

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, June 13, 2019
Commencing at 6:09 p.m.

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

MARGARITA GUTIERREZ
DAVID W. PRESSEY
ROSIO PENA, Alternate No. 1
GERALDINE PEREZ, Alternate No. 2
RAYMOND CETINICH, Alternate No. 3
MINDRY WATLEY, Alternate No. 4
JOSEPH D. BONACCI, Chairman

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

LIBERO MAROTTA
JOHN MEDINA
MIGUEL ORTIZ
VICTOR M. GRULLON, Vice Chairman

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

CARLOS VALLEJO, Secretary to the Board

TOMAS R. PANEQUE, ESQ., Board Attorney

DAVID SPATZ, Consultant
Community Housing and Planning Associates

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

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

BIANCA P. PEREIRAS, ESQ.,
Attorney for Applicant, Daisy Valenciano

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22

Michael F. Kauker

28

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Michael F. Kauker

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Larry Price

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

3 Please take notice that on Thursday, June
4 13, 2019, at six p.m., a Regular Meeting is
5 scheduled for the City of Union City Zoning Board
6 of Adjustment, to be held in Municipal Chamber,
7 located on the Second Floor, 3715 Palisade
8 Avenue, Union City, New Jersey.

9 Notice of this meeting has been provided as
10 follow:

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

18 Can everybody rise to salute the flag,
19 please?

20

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

23

24 THE SECRETARY: Thank you.

25

1 **ROLL CALL:**

2

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

5 Joseph Bonacci?

6 CHAIRMAN BONACCI: Here.

7 THE SECRETARY: Victor Grullon?

8 Absent.

9 Libero Marotta?

10 Absent.

11 Margarita Gutierrez?

12 MS. GUTIERREZ: Here.

13 THE SECRETARY: Miguel Ortiz.

14 Absent.

15 David Pressey?

16 MR. PRESSEY: Here.

17 THE SECRETARY: John Medina.

18 Absent.

19 Rosio Pena?

20 MS. PENA: Here.

21 THE SECRETARY: Geraldine Perez?

22 MS. PEREZ: Here.

23 THE SECRETARY: Raymond Cetinich?

24 MR. CETINICH: Here.

25 THE SECRETARY: Mindry Watley?

1 MS. WATLEY: Here.

2 THE SECRETARY: Let the record indicate
3 there are seven present.

4 We have a full quorum for tonight's
5 meeting.

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1 **ADOPTION OF MINUTES:**

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3 (1) Regular Meeting held on May 9, 2019

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5 THE SECRETARY: Approval of previous
6 meeting minutes for May 9, 2019.

7 Can I have a motion?

8 Motion by Margarita Gutierrez.

9 CHAIRMAN BONACCI: I second.

10 THE SECRETARY: Seconded by Mr. Bonacci.

11 Roll call on the motion.

12 Mr. Bonacci?

13 CHAIRMAN BONACCI: Yes.

14 THE SECRETARY: Ms. Gutierrez?

15 MS. GUTIERREZ: Yes.

16 THE SECRETARY: Mr. Pressey?

17 MR. PRESSEY: Yes.

18 THE SECRETARY: Ms. Pena?

19 MS. PENA: Yes.

20 THE SECRETARY: Ms. Perez?

21 MS. PEREZ: Yes.

22 THE SECRETARY: Ms. (sic) Cetinich?

23 MR. CETINICH: Yes.

24 THE SECRETARY: Mr. Cetinich?

25 Mrs. Watley?

1 MS. WATLEY: Yes.

2 THE SECRETARY: Seven in favor.

3 Motion carries.

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RESOLUTIONS:

(1) Mapal Zahan, LLC, 514 14th Street, Block 72, Lot 22. Legalization of existing rear residential unit.

(2) S&R Realty Group, LLC, 146-148 49th Street, Block 286, Lot 5 & 6. Applicant proposes the construction of two new three family houses.

(3) David Nazar, 1003 Bergenline Avenue, Block 47, Lot 21. Legalize second floor residential unit, mixed use.

(4) 116 36th Street, LLC, 116 36th Street, Block 217, Lot 16 & 17. Convert existing warehouse to five residential apartments, two one bedroom and three two bedroom with nine parking spaces.

(5) Eduardo Ochoa, 1719 Summit Avenue, Block 94, Lot 28. Legalization of existing ground floor apartment to create a mixed use building containing one commercial unit and two residential units.

(6) 2000 West Street, LLC, 2000 West Street aka 526 Monastery Place, Block 109, Lot 26. Applicant seeks amended site plan and variance approval obtained in accordance with the attached resolution in two phases. And proposed

1 children's daycare in existing office/residential
2 building.

3

4 THE SECRETARY: Adoption of Resolutions.

5 We have six Resolution on tonight's agenda.

6 Resolution number 1.

7 Mapal Zahan, LLC, 514 14th Street.

8 Resolution number 2.

9 S and R Realty Group, LLC, 146-148 49th
10 Street.

11 Resolution number 3.

12 David Nazar, 1003 Bergenline Avenue.

13 Resolution number 4.

14 116 36th Street, LLC, 116 36th Street.

15 Resolution number 5.

16 Eduardo Ochoa, 1719 Summit Avenue.

17 Resolution number 6.

18 2000 West Street, LLC, 2000 West Street
19 a/k/a 526 Monastery Place.

20 Can I have a motion to memorialize these
21 Resolutions?

22 CHAIRMAN BONACCI: Motion.

23 THE SECRETARY: Motion by Mr. Bonacci.

24 MS. GUTIERREZ: Second.

25 THE SECRETARY: Seconded by Ms. Gutierrez.

1 Roll call on the motion -- motion.

2 Mr. Bonacci?

3 CHAIRMAN BONACCI: Yes.

4 THE SECRETARY: Ms. Gutierrez?

5 MS. GUTIERREZ: Yes.

6 THE SECRETARY: Mr. Pressey?

7 MR. PRESSEY: Yes.

8 THE SECRETARY: Ms. Pena?

9 MS. PENA: Yes.

10 THE SECRETARY: Ms. Perez?

11 MS. PEREZ: Yes.

12 THE SECRETARY: Mr. Cetinich?

13 MR. CETINICH: Yes.

14 THE SECRETARY: Mrs. Watley?

15 MS. WATLEY: Yes.

16 THE SECRETARY: Seven in favor.

17 Motion carries.

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

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3 THE SECRETARY: Hearings and applications.

4 We are going to change a little bit

5 tonight's order of the agenda.

6 We are going first to Maria Montalvo, 523

7 48th Street.

8 Mr. Paneque?

9 MR. PANEQUE: Yes.

10 Mr. Chairman, ladies and gentlemen of the
11 Board, with respect to this application, this
12 afternoon, the Office of Adolfo Lopez sent in a
13 letter indicating that due to circumstances out
14 of their control, they were requesting that this
15 matter be carried till the next hearing.

16 Letter came in this afternoon and doesn't
17 really specify what the circumstances are.
18 However, it does appear that something happened
19 and they're requesting that the matter be
20 carried.

21 So, Mr. Chairman, it's -- it's your choice
22 if --

23 CHAIRMAN BONACCI: Yeah. I'll make a
24 motion to carry to the next meeting which is July
25 -- is it the 11th, Carlos?

1 THE SECRETARY: Yes, Mr. Bonacci.

2 Motion by Mr. Bonacci to adjourn this
3 application to July 11.

4 Any second on the motion?

5 Seconded by Ms. Gutierrez.

6 Roll call on the motion.

7 Mr. Bonacci?

8 CHAIRMAN BONACCI: Yes.

9 THE SECRETARY: Ms. Gutierrez?

10 MS. GUTIERREZ: Yes.

11 THE SECRETARY: Mr. Pressey?

12 MR. PRESSEY: Yes.

13 THE SECRETARY: Ms. Pena?

14 MS. PENA: Yes.

15 THE SECRETARY: Ms. Perez?

16 MS. PEREZ: Yes.

17 THE SECRETARY: Mr. Cetinich?

18 MR. CETINICH: Yes.

19 THE SECRETARY: Ms. Watley?

20 MS. WATLEY: Yes.

21 THE SECRETARY: Seven in favor.

22 Motion carries.

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

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3 THE SECRETARY: We are going now to 1015
4 West Street, LLC, 601 11th Street.

5 Mr. Paneque, please?

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

7 Mr. Chairman, ladies and gentlemen of the
8 Board, on this application, we also received
9 today a letter from Mr. Alonso's office
10 indicating that an emergency had arisen, in which
11 Mr. Alonso had to attend, and therefore, he could
12 not be here this evening.

