

CITY OF UNION CITY
HUDSON COUNTY, NEW JERSEY
PLANNING BOARD

REGULAR MEETING : TRANSCRIPT OF RECORDED
: PROCEEDINGS
:
:

City Hall
3715 Palisade Avenue
Union City, New Jersey

Tuesday, November 26, 2019
Commencing at 6:10 p.m.

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

YDALIA GENAO, Mayor's Designee
FRANKLIN MEDINA
ALEJANDRO VELAZQUEZ, Alternate No. 1
JOSE GUARENO, Alternate No. 2
JEANNE KOEHLER, Vice Chairperson
DIANE CAPIZZI, Chairperson

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

BRIAN P. STACK, Mayor
CELIN VALDIVIA, Commissioner
ALICIA MOREJON
CAROLINA FERNANDEZ
RUDY RIVERO

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

CARLOS VALLEJO, Secretary to the Board

BRIAN M. CHEWCASKIE, ESQ.
Attorney for the Board

ELENA GABLE, PP, AICP
Heyer Gruel & Associates

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

ADOLFO L. LOPEZ, ESQ.,
Attorney for Applicant, N.I.U. Trust

RICHARD S. SCHKOLNICK, ESQ.,
Attorney for Applicant, Hudson Yards West, LLC
(Whispering Woods Hearing)

RAMON M. GONZALEZ, ESQ.,
Attorney for Applicant, Joseph Gaudio

BIANCA P. PEREIRAS, ESQ.,
Attorney for Applicant, Lilian Leon

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

BIANCA P. PEREIRAS, ESQ.,
Attorney for Applicant, Irineo Silveiro Chavez

BIANCA P. PEREIRAS, ESQ.,
Attorney for Applicant,
Crestpoint Development, UC, LLC

I N D E X

	<u>PAGE</u>
CALL TO ORDER	10
SALUTE TO FLAG	10
ROLL CALL	11
ADOPTION OF MINUTES	13
RESOLUTIONS	127/131
HEARINGS	
N.I.U. Trust	23
Hudson Yards West, LLC	
(Whispering Woods Hearing)	15/27
208 18 th Street, LLC	19
Faraouk Sheikh	19
Joseph Gaudio, 2500 New York Avenue	111
Joseph Gaudio, 2502 New York Avenue	121
Lilian Leon	19
613 39 th Street, LLC	69
Irineo Silveiro Chavez	90
Crestpoint Development, UC, LLC	97
ADJOURNMENT	133

I N D E X

Whispering Woods Hearing in the Matters of
Hudson Yards West, LLC vs. City of Union City
Planning Board, et al.

<u>WITNESS</u>	<u>PAGE</u>
Eric J. Nemeth	28
Manuel Pereiras	36
Craig Peregoy	45
Michael D. Kauker	53
 <u>SWORN PUBLIC</u>	
Larry Price	60

E X H I B I T S

<u>NO.</u>	<u>DOCUMENT</u>	<u>PAGE</u>
A-1	Settlement Agreement	33
A-2	Variance Chart	35

I N D E X613 39th Street, LLC - 613 39th StreetWITNESSPAGE

Manuel Pereiras

71

I N D E XIrineo Silveiro Chavez - 123 40th StreetWITNESSPAGE

Manuel Pereiras

90

I N D E X

Crestpoint Development UC LLC
511-519 32nd Street

WITNESSPAGE

Manuel Pereiras

98

SWORN PUBLIC

Larry Price

101

I N D E X

Joseph Guadio, 2500 New York Avenue

<u>WITNESS</u>	<u>PAGE</u>
Jose Izquierdo	114

I N D E XJoseph Guadio, 2502 New York AvenueWITNESSPAGE

Jose Izquierdo

122

1 THE SECRETARY: Your attention, please?

2 The Planning Board of the City of Union
3 City has scheduled a Regular Public Meeting
4 Tuesday, November 26, 2019 at six p.m. in the
5 Municipal Chambers of the City Hall, located at
6 3715 Palisade Avenue, Union City, New Jersey.

7 This meeting is called in compliance with
8 Chapter 231, Public Law 1975 of the Open Public
9 Meeting Act.

10 Adequate notice of this meeting has been
11 provided as follow:

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

19 Before we call roll for this evening, can
20 everybody kindly rise to salute the flag, please?

21

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

24

25 THE SECRETARY: Thank you.

1 **ROLL CALL:**

2

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

5 Mayor Brian P. Stack?

6 Absent.

7 Diane Capizzi?

8 CHAIRPERSON CAPIZZI: Here.

9 THE SECRETARY: Jeanne Koehler?

10 VICE CHAIRPERSON KOEHLER: Here.

11 THE SECRETARY: Ydalia Genao?

12 MS. GENAO: Yes.

13 THE SECRETARY: Commissioner Celin
14 Valdivia?

15 Is absent.

16 Carolina Fernandez?

17 Absent.

18 Rudy Rivero?

19 Is absent.

20 Franklin Medina?

21 MR. MEDINA: Here.

22 THE SECRETARY: Alicia Morejon is absent.

23 Alejandro Velazquez?

24 MR. VELAZQUEZ: Here.

25 THE SECRETARY: Jose Guareno?

1 MR. GUARENO: Here.

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

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

6

7 * * *

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 **ADOPTION OF MINUTES:**

2

3 (1) Regular Meeting held on October 22, 2019
4 and Special Meeting held on November 12, 2019

5

6 THE SECRETARY: Adoption of minutes.

7 Regular Meeting held on October 22nd, 2019
8 and Special Meeting held on November 12, 2019.

9 Can I have a motion to --

10 CHAIRPERSON CAPIZZI: I'll make a motion.

11 THE SECRETARY: Motion to approve these
12 minutes by Ms. Capizzi.

13 MR. VELAZQUEZ: I second.

14 THE SECRETARY: Seconded by Mr. Velazquez.

15 Roll call on the motion.

16 Mrs. Capizzi?

17 CHAIRPERSON CAPIZZI: Yes.

18 THE SECRETARY: Ms. Koehler?

19 VICE CHAIRPERSON KOEHLER: Abstain.

20 THE SECRETARY: Abstain.

21 Ydalia Genao?

22 MS. GENAO: Yes.

23 THE SECRETARY: Franklin Medina?

24 MR. MEDINA: Yes.

25 THE SECRETARY: Alejandro Velazquez?

1 MR. VELAZQUEZ: Yes.

2 THE SECRETARY: Mr. Guareno?

3 MR. GUARENO: Yes.

4 THE SECRETARY: Five in favor.

5 One abstained.

6 Motion carries.

7 * * *

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 **Whispering Woods Hearing in the matters of Hudson**
2 **Yards West LLC vs. City of Union City Planning**
3 **Board, et al:**

4

5 THE SECRETARY: We are going to go to Closed
6 Session to discuss pending litigation Hudson
7 Yards West, LLC and the City of Union City.

8 Can I have a motion?

9 MR. VELAZQUEZ: I make a motion.

10 THE SECRETARY: Motion by Mr. Velazquez.

11 MR. GUARENO: Second.

12 THE SECRETARY: Seconded by Mr. Guareno.

13 Roll call on the motion.

14 Ms. Capizzi?

15 CHAIRPERSON CAPIZZI: Yes.

16 THE SECRETARY: Ms. Koehler?

17 VICE CHAIRPERSON KOEHLER: Yes.

18 THE SECRETARY: Ms. Genao?

19 MS. GENAO: Yes.

20 THE SECRETARY: Mr. Medina?

21 MR. MEDINA: Yes.

22 THE SECRETARY: Mr. Velazquez?

23 MR. VELAZQUEZ: Yes.

24 THE SECRETARY: Mr. Guareno?

25 MR. GUARENO: Yes.

1 THE SECRETARY: Six in favor.

2 Motion carries.

3 The time is five -- 6:13.

4 MR. CHEWCASKIE: All right.

5 So that everybody is aware, we have a
6 Whispering Woods hearing scheduled for this
7 evening regarding the Hudson Yards matter.

8 Prior to proceeding on that hearing, the
9 Board is going to adjourn to the back room to
10 have a brief Executive Session. We should be out
11 in a few minutes. We are going to discuss that
12 matter with special counsel who handled the
13 litigation. So, --

14 CHAIRPERSON CAPIZZI: Okay.

15 MR. CHEWCASKIE: -- we need to go in the
16 back.

17

18 (Whereupon, the Board moved to Executive
19 Session at 6:14 p.m.)

20

21 (Whereupon, the Board returned to Open
22 Session at 6:21 p.m.)

23

24 THE SECRETARY: Can I have a motion to
25 close Executive -- Executive Session, to return

1 to regular meeting?

2 CHAIRPERSON CAPIZZI: Yeah. I'll make --
3 yes.

4 THE SECRETARY: Motion by Ms. Capizzi.

5 MR. VELAZQUEZ: Second.

6 THE SECRETARY: Seconded by Mr. Velazquez?

7 MR. VELAZQUEZ: Yes.

8 CHAIRPERSON CAPIZZI: Yes.

9 THE SECRETARY: Roll call on the motion to
10 go to Regular -- Closed -- the Closed Session and
11 go to Regular Meeting.

12 Roll call on the motion.

13 Ms. Capizzi?

14 CHAIRPERSON CAPIZZI: Yes.

15 THE SECRETARY: Ms. Koehler?

16 VICE CHAIRPERSON KOEHLER: Yes.

17 THE SECRETARY: Ms. Genao?

18 MS. GENAO: Yes.

19 THE SECRETARY: Mr. Medina?

20 MR. MEDINA: Yes.

21 THE SECRETARY: Mr. Velazquez?

22 MR. VELAZQUEZ: Yes.

23 THE SECRETARY: Mr. Guareno?

24 MR. GUARENO: Yes.

25 THE SECRETARY: Six in favor.

1 Motion carries.

2 Executive Session time is at 6:22.

3 MR. CHEWCASKIE: You want to do the
4 extension first?

5 THE SECRETARY: Yeah.

6 * * *

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 **208 18th Street, LLC - 208 18th Street:**

2 **Faraouk Sheikh - 912 Palisade Avenue:**

3 **Lillian Leon - 1608 New York Avenue:**

4

5 MR. CHEWCASKIE: Carlos, let me do the
6 adjournments and then we'll get into the
7 extension.

8 THE SECRETARY: Yes, sir.

9 MR. CHEWCASKIE: All right.

10 So, before we get into the Whispering Woods
11 hearing, there are a few adjournments on this
12 evening's meeting.

13 First adjournment is on 208 18th Street,
14 LLC. The property, of course, is 208 18th Street.

15 Anyone here on that application, the matter
16 has been adjourned to January 28, 2020. That
17 does sound unusual when you say 2020.

