergenline Avenue. It's consistent and
2 compatible with both the uses that are located on
3 either side. And also, it's consistent and
4 compatible with your 2019 Master Plan document.

5 One of the other things I did want to point
6 out is we're demolishing an older building, and
7 we're replacing it with a brand new building
8 that's going to be more aesthetically pleasing.
9 So, therefore, promoting a desirable visual
10 environment.

11 There's one parking -- or one C variance
12 that's required and that's for parking. Six
13 spaces are required. We don't propose any
14 parking spaces. This condition along Bergenline
15 Avenue is quite common, as it's primarily a
16 commercial corridor in Union City.

17 One just interesting thing I just wanted to
18 point out really quick.

19 There is a provision that -- that exempts
20 parking for properties along Bergenline Avenue.
21 Although we don't fit into that classification,
22 because those are for properties that are located
23 between 30th Street and 47th Street. But the
24 intent, obviously, is to not encourage buildings
25 to have curb cuts, because if you had multiple

1 | curb cuts along Bergenline Avenue, that wouldn't
2 | be a really good thing either from a planning
3 | standpoint, because you'd have vehicles coming
4 | out, and it would obviously eliminate the
5 | on-street parking that exists there.

6 | So, for those reasons, I feel that the
7 | parking variance and not having parking there is
8 | justified. It's also mitigated because there are
9 | a number of mass transit opportunities within
10 | Union City and in the area.

11 | So, for those reasons, I believe that we
12 | meet the positive criteria for both the D-1 use
13 | variance and the C variance, with respect to
14 | parking.

15 | Finally, I -- I feel that we meet the
16 | negative criteria.

17 | The negative criteria, the -- the first
18 | component is that we are -- we don't negatively
19 | impact the surrounding area. It's my opinion
20 | that what we're doing is consistent and
21 | compatible.

22 | It's not going to have a negative impact
23 | because we're -- we're not providing any curb
24 | cut, which would, in my opinion, have a negative
25 | impact on the area.

1 It's, I think, more compliant with your
2 Ordinance, because obviously, the existing
3 structure there is all residential, there's no
4 commercial -- commercial component. So, what
5 we're doing is we're proposing the use that's
6 consistent with your -- more consistent with the
7 Ordinance, because we have the commercial with
8 the residential component on the upper floors,
9 which is what's permitted in the Ordinance,
10 although the technical aspect of it is we don't
11 have the four units. So, technically, we require
12 a use variance.

13 I talked about the Master Plan and our
14 consistency with that before. So, therefore, I
15 think that we are consistent with the Master Plan
16 and we meet the second part of the negative
17 criteria.

18 For those reasons, it's my opinion that the
19 applicant meets the burden of proof, and I do
20 feel confident that the Board can grant the
21 requested variances.

22 CHAIRMAN BONACCI: Mr. Kauker, real quick
23 --

24 MR. KAUKER: Yes.

25 CHAIRMAN BONACCI: -- since you're up here.

1 The two story building that's there --

2 MR. KAUKER: Yes.

3 CHAIRMAN BONACCI: -- now doesn't provide
4 any parking either.

5 Right?

6 MR. KAUKER: It does not.

7 CHAIRMAN BONACCI: Okay. Okay.

8 So, right now, there's a two story
9 abandoned building --

10 MR. KAUKER: Um hum.

11 CHAIRMAN BONACCI: -- which is not safe
12 because --

13 MR. KAUKER: It's an older building that's
14 substandard.

15 CHAIRMAN BONACCI: Gotcha. Okay.

16 And now, even though you don't meet the
17 four residential units, it's a less intrusive
18 use.

19 MR. KAUKER: That's correct.

20 CHAIRMAN BONACCI: And it's still
21 consistent and in the CN zone.

22 MR. KAUKER: Yes.

23 CHAIRMAN BONACCI: Okay.

24 Members of the Board?

25 Open to the public.

1 MR. PRICE: Larry Price, 1006 Palisade.

2 Just two comments.

3 One is, I'm very skeptical about the
4 argument that is frequently made before this
5 Board that because we're replacing an old
6 building with a new building, that's -- that's
7 justification for the new building having a lot
8 of exceptions.

9 But in this case, this -- this site is
10 about two blocks from my home, and the building
11 that's on there right now is a real dump. I
12 mean, a real eyesore.

13 So, maybe, in this case, there's a
14 justification for a new building.

15 MS. GUTIERREZ: Um hum.

16 MR. PRICE: The second thing I would point
17 out, they're asking for variances, but we also
18 generating a new Land Development Ordinance
19 amendment, which seems to be stuck in lost and
20 found somewhere, but the copy that I've seen
21 eliminates the parking requirement for properties
22 that face on Bergenline Avenue, and also make an
23 adjustment in the definition of an apartment
24 building, so that we don't have this three is
25 not, but more than three is not permitted, which

1 sends them to this Board.

2 So, if they just held their breath, they
3 might have to hold it a long time from what I
4 see, but if they just hold their breath, all
5 those -- the requested variances will go away
6 anyway.