13 He was requesting that the matter be
14 carried to the next available meeting.

15 CHAIRMAN BONACCI: Nobody wants to work
16 today?

17 I'll make a motion to carry this --

18 THE SECRETARY: Motion to carry by Mr.
19 Bonacci.

20 CHAIRMAN BONACCI: -- to July.

21 THE SECRETARY: For July 11, 2019.

22 Any second the motion?

23 Second by Ms. Gutierrez.

24 Roll call on the motion to adjourn this
25 application for July 11, 2019.

1 Mr. Bonacci?

2 CHAIRMAN BONACCI: Yes.

3 THE SECRETARY: Ms. Gutierrez?

4 MS. GUTIERREZ: Yes.

5 THE SECRETARY: Mr. Pressey?

6 MR. PRESSEY: Yes.

7 THE SECRETARY: Ms. Pena?

8 MS. PENA: Yes.

9 THE SECRETARY: Ms. Perez?

10 MS. PEREZ: Yes.

11 THE SECRETARY: Mr. Cetinich?

12 MR. CETINICH: Yes.

13 THE SECRETARY: Mrs. Watley?

14 MS. WATLEY: Yes.

15 THE SECRETARY: Seven in favor.

16 Motion carries.

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1 **Union City Funding, LLC - 530 28th Street:**

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3 MR. PANEQUE: Just as a point of
4 clarification, Mr. Vallejo, and so that we can
5 clear up the cases that are not going to be here
6 this evening, and for the Board's edification,
7 hearing noted as number 5, that being for 530 28th
8 Street.

9 The attorney, Mr. Selevan, was here last
10 month and was told that he had to republish, as
11 there was some deficiencies with his notice.

12 The matter was carried to this evening.
13 However, we have had no indication that Mr.
14 Selevan has actually published, or given notice
15 to all property owners within the 200 foot
16 radius.

17 As such, this application, for purposes of
18 tonight's hearing, is being taken off the
19 calendar.

20 THE SECRETARY: Thank you, --

21 CHAIRMAN BONACCI: So, we're going to make

22 --

23 THE SECRETARY: -- Mr. Paneque.

24 CHAIRMAN BONACCI: -- a motion to withdraw
25 it?

1 MR. PANEQUE: There's no motion at this
2 time. We just don't know. We're just taking it
3 off the calendar until we hear back from Mr.
4 Selevan.

5 CHAIRMAN BONACCI: Okay.

6 THE SECRETARY: All right.

7 MR. PANEQUE: Thank you, Mr. Vallejo.

8 THE SECRETARY: Thank you, Mr. Paneque.

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

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3 THE SECRETARY: We are going to -- back to
4 the agenda.

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

7 Ms. Pereiras, please?

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

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

13 I have a certification as to publication
14 and service, indicating that notice of tonight's
15 hearing for Thursday, June 13, was provided to
16 all property owners within the 200 foot radius of
17 the property in question. Said property being
18 1117 Summit Avenue, Union City, New Jersey.

19 I've also been provided with an Affidavit
20 of Publication from The Jersey Journal, which was
21 published on June 1st, 2019. Said notice
22 indicates that with respect to the property at
23 1117 Summit Avenue, notice is given of tonight's
24 hearing on June 13 for the location of 3715
25 Palisade Avenue, Union City, and with respect to

1 the property in question.

2 I've also been provided with the certified
3 mail receipts with a postmark date of June 3rd,
4 2019, as well as a list of all property owners
5 within the 200 foot radius. Said list was
6 provided by the Tax Assessor's Office on May 31st,
7 2019.

8 And I've also been provided with the
9 certified mail envelopes that have come back to
10 date, as well as the green cards.

11 Based on the documents that have been
12 provided by Ms. Pereiras, this Board has
13 jurisdiction to proceed and hear this matter.

14 MS. PEREIRAS: Thank you, counsel.

15 Good evening, counsel.

16 Good evening, Mr. Chairman, members of the
17 Board.

18 May it please the Board, Bianca Pereiras,
19 on behalf of the applicants, 1117 Summer Avenue,
20 LLC. This is for property located at 1117-1119
21 Summit Avenue.

22 What we have here is an existing mixed use
23 building, with commercial on the ground floor and
24 residential.

25 You've seen this application on this agenda

1 a few times, because we were trying to figure out
2 exactly how many units were legal.

3 We received a legal verification form from
4 the Building Department, which advised us that of
5 the residential units, there were 12 that were
6 legal. And so, the application before the Board
7 this evening is to legalize two apartments. That
8 will be one in the basement and one in the rear
9 of the first floor behind the commercial space.

10 We have two experts to testify before the
11 Board this evening, and I'd like to begin the
12 presentation with our architect, Mr. Orestes
13 Valella.

14 MS. DILLON: Please raise your right hand.

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

17 MR. VALELLA: I do.

18 MS. DILLON: Please state your name for the
19 record.

20 MR. VALELLA: Yes. My name is Orestes
21 Valella, V-A-L-E-L-L-A.

22 MS. DILLON: Thank you.

23 CHAIRMAN BONACCI: Mr. Valella has
24 testified before this Board many times. We
25 accept his qualifications.

1 MR. VALELLA: Thank you.

2 MS. PEREIRAS: Thank you.

3 Mr. Valella, are you familiar with the
4 property at 1117-1119 Summit Avenue?

5 MR. VALELLA: Yes.

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

8 MR. VALELLA: My office, yes.

9 MS. PEREIRAS: Fantastic.

10 And would you kindly describe the project
11 for the Board?

12 MR. VALELLA: Sure, be happy to.

13 Basically, this is an existing building on
14 the corner with commercial on the ground floor
15 and residential above. We have two dwelling
16 units that are not legal, or are existing, but --
17 and that is one dwelling unit in the basement and
18 one in the rear of the ground floor. Above that,
19 it's all residential. It's all existing, with no
20 work being proposed.

21 Frankly, the best place to start is not on
22 the first page, but on the second page, which
23 shows the existing conditions, as they exist
24 today.

25 The ground floor has three -- the ground

1 floor has three commercial stores facing 12th
2 Street and Summit Avenue; commercial number one,
3 which is about a thousand square feet; number
4 two, which is 413; and number three, which is
5 651. These are neighborhood type retail services
6 establishments.

7 In the rear of that is commercial unit
8 number four, which faces 12th Street and what we
9 call apartment number 13, which is one of the two
10 apartments in question. That is an existing two
11 bedroom apartment. It is 645 square feet and has
12 access from 12th Street.

13 On the second floor are apartment --
14 apartments and there are six of those here.

15 And then, on the third floor, there are six
16 other dwelling units and they comprise the
17 currently acknowledged 12 dwelling units in the
18 building. And those are all existing, and I can
19 only imagine how long they've been there. This
20 is -- you know, a building that's been there for
21 awhile.

22 In the basement is apartment -- what we
23 call apartment number 14, which is the second
24 dwelling unit that is in question here. And that
25 is an existing one, two, three, four bedroom

1 apartment.

2 Now, I have no wishes whatsoever with
3 apartment number 13, which is the one on the
4 ground floor in the rear. And so, we're
5 presenting that as is. I didn't see any reasons
6 to modify that.

7 I had some deep concerns about apartment
8 number 14. And I expressed those to our client,
9 and on the first page, you will see what we're
10 proposing, but I thought the four bedrooms of the
11 apart -- the bedrooms did not have windows. I
12 just didn't think that was -- that was adequate.
13 And so, what we're proposing for that one is on
14 the first page.

15 Sorry to make you go back and forth, but --
16 So, we're proposing -- and we've had -- you
17 know, my concerns were deep enough that we went
18 to the Building Department and reviewed this with
19 them. The last thing I wanted to do is obtain an
20 approval from you and still have insurmountable
21 difficulties with life safety at the Building
22 Department. So, we went back and forth with them
23 to come to a proposal that not only would,
24 hopefully, satisfy you, but ultimately satisfy
25 life safety at the Building Department.

1 So, this new layout represents the common
2 thinking of the Building Department and us. And
3 it is for a one bedroom apartment. The -- the
4 bedroom faces the courtyard -- the courtyard,
5 let's call it, in the rear. It's about a 13 foot
6 area, where we have a window so that we can get
7 the life safety -- the firemen's access window.

8 And the apartment itself has a good
9 entrance from that same rear yard, with a couple
10 steps leading down. You have a kitchen, a dining
11 area, a living room, and a storage room.

12 The apartment is very big. It's 1,320
13 square feet and has a ceiling height of seven
14 feet, but we've eliminated all the bedrooms that
15 I -- I just could not support, and we've come to
16 the one bedroom proposal.

17 So, basically, that is about it in a
18 nutshell. The building is existing. We are not
19 expanding it, we're not making it any bigger or
20 any smaller. The 12 apartments on the second and
21 third floor are satisfying a need. They're
22 there. They've been working well for decades.