18 This application has been the subject to a
19 series of adjournments. If it does not proceed
20 on January 28th, it will be dismissed without
21 prejudice.

22 The next adjournment is Faraouk Sheikh, 912
23 Palisade Avenue.

24 This case has also been the subject of a
25 number of adjournments. It will be adjourned to

1 January 28th, 2020. And again, if it does not
2 proceed on that date, it will be dismissed
3 without prejudice.

4 We had a request from Ms. Pereiras tonight
5 on case number 7, which is Lilian Leon, 1608 New
6 York Avenue.

7 That matter -- Ms. Pereiras is here, that
8 matter will be adjourned to January 28th, 2020.
9 This was the first listing, I believe, so
10 certainly the Board will carry this, if
11 necessary.

12 And it's my understanding, from our
13 previous conversation, we have the necessary
14 extension of time.

15 MS. PEREIRAS: Yes. Absolutely.

16 MR. CHEWCASKIE: Okay.

17 Thank you.

18 So, if anyone is here on any of those
19 cases, they will all be heard on January 28th,
20 2020.

21 And the first two, if they don't proceed,
22 will be dismissed.

23 MS. PEREIRAS: Thank you very much.

24 MR. CHEWCASKIE: Thank you, Bianca.

25 And then, I guess, Carlos --

1 THE SECRETARY: Can I have a -- do I have
2 to roll call on the adjournments?

3 MR. CHEWCASKIE: Yeah.

4 Why don't we do that? If we could have a
5 roll call on those three adjournments to January
6 28th, 2020.

7 THE SECRETARY: Can I have a motion to
8 adjourn these --

9 CHAIRPERSON CAPIZZI: I'll make a motion.

10 THE SECRETARY: -- three application for
11 January 28, 2020?

12 Motion by Ms. Capizzi.

13 MR. VELAZQUEZ: Second.

14 MR. GUARENO: Second.

15 THE SECRETARY: Seconded by Mr. Velazquez.

16 Roll call on the motion to adjourn this
17 application for January 28, 2020.

18 Ms. Capizzi?

19 CHAIRPERSON CAPIZZI: Yes.

20 THE SECRETARY: Ms. Koehler?

21 VICE CHAIRPERSON KOEHLER: Yes.

22 THE SECRETARY: Ms. Genao?

23 MS. GENAO: Yes.

24 THE SECRETARY: Mr. Medina?

25 MR. MEDINA: Yes.

1 THE SECRETARY: Mr. Velazquez?

2 MR. VELAZQUEZ: Yes.

3 THE SECRETARY: Mr. Guareno?

4 MR. GUARENO: Yes.

5 THE SECRETARY: Six in favor.

6 Motion carries.

7 * * *

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 **N.I.U. Trust - 1713 Bergenline Avenue:**

2

3 THE SECRETARY: We are going to go back to
4 number 1.

5 An extension, 1713 Bergenline Avenue.

6 Mr. Lopez, please?

7 MR. CHEWCASKIE: Good evening.

8 MR. LOPEZ: Good evening, --

9 MR. CHEWCASKIE: Good evening.

10 MR. LOPEZ: -- Mr. Chewcaskie, Madam
11 Chairwoman.

12 MR. CHEWCASKIE: How are you?

13 MR. LOPEZ: Good. Good.

14 Nice to see you.

15 Madam Chairwoman, members of the Board, I
16 am seeking an extension on this matter.

17 It is the second application for an
18 extension.

19 You previously granted one extension.

20 Unfortunately, my client is a one man show.
21 He is the architect, he's the developer. He had
22 -- he ran into some health issues. He was
23 diagnosed with cancer and he was under treatment
24 for a prolonged period of time.

25 Plans are ready. Plans have been submitted

1 to the Building Department. Review will not take
2 place and -- and we need an extension of time, in
3 a timely manner. And that's really the sole
4 reason.

5 He understands that this is it, it's his
6 last application for an extension as of right,
7 and he fully intends to -- to follow through with
8 this project.

9 MR. CHEWCASKIE: And just so you're aware,
10 Mr. Lopez, the City did adopt a new Zoning
11 Ordinance, and that Ordinance, I believe, was
12 effective November 14th.

13 So, I can't say, because I haven't reviewed
14 whether that Ordinance would affect this
15 approval, but it would probably behoove your
16 client to take the appropriate action in the
17 year, if the Board grants the --

18 MR. LOPEZ: Absolutely.

19 MR. CHEWCASKIE: -- extension.

20 MR. LOPEZ: Yeah.

21 CHAIRPERSON CAPIZZI: I would make a motion
22 to approve the extension.

23 THE SECRETARY: Motion to approve the
24 extension by Ms. Capizzi.

25 MS. GENAO: I second.

1 THE SECRETARY: Any second the motion?
2 By Ms. Genao.
3 Roll call on the motion.
4 Ms. Capizzi?
5 CHAIRPERSON CAPIZZI: Yes.
6 THE SECRETARY: Ms. Koehler?
7 VICE CHAIRPERSON KOEHLER: Yes.
8 THE SECRETARY: Ms. Genao?
9 MS. GENAO: Yes.
10 THE SECRETARY: Mr. Medina?
11 MR. MEDINA: Yes.
12 THE SECRETARY: Mr. Velazquez?
13 MR. VELAZQUEZ: Yes.
14 THE SECRETARY: Mr. Guareno?
15 MR. GUARENO: Yes.
16 THE SECRETARY: Six in favor.
17 Motion carries.
18 MR. LOPEZ: Thank you so much.
19 Happy Thanksgiving --
20 THE SECRETARY: Thank you.
21 MR. CHEWCASKIE: Mr. Lopez, --
22 MR. LOPEZ: -- to all of you.
23 MR. CHEWCASKIE: -- we'll --
24 CHAIRPERSON CAPIZZI: Thank you.
25 MR. CHEWCASKIE: We'll have a Resolution at

1 the January meeting.

2 MR. LOPEZ: Thank you.

3 Thank you so much.

4 * * *

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 **Whispering Woods Hearing in the matters of Hudson**
2 **Yards West, LLC vs. City of Union City Planning**
3 **Board, et al:**

4
5 THE SECRETARY: We are going to the next
6 hearing, Whispering Woods Hearing in the matters
7 of Hudson Yards West, LLC versus City of Union
8 City.

9 MR. CHEWCASKIE: So that members of the
10 audience are aware, there was a previous
11 application, Hudson Yards, which was denied by
12 the Board. There was an action taken in court.
13 The Board's decision was overturned in court.
14 Subsequent to that determination, the parties
15 determined to settle their differences, so we
16 were subject tonight to a Whispering Woods
17 hearing.

18 The attorney who represented the City, or
19 who assisted in representing the City, Eric
20 Nemeth, is here, who will give a brief overview
21 of the process.

22 Mr. Schkolnick is also here, who represents
23 the applicant, and we'll have some brief
24 testimony regarding the settlement.

25 Mr. Nemeth, perhaps maybe to do this

1 | formally, if I can have you sworn in --

2 | MR. NEMETH: Sure.

3 | MR. CHEWCASKIE: -- since you'll be
4 | actually testifying.

5 | MR. DILLON: Please raise your right hand.

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

8 | MR. NEMETH: I do.

9 | MR. DILLON: State your name for the
10 | record.

11 | MR. NEMETH: Eric J. Nemeth, N-E-M-E-T-H.

12 | MS. DILLON: Thank you.

13 | MR. NEMETH: Okay.

14 | Thank you.

15 | Brian, if it's okay, do I present this from
16 | here?

17 | MR. CHEWCASKIE: Yeah. That -- that would
18 | be fine. I think it's easier.

19 | MR. DILLON: Can you -- actually, just --
20 | it'd be more helpful if you stood on that mic
21 | over there.

22 | MR. NEMETH: Sure. Okay.

23 | MR. DILLON: Thank you.

24 | MR. NEMETH: All right.

25 | Good evening, everyone.

1 So, I'm here to give you some -- a quick
2 background and guidance on the Whispering Woods
3 hearing process.

4 So, as Mr. Chewcaskie has explained, there
5 was an application made by Hudson Yards West,
6 LLC, for property otherwise known as 3308
7 Palisade Ave. and 3309 Hudson Ave.

8 That application originally consisted of a
9 71 residential unit, commercial use structure,
10 that was later amended, during the application
11 process, to expand to 90 residential units and
12 commercial use.

13 That application was denied and it was the
14 subject of litigation. The docket number for
15 that was HUD-L-1109-18.

16 While that application and that prerogative
17 writ action was proceeding, another application
18 was filed by Hudson Yards to build 114 unit mixed
19 commercial residential use structure at the site.

20 That application was not approved or not
21 even considered by the Board because of the
22 pending litigation, so it lead to another
23 lawsuit.

24 That lawsuit, another prerogative writ
25 action is docket number HUD-L-4484-18.

1 We're here this evening, because as a
2 result of negotiations over the lengthy
3 litigation process, and negotiations that took
4 place during those proceedings, the parties, that
5 is Hudson Yards, LLC and the Planning Board, have
6 come to an agreement of the resolution of -- of
7 those disputes.

8 And so, we're here tonight to pursue this
9 settlement under what's called a Whispering Woods
10 hearing.

11 And the Whispering Woods hearing gets its
12 name from a case by that name, Whispering Woods
13 versus Bamm Hollow, that essentially allows
14 planning boards, zoning boards to make decisions
15 on settlements, and to present those settlements
16 before, in a public hearing. And the only
17 matters that are discussed at those hearings are
18 new matters beyond what was in the original
19 application.

20 So, we're here tonight to have the Board
21 hear testimony about the differences between the
22 original applications and what the Board deems to
23 be approved, pursuant to this settlement
24 agreement.

25 When I'm done giving you my overview, this

1 settlement agreement will be entered into
2 evidence so it will be a public document, and so
3 all of the terms are available for review.

4 I'm not going to bore you with all of the
5 additional language, but I will point out a
6 couple of things.

7 There's an exhibit to the settlement
8 agreement that identifies, essentially, what the
9 development exists -- consists of. And the
10 development is basically the 71 unit structure
11 that's now been modified as follows, and I'll run
12 through this quickly.

13 Building height of six stories; no setbacks
14 on the upper floors; 78 total residential units,
15 consisting of 20 three bedroom, 30 two bedroom,
16 28 one bedroom units.