7 So, it's kind of a -- you're not -- if you
8 grant the variances, you're not really giving
9 them too much. You're just giving them -- you're
10 giving -- Christmas will come a little early for
11 them, but Christmas is going to come anyway so --

12 MS. GUTIERREZ: Thank you.

13 MR. KAUKER: (Indiscernible) -- Santa
14 Claus.

15 MR. PRICE: What's that?

16 So, I would -- remember, two blocks from my
17 home. We definitely want to endorse this one.

18 CHAIRMAN BONACCI: Any other members of the
19 public?

20 Okay.

21 Closed to the public.

22 So, being that it's a less intrusive use
23 and consistent with the CN zone, and promotes
24 economic opportunities with the -- the commercial
25 aspect, I'd like to make a motion to approve this

1 application.

2 THE SECRETARY: Motion by --

3 MS. GUTIERREZ: And I'm seconding.

4 THE SECRETARY: -- to approve the
5 application by Mr. Bonacci.

6 Seconded by Ms. Gutierrez.

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

9 Mr. Bonacci?

10 CHAIRMAN BONACCI: Yes.

11 THE SECRETARY: Mr. Grullon?

12 VICE CHAIRMAN GRULLON: Yes.

13 THE SECRETARY: Ms. Gutierrez?

14 MS. GUTIERREZ: Yes.

15 THE SECRETARY: Mr. Pressey?

16 MR. PRESSEY: Yes.

17 THE SECRETARY: Mr. Ortiz?

18 MR. ORTIZ: Yes.

19 THE SECRETARY: Ms. Pena?

20 MS. PENA: Yes.

21 THE SECRETARY: Ms. Perez?

22 MS. PEREZ: Yes.

23 THE SECRETARY: Seven in favor.

24 Motion carries.

25 MS. PEREIRAS: Again, thank you.

1 MS. GUTIERREZ: You're welcome.

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

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1 **Donna Jacobsen - 311 43rd Street:**

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3 THE SECRETARY: Next application on
4 tonight's agenda, Donna Jacobsen, 311 43rd Street.

5 Ms. Pereiras, please?

6 MS. PEREIRAS: Bianca Pereiras on behalf of
7 the applicant for property located at 311 43rd
8 Street for Donna Jacobsen.

9 Ms. Jacobsen purchased this property in
10 2017. When she purchased the property, she
11 thought she was purchasing a seven family home.
12 All documentation indicated that it was a seven
13 family. Shortly following her purchase, she
14 discovered that there was one unit that was not
15 recognized by the City Building Department.

16 As such, we are before this Board to
17 legalize that existing apartment.

18 We have one expert to testify, and that is
19 our architect, Mr. Manuel Pereiras.

20 MR. PEREIRAS: Manny Pereiras.

21 I recognize that I am still under oath.

22 MS. PEREIRAS: Mr. Pereiras, are you
23 familiar with 311 43rd Street?

24 MR. PEREIRAS: I am.

25 MS. PEREIRAS: And did you prepare the

1 drawings that are before the Board?

2 MR. PEREIRAS: I have.

3 MS. PEREIRAS: And can you please describe
4 the proposed project?

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

6 Again, we're dealing with a preexisting
7 condition. It looks like it's been like this for
8 a long time. There's a photograph of the
9 structure. The structure obviously predates our
10 Ordinance.

11 And let me talk a little bit about the --
12 the dimensions of the site.

13 We have a 25 by 100 lot. We have a front
14 yard setback of four foot six. That's a
15 preexisting nonconformity. Also, a preexisting
16 nonconforming on the side yards. The building is
17 sitting on the property lines on both sides. The
18 rear yard is conforming. And we have a three
19 story frame dwelling.

20 As you could see, the building is actually
21 very similar to a previous application. We have
22 apartments on each side. And what we're looking
23 to legalize is an existing unit in the basement.
24 We're actually going to modify that existing unit
25 significantly, in order to make it come up to

1 Code.

2 We are expanding the size of the unit,
3 because it was a little bit small. And in this
4 case, we have the opportunity to make it bigger
5 by going beyond the main structural beam and
6 bringing it towards the -- the right hand side of
7 the apartment, so that we have a unit that's 684
8 square feet in size and we're providing a one
9 bedroom.

10 There are significant changes that are
11 going to this unit, because it's in pretty bad
12 shape. We're going to make it Code compliant.
13 So, we're creating a one hour fire separation
14 along the roof. We're bringing a fire alarm
15 system. So, it's going to meet all emergency
16 egress criteria. We're actually modifying the
17 location of where the bedrooms are to the front
18 of the building, so that if there ever was a fire
19 or some tragedy -- so that if there ever was a
20 fire, there wouldn't be a tragedy and people
21 could get out of the bedroom safely, with an
22 emergency escape window to the public right-of-
23 way.

24 Beyond that, we're not proposing any
25 changes to the exterior of the building or any

1 | changes to the rest of the building. But what we
2 | are doing is bringing it up to Code, which is
3 | just increasing the -- the life and the -- the
4 | welfare and safety of the residents, and -- and
5 | those tenants within that unit.