23 The retail, which is a neighborhood in
24 nature, is there. It's functioning. It serves a
25 purpose.

1 The apartment in the basement, I thought
2 was faulty from a life safety standpoint. I've
3 proposed to you a remedy that would satisfy my
4 conscience and the Building Department.

5 And the one on the -- the 13th, which is in
6 the rear of the ground floor, I think is fine. I
7 don't see anything questionable about it and
8 that, I'll go into a little bit more detail. I
9 don't know if I explained it fully.

10 That is an existing two bedroom, has 645
11 square feet, has an eight foot ceiling height,
12 kitchen, living area, bedroom, bedroom, windows.
13 It's all kosher.

14 And that's about it.

15 CHAIRMAN BONACCI: Thank you.

16 You have other testimony, too?

17 MS. PEREIRAS: We do. We have a planner.

18 CHAIRMAN BONACCI: Okay.

19 MS. PEREIRAS: Mr. Kauker?

20 MS. DILLON: Mr. Valella, you -- you can
21 hang onto it and --

22 MR. VALELLA: Oh, okay.

23 MS. DILLON: -- Mr. Kauker can go in front
24 of this mic.

25 MR. VALELLA: Okay.

1 MS. DILLON: Thank you.

2 Mr. Kauker, please raise your right hand.

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

5 MR. KAUKER: I do.

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

8 MR. KAUKER: I'm Michael F. Kauker. That's
9 spelled K-A-U-K-E-R.

10 MS. DILLON: Thank you.

11 MS. PEREIRAS: Mr. Kauker has also --

12 CHAIRMAN BONACCI: Yes.

13 MS. PEREIRAS: -- testified in the past.

14 CHAIRMAN BONACCI: Thank you.

15 We accept your --

16 MR. KAUKER: Thank you.

17 CHAIRMAN BONACCI: -- qualifications.

18 MR. KAUKER: Good evening.

19 CHAIRMAN BONACCI: Thanks for being here.

20 MS. GUTIERREZ: Good evening.

21 MS. PEREIRAS: Mr. Kauker, are you familiar
22 with the property in question?

23 MR. KAUKER: Yes, I am.

24 MS. PEREIRAS: And have you had an
25 opportunity to visit the site, and also review

1 the drawings prepared by the architect?

2 MR. KAUKER: I have.

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

6 MR. KAUKER: This application, from a legal
7 zoning point of view, represents the request to
8 expand what is called a prior nonconforming use,
9 which relates to the historic commercial mixed
10 use, residential use of the property.

11 The two units which need to be legalized
12 essentially fall into the category of a D-2 use
13 variance. And in that context, we have to
14 provide both positive and negative criteria
15 proofs in support of our request before you
16 tonight.

17 In order to prove the positive criteria, we
18 must essentially establish that the site itself,
19 and the building, is particularly suited to
20 accommodate the proposed two additional units.
21 And it certainly is reasonably obvious that the
22 longstanding history and character of this use
23 being a multi-family residential, which is indeed
24 allowed in this CN and neighborhood commercial
25 zone, although in a mixed use, where you have

1 commercial on the first floor, residences are not
2 allowed on the first floor, supposed to be on the
3 second floor. So, that's another dimension to
4 our variance request.

5 I believe that the site is particularly
6 suited. The property size is 5,010 square feet,
7 which is double the size of the required minimum
8 of 2500 square feet.

9 The influences of surrounding land uses are
10 essentially compatible with the uses, additional
11 apartments that we propose.

12 The provisional of additional housing
13 opportunities which serves one of the purposes of
14 the Master Plan, the -- essentially, the addition
15 of the two new units will not in any way change
16 the character of the building, or its current
17 size. It will remain as is.

18 The -- there are a provision of 14 -- 15
19 residential units on a property is certainly
20 consistent with what has been there for many
21 years.

22 From point of view of the negative
23 criteria, I would submit the following comments:

24 Essentially, we need to show that there
25 will be no substantial detriment to the public

1 good. In that context, as I had mentioned, there
2 are no physical changes to the building, other
3 than the modification to the four bedroom unit to
4 a one bedroom unit, so that it is thoroughly
5 consistent with the City's Code.

6 The project itself obviously will not
7 create a significant increase in traffic on the
8 roads. And in that context, we essentially are
9 able then to provide the additional two housing
10 units which certainly serve a need within the
11 City.

12 The last proof that we need to propose
13 before you is that there would be no substantial
14 impairment to the intent and purpose of the zone
15 plan or Zoning Ordinance.

16 In the context of the fact that one of the
17 permitted uses are apartments, and obviously
18 upper floors only in a low rise, mid-rise
19 apartment building, that has one or more
20 permitted nonresidential uses on the ground
21 floor.

22 Obviously, in -- for the two units that
23 we're proposing, we deviate slightly from that.
24 But nonetheless, apartment units are essentially
25 permitted in this CN neighborhood commercial

1 zone.

2 The last variance that we need to talk
3 about is fact that these two additional units
4 will provide no parking, as is the building has
5 been in that state for many years.

6 And I would respectfully observe that that
7 variance can be subsumed into the D-2 variance.

8 That concludes my comments.

9 I'll certainly be happy to answer any
10 questions you may have.

11 CHAIRMAN BONACCI: I'm going to ask Mr.
12 Vallejo (sic) first, and then, Mr. Kauker then --

13 MR. KAUKER: Fine.

14 CHAIRMAN BONACCI: -- maybe we'll --

15 MR. KAUKER: Sure.

16 CHAIRMAN BONACCI: -- have something for
17 you. Okay?

18 Okay. So, the ground floor, which is what
19 you started explaining --

20 MR. VALELLA: Um hum.

21 CHAIRMAN BONACCI: -- three commercial
22 stores.

23 MR. VALELLA: Four.

24 CHAIRMAN BONACCI: Four. And on that same
25 level is where the two bedroom apartment is going

1 to be that you said was apartment number 13?

2 MR. VALELLA: Yes, sir.

3 CHAIRMAN BONACCI: Okay.

4 And then, the basement --

5 MR. VALELLA: Um hum.

6 CHAIRMAN BONACCI: -- is where apartment 14
7 is proposed.

8 MR. VALELLA: That's where it currently is,
9 but proposing to modify it, yes.

10 CHAIRMAN BONACCI: Okay.

11 MR. VALELLA: That's existing four bedroom.

12 CHAIRMAN BONACCI: It's existing four and
13 you want to make it one.

14 MR. VALELLA: Yes.

15 CHAIRMAN BONACCI: So, four to one.

16 I see that there's a storage room in the
17 plans for the basement apartment that's proposed.

18 MR. VALELLA: Yes.

19 CHAIRMAN BONACCI: Is there any windows in
20 that -- are there any windows in the ground
21 floor, besides where the one bedroom is?

22 MR. VALELLA: You mean the basement.

23 CHAIRMAN BONACCI: Yes.

24 MR. VALELLA: In the basement, the only
25 window is where the bedroom is going to take

1 place.

2 CHAIRMAN BONACCI: Okay.

3 What's the size of the storage room?

4 MR. VALELLA: The storage room is 14 feet
5 by 18 foot three.

6 And to be honest, that's --

7 CHAIRMAN BONACCI: Four -- 14 --

8 MR. VALELLA: Feet four inches by 18 foot
9 three inches.

10 CHAIRMAN BONACCI: Okay.

11 And the bedroom that's in your plan, how
12 big's that?

13 MR. VALELLA: The bedroom will be 15 feet
14 two inches, plus -- times 12 feet three.

15 CHAIRMAN BONACCI: And the storage room
16 that's down there, there's a closet in there as
17 well?

18 MR. VALELLA: Yeah. The -- the reason for
19 the storage room, it's a function of this is the
20 remaining space when we eliminated the bedrooms.
21 So, we had nothing else to do with it, but call
22 it a -- use it as a storage room.

23 CHAIRMAN BONACCI: Is there a closet in the
24 bedroom?

25 MR. VALELLA: There is a closet in the

1 | bedroom. Yes, sir.

2 | CHAIRMAN BONACCI: Okay.

3 | The variances are for Mr. Kauker.

4 | MR. VALELLA: Now, that storage room --

5 | CHAIRMAN BONACCI: Um hum.

6 | MR. VALELLA: -- we've added a door to the
7 | apartment, so we can have a second means of
8 | egress.

9 | CHAIRMAN BONACCI: Yeah.

10 | MR. VALELLA: So --

11 | CHAIRMAN BONACCI: Can you explain how you
12 | would get in and out of the basement?

13 | MR. VALELLA: Yes. The -- you walk -- from
14 | the outside, you just walk in the alleyway. It's
15 | part of the rear yard of the property. And you
16 | have steps leading down to the apartment.