17 Peter Street being used as a front yard
18 with no setback requirements; 155 parking spaces;
19 commercial space of 4,000 square feet.

20 Brick construction, with sufficient
21 lighting around the building; appropriate street
22 trees and planters.

23 And then there are a series of variances
24 and waivers that we'll get into during this --
25 the testimony.

1 The last thing I would like to point out to
2 you, actually two things, are that there are
3 procedures that we followed that the MLUL allows
4 us to do, which is govern how this proceeding
5 plays out.

6 So, one of those is that, for the sake of
7 time and to make sure everyone has due process,
8 everyone can be heard, we set ground rules for
9 the testimony that you're going to hear.

10 So, after I'm done giving you my
11 presentation, there will be testimony from the
12 applicant's experts. After they're completed,
13 anyone within 200 feet of the effected property
14 can cross examine the witnesses. Five minute
15 limit as to the cross examination. And when
16 those individuals come to the microphone, they
17 have to identify themselves and get sworn in, and
18 identify the fact that they live within 200 feet.

19 After those interested parties proceed, the
20 general audience, you don't have to live within
21 200 feet, can present comments, but not cross
22 examine witnesses. Again, five minute limit on
23 comments.

24 So, that's the -- that's the basic process.
25 And after the testimony of experts, and the

1 public questions and comment period, the Board
2 will then vote on the approval of this
3 settlement.

4 The only condition in this settlement that
5 is subject to any further review, other than
6 something that might change during this testimony
7 tonight, is there is a -- a mandatory mediation
8 clause for disputes.

9 A part of that mediation clause dealing
10 with the actual construction phase of the
11 project, is subject to DCA review, because it
12 involves the potential expenditure of funds.

13 So, after the DCA reviews and approves that
14 provision, assuming it's accepted, than this
15 settlement agreement is complete.

16 And that's it from an overview.

17 MR. CHEWCASKIE: Thank you, Eric.

18 So -- so if -- if we can, the settlement
19 agreement will be marked as A-1, as part of this
20 hearing.

21 MR. NEMETH: Let me get you a clean copy.

22

23 (Whereupon, Settlement Agreement was
24 received and marked as Exhibit A-1.)
25

1 MR. CHEWCASKIE: Mr. Schkolnick, the floor
2 is yours.

3 MR. SCHKOLNICK: Thank you.

4 One technical clarification, Eric, and I
5 think I missed this on drafts, and Manny will go
6 over, the unit count is 16 one bedroom; 52 two
7 bedroom; and ten three bedroom.

8 So -- and that's reflected in the plans.

9 MR. CHEWCASKIE: I have that in the
10 Resolution, --

11 MR. SCHKOLNICK: Good.

12 MR. CHEWCASKIE: -- that count.

13 MR. SCHKOLNICK: Richard Schkolnick, on
14 behalf of Hudson Yards West, LLC.

15 You've set forth the property address. The
16 block is 200, Lots 5, 6, 24 through 28 and 40.

17 As mentioned, now it's a 78 unit project.
18 We had the applications for 90 and 114, and the
19 purpose of the hearing is to settle all of those
20 litigations.

21 I remind the Board that the 90 unit and 114
22 unit applications were variance-free. What
23 you're going to see tonight is essentially the 71
24 unit project, with some minor modifications that
25 Manny is going to go over.

1 We're, in essence, really reducing the
2 variance relief from the 71 units that was
3 approved by the court. There is one new variance
4 on parking. We are short a few spaces. We have
5 a lot of parking here. It's basically two spaces
6 per each residential unit.

7 But I'm going to mark, as Exhibit A-2, what
8 I call variance chart.

9
10 (Whereupon, Variance Chart was received and
11 marked as Exhibit A-2.)

12

13 MR. SCHKOLNICK: And who should I give this
14 to?

15 MR. CHEWCASKIE: Carlos is coming around.

16 MR. SCHKOLNICK: Okay.

17 And I have some copies, if I may? This can
18 help you follow Manny's testimony a little bit.

19 We're just going to have a few minutes,
20 five or ten minutes with the architect; five or
21 ten on traffic; and then five or ten on the
22 planner, and that's really it for tonight.

23 Certainly here to answer any questions.

24 With that, Chairwoman, may I call the first
25 witness?

1 CHAIRPERSON CAPIZZI: Of course.

2 Thank you.

3 MR. SCHKOLNICK: Okay.

4 Thank you.

5 If we could have him sworn, please?

6 MR. DILLON: Please raise your right hand.

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

9 MR. PEREIRAS: I do.

10 MR. DILLON: State your name and spell it
11 for the record.

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

15 MR. DILLON: Thank you.

16 MR. SCHKOLNICK: Manny, told -- tells me
17 he's been recognized as an --

18 CHAIRPERSON CAPIZZI: Yes.

19 MR. SCHKOLNICK: -- expert by this Board at
20 least once before.

21 CHAIRPERSON CAPIZZI: Correct.

22 MR. SCHKOLNICK: Chairwoman, I would --

23 CHAIRPERSON CAPIZZI: Correct.

24 MR. SCHKOLNICK: -- submit him.

25 Thank you.

1 CHAIRPERSON CAPIZZI: Yes.

2 MR. SCHKOLNICK: We appreciate that.

3 Okay. Manny, can you just walk through the
4 plans, focusing on any changes from the 71 unit
5 project that was approved by the court?

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

7 For purposes of the record, the drawings
8 that I have to my right on the easel are the same
9 documents that were submitted to the Board. They
10 are dated August 27th of 2019.

11 The first thing that we see is the site
12 plan, sheet Z01.

13 Sheet Z01, we can see that we have a zero
14 setback along what each of Peter Street is. We
15 have a zero setback along Hudson Street. And we
16 have a 12 foot five setback to the building, not
17 including the stairs, along the southern end of
18 the property. Five foot five along this end, and
19 a 20 -- what we're calling a rear yard setback of
20 20 feet three inches along this portion of the
21 building. And a zero setback along Palisade
22 Avenue.

23 We continue to have three levels of
24 parking, mechanical systems on the lower level,
25 as well as parking.

1 MR. SCHKOLNICK: Okay.

2 We have the one area where there's a
3 parking aisle width of 22 feet, 24 required by
4 the RSIS. And that's the same as in the 71 unit
5 plan.

6 MR. PEREIRAS: That is correct.

7 MR. SCHKOLNICK: Could you just point out
8 where that is?

9 MR. PEREIRAS: That's this portion of the L
10 shape. We have 18 foot by nine foot parking
11 spaces. And we have an aisle width that's 22
12 feet one inch, which is actually -- far exceeds
13 almost the majority of the projects in Union
14 City. Very comfortable. And we have a traffic
15 expert that can talk about that.

16 MR. SCHKOLNICK: Okay.

17 The nine by 18 spaces, those are full
18 sized.

19 Right?

20 MR. PEREIRAS: Those are full size spaces,
21 fully compliant with the Ordinance.

22 MR. CHEWCASKIE: Mr. Pereiras, just let me
23 interrupt for a minute, and I apologize.

24 MR. PEREIRAS: Be happy to.

25 MR. CHEWCASKIE: I should have done this

1 earlier.

2 I received a copy of the notice regarding
3 this application prior to the hearing this
4 evening from Mr. Schkolnick.

5 I've had the opportunity to review the
6 notice, the publication. Same is appropriate, so
7 the Board has jurisdiction to proceed this
8 evening.

9 I apologize for not doing that earlier.

10 MR. SCHKOLNICK: Thank you.

11 MR. PEREIRAS: If I turn to the next page,
12 it's page Z03. This is the ground floor, both on
13 Hudson and Palisade Avenue. And here, you see
14 that you have two ramps, one leading to the lower
15 level, one to the higher level. This is all in
16 conformance with the original plans.

17 We have commercial spaces; one, two, three,
18 and four, for a total of 4,000 square feet. And
19 these commercial spaces are a function of the
20 reduction of parking. We still have 155 parking
21 spaces in the building.

22 MR. SCHKOLNICK: And it's just a little bit
23 more commercial than the last go around.

24 Correct?

25 MR. PEREIRAS: Correct.

1 This is the third floor parking, which
2 shows a double story space in the commercial
3 area.

4 And then, finally, we have residential
5 floors. We have a mixture of ones, twos and
6 three bedroom apartments.

7 As counsel mentioned earlier, we have 16
8 one bedrooms, 52 two bedrooms, and ten three
9 bedroom apartments.

10 The three bedroom apartments range in size,
11 but for example, one in the corner is 1,482
12 square feet. The two bedrooms tend to be about
13 909 square feet. And the one bedrooms are around
14 634 square feet, all averaging plus or minus a
15 few feet.

16 And the building in -- in difference to the
17 original plans, has no setbacks on the upper
18 floors. It continues up as one mass.

19 MR. SCHKOLNICK: And that was consistent
20 with the original 71 unit project.

21 MR. PEREIRAS: Correct.

22 We have a roof plan, with the roof terrace.
23 And then, we have the -- the elevations of the
24 building, which are no changes from the original
25 -- the original plan.

1 MR. SCHKOLNICK: Okay.

2 MR. PEREIRAS: Other than the items I
3 indicated earlier.

4 MR. SCHKOLNICK: Okay.

5 Manny, if you just want to run through the
6 variance comparison chart. You don't have to
7 call everything out, but just the salient
8 features, where the variances were reduced.

9 MR. PEREIRAS: Our planner could go over
10 this in more detail, however, the minimum lot
11 area is equal to what it was before. We were --
12 the minimum requirement is 10,000 square feet and
13 we didn't change our lot in any way. We didn't
14 acquire any more property. We're still at
15 27,495, which is in compliance.

16 The minimum lot width is a hundred feet.
17 We are at 139.39 feet, also in compliance.

18 Lot depth.

19 A hundred feet is required. We're at 250
20 feet, also in compliance.

21 The minimum front yard is zero feet at the
22 ground level, ten feet above the fourth level.
23 We are asking for a variance on that, because
24 above the fourth floor, we are still at zero
25 feet.

1 MR. SCHKOLNICK: And that's the same as the
2 71.

3 MR. PEREIRAS: It's the same as the 71 unit
4 and -- and as both 71 and 78 unit projects,
5 exactly the same.

6 The minimum rear yard, 20 feet is the
7 minimum required. In our original application,
8 we had 15 feet. We actually increased that to 20
9 feet, so that we would have no variance on this
10 -- on this item, which is we improved the project
11 in that sense from a planning standpoint.