6 | CHAIRMAN BONACCI: Thank you.

7 | Do you guys have any other testimony?

8 | MS. PEREIRAS: No, we do not.

9 | CHAIRMAN BONACCI: Okay.

10 | Let me just review this real quick.

11 | So, you guys want to legalize the basement
12 | apartment.

13 | MR. PEREIRAS: That is correct.

14 | CHAIRMAN BONACCI: Make it compliant, fire
15 | safety standards, bring it up to Code. All the
16 | variances preexisting nonconforming conditions.

17 | MR. PEREIRAS: That's correct.

18 | CHAIRMAN BONACCI: Okay.

19 | Members of the Board?

20 | VICE CHAIRMAN GRULLON: What's the height
21 | -- the height of the ceiling in the basement? Do
22 | you know?

23 | MR. PEREIRAS: Yes, I do.

24 | Actually, I don't have it on the drawings,
25 | but I was there. It's actually pretty tall, and

1 no matter what, our Building Department requires
2 it to be greater than seven feet. So, I could
3 tell you that if it wasn't seven feet, we would
4 make it seven feet. But I recall that it was --
5 it felt taller than seven feet.

6 VICE CHAIRMAN GRULLON: This is going to be
7 sprinkle?

8 MR. PEREIRAS: It's going to be sprinklered
9 with a domestic line system that's going to cover
10 that apartment.

11 CHAIRMAN BONACCI: Any other members of the
12 Board?

13 Open to the public.

14 MR. PRICE: Larry Price, 1006.

15 How many existing legal apartments are in
16 this building?

17 MR. PEREIRAS: Six legal.

18 MR. PRICE: And you're going from six to
19 seven.

20 MR. PEREIRAS: That's right.

21 MR. PRICE: On a 25 by a hundred lot.

22 MR. PEREIRAS: That is correct.

23 MR. PRICE: Okay.

24 Thank you.

25 CHAIRMAN BONACCI: Closed to the public.

1 So, being that this application promotes
2 the welfare and safety of the community, I'd like
3 to make a motion to approve this application.

4 THE SECRETARY: Motion to approve this
5 application by --

6 VICE CHAIRMAN GRULLON: Second.

7 THE SECRETARY: -- Mr. Bonacci.

8 VICE CHAIRMAN GRULLON: Second.

9 THE SECRETARY: Seconded by?

10 MS. DILLON: Carlos, you got to -- you got
11 to go to a microphone, please.

12 THE SECRETARY: I'm sorry.

13 MS. DILLON: Okay.

14 THE SECRETARY: Is -- is motion on the
15 table to approve this application by Mr. Bonacci.

16 Seconded by Mr. Grullon.

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

19 CHAIRMAN BONACCI: Mr. Bonacci.

20 THE SECRETARY: Mr. Bonacci?

21 CHAIRMAN BONACCI: Yes.

22 THE SECRETARY: Mr. Grullon?

23 VICE CHAIRMAN GRULLON: Yes.

24 THE SECRETARY: Ms. Gutierrez?

25 MS. GUTIERREZ: Yes.

1 THE SECRETARY: Mr. Pressey?

2 MR. PRESSEY: Yes.

3 THE SECRETARY: Mr. Ortiz?

4 MR. ORTIZ: Yes.

5 THE SECRETARY: Ms. Pena?

6 MS. PENA: Yes.

7 THE SECRETARY: Mr. -- Mrs. Perez?

8 MS. PEREZ: Yes.

9 THE SECRETARY: Seven in favor.

10 Motion carries.

11 MS. PEREIRAS: Thank you, all.

12 THE SECRETARY: Thank you, Ms. Pereiras.

13 MS. PEREIRAS: Thank you.

14 MS. GUTIERREZ: You're welcome.

15

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

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1 **S&R Realty Group, LLC - 146-148 49th Street:**

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3 THE SECRETARY: Next application on
4 tonight's agenda, S and R Realty Group, LLC, 146-
5 147 -- I'm sorry -- 146-148 49th Street.

6 Ms. Pereiras, please?

7 MS. PEREIRAS: Bianca Pereiras, on behalf
8 of the applicants, S and R Realty Group, LLC, for
9 their application before the Board to construct
10 two new three family homes on one lot. However,
11 our lot is 50 by a hundred.

12 We have two experts to testify before the
13 Board this evening.

14 And I'd like to begin with our architect,
15 Mr. Manuel Pereiras.

16 MR. PEREIRAS: I recognize I am still under
17 oath, still Manny Pereiras.

18 MS. PEREIRAS: Mr. Pereiras, are you
19 familiar with 146-148 49th Street?

20 MR. PEREIRAS: I am.

21 MS. PEREIRAS: And did you prepare the
22 drawings that are before the Board?

23 MR. PEREIRAS: I have.

24 MS. PEREIRAS: And would you kindly
25 describe the project?

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

2 What we have in this property right now, is
3 this house that you could see here. Nice house,
4 but it actually fits really weird in the
5 neighborhood. It really doesn't fit at all. It
6 almost looks like it should go in the suburbs.