17 | There is a second set of stairs that leads
18 | to the outside to the ground floor. We've added
19 | a door so that that storage room, which
20 | originally was part of the apartment, is outside
21 | of the apartment, so the temptation to turn that
22 | into an apart -- a bedroom is minimized.

23 | CHAIRMAN BONACCI: So, there's two ways to
24 | get out in the event of a fire --

25 | MR. VALELLA: Yes.

1 CHAIRMAN BONACCI: -- from the basement.

2 MR. VALELLA: Well, actually, there's
3 three. There's the door -- the stairwell from
4 the side yard and the stairs up to the ground
5 floor and out. And of course, the window would
6 be the third.

7 CHAIRMAN BONACCI: Okay.

8 My only --

9 MR. VALELLA: But that -- that storage room
10 was part of the apartment. It is now outside of
11 the apartment.

12 This used to be a bedroom. Now, we've
13 taken it out. We -- we've isolated it so that we
14 minimized -- so, it's space left over, but
15 nothing to do with -- with it. So, we called it
16 a storage room.

17 CHAIRMAN BONACCI: Mr. Vallejo (sic), this
18 question is probably more appropriate for you.

19 I see here that the plans were revised on
20 March 29th.

21 MR. VALELLA: Yes.

22 CHAIRMAN BONACCI: Okay.

23 So, I understand that the plans have been
24 revised. However, it still seems as though
25 bedrooms have been changed into living room,

1 storage room, dining room, that kind of thing.

2 MR. VALELLA: Yes.

3 CHAIRMAN BONACCI: So, I understand you're
4 only going to have one apartment (sic), as
5 opposed to how many did you guys have before?

6 MR. VALELLA: You mean -- only one bedroom
7 you mean.

8 CHAIRMAN BONACCI: Right. Bedroom.

9 MR. VALELLA: Okay.

10 We had four bedrooms. And then -- and none
11 of them had windows. So, I said to Bianca -- you
12 know, this isn't right. This -- I don't want to
13 present this application because, God forbid you
14 approve it, and then, we're stuck because it's
15 not a fixable problem.

16 So, we met with Mr. Ferlise at the Building
17 Department and we rearranged this thing so that
18 we eliminated all the bedrooms, we moved the one
19 bedroom that was possible to the rear with a
20 window, and then we created a living room and
21 dining room. We isolated that leftover space,
22 outside of the apartment, to -- called it a
23 storage room with the door outside of the -- I'm
24 sorry.

25 We've done all we've been able to do to

1 make this a habitable, healthy situation.

2 CHAIRMAN BONACCI: Would you be able --
3 would you testify that although now there's going
4 to be one bedroom in the basement, with a window
5 --

6 MR. VALELLA: Um hum.

7 CHAIRMAN BONACCI: -- still, those
8 dimensions of the other rooms are the same,
9 they're just not going to be bedrooms anymore.

10 MR. VALELLA: Well, no, they're not. And
11 we've opened up the wall so that --

12 CHAIRMAN BONACCI: But same sizes. The
13 rooms are --

14 MR. VALELLA: The --

15 CHAIRMAN BONACCI: -- the same sizes --

16 MR. VALELLA: You know --

17 CHAIRMAN BONACCI: -- they were before.

18 MR. VALELLA: It's a 1,320 square foot one
19 bedroom. A 1,324 -- 20 square foot space can
20 yield a comfortable three bedroom, even a --
21 well, not a four but a three bedroom apartment.

22 So, that's just a function of -- of repair
23 that we would like to accomplish.

24 I don't see it as a negative. I just see
25 --

1 CHAIRMAN BONACCI: Yeah. I don't see it as
2 a negative either, if it's used as a storage
3 room, if it's --

4 MR. VALELLA: Yeah.

5 CHAIRMAN BONACCI: -- used as a living
6 room.

7 MR. VALELLA: Well, the --

8 CHAIRMAN BONACCI: But if it goes back to
9 being used as --

10 MR. VALELLA: That --

11 CHAIRMAN BONACCI: -- a bedroom again --

12 MR. VALELLA: Yeah. Then that's --

13 CHAIRMAN BONACCI: -- then, we're right
14 back to having four bedrooms down there again.

15 MR. VALELLA: Yeah. No. That -- that
16 would be a negative. I've done --

17 CHAIRMAN BONACCI: Is -- is that even a
18 possibility?

19 MR. VALELLA: Well, anything in life is a
20 -- it's all beyond our control.

21 But what I have done to minimize the
22 possibility, if you look -- if you look at the
23 original, you can see rooms with doors and walls.
24 Those are all hollowed out so that what used to
25 be rooms with doors are now open spaces.

1 Now, can somebody use an open space as a
2 bedroom? If they wish to, they can do whatever.
3 But we've done the right thing -- you know? They
4 want to break the law, then it's just out of our
5 control.

6 CHAIRMAN BONACCI: Do you have your
7 applicant present?

8 MS. PEREIRAS: He is not with us at the
9 moment.

10 CHAIRMAN BONACCI: Okay. Does anybody have
11 any questions?

12 MS. PEREZ: Does anybody live there now?

13 CHAIRMAN BONACCI: That would be for --

14 MS. PEREZ: Oh.

15 MS. PEREIRAS: There were tenants that were
16 living there and they are being relocated to
17 another unit that my client owns, because this is
18 considerable work that has to be done here. And
19 hopefully, they're going to keep that family,
20 because it is a family, somewhere else and rent
21 this out to a couple.

22 MR. PRESSEY: On page two, bottom left hand
23 corner, I'm having problems reading this. I'm
24 not sure who to ask.

25 MR. VALELLA: This?

1 MR. PRESSEY: Yes.

2 MR. VALELLA: Yeah.

3 MR. PRESSEY: What is that?

4 MR. VALELLA: That is the survey. The
5 surveyor's -- you know, drawing of the property.
6 That's just depicts the property lines.

7 MR. PRESSEY: But the thing is, I believe
8 that if anything comes before the Board,
9 everything should be legible. I was just having
10 a hard time reading it.

11 And I understand what you're saying, but
12 should be able to read and understand what it is.

13 MR. VALELLA: Okay. We also normally
14 submit this as an original.

15 MS. PEREIRAS: We did.

16 MR. VALELLA: It's in the file.

17 MR. PRESSEY: Do you have the original?

18 MS. PEREIRAS: We would have submitted an
19 original with our application.

20 MR. VALELLA: I just put it in there for
21 information purposes. But the original is --

22 MS. PEREIRAS: The survey.

23 MR. VALELLA: The survey is in the packet.

24 Look, Mr. Chairman, --

25 CHAIRMAN BONACCI: Right.

1 MR. VALELLA: -- just go back to your
2 point.

3 I had another option, which is to make the
4 actual apartment smaller, and then just -- but
5 you know, space is --

6 CHAIRMAN BONACCI: No. When I asked you if
7 there was a possibility that somebody can use
8 those rooms as apartments (sic), you were honest.
9 I appreciate your honesty.

10 MR. VALELLA: Yeah. I mean, the
11 alternative was to shrink the apartment, and then
12 have less of a quality of life apartment. I
13 didn't think would have been -- was the right
14 move.

15 CHAIRMAN BONACCI: I think Mr. Spatz has a
16 --

17 Do you have a question?

18 MR. SPATZ: I do have a question or a
19 comment.

20 The apartment on the first floor is a two
21 bedroom apartment and you said that it's 645
22 square feet.

23 MR. VALELLA: Yes.

24 MR. SPATZ: Which is undersized for a two
25 bedroom apartment, so a density variance is

1 needed. So, if Mr. Kauker will be back up for a
2 little bit more testimony, --

3 CHAIRMAN BONACCI: He will.

4 MR. SPATZ: -- if you could just add a
5 little bit something regarding the density
6 variance.

7 CHAIRMAN BONACCI: Does anybody else have
8 any questions for Mr. Vallejo (sic)?

9 Okay. I'll move --

10 MR. PANEQUE: I have one question.

11 CHAIRMAN BONACCI: Right.

12 MR. PANEQUE: Mr. Valella, is there any
13 possibility of flipping this apartment so that
14 the bedrooms are on the outside wall?

15 MR. VALELLA: The --

16 MR. PANEQUE: Instead of the interior wall
17 that's abutting the other building? Because I'm
18 assuming you have no windows on this side because
19 it's abutting that building there.

20 MR. VALELLA: No, no. Yeah. There are no
21 windows here. We've moved the bedroom to the
22 other side, where we have a window.

23 MR. PANEQUE: Yes. But are there any
24 windows or are there any possibilities of
25 creating windows on this sidewalk --

1 MR. VALELLA: On the outside?

2 MR. PANEQUE: -- here? On 12th Street.

3 MR. VALELLA: No. That's where we have the
4 mechanical room for the building; the boiler, hot
5 water heaters. We also have the electrical
6 meters and the gas meters. That's mixing -- that
7 can get a little dangerous to -- to slide over to
8 where all that equipment is. That's really not
9 feasible.