12 Minimum side yard.

13 Up to 50 feet is five; over 50 feet is 15.
14 The original application had zero feet and a
15 variance was sought. We are -- equally we are --
16 we have the same situation. However, we have
17 five feet on the western side of the building, on
18 the L portion of it. And a variance is still
19 sought there, same as the previous application.

20 Minimum side yard for both. You're
21 required ten feet and 30 feet respectively, and
22 we only have five feet in total because of the
23 future Peter Street, we're keeping that and
24 treating that with a zero foot front yard.
25 That's a variance of both the 71 unit and the 78

1 unit projects.

2 Maximum building height.

3 Permitted six stories. We are at six
4 stories. The 71 unit was six stories. There is
5 no change and no variance requested.

6 Maximum building height.

7 Seventy feet was the -- is the require --
8 the maximum requirement. Previously, we were 64.
9 Now, we're designing to the full 70 feet. No
10 variance is required.

11 The maximum building coverage.

12 Eighty percent is the maximum permitted.
13 The previous application was 87.6. We actually
14 were able to reduce that to 85 percent. However,
15 a variance is still required.

16 The maximum lot coverage is -- permitted is
17 95 percent. Both the previous and -- and current
18 applications are at 95 percent. No variance is
19 required.

20 The parking variance is a difference. We
21 were required, previously, 150 spaces. We had
22 proposed 165. Now, we are required 167 spaces,
23 whereas we're proposing 155, and a variance is
24 required for that portion.

25 MR. SCHKOLNICK: But we're adding five

1 spaces overall, from -- we're going from one fif
2 -- excuse me.

3 MR. PEREIRAS: No. We -- we --

4 MR. SCHKOLNICK: We're --

5 MR. PEREIRAS: -- reduced ten --

6 MR. SCHKOLNICK: -- losing a few.

7 MR. PEREIRAS: -- spaces.

8 MR. SCHKOLNICK: We're losing a few. I'm
9 sorry.

10 Okay.

11 Chairwoman, that concludes our testimony.
12 Certainly available for any questions you or the
13 public may have.

14 MR. CHEWCASKIE: Any questions by the
15 Board?

16 CHAIRPERSON CAPIZZI: No.

17 MR. CHEWCASKIE: All right.

18 Just one clarification, Mr. Pereiras, is
19 basically this property now has three front
20 yards.

21 MR. PEREIRAS: It -- currently, the way the
22 site is, there is still no -- Peter is still not
23 a street. We are under the assumption that Peter
24 Street will be -- will eventually continue
25 through the adjacent property. In which case, it

1 goes from having two front yards to having three
2 front yards.

3 MR. CHEWCASKIE: And it's been designed in
4 a manner to accommodate the improvements to Peter
5 Street.

6 MR. PEREIRAS: That is correct.

7 MR. CHEWCASKIE: I just wanted the Board to
8 be -- to be clear.

9 Since the Board doesn't have any questions,
10 any property owner within 200 feet have any
11 questions for Mr. Pereiras?

12 Seeing none.

13 I guess we can move to your next witness.

14 MR. SCHKOLNICK: Oh, we're going to do any
15 interested parties all after?

16 MR. CHEWCASKIE: At the end.

17 MR. SCHKOLNICK: Okay. That's fine.

18 We'll call Craig Peregoy, traffic expert.

19 We could have him sworn.

20 MR. DILLON: Please raise your right hand.

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

23 MR. PEREGOY: Yes, I do.

24 MR. DILLON: State your name and spell it
25 for the record.

1 MR. PEREGOY: Sure.

2 My name is Craig Peregoy, P-E-R-E-G-O-Y.

3 MR. SCHKOLNICK: Okay. Chairwoman, he's
4 been recognized as --

5 CHAIRPERSON CAPIZZI: Yes.

6 MR. SCHKOLNICK: -- an expert on --

7 CHAIRPERSON CAPIZZI: Yes.

8 MR. SCHKOLNICK: -- our previous
9 application. I believe others, as well.

10 Thank you for recognizing him as an expert.

11 Mr. Peregoy, could you just go over the
12 basic traffic issues, including that 22 foot
13 drive aisle and the parking, RSIS deviation, and
14 put on the record the basis for that relief, in
15 terms of the standards that are set forth in the
16 site improvement standards.

17 MR. PEREGOY: Yeah.

18 The parking requirement, as was testified
19 to previously, is 167 spaces. That's based on
20 the RSIS, the Residential Site Improvement
21 Standards and your Ordinance for the commercial
22 space. We're proposing 155 parking spaces.

23 Now, the RSIS' guidance has built into it
24 factors that you can consider to reduce that
25 parking requirement that they -- that they

1 outline.

2 It's basically the parking requirement for
3 a garden apartment that would apply to any
4 apartment in the State, including out in Sussex
5 County, in the middle of the woods, which clearly
6 isn't necessarily applicable here. And the RSIS
7 recognizes that within the document. It actually
8 points out four factors to consider reducing the
9 parking requirement.

10 One being household characteristics.

11 Two, availability of mass transit.

12 Three is urban versus suburban location.

13 And the fourth is availability of off-site
14 parking resources. Now, if you hit all four of
15 those, they all apply here.

16 Household characteristics.

17 If you look at the census data here in
18 Union City, vehicle ownership for renters is a
19 .64 per unit. So, if you applied that to this,
20 you'd be talking about 50 parking spaces, not 155
21 parking spaces.

22 Availability of mass transit.

23 Clearly, mass transit is available
24 throughout the City. Probably the best in the
25 State around here, in terms of mass transit

1 availability.

2 Urban versus suburban location.

3 Union City is clearly an urban location.

4 And availability of off-site parking
5 resources.

6 There's public parking provided throughout
7 the City. On every street, there's public
8 parking garages. Whereas that garden apartment,
9 complex out in Hunterdon County, may not have
10 that -- that availability or that overflow
11 potential, if it was necessary, which obviously,
12 in this case, we don't think it is.

13 I'd also point out that the RSIS does have
14 high rise standards. And that means if the
15 building was ten stories or higher, a different
16 standard applies. So, if we had the same number
17 of units, same bedroom breakdown, but this
18 building was ten stories tall, it would require
19 112 parking spaces.

20 So, for all those reasons, I think
21 certainly we have more than enough parking
22 availability provided.

23 The only other deviation, technically,
24 within the RSIS is the -- we have a 22 foot one
25 inch aisle width, whereas 24 feet is required.

1 In -- in most parking garages, that 24 feet is
2 not met, even in public parking garages that you
3 probably park in all the time. You see narrow
4 widths. As narrow as 20 feet works very well.
5 So, 22 feet, I think, in this case, would
6 certainly work perfectly fine and that deviation
7 can be granted.

8 MR. SCHKOLNICK: And that 22 feet was in
9 the prior 71 unit --

10 MR. PEREGOY: It was. Yes.

11 MR. SCHKOLNICK: Okay.

12 And there's also some guidance, since we
13 were here a year and a half ago, from the
14 Department of Community Affairs, that the aisle
15 width might not apply when you're in structured
16 parking inside.

17 MR. PEREGOY: Yes. The -- the Site
18 Improvement Advisory Board, who governs the RSIS,
19 has determined -- has -- has made a determination
20 on another case that we were working on that the
21 dimensional requirements do not apply to indoor
22 or structured parking. It's only for surface
23 parking.

24 So, technically, I guess, we don't need
25 that deviation.

1 MR. SCHKOLNICK: So with all that, do you
2 have an opinion as to whether the proposed
3 parking complies with the standards in the
4 Residential Site Improvement Standards for the de
5 minimis exception?

6 MR. PEREGOY: Yes. I -- I believe it
7 certainly does, in terms of number of spaces and
8 dimensionally.

9 MR. SCHKOLNICK: Okay, that concludes our
10 testimony.

11 MR. CHEWCASKIE: Any questions by the
12 Board?

13 All right.

14 Just one clarification, Mr. Peregoy. The
15 22 foot drive aisle that's contained throughout
16 the parking structure, that's sufficient for a
17 vehicle to enter or back out of a space.

18 Correct?

19 MR. PEREGOY: Absolutely.

20 MR. CHEWCASKIE: And not to create --

21 MR. PEREGOY: It's sufficient for two way
22 traffic --

23 MR. CHEWCASKIE: -- any --

24 MR. PEREGOY: -- and plenty of room.

25 MR. CHEWCASKIE: -- conflict.

1 MR. PEREGOY: Absolutely.

2 MR. CHEWCASKIE: That's all I got.

3 MR. SCHKOLNICK: And that's not actually in
4 the whole parking area.

5 MR. PEREGOY: That's --

6 MR. SCHKOLNICK: It's only in the --

7 MR. PEREGOY: It's a good point.

8 MR. SCHKOLNICK: It's only in the leg.

9 MR. PEREGOY: It's only in this leg where
10 the property is narrower.

11 MR. CHEWCASKIE: Right. All right.

12 Thank you.

13 Any member of the public within 200 feet
14 have any questions for Mr. Peregoy?

15 MS. GABLE: I have a comment.

16 MR. CHEWCASKIE: Oh.

17 MS. GABLE: I have one question. It's in
18 the planner's report.

19 MR. PEREGOY: Um hum.

20 MS. GABLE: A request of whether or not a
21 warning system should be provided at the
22 driveways.

23 MR. PEREGOY: Yeah. And -- and typical in
24 things in these types of buildings, we would put
25 a -- a beacon or a --

1 MS. GABLE: There will be?

2 MR. PEREGOY: -- warning system. There's
3 several different kinds. I'm not sure one's been
4 selected, but yes. Absolutely.

5 MS. GABLE: Okay.

6 MR. PEREGOY: Yes.

7 MS. GABLE: Thank you.

8 MR. CHEWCASKIE: Anyone in the public
9 within 200 feet have any questions?

10 Seeing none.

11 Your next witness.

12 MR. SCHKOLNICK: Okay.

13 We have a planner here. He's really going
14 to offer repetitive testimony on the RSIS issues.
15 There are no other new variances.

16 MR. CHEWCASKIE: It's -- it's your call,
17 Mr. Schkolnick, if you wish Mr. Kauker to
18 testify.

19 MR. SCHKOLNICK: We paid him to be here, so
20 we'll -- we'll have him come for some short
21 testimony.

22 MR. CHEWCASKIE: You might get --

23 MR. SCHKOLNICK: If we could have him
24 sworn?

25 MR. CHEWCASKIE: -- a refund.

1 MR. SCHKOLNICK: That's unlikely to
2 happen. The client -- unlike -- where's the
3 client? Unlikely to happen.

4 MR. DILLON: Please raise your right hand.
5 Do you swear the testimony you're about to
6 give this Board is the whole truth?