7 If you look at the buildings next to it, we
8 have a five story brick building, very beautiful,
9 very characteristic of Union City. The same
10 thing a little bit further to the north. And
11 then, if you go in the opposite direction, you
12 have a three story brick building, that has a
13 zero front yard, very different in character.
14 So, it actually, since this house is set back, it
15 -- it actually feels out of place.

16 What we're proposing to do is what our
17 Master Plan encourages us to do, which is three
18 family houses. We propose to tear down the
19 existing building and build two, three family
20 houses on one lot.

21 There is a slight correction I want to say.
22 Counsel mentioned a hundred feet. It's actually
23 a little bit shy of a hundred feet. We're at 95
24 feet. However, we reduced the size of the
25 building accordingly to match the -- the depth of

1 the -- of the lot. So, we're not asking for any
2 additional variances because of the size of the
3 building -- because of the size of the lot.

4 So, we have a 95 by 50 lot, which is still
5 a conforming lot as far as area, but not as far
6 as lot depth.

7 The buildings itself that we're proposing,
8 we have side yard setbacks on both ends of the
9 property that are three feet. And then, between
10 the two buildings, we have four feet, which is
11 exactly what our Master Plan recommends, to have
12 four feet in between. If these were individual
13 lots, it would have been two feet and two feet.
14 We have four feet joined, between the two of
15 them.

16 Since the buildings to both sides of the
17 lot are -- have a prevailing setback of zero,
18 we're actually proposing an additional setback of
19 two feet in order to provide some landscaping in
20 the front, just because we think that landscaping
21 is very important.

22 So, we're providing that -- that two foot
23 setback. And also, since we have garages, we
24 wanted to have an additional vantage point of
25 being able to see and look out.

1 The ground floor, similar to previous three
2 families that we've presented here before, we
3 have a pedestrian entrance to a lobby that leads
4 you to an elevator. And we have the vehicle
5 entrance that leads you to six parking spots.
6 Again, these six parking spots are in conformance
7 with what the Master Plan recommends and actually
8 prescribes for us to do.

9 We have the same layouts here. We have
10 garbage located along the rear of the structure,
11 and then two emergency stairs, both going through
12 egress courts to lead you out of the building in
13 a safe condition.

14 If you go to the floors above, we have
15 three bedroom apartments, exactly what Union City
16 is suggesting. And these are 1,428 square feet
17 each. They have three bedrooms, one of them
18 being 13.10 by 11. Actually, two of them being
19 13.10 by 11. And then, a master bedroom, which
20 is 15.3 by 12, that has -- that's a full master
21 suite with bathroom and -- and walk-in closet.

22 And then, the open space, which is living
23 room, dining room, kitchen, that's a one big nice
24 open floor plan with windows looking out the
25 front and the sides.

1 We have the same thing repeated on three
2 floors.

3 And then, finally, the roof, where we have
4 the condensers so that we have the clear rear
5 yard, as per as -- as described for in the -- in
6 the Master Plan.

7 The facades of the buildings.

8 What we're doing is we're providing brick
9 all along the base, and then, above, we have a
10 combination of materials. The applicant is
11 willing to spend some money, so he's actually
12 doing something that's extremely expensive, but
13 it's going to be gorgeous. He's going to propose
14 a lot of glass along the front of the building.

15 So, you're going to have, basically, a two
16 story spandrel of glass portion of the building.
17 It's going to be gorgeous, very contemporary.
18 It's going to fit very nicely into the
19 neighborhood, with the combination of the brick.

20 And then, the sides of the building is very
21 simply siding, and the rear, as well.

22 CHAIRMAN BONACCI: Any more testimony?

23 MS. PEREIRAS: We do have a planner to
24 testify, as well.

25 Mr. Kauker, please?

1 MS. DILLON: Mr. Kauker was previously
2 sworn.

3 MS. PEREIRAS: Mr. Kauker, are you familiar
4 with 146-148 49th Street?

5 MR. KAUKER: I am. That's correct.

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

8 MR. KAUKER: Certainly.

9 Mr. Pereiras described the project in
10 detail, in terms of what's being proposed.

11 Just briefly, we're here because we require
12 a D-1 use variance and we require a number of C
13 variances. I'll go over those briefly. But just
14 real quick I wanted to go over the surrounding
15 conditions.

16 Their property is bounded by a five story
17 apartment building to the west, a three story
18 apartment building to the east, and then there's
19 a six story apartment building that's located
20 across the street.

21 The building, as Mr. Pereiras mentioned, is
22 somewhat set back from the property line, similar
23 to that other application, wherein the other two
24 buildings were located closer to the property
25 line, so it looks somewhat out of place.

1 The applicant proposes to construct the
2 four story building on the property.

3 And there -- the applicant is going to
4 comply with the parking requirements as well; 12
5 parking spaces are required, where 12 are
6 provided.