10 MR. PANEQUE: Okay.

11 CHAIRMAN BONACCI: If nobody else has any
12 questions for Mr. Valella, I'd like to bring up
13 Mr. Kauker.

14 Okay.

15 MR. KAUKER: Yes, sir.

16 CHAIRMAN BONACCI: Mr. Kauker, can you just
17 briefly go over the variances again that you
18 seek, now that we know that the two bedroom
19 apartment is undersized and there's a density
20 variance there?

21 MR. KAUKER: That's correct.

22 We, essentially, need a D-2, a use
23 variance, to expand or add two units to the
24 current mix of units on the property, which are
25 recognized legally as prior nonconforming uses.

1 That's the first variance.

2 Second variance is a parking variance,
3 respecting a fact that I think 26 spaces are
4 essentially required, or 27 spaces. Excuse me.
5 And obviously, the property is fully developed
6 and has no parking.

7 The third variance, essentially, does
8 relate to the undersized two bedroom unit at 645
9 square feet. And I'd respectfully observe that
10 -- that the unit is functioning and -- and
11 complies with Occupancy Code, respectfully ask
12 for a waiver or a variance regarding that
13 apartment, understanding that it doesn't meet the
14 zoning criteria.

15 CHAIRMAN BONACCI: And I just have one more
16 question --

17 MR. KAUKER: Surely.

18 CHAIRMAN BONACCI: -- for you, too.

19 Do you think, in your testimony, that this
20 makes -- by -- by legalizing these two units,
21 does it make the building a safer building?

22 MR. KAUKER: I believe it does because the
23 space is there. There's no productive design
24 potential to utilize it constructively for
25 anything else.

1 And -- and it would seem to me that the
2 improvement, in terms of the bedroom reduction,
3 from a safety and also from a demographic impact
4 point of view is a good thing. And I think that
5 that enables the Board to conclude that there's a
6 modest improvement in the life safety, as well as
7 the zoning related impacts related to this use.

8 CHAIRMAN BONACCI: And do you guys know,
9 offhand, what sort of parking is available by
10 municipal means?

11 MS. PEREIRAS: The -- my office is
12 literally across --

13 CHAIRMAN BONACCI: Yeah.

14 MS. PEREIRAS: -- the street from it. So,
15 we have -- the closet municipal lot is down on 8th
16 Street.

17 CHAIRMAN BONACCI: Okay.

18 Questions, guys?

19 Okay. I just want to open it up to members
20 of the public.

21 Okay. Closed to the public.

22 Okay.

23 I appreciate, you know, the honestly with
24 the basement. Even with the reduction of the
25 bedroom count, it kind of seems like it's a -- a

1 very bad safety hazard.

2 And I honestly, I respect his testimony,
3 Mr. Kauker, but I don't see how adding two units
4 to this existing building makes it any kind of --
5 any safer.

6 It's just putting more people into an
7 already densely populated area.

8 So, I'd like to make a motion to deny the
9 application.

10 THE SECRETARY: Motion on the table to deny
11 the application by Mr. Bonacci.

12 MS. GUTIERREZ: Second.

13 THE SECRETARY: Seconded by Ms. Gutierrez.

14 Roll call on the motion to deny this
15 application.

16 Mr. Bonacci?

17 CHAIRMAN BONACCI: Yes.

18 THE SECRETARY: Ms. Gutierrez?

19 MS. GUTIERREZ: Yes.

20 THE SECRETARY: Mr. Pressey?

21 MR. PRESSEY: Yes.

22 THE SECRETARY: Ms. Pena?

23 MS. PENA: Yes.

24 THE SECRETARY: Ms. Perez?

25 MS. PEREZ: Yes.

1 THE SECRETARY: Mr. Cetinich?

2 MR. CETINICH: Yes.

3 THE SECRETARY: Mrs. Watley?

4 MS. WATLEY: Yes.

5 THE SECRETARY: Seven in favor to deny the
6 application.

7 Motion carries.

8 CHAIRMAN BONACCI: Also, respectfully --
9 you know, the fact that you were honest and said,
10 there's really no guarantee that you can't just
11 have more apartments down there. You never know
12 what somebody's going to do down there. That's
13 like a big red flag. And being that -- you know,
14 I can't make a motion -- you know, to change
15 that, that's part of the reason why I made the
16 motion that I did.

17 I just wanted to make it clear.

18 MS. PEREIRAS: I understand.

19 CHAIRMAN BONACCI: Thank you, guys.

20 MS. PEREIRAS: Those are existing
21 apartments.

22 We're trying to improve --

23 CHAIRMAN BONACCI: I understand.

24 MS. PEREIRAS: -- a situation that's
25 already there.

1 THE SECRETARY: Thank you.

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

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1 **Daisy Valenciano - 538 36th Street:**

2

3 MS. DILLON: Whenever you're ready, Carlos.

4 THE SECRETARY: Back on record.

5 Next application on tonight's agenda, Daisy
6 Valenciano, 538 36th Street.

7 Ms. Pereiras, please?

8 MS. PEREIRAS: Thank you.

9 Again, Bianca Pereiras, on behalf of the
10 applicant, Daisy Valenciano.

11 Last month, you heard our architect testify
12 in regard to this application. I will apologize
13 for him. He is -- he is at his children's
14 recital, so he's not here this evening. However,
15 we do have planning testimony to present.

16 Just to briefly recap, the project before
17 the Board this evening is to convert a house into
18 a boutique.

19 Ms. Valenciano operates a boutique shop at
20 513 36th Street, really just down the street.
21 She's looking to move that boutique to her
22 building, which is the property in question.

23 We have one expert to testify tonight, and
24 that is Mr. Michael Kauker, our planner.

25 MS. DILLON: Mr. Kauker --

1 MR. KAUKER: Good evening.

2 MS. DILLON: -- was previously sworn.

3 CHAIRMAN BONACCI: Um hum.

4 MS. PEREIRAS: Mr. Kauker, have you had an
5 opportunity to review the drawings prepared by
6 Pereiras Architects?

7 MR. KAUKER: Yes, I have.

8 MS. PEREIRAS: And have you visited and are
9 familiar with the site in question?

10 MR. KAUKER: I have.

11 MS. PEREIRAS: And can you please describe
12 the project, from a planning perspective?

13 MR. KAUKER: This property is located in an
14 R low density residential zone. The existing
15 parcel itself, which currently has occupied as a
16 two family home, has an area of 1878.13 square
17 feet, which is an existing nonconformity.

18 The applicant essentially proposes to
19 remove the two residential units and replace it
20 with a boutique, which will occupy both floors of
21 this two story building.

22 And certainly, a boutique classified as a
23 retail use, which is certainly not permitted
24 within this residential zone. Therefore, we're
25 asking for a D-1 use variance before you tonight.

1 I believe that the -- the context of this
2 portion of the residential zone is somewhat
3 unique and different than the many areas that are
4 currently zoned RN, neighborhood -- excuse me --
5 currently zoned R low density residential.

6 Property itself is located on 36th Street,
7 approximately, I would say, 200 feet from the
8 major intersection of 36th Street and John F.
9 Kennedy Boulevard. That essentially is part and
10 parcel of the core retail commercial aspect of
11 Union City. The block within which we're asking
12 for this variance, on the north side of 36th
13 Street, are 13 similar residential uses housed in
14 one, two, and a few three bedroom homes.

15 To the immediate east of the subject
16 property, three doors removed, there are three
17 intervening residential buildings. As you move
18 easterly on 36th Street, there is a longstanding,
19 very large parking lot that's metered, as well as
20 a similar size parking lot to the south. Those
21 particular two lots occupy approximately 200
22 parking spaces.

23 The southerly side of the block, which is
24 also located in the R low density residential
25 zone, including the commercially zoned Walgreens

1 | site, which is located closer to the intersection
2 | of 36th Street and John F. Kennedy, which is
3 | across the street from three of the multiple --
4 | or residential uses located on the north side of
5 | 36th Street.

6 | The southerly side essentially, the
7 | majority of the uses are nonresidential. There
8 | is, across the street, a two two story apartment
9 | buildings, but as it relates to the uses on the
10 | remainder of the block, they are effectively
11 | nonresidential, starting with -- with the
12 | Walgreens, which is significantly zoned
13 | commercial, but on the same block, on the south
14 | side of 36th Street, and an intervening fairly
15 | large parking lot, and then the two residential
16 | buildings, and then the Holy Family Church, and
17 | then a portion of the -- the southerly portion of
18 | the very large commuter parking area.