7 MR. KAUKER: I do.

8 MR. DILLON: State your name for the
9 record.

10 MR. KAUKER: Michael D. Kauker. Last
11 name's K-A-U-K-E-R.

12 MR. DILLON: Thank you.

13 MR. SCHKOLNICK: And Chairwoman, he's been
14 previously --

15 CHAIRPERSON CAPIZZI: Yes.

16 MR. SCHKOLNICK: -- recognized as an
17 expert.

18 CHAIRPERSON CAPIZZI: Yes.

19 MR. SCHKOLNICK: Thank you.

20 So, Mr. Kauker, --

21 MR. KAUKER: Yes?

22 MR. SCHKOLNICK: -- you've had a chance to
23 review all the variances and relief --

24 MR. KAUKER: I have.

25 MR. SCHKOLNICK: -- that's involved.

1 Correct?

2 And you actually --

3 MR. KAUKER: That is correct.

4 MR. SCHKOLNICK: -- prepared the variance
5 comparison chart that we marked as A-2.

6 MR. KAUKER: I did. That is correct.

7 MR. SCHKOLNICK: And can you confirm for
8 the Board that the variances are either the same
9 or have been made smaller and less intense, other
10 than the parking situation?

11 MR. KAUKER: Yeah, just real briefly, that
12 is correct.

13 The -- as was mentioned before by Mr.
14 Pereiras, the number of units is increased from
15 71 to 78. Minimum rear yard has increased from
16 15 feet to 20 feet. The side yard also has
17 increased somewhat.

18 One of the things I did want to point out
19 that wasn't mentioned before, the side yard,
20 along this point, is five feet. But as you go
21 over here, the side yard increases to about 12
22 feet five inches. So, the side yard is longer
23 when it gets near the Hudson Street, as well.
24 So, that's another benefit of the project, in
25 another area where the side yard was made larger.

1 Finally, as was mentioned before, the
2 building coverage decreased slightly; 87 and a
3 half percent to 85 percent.

4 And then, the only thing that increased was
5 the parking requirement. Well, the park -- as a
6 result of the increase in the number of units,
7 and the only new variance that's created as a
8 result of the application here.

9 MR. SCHKOLNICK: Whether that is a variance
10 or a RSIS --

11 MR. KAUKER: Or an exception from --

12 MR. SCHKOLNICK: -- deviation.

13 MR. KAUKER: -- the RSIS. Correct.

14 MR. SCHKOLNICK: And have -- and from a
15 planning standpoint, have you looked at the
16 standards in the RSIS?

17 MR. KAUKER: I have. Yes.

18 MR. SCHKOLNICK: And do you have an opinion
19 as to whether the proposed parking satisfies
20 those standards, from a professional planning
21 standpoint?

22 MR. KAUKER: Yeah. First, I'd just like to
23 point out the testimony that was offered by Mr.
24 Peregoy, in terms of the criteria that one looks
25 at with respect to the RSIS.

1 Obviously, there's a number of supporting
2 reasons justifying the grant of the variance, or
3 the exception under the RSIS. Obviously, the
4 household characteristics, which he indicated
5 were something that were positive with respect to
6 the deviation in the parking.

7 The fact that it's located in an urban
8 location. The fact that we have a -- a great
9 availability of mass transit in the area, as
10 well.

11 So, for those reasons, I think that the
12 exception or the deviation can be supported.
13 Specifically with respect to the RSIS, I would
14 note the following from a planning standpoint.

15 Number one.

16 I believe it's consistent with the Site
17 Improvement Act.

18 Number two.

19 I think that it's -- the exception is
20 something that is reasonable and limited and not
21 unduly burdensome.

22 Number three.

23 I think that it meets the needs of the
24 public health and safety.

25 And finally, number four.

1 It takes into account existing
2 infrastructure and the possible surrounding
3 future development.

4 One other thing that I just did want to
5 point out briefly, there's also an exception with
6 respect to the aisle width. And if you note, the
7 aisle width exception is only on this portion of
8 the building here, where it's the narrowest. So,
9 this is the narrowest portion of the site, where
10 we propose 22 feet one inch.

11 So, I think given the fact that we have
12 that narrow area, we're providing the five foot
13 setback, I think that that is something that's
14 justified.

15 One of the other mitigating factors with
16 respect to the 22 foot aisle width here is
17 obviously, when we -- you have -- with respect to
18 Peter Street, obviously, there's a zero foot
19 setback that's provided there.

20 So, the other thing I just did want to
21 point out, and Mr. Peregoy mentioned it, 22 feet
22 is an acceptable width for vehicles, especially
23 of this type of development.

24 MR. SCHKOLNICK: And here it's basically
25 two spots per unit.

1 MR. KAUKER: That -- that's correct.

2 MR. SCHKOLNICK: Right?

3 MR. KAUKER: We're providing 1.98 parking
4 spaces per unit, which I think is something that
5 is appropriate in Union City.

6 MR. SCHKOLNICK: Okay.

7 Thank you.

8 That concludes our testimony.

9 MR. CHEWCASKIE: Does the Board have any
10 questions?

11 Ms. Gable, any questions?

12 MS. GABLE: I have two few real quick
13 questions. I think they might be for the
14 architect, which is also from David Spatz's
15 planning review.

16 MR. SCHKOLNICK: Do we have a date on that?

17 MR. CHEWCASKIE: That was the early one?
18 That was --

19 MS. GABLE: Just says September 12th --

20 THE SECRETARY: No, I --
21 Sorry.

22 MR. CHEWCASKIE: Right.

23 MR. SCHKOLNICK: Oh, that I have.

24 MR. CHEWCASKIE: That one you have.

25 MS. GABLE: I just had a question regarding

1 the -- some testimony regarding the site lighting
2 and the materials used for the building façade.
3 If you could provide some testimony about that?

4 MR. PEREIRAS: The three facades that will
5 have frontage will be brick.

6 MS. GABLE: Okay.

7 MR. PEREIRAS: And the -- and there is
8 minor lighting on the façades. They're indicated
9 on my elevations. It's just basically wall
10 washers.

11 MS. GABLE: Okay.

12 MR. NEMETH: Brick construction is
13 mentioned in the settlement agreement.

14 MS. GABLE: Okay. Great.

15 Thank you.

16 MR. CHEWCASKIE: Thank you.

17 VICE CHAIRPERSON KOEHLER: One quick thing
18 and this has no bearing on a whole lot, but I --
19 I notice a lot of your projects have the black
20 brick, or dark gray. And because this is such a
21 large structure, facing three streets, I think
22 that that -- I feel that would be very dominant
23 of a color. I was wondering if you're open to
24 different -- maybe something lighter, traditional
25 red.

1 MR. PEREIRAS: Ironically, I almost always
2 use red brick. And my clients tend to change
3 that. I actually specified red brick for this,
4 but the client, he has a potential of changing
5 that. I don't think we're going to -- do we have
6 any --

7 MR. SCHKOLNICK: We hear you.

8 MR. PEREIRAS: We hear you.

9 MR. SCHKOLNICK: We hear you. We hear you.

10 VICE CHAIRPERSON KOEHLER: It's a --

11 MR. SCHKOLNICK: We'll definitely consider
12 that. The client's here listening, so --

13 VICE CHAIRPERSON KOEHLER: Perfect.

14 MR. SCHKOLNICK: -- duly noted.

15 MR. CHEWCASKIE: All right.

16 Does anyone within 200 feet have questions
17 for Mr. Kauker?

18 Seeing none.

19 I guess we should open for general comments
20 now.

21 Does any member of the public have any
22 comments or questions about the application?

23 Mr. Price, I knew you couldn't stay --

24 MR. PRICE: Yeah.

25 MR. CHEWCASKIE: -- seated.

1 MR. PRICE: But mostly about --

2 Larry Price, 1006 Palisade Avenue.

3 MR. DILLON: Do you need him sworn or --

4 MR. CHEWCASKIE: Yeah, let's have him sworn
5 in, if he's going to make comments too.

6 MR. DILLON: Please raise your right hand.

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

9 MR. PRICE: I do.

10 MR. DILLON: State your name for the
11 record, please.

12 MR. PRICE: I -- Larry -- Larry Price, --

13 MR. DILLON: Okay.

14 MR. PRICE: -- 1006 Palisade.

15 I really -- the question's not on the
16 application, which I have no problem with. You
17 know, the question is, the procedures here.
18 Okay.

19 The differentiation between property owners
20 within 200 feet and outside, you can make that
21 whatever, but you can't, I don't think, treat
22 proper -- property owners in the city, who are
23 very clearly interested parties, as -- as defined
24 in the MLUL, as not being able to cross examine
25 witnesses, as well as make comments. And not

1 with a time -- five minute timeframe. This is --

2 MR. CHEWCASKIE: Your point is well noted,
3 but the procedure for settlements has been
4 approved by courts and that's the procedure we've
5 determined to follow.

6 MR. PRICE: Oh, Whispering Woods?

7 MR. CHEWCASKIE: Yes. I mean, if -- I
8 mean, I understand your concerns. You didn't
9 have -- I appreciate that you didn't have an
10 issue with the project. But since the project
11 was fully vetted at prior hearings, the
12 settlement is intended to be a streamline
13 process.

14 MR. PRICE: But at prior hearings, if there
15 was any interested party, property owner within
16 Union City, who had a problem with that project,
17 the project was denied. So, as far as he was
18 concerned, that was that and whatever. So --

19 MR. CHEWCASKIE: I --

20 MR. PRICE: Excuse me.

21 So, he is now -- if he still has a concern
22 with this project, he is now able to exert it.
23 And the fact that there was a lot of litigation,
24 this is the whole -- whole reason for a
25 Whispering Woods hearing.

1 MR. CHEWCASKIE: And as I can say is that
2 appropriate notice was given. That property
3 owner, whether within or without 200 feet, the
4 notice provisions similar to a project that would
5 be before the Board for the first time were
6 followed.

7 MR. PRICE: Correct.

8 MR. CHEWCASKIE: I -- I note your concern
9 and you know, we haven't disagreed in the past
10 that often. But we note your concern.

11 MR. PRICE: But --

12 MR. CHEWCASKIE: And certainly, unless you
13 -- unless you -- about the procedure, and maybe
14 the procedure would be different the next time.
15 And hopefully, there's not a next time.