7 Again, this is somewhat unique because the
8 applicant's proposing the two, three family homes
9 on one lot. So, therefore, a use variance is
10 required. If the property were to be subdivided,
11 there would be no use variance. We'd be before
12 the Planning Board.

13 Three family homes are permitted, just --
14 in the R zone, just -- just for your edification.

15 With respect to the D variance, in order
16 for the Board to grant a D variance, as you're
17 aware, the applicant must make an affirmative
18 showing of both the positive and the negative
19 criteria, as contained in the statute.

20 Essentially, the applicant must show that
21 there are special reasons related to the
22 application.

23 It's my opinion that this particular
24 application has special reasons, and I believe it
25 furthers a number of the purpose of the Municipal

1 Land Use Law.

2 Purpose A, which deals with the promotion
3 of the general welfare.

4 The general welfare is promoted because the
5 site is particularly suited for the proposed use.
6 The proposed use is going to be consistent --
7 more consistent with the surrounding properties
8 than the existing use.

9 It's going to promote a desirable visual
10 environment, as an older structure, substandard
11 structure is going to be demolished and a brand
12 new, more desirably or aesthetically pleasing
13 building will be constructed in its place.

14 In addition, it furthers or promotes a
15 state policy, which in Anfuso -- Anfuso versus
16 Seeley case, the Board can find a special reason,
17 if -- if a state policy is promoted.

18 And this promotes the New Jersey State
19 Development and Redevelopment Plan, again
20 focusing development and redevelopment in already
21 established areas.

22 So, for those reasons, I feel that the
23 positive criteria is met.

24 Moving on to the bulk variances or the C
25 variances, there are a number of C variances that

1 are required. Maximum building height, with
2 respect to the number of stories. Also, maximum
3 building height with respect to the number of
4 feet. Different than the other application I
5 testified on, these are C variances because they
6 don't exceed that ten percent or ten feet
7 requirement above what the Ordinance provides.

8 One of the reasons, with respect to why
9 these height variances are required, because
10 we're providing parking on the ground floor. So,
11 in order to provide that parking, we need the
12 additional height. It's mitigated because we're
13 actually consistent with or lower than other
14 buildings that exist in the area. We're going to
15 be lower than the building that's immediately
16 adjacent to us.

17 Again, we required also a minimum rear yard
18 variance, maximum building coverage and also
19 maximum lot coverage. Again, those are all
20 related to providing parking onsite.

21 I would submit to the Board that the
22 benefit of providing parking is a benefit that
23 outweighs any detriment. Therefore, the
24 variances are cognizable under the C-2 criteria.

25 Finally, a showing of the negative criteria

1 is required.

2 The applicant must show that there will not
3 be a substantial detriment to the public good.
4 It's my opinion that this building is going to
5 fit in well with the area, and again, as I
6 mentioned, it's going to actually be lower in
7 height than the building adjacent to it. So I
8 don't think there's going to be any impact.
9 We're providing the required amount of parking
10 onsite, so I think that's a good thing.

11 With respect to the Master Plan, the
12 variances that we're requesting are actually
13 fully compliant and consistent with your proposed
14 2019 Reexamination Report.

15 So, for those reasons, I don't think
16 there's going to be an impairment to the intent
17 and purpose of the Master Plan or Zoning
18 Ordinance.

19 And for those reasons, it's my opinion that
20 the Board could grant the requested variances.

21 Thank you very much.

22 CHAIRMAN BONACCI: Okay.

23 Members of the Board?

24 MR. PRESSEY: Once again, the parking. Can
25 you go over it?

1 MR. KAUKER: Would you like me or Mr.
2 Pereiras?

3 MS. GUTIERREZ: Mr. Pereiras.

4 MR. PRESSEY: Mr. Pereiras.

5 MS. GUTIERREZ: Mr. Pereiras.

6 MS. PEREIRAS: Sure.

7 MR. PEREIRAS: This is very similar to the
8 previous application. We understand and we know
9 it's tight. But parking space is a parking
10 space, and we appreciate it here in Union City.

11 We are following the prescribed parking
12 layout that the Master Plan gives us. We have a
13 tandem situation, where cars are one in front of
14 the other, but only in pairs. So, we have a pair
15 and a pair. So, if a household has -- and -- and
16 just for argument's sake, a husband and wife,
17 they each have a car. They would coordinate who
18 leaves first. Husband backs out, next person
19 would be the wife that backs out.

20 If, unfortunately, they have to change a
21 car, they would have to coordinate that the day
22 before or in that morning and -- and move them
23 around.

24 Same thing for cars -- parking spaces two
25 and four. Parking spaces five and six have no

1 | issues. They could each back out individually,
2 | comfortably.

3 | And -- and that's really the parking
4 | situation. We know, we understand it's tight. I
5 | hope people buy MINI Coopers and not Tahoes, but
6 | this is the parking that we're able to provide on
7 | a 25 by a hundred lot, when you're stepping back
8 | three feet on one side, two feet on the other,
9 | and then we have thicknesses of walls that also
10 | reduce our size.