19 | Those parking areas are currently zoned
20 | public, P on the zoning map, so that the
21 | residences that we are talking about are
22 | essentially juxtaposed between the core
23 | commercial area of the city and that fairly large
24 | parking area.

25 | It would seem to me that from a point of

1 view of reconciling this use with the Master
2 Plan, which clearly does not permit commercial
3 uses, that all of the nonresidential influences
4 that I've talked about represent a -- a change in
5 the character of this immediate area, which is
6 certainly relevant to the use variance that we
7 have before you.

8 I respectfully observe that by virtue of
9 the availability of parking, to serve a modest,
10 what I would call low profile boutique commercial
11 use, which would essentially not rate higher in
12 the echelon of a very busy retail kind of an
13 activity, namely because it's probably -- 50
14 percent of the business is probably by
15 appointment, and 50 percent is probably a minimal
16 walk-in.

17 I think the site reasonably is very, very
18 close to the kind of intensity of use that is
19 compatible with one, two and three family homes.
20 And in that context, would not unduly change the
21 character of a residential use influence on the
22 north side of 36th Street. And I believe that
23 this use essentially is -- would be, even though
24 it's a modest low profile retail, is kind of akin
25 to a personal service kind of an activity that is

1 not permitted, but that could theoretically be
2 permitted on this north side block, in the form
3 of a barber shop, a beauty shop, professional
4 office, things of that nature. And it may well
5 be that some of the uses along that block have a
6 slight degree of commercial activity in them, as
7 opposed to a pure residential array of 13 multi
8 and single family residences.

9 The -- I believe that -- the change in --
10 from the commercial -- from residential to
11 commercial is -- is very proximate to the core
12 central business area. Obviously, within walking
13 distance. The length of the residential block on
14 the north side that we're talking about is not
15 unduly long, approximately 350 feet, so that the
16 subject site is probably located within -- within
17 200 -- slightly less than 300 feet from that
18 major intersection.

19 That essentially concludes my comments and
20 -- and rationale for the D-1 use variance that we
21 have before you.

22 CHAIRMAN BONACCI: Thank you.

23 That's it with your testimony.

24 Right?

25 MS. PEREIRAS: That is.

1 CHAIRMAN BONACCI: Okay. A few questions
2 for Mr. Kauker.

3 MR. KAUKER: Yes, sir.

4 CHAIRMAN BONACCI: So, this is listed as
5 applicant proposes the adaptive reuse of an
6 existing house into commercial space used for
7 retail and offices for a business. Applicant
8 also proposes a rear addition.

9 Is there going to be any demolition
10 involved with this?

11 MR. KAUKER: I don't believe so. None.

12 CHAIRMAN BONACCI: You don't believe so or
13 there's not going to be any demolition?

14 MR. KAUKER: I've looked at Manny's plans
15 and --

16 CHAIRMAN BONACCI: Okay.

17 I -- that's the thing. You know, it's hard
18 for me to --

19 MS. PEREIRAS: He's -- he's not --

20 CHAIRMAN BONACCI: -- remember.

21 MS. PEREIRAS: -- here. I understand.

22 CHAIRMAN BONACCI: But -- okay.

23 MS. PEREIRAS: But there won't be any
24 demolition.

25 CHAIRMAN BONACCI: And --

1 MS. PEREIRAS: This is interior
2 modifications --

3 CHAIRMAN BONACCI: Yeah.

4 MS. PEREIRAS: -- of the space.

5 CHAIRMAN BONACCI: So, some of my questions
6 deal with construction, so I'll put that to the
7 side.

8 It's going to be a two story addition to
9 the rear.

10 MR. KAUKER: Yes.

11 CHAIRMAN BONACCI: Is that correct?

12 MR. KAUKER: Yes.

13 CHAIRMAN BONACCI: Okay.

14 Currently, are there any like comparables
15 to that in the neighborhood?

16 MS. PEREIRAS: As far as --

17 CHAIRMAN BONACCI: Rear -- rear additions
18 with two stories?

19 MS. PEREIRAS: I'm going to -- we've done
20 them here before. I wouldn't be able to tell you
21 exactly the location.

22 CHAIRMAN BONACCI: Yeah.

23 MS. PEREIRAS: But yes.

24 CHAIRMAN BONACCI: Okay.

25 MS. PEREIRAS: Two story additions, I've

1 | seen them plenty of times.

2 | CHAIRMAN BONACCI: Okay.

3 | So, now, the commercial spaces -- so this
4 | was two levels of living. Now, it's going to be
5 | two levels of a retail store, and then two
6 | offices.

7 | Mr. Kauker, would you happen to have the
8 | square footage of just the commercial space? Not
9 | the office space, the commercial space.

10 | CHAIRMAN BONACCI: They're on the plans.
11 | Right?

12 | MR. KAUKER: I'm looking at Manny's plans
13 | and --

14 | CHAIRMAN BONACCI: Okay. Yeah, I looked,
15 | too. That's why.

16 | MR. KAUKER: Yeah. And I -- I don't see
17 | any notations as to unit, or square footage for
18 | the second floor plan or -- or the first floor
19 | plan. So, I -- I cannot answer that question.

20 | CHAIRMAN BONACCI: Okay.

21 | So, this was a two unit, now it's a two
22 | unit still. It just has that rear addition.

23 | The rear addition, how many levels is that
24 | going to be?

25 | MS. PEREIRAS: Mr. Kauker, if you don't

1 mind, I'm just going to pull your drawings real
2 quickly --

3 MR. KAUKER: Sure.

4 MS. PEREIRAS: -- so I can take a look at
5 it.

6 And what was your question? I apologize.

7 CHAIRMAN BONACCI: How many levels is the
8 rear addition?

9 MS. PEREIRAS: It's two stories.

10 CHAIRMAN BONACCI: Two stories.

11 MS. PEREIRAS: So, it just matches up to
12 the rear --

13 CHAIRMAN BONACCI: Matches the house.

14 MS. PEREIRAS: -- to the top of the house.

15 CHAIRMAN BONACCI: And it goes right to the
16 property line? There's no setback?

17 MR. KAUKER: There's a five foot --

18 CHAIRMAN BONACCI: Five foot.

19 MR. KAUKER: -- rear yard.

20 CHAIRMAN BONACCI: What's required?

21 MR. KAUKER: Eighteen point seven-five.

22 CHAIRMAN BONACCI: So, they're supposed to
23 --

24 MR. KAUKER: Because it should be 25
25 percent of the lot depth.

1 CHAIRMAN BONACCI: All right.

2 So, there's supposed to be 18 feet between
3 your thing and what's behind it, but there's only
4 going to be five.

5 MR. KAUKER: That's correct.

6 CHAIRMAN BONACCI: Okay.

7 Can you tell me anything about parking?

8 MR. KAUKER: There is no parking proposed,
9 but I certainly believe that the adjacent parking
10 -- public parking facility is very, very capable
11 of accommodating the parking needs.

12 CHAIRMAN BONACCI: Would you mind if I just
13 ask Mr. Spatz a quick question?

14 MR. SPATZ: Sure.

15 CHAIRMAN BONACCI: Okay.

16 So, they need one space for every 300
17 square feet.

18 MR. SPATZ: Correct.

19 CHAIRMAN BONACCI: So, how many spaces
20 would they need, with the rear addition now,
21 because it's going to make it more?

22 MR. SPATZ: That -- that was the question
23 that I had raised in my memo, and that you had
24 raised, the square footage of the units, of the
25 offices and the commercial are not provided. I

1 mean, it's possible that -- that the residential
2 required the same amount of parking --

3 CHAIRMAN BONACCI: Um hum.

4 MR. SPATZ: -- as the commercial will. So
5 there may not be an increase in parking. But we
6 weren't able to tell from what was proposed. You
7 know, there is a municipal lot a couple hundred
8 feet away from it, so -- you know?

9 CHAIRMAN BONACCI: So, how many square feet
10 is the whole thing, with the addition?

11 MR. KAUKER: Well, if the lot -- and I'm --
12 I'm not -- I'm trying to find a way to get -- get
13 --

14 CHAIRMAN BONACCI: Yeah.

15 MR. KAUKER: -- some form of an answer.

16 If the lot itself is 1875 square feet, call
17 it 1900 square feet, and the lot coverage is set
18 at 98 percent maximum lot -- lot coverage is set
19 at 98 percent, essentially, I would observe that
20 1800 square feet would be the -- the size of the
21 footprint.