16 MR. PRICE: Okay. Well, my question is, is
17 this, in fact, a one off situation, where because
18 it's Whispering Woods, we have these
19 restrictions?

20 MR. CHEWCASKIE: Is yes. It's not a --
21 it's not a typical restriction that you would
22 have at any hearing.

23 But just so that you're aware, there's
24 nothing that precludes a board from managing the
25 hearings in the way that it deems fit. If there

1 are a hundred people that are at an application,
2 there may be limits put on individuals to speak.

3 MR. PRICE: Correct.

4 And there is case law that says you are
5 able to differentiate in terms of spacing between
6 people within 200 feet and those -- whatever.
7 But everybody has to get a hearing. That's also
8 in the case law.

9 MR. CHEWCASKIE: We don't want to -- we are
10 certainly providing the appropriate due process,
11 as been determined by the court.

12 And it was great to see you again.

13 MR. PRICE: Yes, Mr. Chewcaskie, as always,
14 thank you.

15 MR. SCHKOLNICK: Okay. And just so the
16 record is clear, that all members of the public
17 have had a chance to make statements or ask
18 questions.

19 MR. CHEWCASKIE: That is correct.

20 MR. SCHKOLNICK: Okay.

21 Chairwoman, we also have a request that's
22 consistent with the settlement documents for a
23 third year vesting. The City, in its settlement,
24 wanted no new applications for three years, and
25 we said that's satisfactory. It's a large

1 project. We hope to be in the ground soon, but
2 things take time. And so, we're asking for that
3 third year vesting to make those consistent.

4 MR. CHEWCASKIE: And we have had no
5 objection to the third year.

6 Mr. Schkolnick, I don't know if you want to
7 say anything further about the application?

8 MR. SCHKOLNICK: I wasn't planning on it.

9 MR. CHEWCASKIE: Okay.

10 You've been provided a draft of the
11 Resolution that's consistent with the settlement
12 agreement. If the Board approves the
13 application, I will request the Chairwoman to
14 sign that tonight.

15 That Resolution had a number of conditions
16 that I believe we've gone through over the past
17 several weeks. My understanding, there's no
18 objection to those conditions as contained in the
19 Resolution.

20 MR. SCHKOLNICK: That is correct.

21 MR. CHEWCASKIE: Okay.

22 Board members, it would be appropriate then
23 for a resolution -- I mean, a vote on the
24 application. Is there --

25 MR. SCHKOLNICK: Mr. Chewcaskie, I just --

1 | can we just make sure one more time that any
2 | member of the public who wanted --

3 | MR. CHEWCASKIE: Sure.

4 | MR. SCHKOLNICK: -- to speak had a chance
5 | so the --

6 | MR. CHEWCASKIE: Is there --

7 | MR. SCHKOLNICK: -- record is clear.

8 | MR. CHEWCASKIE: Is there any other member
9 | of the public that wished to speak on this
10 | application?

11 | Seeing none, the public portion will be
12 | closed.

13 | Mr. Vallejo?

14 | THE SECRETARY: Can I have a motion to --

15 | CHAIRPERSON CAPIZZI: I make a motion to
16 | approve the application.

17 | MR. NEMETH: Approve the settlement.

18 | THE SECRETARY: Motion to approve the
19 | settlement by Ms. Capizzi.

20 | VICE CHAIRPERSON KOEHLER: I second.

21 | THE SECRETARY: Seconded by Ms. Koehler.

22 | Roll call on the motion.

23 | Ms. Capizzi?

24 | CHAIRPERSON CAPIZZI: Yes.

25 | THE SECRETARY: Ms. Koehler?

1 VICE CHAIRPERSON KOEHLER: Yes.

2 THE SECRETARY: Ms. Genao?

3 MS. GENAO: Yes.

4 THE SECRETARY: Mr. Medina?

5 MR. MEDINA: Yes.

6 THE SECRETARY: Mr. Velazquez?

7 MR. VELAZQUEZ: Yes.

8 THE SECRETARY: Mr. Guareno?

9 MR. GUARENO: Yes.

10 THE SECRETARY: Six in favor.

11 Motion carries.

12 Thank you.

13 MR. SCHKOLNICK: Do we have the -- is there
14 going to be a separate vote on the settlement
15 agreement --

16 MR. NEMETH: No, that's what that was.

17 MR. SCHKOLNICK: -- or was that
18 incorporated into --

19 THE SECRETARY: No.

20 MR. NEMETH: That was the vote.

21 MR. CHEWCASKIE: That's incorporated into
22 the vote, so all documents will be signed. I
23 request the Chairwoman to sign at the end of the
24 meeting.

25 MR. SCHKOLNICK: Oh, okay. So, the

1 Resolution, as well.

2 MR. CHEWCASKIE: The Resolution is done.

3 MR. SCHKOLNICK: Okay.

4 Thank you for your time.

5 We appreciate it.

6 MR. CHEWCASKIE: Thank you, all.

7 VICE CHAIRPERSON KOEHLER: Thank you.

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

10 * * *

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

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

2

3 THE SECRETARY: Next application on
4 tonight's agenda, Joseph Gaudio, 2500 New York
5 Avenue.

6 Mr. Gonzalez, please?

7 MR. GONZALEZ: Carlos, I thought you --
8 Bianca's kids are sick, so maybe she should go
9 first.

10 THE SECRETARY: All right. We're going to
11 do that. No problem.

12 MR. CHEWCASKIE: Okay.

13 CHAIRPERSON CAPIZZI: What?

14 MS. PEREIRAS: Thank you very much.

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

17 CHAIRPERSON CAPIZZI: What happened?

18 MR. CHEWCASKIE: Bianca -- Bianca's kids
19 are sick.

20 CHAIRPERSON CAPIZZI: Oh. Sure. Sure.

21 THE SECRETARY: Okay. Just hold on on that
22 application.

23 Ms. Pereiras request be heard because her
24 kids are sick.

25 MR. CHEWCASKIE: Okay.

1 MS. PEREIRAS: I have a sick four year old,
2 so I appreciate it.

3 Thank you.

4 THE SECRETARY: Let me just -- hold on one
5 second.

6 CHAIRPERSON CAPIZZI: Thank you.

7 MR. GONZALEZ: Have four; they're all old.

8 MS. PEREIRAS: Thank you.

9 THE SECRETARY: We are going to go to -- we
10 are going to go to number 8.

11 613 39th Street, LLC.

12 Ms. Pereiras, please?

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

15 MS. PEREIRAS: Good evening, counsel, Madam
16 Chair, members of the Board.

17 May it please the Board, Bianca Pereiras on
18 behalf of 613 39th Street, LLC.

19 I've submitted my jurisdictional
20 submissions to counsel.

21 MR. CHEWCASKIE: And those are appropriate.
22 The Board has jurisdiction to proceed. The
23 notices were in appropriate form.

24 MS. PEREIRAS: Thank you very much.

25 The property in question is for 613 39th

1 Street, also known as Block 261, Lot 57.

2 Currently, we have an oversized lot. The
3 application before the Board this evening is to
4 subdivide into two conforming lots and to
5 construct a new three family home, on the lot
6 that is 2500 square feet.

7 We have one expert to testify before the
8 Board this evening, and that is our architect,
9 Mr. Manuel Pereiras.

10 MR. PEREIRAS: Manny Pereiras.

11 I recognize that I am still under oath.
12 Still Manny Pereiras.

13 MS. PEREIRAS: Mr. Pereiras, are you
14 familiar with the property at 613 39th Street?

15 MR. PEREIRAS: I am.

16 MS. PEREIRAS: And did you prepare the
17 drawings before the Board?

18 MR. PEREIRAS: I have.

19 MS. PEREIRAS: And would you kindly walk us
20 through this application, and I'll just note that
21 we submitted this application prior to the
22 Ordinance being -- or coming into effect. So, on
23 our site plan, and Mr. Pereiras will testify to
24 the variances as per the old Ordinance, and
25 whatever variances we would trigger with the new

1 Ordinance.

2 Mr. Pereiras?

3 MR. PEREIRAS: Yes. So, the drawings to my
4 right are drawings that were submitted and
5 revised on September 25th, 2018.

6 As you could see, there are four revision
7 dates, plus the original. So, this project has
8 gone through, like many different iterations to
9 get it to where it's right and perfect. And what
10 you see here is actually something that's
11 completely conforming with our new Ordinance.
12 And we were able to do that in a very difficult
13 site.

14 This is on 39th Street. As you go down the
15 hill, you have the housing projects on the right
16 hand side. This is on the left hand side.
17 There's an old dilapidated, beat up house and a
18 garage. We're looking to tear that down. That's
19 an eyesore for the community. And we're looking
20 to construct on this portion of the site the
21 three family house.

22 So, currently, the site is 50 wide by 75
23 wide here, along 39th Street, and it's a hundred
24 feet deep. So, it creates this L shape. We're
25 keeping this portion of the building separate as

1 a lot. It's an oversized lot. This Board is not
2 going to see that because it fits into -- under
3 two zoning districts. We're both in commercial
4 and residential. So, that's a separate lot. And
5 what we're presenting to this Board today is this
6 portion, which is a conforming 25 by 100.

7 And as counsel mentioned -- mentioned
8 before, we knew that the Ordinance was changing,
9 so we -- even though we submitted these drawings
10 prior to that change, we looked ahead and we
11 created our chart that shows both the current
12 Ordinance, which is the future Ordinance in this
13 project, and the -- and the Ordinance that we
14 have.

15 So, we do have variances. However, if this
16 were literally withdrawn and resubmitted, those
17 variances would go away.

18 And I'll -- and I'd like to walk you
19 through everything.

20 We have a minimum lot area of 2500 square
21 feet. We comply with that. Minimum width of 25.
22 A minimum depth of a hundred feet, also in
23 compliance.

24 Front yard is ten feet or prevailing. We
25 are presenting this as a prevailing setback. You

1 have the adjacent structure which is a -- the
2 concrete wall that we have there, that goes along
3 the -- actually, beyond the property line. So,
4 our building is actually going to be set back
5 right at where the property line. It's going to
6 feel like a setback, even though we're at the
7 property line there. So, it's prevailing.

8 Minimum rear yard is -- previously was 25
9 feet, as a percentage of 25 percent of the lot.
10 So, a variance is requested there. However,
11 under the new Ordinance, only five feet is
12 required, and that's exactly what we're
13 providing, five feet.