11 | So, this is the best we could do in Union
12 | City, based on our zoning.

13 | MR. PRESSEY: Is there any type of bell or
14 | --

15 | MS. GUTIERREZ: A mirror? A mirror?

16 | MR. PRESSEY: -- something?

17 | MR. PEREIRAS: Absolutely. I think that's
18 | a good idea and we provide that always on all our
19 | projects. As a -- as a matter of standard, we do
20 | several things.

21 | Number one, we put a little horn and strobe
22 | outside, so that when you open the garage door,
23 | that thing turns. We don't have a bell. We
24 | could, if you'd like a bell, so that cars know
25 | when they're coming out. And we put a small

1 mirror, too, so that people could see in the
2 corners, anyone that's coming back.

3 That's also another reason why I set the
4 building back another two feet. We could have
5 done to the property line, because the buildings
6 next to us were at the property line. But I like
7 having that landscaping and having those extra
8 two feet of vision. Two feet makes a big
9 difference and people could see in both
10 directions a lot easier if you have pedestrians
11 coming through.

12 So, we'll take that into consideration and
13 if you want to put that as part of the
14 Resolution, we'd be happy to because we're going
15 to do it no matter what.

16 MS. GUTIERREZ: Um hum.

17 VICE CHAIRMAN GRULLON: And Mr. Pereiras,
18 at the beginning of the presentation, you say
19 that that's a -- that's a beautiful building
20 there now.

21 MR. PEREIRAS: It's a nice building.

22 VICE CHAIRMAN GRULLON: It's a nice --

23 MR. PEREIRAS: But it --

24 VICE CHAIRMAN GRULLON: -- building.

25 MR. PEREIRAS: -- doesn't fit.

1 VICE CHAIRMAN GRULLON: And I -- I know the
2 neighborhood there.

3 MR. PEREIRAS: Yeah.

4 VICE CHAIRMAN GRULLON: It's -- it's one of
5 the best houses that we have in that
6 neighborhood. I don't see a reason why we have
7 to demolish a house like that to build two -- as
8 you say that the Master Plan promotes to demolish
9 property. Is that -- is that what the Master
10 Plan says?

11 MR. PEREIRAS: I did not say that in any
12 way.

13 VICE CHAIRMAN GRULLON: Okay. I thought
14 that's what I heard that the Master Plan would
15 promote to demolish --

16 MR. PEREIRAS: Our -- our Master Plan
17 promotes a three family building type.

18 VICE CHAIRMAN GRULLON: Yes. But I
19 understand that in an empty lot or something that
20 is -- you know, like an old house, that is
21 abandoned house, but a house that is, I would
22 say, it's not a brand new house, but that's one
23 of the best houses in the -- in the neighborhood.
24 He has sufficient parking, which none of the
25 other houses has.

1 Now, coming up with a two, three family,
2 demolition the house, two, three family houses, I
3 know it's conforming to the -- to the Master
4 Plan, but is -- those two three families, they're
5 going to bring up 12 cars instead of four cars
6 that they had in the house. And those 12 cars,
7 they're going to be very difficult to park. I
8 know it's permitted by the --

9 MR. PEREIRAS: Um hum.

10 VICE CHAIRMAN GRULLON: -- by the Master
11 Plan.

12 But you know, like there's got to be
13 another way to -- that's a residential zone --
14 you know, in the standard. There are buildings
15 there that are high. But those are preexisting
16 building, probably -- probably about a hundred
17 years old building.

18 MR. PEREIRAS: Yes.

19 VICE CHAIRMAN GRULLON: The one next to it,
20 adjacent to that -- to that property.

21 MR. PEREIRAS: Um hum.

22 VICE CHAIRMAN GRULLON: In my opinion, I
23 don't feel that the house should be demolished.

24 MR. PEREIRAS: That's a dangerous thing
25 because we don't need the Board's approval to

1 demolish the house. The applicant could go
2 tomorrow, file a permit in the city, and demolish
3 that house tomorrow. And this Board would have a
4 very different application. You'd be looking at
5 an empty lot to get approved.

6 That can happen and if this Board were to
7 deny the application, I don't know what my
8 applicant would do, but if I were him, I would do
9 that. I would go file for a permit, demolish the
10 house and come right back before this Board.