22 CHAIRMAN BONACCI: Could they need that?
23 Okay.

24 MR. KAUKER: And that would --

25 CHAIRMAN BONACCI: So, you probably need

1 about six point --

2 MR. KAUKER: That would equate to five, --

3 CHAIRMAN BONACCI: -- point three --

4 MR. KAUKER: -- six parking spaces.

5 CHAIRMAN BONACCI: Yeah. Okay.

6 And you know, you got -- it's retail and
7 it's office. So there's not living going on
8 there.

9 MS. PEREIRAS: No living.

10 CHAIRMAN BONACCI: So that's not --

11 MS. PEREIRAS: And again we're close to the
12 municipal --

13 CHAIRMAN BONACCI: -- so much of a concern.

14 MS. PEREIRAS: -- lot. We're close to
15 Bergenline; we're close to Kennedy Boulevard, so
16 that makes this --

17 CHAIRMAN BONACCI: Okay. The --

18 MS. PEREIRAS: -- a lot easier.

19 CHAIRMAN BONACCI: The rear addition -- you
20 know, I don't want to be redundant, but windows,
21 emergency, that kind of stuff. Could you guys
22 provide any testimony for that?

23 MS. PEREIRAS: As you know, Mr. Pereiras
24 testifies before --

25 CHAIRMAN BONACCI: Yeah.

1 MS. PEREIRAS: -- this Board every month.

2 CHAIRMAN BONACCI: I know.

3 MS. PEREIRAS: And his big concern is
4 always safety.

5 CHAIRMAN BONACCI: Right.

6 MS. PEREIRAS: So, he always takes every
7 measure possible to make sure that there is
8 safety to the utmost on this.

9 Again, the office space for this is purely
10 for the boutique. It's not for --

11 CHAIRMAN BONACCI: I understand.

12 MS. PEREIRAS: -- going to be rented out to
13 different businesses.

14 CHAIRMAN BONACCI: All right.

15 Let me just shut up for a minute and see if
16 you guys have any questions.

17 Okay.

18 If there's no questions from the Board,
19 I'll open up to members of the public.

20 Come on down.

21 MS. DILLON: Mr. Price, please raise your
22 right hand.

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

25 MR. PRICE: I do.

1 MS. DILLON: Name and address, please, for
2 the record.

3 MR. PRICE: Larry Price, 1006 Palisade
4 Avenue.

5 MS. DILLON: Thank you.

6 MR. PRICE: I have both questions and
7 testimony.

8 CHAIRMAN BONACCI: Okay.

9 MR. PRICE: Do you want it all now?

10 CHAIRMAN BONACCI: Yeah.

11 MR. PRICE: First the questions then the
12 testimony.

13 CHAIRMAN BONACCI: Bring it. Let's do the
14 questions, and then the testimony.

15 MR. PRICE: Okay.

16 Mr. Kauker?

17 MR. KAUKER: Yes, sir.

18 MR. PRICE: The -- your initial comment was
19 that they were going to take a two -- this
20 existing property, which you described as an
21 existing nonconformity.

22 MR. KAUKER: No. That was my prior
23 testimony on the prior app. I don't believe I
24 said --

25 MR. PRICE: No, no. This -- this was your

1 testimony here. It is a two family house.

2 There's nothing that's nonconforming about it.

3 MR. KAUKER: That is --

4 MR. PRICE: Did you --

5 MR. KAUKER: That is correct.

6 MR. PRICE: Okay.

7 MR. KAUKER: Absolute.

8 MR. PRICE: Okay.

9 MR. KAUKER: And I -- I don't recall saying
10 that, but that's okay.

11 MR. PRICE: Okay. Well, as we get older,
12 Mr. Kauker --

13 MR. KAUKER: Sure.

14 MR. PRICE: -- things happen.

15 Okay. You described Walgreen --

16 MR. KAUKER: Yes.

17 MR. PRICE: -- as being a commercial use.

18 MR. KAUKER: Yes.

19 MR. PRICE: But Walgreen --

20 MR. KAUKER: Is a commercial zone.

21 MR. PRICE: -- is on Kennedy Boulevard, in
22 a CN zone.

23 MR. KAUKER: Yes, it is.

24 MR. PRICE: So, it is, in fact, a
25 conforming use.

1 MR. KAUKER: Yes.

2 But it's still part of the block.

3 MR. PRICE: It's -- okay. But it's --

4 MR. KAUKER: And it's across the street
5 from three residential zones in -- residential
6 uses in a residential zone. And that's exactly
7 the way I described it.

8 MR. PRICE: Okay.

9 But it is not a nonconforming use.

10 MR. KAUKER: No. And I don't recall --

11 MR. PRICE: Okay.

12 MR. KAUKER: -- addressing that as a --

13 MR. PRICE: Okay.

14 MR. KAUKER: -- nonconforming use.

15 MR. PRICE: And the -- okay. I -- you're
16 applying for a D-1 use variance.

17 MR. KAUKER: That is correct.

18 MR. PRICE: What other variances are you
19 applying for?

20 MR. KAUKER: Parking.

21 MR. PRICE: Parking, obviously.

22 MR. KAUKER: A rear yard setback, maximum
23 building coverage, maximum --

24 MR. PRICE: Five feet versus the 18 feet
25 required.

1 MR. KAUKER: That's correct.

2 Maximum lot coverage, 98 percent where 85
3 percent are allowed. So, essentially, 13 percent
4 over. The other variance, obviously, is the D-1
5 use variance.

6 MR. PRICE: Correct.

7 MR. KAUKER: All the other two or three
8 existing nonconforming setback conditions are on
9 the lot.

10 MR. PRICE: Okay.

11 But the new ones are you'll increase the
12 coverage, you will cut the rear yard setback.

13 MR. KAUKER: That's correct.

14 MR. PRICE: And you're not providing for
15 your increased parking requirement.

16 MR. KAUKER: That's correct.

17 MR. PRICE: Okay.

18 CHAIRMAN BONACCI: You had testimony, too,
19 right?

20 MR. PRICE: Now, I have testimony.

21 I did a 200 foot study and I have --
22 fortunately, I took pictures of all existing
23 properties. And because of the expense of
24 colored photos, there are only two copies that I
25 am submitting, with the photos.

1 CHAIRMAN BONACCI: We'll just pass them
2 down.

3 MR. PRICE: I also have three copies
4 without photos.

5 CHAIRMAN BONACCI: Okay.

6 MR. PRICE: Which you could --

7 CHAIRMAN BONACCI: Do we need to mark
8 these?

9 MR. PRICE: Yes.

10 MR. PANEQUE: It's going to be marked as --

11 MS. DILLON: O-1?

12 MR. PANEQUE: Yeah.

13 MS. DILLON: O-1?

14 MR. PRICE: O-1.

15 MS. DILLON: So, there's more than
16 photographs with that.

17 MR. PANEQUE: Yeah. It's -- it's just --

18 MS. DILLON: Do we have a title?

19 MR. PRICE: Two hundred foot --

20 MR. PANEQUE: It's the --

21 MR. PRICE: -- study.

22 MR. PANEQUE: -- Summary, 200 Foot Study,
23 538 36th Street.

24 MS. DILLON: Okay.

25 MR. PRICE: Okay.

1 MS. PEREIRAS: Can I take a look at it?

2 CHAIRMAN BONACCI: Yeah. Let me just --

3 MR. PANEQUE: Do you have a colored --
4 colored one there?

5 CHAIRMAN BONACCI: I'm looking through.
6 I'm just looking at the addresses.

7 MR. PANEQUE: And this is the 200 foot
8 list.

9 CHAIRMAN BONACCI: Okay. This is in color.
10 We got color. Just comes to color.

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

13 MS. DILLON: Did you mark them, Tomas?

14 MR. PANEQUE: No. We'll get it back and
15 mark it. O-1.

16 Right?

17 MS. DILLON: Yeah.

18 I can mark this one.

19 MR. PANEQUE: Okay.

20

21 (Whereupon, Summary, 200 Foot Study, 538
22 36th Street was received and marked as Exhibit
23 O-1.)

24

25 MR. PANEQUE: Okay, Mr. Price.

1 Go ahead.

2 MR. PRICE: Okay.

3 The starting point of this study was the
4 200 foot list. Now, as Board members, you don't
5 see these too often, but every applicant has to
6 go to the Tax Assessor, and they give a list of
7 the properties within 200 feet. So, I got it,
8 and there's seven pages, there are 105 entries of
9 properties within 200 feet.

10 And then, basically, what I did was go take
11 copies -- or pictures --

12 CHAIRMAN BONACCI: Of all the addresses in
13 the neighborhood.

14 MR. PRICE: -- of all the properties.
15 Okay.

16 CHAIRMAN BONACCI: Would it be safe to
17 assume, Mr. Price, that this is for the purpose
18 of explaining to the Board that your survey
19 conducts there's no commercial use in this zone?