14 Minimum side yard.

15 We have two feet on one side and three feet
16 on the other, for the majority of the building.
17 The portion where is the garage along the front,
18 we are, and this is very expensive to the
19 applicant, but very important to the project,
20 we're going to be excavating a lot of rock there
21 in order to create parking on the lower level.

22 So, the front portion of the building is
23 going to be on the property line on both sides.
24 It doesn't effect anyone in any way, because you
25 have that massive concrete wall to one side, and

1 we have the proposed property, which is the same
2 owner, which we're doing the same thing on the
3 opposite side.

4 So, the front portion of the building, and
5 just to clarify that, it's zero setback along
6 there. Whereas, the best -- the rest of
7 building, what goes up and what's beyond, will be
8 three feet and two feet on both sides. Okay?

9 The -- and -- and it's going to be more
10 clear when I go through the elevations and
11 through the floor plans.

12 The building height.

13 It is four stories is permitted. I'm
14 calling this a three story building, because we
15 have a one story along the front. And then, the
16 grade -- the topography of the site goes up. And
17 as it goes up, you're going to have the parking
18 underneath the ground and three stories above.
19 So, this is only going to be a three story
20 building along the back of the site.

21 And then, building height.

22 If you're looking at it, we're proposing --
23 we're proposing a total of -- it's based on the
24 average. So, on the average, we have a average
25 of 40 feet point four. At the highest point,

1 | it's about 45 feet. At the lowest point, it's a
2 | little bit less. And the average comes out to 40
3 | feet in total.

4 | So, on this point, if you take our building
5 | height, it's at 36.5. At this point, it's 44.3.
6 | The average, in total, is 40 feet. Currently, on
7 | the Ordinance, when we submitted this, a variance
8 | was required and we're requesting it. Under our
9 | new Ordinance, it is not required.

10 | Maximum building coverage.

11 | We are at 69 percent. Again, under the
12 | current Ordinance, we're requesting a variance.
13 | In the future Ordinance that's already in place,
14 | not required.

15 | And maximum coverage.

16 | We are at a hundred percent. Currently,
17 | we're still requesting a variance for that. The
18 | future Ordinance, this would not require a
19 | variance.

20 | And we are providing six parking spaces,
21 | which is in complete compliance.

22 | And now, we can see in the floor plans, I'm
23 | changing now to Sheet Z02, we have the ground
24 | floor. We have a garage on the first level and
25 | stairs that lead you up to the second level.

1 | These are exterior stairs and we show parking for
2 | the three apartments.

3 | Apartment one, which is two parking spaces
4 | in tandem; apartment two, two parking spaces in
5 | tandem; and apartment three, two parking spaces
6 | in tandem, with enough room for vehicles to -- to
7 | go across.

8 | The first floor construction, which is at
9 | grade with the topography going back, as you go
10 | up the stairs, you walk -- this would be grade
11 | and you walk into the apartment. You have an
12 | apartment on that ground level, and it's a three
13 | bedroom apartment, with a nice living room,
14 | dining room, kitchen. Very simple, very typical
15 | in our designs.

16 | And then, when we go upstairs, what we did
17 | is something a little bit different. We are
18 | entering the two apartments from the stair, this
19 | stairwell. You lead up and the -- the floor
20 | plate actually divides in half. And what we're
21 | doing is two duplex apartments, so that one
22 | person doesn't have to walk all the way up. What
23 | we're able to do, since we have the topography
24 | going back, we're able to create a three story
25 | building, which means we don't need that second

1 stairwell, which means that the duplex apartment
2 works very well.

3 And what we're doing is two duplex
4 apartments: living room, dining room, kitchen,
5 with a half bath on the -- on the second floor,
6 and on the third floor, we have the three
7 bedrooms. So, you created these two duplex
8 apartments; one along the front, and one along
9 the back. And what we have is still a three
10 family house, fully in compliant with the future
11 Ordinance.

12 Turning now to the elevations. We have a
13 very beautifully designed elevation. It's all
14 brick, stone along the base, and then the three
15 levels of brick, with accentuation two colors
16 bricks, and a little bit of depth difference. On
17 the side profile, the side elevation, you could
18 see how the grade changes drastically. We're
19 excavating this portion to get the parking below,
20 but the back of the building is a three story
21 building, with the garage, the one story garage
22 along the front.

23 The sides of the building and the rear are
24 going to be vinyl siding.

25 And I believe that concludes my -- my

1 presentation.

2 I'm ready for questions.

3 VICE CHAIRPERSON KOEHLER: I have a quick
4 question.

5 The front, the street facing front is the
6 one with the garage --

7 MR. PEREIRAS: Yes.

8 VICE CHAIRPERSON KOEHLER: The proposed
9 front elevation. And the setback is above the
10 garage.

11 Is that right?

12 MR. PEREIRAS: The setback is above the
13 garage. Correct.

14 VICE CHAIRPERSON KOEHLER: Okay.

15 MR. PEREIRAS: However --

16 VICE CHAIRPERSON KOEHLER: Remind me how
17 far back.

18 MR. PEREIRAS: -- it's hard to understand.
19 Let's look at the site plan.

20 VICE CHAIRPERSON KOEHLER: Oh, that's a six
21 foot setback.

22 Is that right?

23 MR. PEREIRAS: It's -- the garage is zero
24 feet.

25 VICE CHAIRPERSON KOEHLER: Okay.

1 MR. PEREIRAS: However, if you look at that
2 big concrete wall to the property to the back,
3 that is well past the property -- the -- the
4 fronts. And the sidewalk -- there's no dimension
5 on there, but it's about seven feet or so. The
6 property line is about seven feet from the actual
7 beginning of the sidewalk.

8 VICE CHAIRPERSON KOEHLER: And then -- and
9 then, you have the garage. And then, above that,
10 six feet --

11 MR. PEREIRAS: Then it's sets back --

12 VICE CHAIRPERSON KOEHLER: -- back.

13 MR. PEREIRAS: -- another six feet.

14 VICE CHAIRPERSON KOEHLER: And then, the
15 three stories.

16 MR. PEREIRAS: Right. So, our building --

17 VICE CHAIRPERSON KOEHLER: Three? Is that
18 right? Three --

19 MR. PEREIRAS: Our building is going to
20 feel like it's set back like 12 feet.

21 VICE CHAIRPERSON KOEHLER: Right.

22 CHAIRPERSON CAPIZZI: So, is it three story
23 or four story?

24 MR. PEREIRAS: So, it's a three story
25 building, but if you're looking at it from 39th

1 Street, it's going to look like four stories.

2 And I'll go back to the elevation, so that
3 we could see that.

4 If you look at this elevation, this is
5 three stories. One, two, three. But if you're
6 looking from down here, on 39th Street, it's going
7 to look like a four story building, because
8 you're going to see the garage, and then, one,
9 two, three.

10 VICE CHAIRPERSON KOEHLER: So, I'm a
11 pedestrian, I'm walking down the street. For the
12 most part, I see just a garage.

13 Is that right?

14 MR. PEREIRAS: You see a garage, and then
15 set back further --

16 VICE CHAIRPERSON KOEHLER: But the dominant
17 visual is the garage.

18 MR. PEREIRAS: Yes.

19 VICE CHAIRPERSON KOEHLER: Yeah. Okay.

20 CHAIRPERSON CAPIZZI: How high are the
21 buildings on either side?

22 MR. PEREIRAS: They're -- it's -- on the --
23 let me show you on the site plan.

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

1 MR. PEREIRAS: Okay.

2 So, if we're going to the -- to the west,
3 you have a huge retaining wall that goes up about
4 18 feet. And then, on top of that retaining
5 wall, you have a house that goes another two and
6 a half stories.

7 So, it's four and a half to -- it's -- it
8 feels like five and a half stories. It's
9 actually beyond -- above the height of our -- our
10 house.

11 CHAIRPERSON CAPIZZI: Okay.

12 MR. PEREIRAS: And then, if you go to this
13 direction, you have the empty lot that we're
14 going to be going before the Zoning Board for.
15 And then, beyond that, you have a multi-family
16 building, it's a large brick building. I'm not
17 sure if it's four or five stories, but it's
18 either four or five stories. Mixed use building.

19 MR. CHEWCASKIE: So, Manny, just so that I
20 am clear, the distance from the curb to the entry
21 or the garage door --

22 MR. PEREIRAS: Um hum.

23 MR. CHEWCASKIE: -- what's that distance?

24 MR. PEREIRAS: I -- I'm going to measure
25 for you, so I can give you a precise dimension,

1 but if I had to estimate right now, it's about 12
2 feet. It's right about 12 feet, maybe 13 feet.

3 MR. CHEWCASKIE: And the way it's designed,
4 the -- there's no driveway for the vehicle.

5 MR. PEREIRAS: There isn't.

6 MR. CHEWCASKIE: It will cover the sidewalk
7 and the like.

8 MR. PEREIRAS: Right.

9 MR. CHEWCASKIE: So -- and how does -- how
10 does one enter this? Is this, I assume, an
11 automatic door?

12 MR. PEREIRAS: It's an automatic door. You
13 press the button, you go in. The sidewalk is
14 deep enough that the car is off the street. We
15 purposefully put this within the garage. We
16 didn't want to have vehicles outside. We wanted
17 to think about safety of pedestrians and children
18 walking towards the housing development next to
19 it. That was all kept in mind. And that's the
20 reason we designed it in this way. And that's
21 why we had four or five iterations of this.

22 CHAIRPERSON CAPIZZI: Okay.

23 MR. CHEWCASKIE: Do you have any -- any
24 questions?

25 THE SECRETARY: Elena?

1 MS. GABLE: Oh, sorry. I don't believe so;
2 I think you covered pretty much everything that
3 was in David's report.

4 CHAIRPERSON CAPIZZI: Lighting?
5 Trees?

6 MR. PEREIRAS: Lighting.

7 CHAIRPERSON CAPIZZI: Lighting?

8 MR. PEREIRAS: Absolutely.

9 So, we have the typical required site
10 lighting along the side of the building. Over
11 each door, there's going to be a sconce that
12 lights the -- the doorway below it. And then,
13 what we have as well is down lighting on both
14 sides of the garage, and along here, there's a
15 canopy that leads to a deck on top of the garage,
16 and that has lighting, as well.

17 CHAIRPERSON CAPIZZI: Anything in the back?

18 MR. PEREIRAS: We don't but we'd be -- I
19 don't have it now, but we'd be happy to include
20 that in the -- in the documents.

21 MR. VELAZQUEZ: So, going through all the
22 blue stone, technically, brings it down, which
23 would make it, without the garage, a three story.