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

13 VICE CHAIRMAN GRULLON: It's hard for --
14 for -- I mean, for me --

15 MR. PEREIRAS: And I --

16 VICE CHAIRMAN GRULLON: -- as a member of
17 the Board, as a resident of Union City, to see
18 houses that are in -- in good condition --

19 MS. GUTIERREZ: Um hum.

20 VICE CHAIRMAN GRULLON: -- in compliance
21 with every aspect of the neighborhood.

22 MS. GUTIERREZ: A beautiful house.

23 VICE CHAIRMAN GRULLON: And just because of
24 the economical aspect, they come up, demolish the
25 house --

1 CHAIRMAN BONACCI: Is there --

2 MR. PEREIRAS: I understand.

3 CHAIRMAN BONACCI: Is there any alternative

4 --

5 VICE CHAIRMAN GRULLON: To --

6 CHAIRMAN BONACCI: -- like to --

7 VICE CHAIRMAN GRULLON: To --

8 CHAIRMAN BONACCI: -- renovate it, update it
9 a little bit, without knocking it down and
10 building something new? New construction? We
11 just don't want to displace -- you know, our --

12 VICE CHAIRMAN GRULLON: Yeah.

13 CHAIRMAN BONACCI: -- people.

14 VICE CHAIRMAN GRULLON: And not only that

15 --

16 MR. PEREIRAS: I don't think we're
17 displacing anyone there.

18 VICE CHAIRMAN GRULLON: -- in the condition

19 --

20 CHAIRMAN BONACCI: We don't want to price
21 anybody out. You know what I mean?

22 MR. PEREIRAS: I think these are market
23 rate units. I think it's a two family house,
24 actually. And so, we're not -- we're not talking
25 about replacing affordable housing, we're not

1 talking about replacing something that's under
2 Rent Control. It's something very different.

3 We actually have -- you know --

4 VICE CHAIRMAN GRULLON: Yeah. I mean, I'm
5 concerned with parking. That area is -- is
6 horrible.

7 CHAIRMAN BONACCI: (Indiscernible) -- about
8 it.

9 VICE CHAIRMAN GRULLON: And I will say to
10 -- I don't know if you want to consider making a
11 two, two families, with -- with parking.

12 CHAIRMAN BONACCI: What if you took the
13 bedroom count down to two bedrooms instead of
14 three?

15 That happened on a similar application that
16 we recommended that instead of going with three,
17 three bedrooms, they do three, two bedrooms. And
18 then, you need less parking.

19 MR. PEREIRAS: We would a hundred percent
20 consider doing two bedrooms instead of three
21 bedrooms.

22 However, I -- I believe and this is
23 something that's actually come very strong from
24 the Planning Board, very strong from the Planning
25 Board, that we've had the direction of, hey, we

1 want three bedroom units because we want families
2 in Union City, we want to be able to accommodate
3 families in Union City.

4 If this Board makes that a requirement for
5 this approval, we'll change it from three to two.
6 But we -- we think that the direction that Union
7 City wants to take, and the Master Plan suggests,
8 is to have three bedrooms.

9 CHAIRMAN BONACCI: Well, that's the other
10 thing. We're seeing this a lot with the three
11 bedrooms --

12 MR. PEREIRAS: Um hum.

13 CHAIRMAN BONACCI: -- and we haven't
14 communicated with the Planning Board. Maybe
15 that's what we need to do, because if that's the
16 direction they want to go in --

17 MS. GUTIERREZ: Um hum.

18 MR. PEREIRAS: Right.

19 CHAIRMAN BONACCI: -- maybe we should talk
20 it over with them so that we're all on the same
21 page.

22 MR. PEREIRAS: We should all be on the same
23 page.

24 MS. GUTIERREZ: On the same page.

25 CHAIRMAN BONACCI: Because I don't want you

1 to get one message --

2 VICE CHAIRMAN GRULLON: Yes.

3 CHAIRMAN BONACCI: -- from one Board --

4 MR. PEREIRAS: Yeah.

5 CHAIRMAN BONACCI: -- and then a different
6 one from us.

7 MR. PEREIRAS: Yeah. Yeah.

8 MS. GUTIERREZ: Um hum.

9 CHAIRMAN BONACCI: So, if you don't mind --

10 MR. PEREIRAS: Yeah.

11 CHAIRMAN BONACCI: -- maybe we could table
12 this and --

13 VICE CHAIRMAN GRULLON: Table or -- or
14 another thing --

15 CHAIRMAN BONACCI: Get some feedback from
16 the other --

17 VICE CHAIRMAN GRULLON: If you want to
18 consider --

19 CHAIRMAN BONACCI: -- Board.

20 VICE CHAIRMAN GRULLON: -- making that to
21 two, two families. I don't know if that could be
22 an option for you. And you could keep the -- the
23 three bedrooms, with two, two family and the same
24 amount of parking.

25 CHAIRMAN BONACCI: So instead of --

1 VICE CHAIRMAN GRULLON: You have a floor
2 for parking and two floor for -- for --

3 MR. PEREIRAS: I -- I am comfortable -- the
4 applicant's not here tonight, but I am
5 comfortable saying that if we reduce to two
6 bedrooms, we -- we'd be happy to do that, go
7 forward and get an approval tonight.

8 CHAIRMAN BONACCI: What about Victor's
9 idea?

10 MR. PEREIRAS: Two families? It's a very
11 different economics. It -- it doesn't work like
12 that and I -- I -- the applicant's not here, and
13 I can't speak on his behalf, but I know if I was
14 him, I wouldn't be -- I wouldn't be amicable to
15 that just because the numbers don't work.

16 CHAIRMAN BONACCI: Yeah. I think we need
17 to talk to somebody from the Planning Board to
18 make sure that they're not getting mixed
19 messages.