20 MR. PRICE: Exactly correct. Okay.

21 CHAIRMAN BONACCI: That's what -- that's
22 what we're getting at.

23 MR. PRICE: Okay.

24 Similar, they're sort of coming around --
25 there's a top sheet, which gives the --

1 CHAIRMAN BONACCI: A brief overview.

2 MR. PRICE: -- the overview. Exactly.

3 You start with 105 entries on this --
4 whatever.

5 Now, a lot of entries are, I guess you'd
6 say redundant, they're the same address. The big
7 one is Union Square, which is an apartment
8 building on 38th Street. It's a condo. So, there
9 are 40 listing. It's only one building, but
10 there are 40 separate listings. So, we take out
11 those, and we end up with total proper -- there
12 are 45 of those. Obviously, 39 of them are Union
13 Square, so there are six others. So, we end up
14 with 60 properties. Okay.

15 There are two properties that are
16 commercial, but it's Walgreen, and that's in the
17 CN zone, and that is a conforming use. It's not
18 a -- it's within 200 feet, but it's not in the R
19 zone.

20 And there are also two entries for the
21 Parking Authority. As was described, there's a
22 big parking lot, but a municipal use is legal in
23 the R zone. So, this is not a residential use,
24 but it is a conforming use. There's nothing
25 improper about -- whatever.

1 The parking lot, by the way, doesn't seem
2 to be in use because the construction guys who
3 are putting up the new garage seem to have taken
4 it over.

5 Okay.

6 Anyway, that comes down to 56 properties
7 within 200 feet, which are -- okay. And what I
8 found out was that, and documented by the
9 pictures, is that 48 of them are conforming.
10 Almost all of them, in fact. There are four
11 empty lots. There are 15 one family houses. I
12 couldn't believe that. I didn't think we had one
13 -- one family houses in Union City anymore.
14 They've got 15 one family houses within 200 feet
15 of the proposed site.

16 There are 21 two family houses and eight
17 three family houses.

18 There are eight properties that are not
19 permitted uses, two of them are Holy Family
20 Church. Sorry, but churches are not permitted
21 use in the -- but tell that to the -- to the
22 reverend. But anyway, but so, it's a non-
23 permitted use, but that's Holy Family.

24 And there are six multi-family buildings.
25 There are -- with -- within the zone, which are

1 | also not a permitted use. They're all -- been
2 | there, obviously, for -- there are two two
3 | families -- sorry -- two four families. At the
4 | other end, there are obviously Union Square with
5 | 40 -- 40 units.

6 | Okay. I was kind of stunned when I looked
7 | at the results of this.

8 | First of all, this area is located between
9 | two commercial corridors, Bergenline Avenue,
10 | which is to the -- to the east, and Kennedy
11 | Boulevard to the west. And usually, what we find
12 | happening is that in the -- the nearby
13 | residential zones start to be infiltrated by
14 | commercial uses that are migrating from the --
15 | whatever.

16 | Not in this one. There are no commercial
17 | uses within the 200 foot that are -- that are not
18 | permitted.

19 | And whatever. I -- I was struck by how --
20 | this is a real residential area. It's kind of
21 | unique in Union City in the sense that we have a
22 | lot of things that are zoned R zone, but they're
23 | really kind of mixed uses, because you have a
24 | mechanic shop here, and there's a bodega over
25 | here. And they're -- they've been there -- you

1 know, a lot. There's a story for every one of
2 them. But the fact is that most of our R zone
3 is, in fact, mixed use. Not this one. There is
4 not a single commercial use, nonconforming within
5 the 200 foot.

6 If you approve this application, it will be
7 a first for this neighborhood and it is not a
8 good idea.

9 CHAIRMAN BONACCI: Mr. Price, I just want
10 to say your survey, you did a really nice job.

11 MR. PRICE: Yes.

12 CHAIRMAN BONACCI: And it's real easy to
13 follow, and I can understand what you're trying
14 to get at is that -- you know, to maintain the
15 integrity of the R zone would be beneficial.

16 MR. PRICE: That is correct.

17 CHAIRMAN BONACCI: So, thank you.

18 MR. PRICE: Okay.

19 You're welcome.

20 CHAIRMAN BONACCI: Other members of the
21 public?

22 Okay.

23 Closed to members of the public.

24 MS. PEREIRAS: If I may briefly? I think
25 we need to --

1 CHAIRMAN BONACCI: Yeah.

2 MS. PEREIRAS: -- focus on the type of use
3 that we're proposing here.

4 CHAIRMAN BONACCI: Yeah.

5 MS. PEREIRAS: This is not your typical
6 commercial property, where you have an influx of
7 clients, and people coming in and out. This is a
8 boutique.

9 CHAIRMAN BONACCI: Um hum.

10 MS. PEREIRAS: And I love to shop at
11 boutiques. They're -- it's a very beautiful
12 relationship, the clientele with the owner of the
13 property. They usually have a very distinct
14 group of clientele that come in by appointment.
15 This is, again, not something that is going to
16 have an influx of people coming in and out.

17 This is up the street from where she
18 currently has her shop. Unfortunately, her lease
19 is up, and she'd like to keep the property or the
20 business in the neighborhood, because that is her
21 clientele.

22 So, for that reason, and the fact as
23 mentioned by Kauker, we're so close to Bergenline
24 Avenue, Kennedy Boulevard. We are so close to
25 other commercial zones. I think it makes perfect

1 sense, and that's the way that we can promote
2 what is a boutique shop, which is the
3 characteristic of being in a home, or have it
4 look like a home and be a boutique. That is the
5 goal of this application.

6 CHAIRMAN BONACCI: Thank you, Ms. Pereiras.

7 I just want to go over a couple of things
8 that maybe Mr. Price didn't allude to.

9 The hard thing about this one is approving
10 the application would be removing living space,
11 residential space, and that's a disservice to
12 residents. And that's not beneficial to the
13 neighborhood.

14 And the other thing is that commercial
15 spaces -- you know, they're not -- they're just
16 not permitted in this zone. And this would be a
17 first. So, I don't want to be the one who sets
18 that precedent or -- you know, I don't want to
19 speak for other members of the Board, but you
20 know, that's opening up a can of worms and then
21 I'm responsible for that.

22 Also, there's a lot of commercial spaces
23 throughout the neighborhood that are available
24 for that, that they're just waiting to be used.
25 And I see them all the time. I drive around. I

1 | see spaces that are just empty. And, they can be
2 | boutiques, too, and they wouldn't take away
3 | living space -- you know, that's a nice structure
4 | for people to live in.

5 | And the biggest thing is -- you know, we
6 | would be removing housing from the R zone, which
7 | I just don't want to do. And it just doesn't
8 | make sense from a zoning or planning perspective.
9 | It's not a beneficial use for the neighborhood.
10 | The denial would maintain integrity to the R
11 | zone, which kind of piggybacks off of what Mr.
12 | Price said.

13 | So, with that, I'd like to make a motion to
14 | deny the application.

15 | THE SECRETARY: Motion to deny the
16 | application by Mr. Bonacci.

17 | Any second the motion?

18 | MS. GUTIERREZ: Second.

19 | THE SECRETARY: Seconded by Ms. Gutierrez.

20 | Roll call on the motion to deny this
21 | application.

22 | Mr. Bonacci?

23 | CHAIRMAN BONACCI: Yes.

24 | THE SECRETARY: Ms. Gutierrez?

25 | MS. GUTIERREZ: Yes.

1 THE SECRETARY: Mr. Pressey?
2 MR. PRESSEY: Yes.
3 THE SECRETARY: Ms. Pena?
4 MS. PENA: Yes.
5 THE SECRETARY: Ms. Perez?
6 MS. PEREZ: Yes.
7 THE SECRETARY: Mr. Cetinich?
8 MR. CETINICH: Yes.
9 THE SECRETARY: Mrs. Watley?
10 MS. WATLEY: Yes.
11 THE SECRETARY: Six (sic) in favor.
12 Motion carries, to deny this application.
13 MS. PEREIRAS: Thank you all for your time.
14 I'll see you --
15 CHAIRMAN BONACCI: Thank you.
16 MS. GUTIERREZ: Thank you.
17 MS. PEREIRAS: -- next month.
18 THE SECRETARY: Thank you.

19

20 * * *

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1 **ADJOURNMENT:**

2

3 THE SECRETARY: There being no other
4 application on tonight's agenda, can I have a
5 motion to close tonight's meeting?

6 Motion by Mr. David --

7 MS. GUTIERREZ: Second.

8 THE SECRETARY: -- Pressey.

9 Seconded by Ms. Gutierrez.

10 All in favor?

11

12 (Whereupon, there was a chorus of ayes.)

13

14 THE SECRETARY: The ayes have it.

15 Thank you.

16 Good night, everyone, and have a beautiful
17 rest of week.

18

19 (Whereupon, the proceedings were concluded
20 at 7:22 p.m.)

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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, June 13, 2019 and
10 digitally recorded.

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25 Monitored and proofread by: Deborah Dillon