20 MS. GUTIERREZ: Um hum.

21 VICE CHAIRMAN GRULLON: Yes. I -- I feel
22 --

23 MS. GUTIERREZ: There's people living in
24 there, Mr. Pereiras, right now?

25 MR. PEREIRAS: There are people living

1 | there, yes.

2 | VICE CHAIRMAN GRULLON: And when the
3 | Planning, they -- they say those -- those are
4 | standard for the amount of bedroom, they -- they
5 | talk about in general, in all these residential
6 | zones. And there are specific areas that are
7 | more condensed than other areas.

8 | MR. PEREIRAS: Um hum.

9 | VICE CHAIRMAN GRULLON: And sometimes,
10 | having a three bedroom makes a bigger impact than
11 | a two bedroom units.

12 | MR. PEREIRAS: Um hum. I understand.

13 | VICE CHAIRMAN GRULLON: And that's what I
14 | would like to see if we can like maybe table
15 | this.

16 | MR. PEREIRAS: Okay.

17 | VICE CHAIRMAN GRULLON: And --

18 | CHAIRMAN BONACCI: Talk to somebody from
19 | the Planning Board.

20 | MS. GUTIERREZ: And check. And check. And
21 | check.

22 | VICE CHAIRMAN GRULLON: Yes.

23 | MS. GUTIERREZ: Um hum.

24 | CHAIRMAN BONACCI: Is that okay with you
25 | guys?

1 VICE CHAIRMAN GRULLON: That's okay?

2 MR. PEREIRAS: Sure. We --

3 MS. PEREIRAS: That's fine.

4 MR. PEREIRAS: We always want to work with
5 you.

6 MS. GUTIERREZ: Yeah.

7 CHAIRMAN BONACCI: Okay.

8 MS. GUTIERREZ: To make sure that we're
9 doing the right thing.

10 MR. PEREIRAS: Um hum.

11 MS. PEREIRAS: Sure.

12 CHAIRMAN BONACCI: So, I'm just going to
13 make a motion to adjourn this over to May. And
14 then, maybe me and Mr. Grullon can talk to
15 somebody from the Planning Board.

16 VICE CHAIRMAN GRULLON: And visit the area.

17 MS. GUTIERREZ: And find out what's going
18 on.

19 CHAIRMAN BONACCI: And visit the area.

20 VICE CHAIRMAN GRULLON: We'll revisit the
21 area and -- (indiscernible) -- for parking.

22 CHAIRMAN BONACCI: Okay.

23 THE SECRETARY: Motion on the table to
24 adjourn this application by Mr. Bonacci.

25 Any second?

1 Second by Mr. Pressey.

2 CHAIRMAN BONACCI: You and I will talk and
3 we'll set that up.

4 THE SECRETARY: Roll call on the motion to
5 adjourn this application, no new notice required.

6 Mr. Bonacci?

7 CHAIRMAN BONACCI: Yes.

8 THE SECRETARY: Ms. Gutierrez?

9 MS. GUTIERREZ: Yes.

10 THE SECRETARY: Mr. Grullon?

11 VICE CHAIRMAN GRULLON: Yes.

12 THE SECRETARY: Mr. Pressey?

13 MR. PRESSEY: Yes.

14 THE SECRETARY: Mr. Ortiz?

15 MR. ORTIZ: Yes.

16 THE SECRETARY: Ms. Pena?

17 MS. PENA: Yes.

18 THE SECRETARY: Ms. Perez?

19 MS. PEREZ: Yes.

20 THE SECRETARY: Seven in favor.

21 Motion carries.

22 MS. PEREIRAS: Have a good night,
23 everybody.

24 MS. GUTIERREZ: Good night.

25 MS. PEREIRAS: We'll see you next month.

1 Thank you.

2 MS. GUTIERREZ: Thank you.

3 MR. PEREIRAS: Good night, everyone.

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1 **ADJOURNMENT:**

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3 THE SECRETARY: There being no other
4 application on tonight's agenda, can I have a
5 motion to close tonight's meeting?

6 Motion by Ms. Pena.

7 MS. PENA: Yes.

8 THE SECRETARY: Seconded by Mr. Ortiz.
9 All in favor?

10

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

12

13 THE SECRETARY: The ayes have it.

14 Thank you and have a good night.

15 Let the record indicate that --

16 MS. GUTIERREZ: Good night.

17 THE SECRETARY: -- the meeting has ended.

18

19 (Whereupon, the proceedings were concluded
20 at 8:58 p.m.)

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25

1 STATE OF NEW JERSEY :

2 :

3 COUNTY OF ESSEX :

4

5 I, DEBRA A. KASZNIAK, assigned transcriber,
6 do hereby affirm that the foregoing is a true and
7 accurate transcript in the matter of the REGULAR
8 MEETING of the UNION CITY ZONING BOARD OF
9 ADJUSTMENT heard on Thursday, April 11, 2019 and
10 digitally recorded.

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25 Monitored and proofread by: Deborah Dillon