24 MR. PEREIRAS: Correct.

25 MR. VELAZQUEZ: So, you're bringing it

1 straight down.

2 MR. PEREIRAS: I mean, it's going to have
3 four stories.

4 It's going to have parking and then three
5 apartments. But from the visuals, we have a
6 three story building because the grade is raised.
7 It's very expensive to do.

8 MR. VELAZQUEZ: Yeah.

9 MR. PEREIRAS: Our applicant is looking to
10 make the City happy and create a good building
11 here.

12 MR. VELAZQUEZ: No. The -- the occupant,
13 unfortunately, passed away, didn't have water for
14 like two weeks. And they couldn't find the line
15 because all the blue rock.

16 MR. PEREIRAS: Yeah.

17 MR. VELAZQUEZ: A plumber wanted \$29,000.00
18 to do it. Somebody did it for a hundred dollars.

19 MR. PEREIRAS: Yeah.

20 MR. VELAZQUEZ: He has a good heart,
21 though.

22 CHAIRPERSON CAPIZZI: What about the noise
23 factor with the blasting? How you going to deal
24 with that?

25 MR. PEREIRAS: It -- it might not be

1 | blasting. That's going to be mitigated with the
2 | Building Department. There will be --

3 | CHAIRPERSON CAPIZZI: Okay.

4 | MR. PEREIRAS: We have an amazing Building
5 | Department here. They're very cautious and we go
6 | through a lot --

7 | CHAIRPERSON CAPIZZI: Okay.

8 | MR. PEREIRAS: -- a lot to do any
9 | excavation.

10 | CHAIRPERSON CAPIZZI: Okay.

11 | MR. PEREIRAS: It might be chemical
12 | breaking of the rocks. It might be blasting.
13 | We're going to try different things.

14 | CHAIRPERSON CAPIZZI: Okay.

15 | MR. PEREIRAS: But that's all contained.
16 | And the hours of operation are contained very
17 | much, as well.

18 | MR. MEDINA: (Indiscernible) -- the
19 | chemical?

20 | MR. PEREIRAS: Chemical, one of the ways
21 | that they break rock is they drill holes and
22 | then, they pour chemical in there. And that
23 | chemical tends to expand. And when it expands,
24 | it breaks the rock. So, it's a lot less noise
25 | then blasting. It's also more expensive. And

1 | there's situations where that works and there's
2 | situations that it doesn't.

3 | And excavating rock is a very interesting,
4 | strange phenomena. There could be a rock, you
5 | hit it with a hammer once and it breaks in half.
6 | It could -- you could find the same rock that
7 | looks exactly the same, and you could jackhammer
8 | for ten days, and it doesn't break. So, it's --
9 | you -- we never know until we're actually there
10 | working and excavating.

11 | THE SECRETARY: Mr. Pereiras?

12 | MS. GABLE: I had one question.

13 | Is the garage area, is that considered a
14 | basement or a cellar pursuant to the definitions?

15 | MR. PEREIRAS: It would be -- I think it
16 | would be considered a cellar, based on the
17 | Building Code.

18 | MS. GABLE: Okay.

19 | MR. CHEWCASKIE: There's no windows or
20 | anything.

21 | Correct?

22 | MR. PEREIRAS: Correct.

23 | MS. GABLE: Right.

24 | MR. CHEWCASKIE: Any other Board questions?

25 | CHAIRPERSON CAPIZZI: No.

1 MR. CHEWCASKIE: Any member of the public
2 interested in this application?

3 Seeing none.

4 Board members, I guess it's your pleasure,
5 but there was a -- an issue about blasting. I
6 guess the condition is -- you know, in accordance
7 with the direction of the Building Department.

8 CHAIRPERSON CAPIZZI: Correct.

9 MR. CHEWCASKIE: And there was a question
10 about the lighting. I don't know if the Board
11 wanted to address lighting on the rear of the
12 building.

13 CHAIRPERSON CAPIZZI: I would like to have
14 a light on the rear of the building.

15 MR. PEREIRAS: We'll provide the same
16 lighting that we have along the side, along the
17 rear, as well.

18 CHAIRPERSON CAPIZZI: Thank you.

19 I'll make a motion to approve the
20 application --

21 THE SECRETARY: Motion on the table to
22 approve the --

23 CHAIRPERSON CAPIZZI: -- with those --

24 THE SECRETARY: -- application by Ms. --

25 CHAIRPERSON CAPIZZI: -- stipulations.

1 THE SECRETARY: -- Capizzi.

2 CHAIRPERSON CAPIZZI: Yes.

3 THE SECRETARY: Second the motion by Mr.
4 Guareno.

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

7 Ms. Capizzi?

8 CHAIRPERSON CAPIZZI: Yes.

9 THE SECRETARY: Ms. Koehler?

10 VICE CHAIRPERSON KOEHLER: Yes.

11 THE SECRETARY: Ms. Genao?

12 MS. GENAO: Yes.

13 THE SECRETARY: Mr. Medina?

14 MR. MEDINA: Yes.

15 THE SECRETARY: Mr. Velazquez?

16 MR. VELAZQUEZ: Yes.

17 THE SECRETARY: Mr. Guareno?

18 MR. GUARENO: Yes.

19 THE SECRETARY: Six in favor.

20 Motion carries.

21 MS. PEREIRAS: Thank you all very much.

22 THE SECRETARY: Thank you, Mrs. Pereiras.

23 MS. PEREIRAS: Thank you.

24 * * *

25

1 **Irineo Silveiro Chavez - 123 40th Street:**

2

3 THE SECRETARY: All right.

4 Next application on tonight's agenda,

5 Irineo Silveiro Chavez, 123 40th Street.

6 Ms. Pereiras, please?

7 MS. PEREIRAS: Again, Bianca Pereiras, on
8 behalf of the applicant, for 123 40th Street, also
9 known as Block 233, Lot 29.

10 MR. CHEWCASKIE: Excuse me.

11 I've had the opportunity to review the
12 affidavit provided by Ms. Pereiras. Same is in
13 appropriate form. The Board has jurisdiction.

14 MS. PEREIRAS: Thank you.

15 Onsite, we have an existing legal two
16 family home. The application before the Board
17 this evening is to legalize one unit. And if
18 this Board deems approvable, we would have a
19 three unit family home.

20 We have one expert to testify before the
21 Board; that is, again, our architect, Mr. Manuel
22 Pereiras.

23 MR. PEREIRAS: Manny Pereiras.

24 I recognize I am still under oath.

25 MS. PEREIRAS: Mr. Pereiras, are you

1 familiar with 123 40th Street?

2 MR. PEREIRAS: I am.

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

5 MR. PEREIRAS: I have.

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

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

9 We have a simple application. We have a
10 preexisting two family house. We're not looking
11 to make any changes to the exterior of the
12 building. We're not looking to expand in any
13 way. What we're simply doing is legalizing a
14 condition. This gives us a great opportunity to
15 take something and bring it up to Code, which is
16 a betterment for not only the house, the
17 individuals that live there, but also the
18 neighbors, because it's going to comply with all
19 life safety features.

20 We have a preexisting house that has a 13
21 foot 11 inch front yard setback. A zero foot
22 setback on one side, and a two foot three setback
23 on the other.

24 We have a rear yard that's 25 feet five
25 inches. And the only preexisting nonconformance

1 | that we have are minimum side yard. For that,
2 | we're both at zero and the two foot three. And
3 | the maximum lot coverage, because a hundred
4 | percent of the site is paved, and the cars, which
5 | we are technically expanding on parking, because
6 | we're going from a two to a three family, and
7 | there is no real opportunity to increase the
8 | amount of cars on this site.

9 | There are existing driveways along the
10 | site. And there is an existing garage. But
11 | we're not providing more.

12 | The apartment exists now along the -- in
13 | the basement. It's a two bedroom. We have
14 | windows towards the back of the house. And with
15 | access also, there's a doorway. So, if there's
16 | any emergency, people could escape through the
17 | back.

18 | The main access to the apartment happens
19 | through -- underneath the stairs along the front.
20 | You walk past. We're reconstructing this wall to
21 | make this Code complaint. We're reconstructing
22 | this fire wall.

23 | We're moving mechanical equipment out, in
24 | order to keep that in a safe one hour fire rated
25 | enclosure. And we're modifying the closet space

1 and everything, so that we have the proper
2 clearances on doors. We're providing Sheetrock
3 along the ceiling, to create a fire separation
4 between that apartment and the apartment above.

5 We're providing a limited area sprinkler
6 system, so that they are protected from fire.

7 We're also upgrading the alarm system on
8 the entire building. We're moving it from a 110
9 volt to a low voltage, so that the entire
10 building's protected.

11 And all of this is going to just make the
12 life -- life safety of the environment better.

13 That concludes my testimony.

14 I'm open for questions.

15 CHAIRPERSON CAPIZZI: Does this window need
16 to be amended in any way?

17 MR. PEREIRAS: So, it's a preexisting
18 window.

19 CHAIRPERSON CAPIZZI: Right.

20 MR. PEREIRAS: If that were to -- if this
21 was a new window, it wouldn't be permitted.
22 We're not allowed to modify that or make that
23 bigger in any way. So, we can't change that
24 because it's on the property line. But what we
25 can do is we have the windows along the back, and

1 | those are the egress windows out of the bedrooms.
2 | We don't care so much about the living space. We
3 | care about the bedroom space.

4 | When people are in the living space,
5 | they're aware of what's going on, they have room
6 | to move. They -- they can move out to the
7 | bedrooms.

8 | When you're in a bedroom, that's the
9 | dangerous situation. You wake up and you don't
10 | realize where you are, you have one limited way
11 | of moving out. You're able to escape through
12 | that window.

13 | And that's the -- the second means of
14 | egress, and that's what Code requires.

15 | CHAIRPERSON CAPIZZI: This window.

16 | MR. PEREIRAS: Yes. Correct.

17 | CHAIRPERSON CAPIZZI: And that's a door.

18 | MR. PEREIRAS: And that's a door.

19 | CHAIRPERSON CAPIZZI: Okay.

20 | MR. CHEWCASKIE: Any questions from the
21 | Board?

22 | Any questions?

23 | Anyone in the public have any questions or
24 | comment on this application?

25 | CHAIRPERSON CAPIZZI: No?

1 Okay.

2 MR. CHEWCASKIE: Seeing none.

3 CHAIRPERSON CAPIZZI: I'll make a motion to
4 approve the application.

5 THE SECRETARY: Motion to approve the
6 application by Ms. Capizzi.

7 MS. GENAO: I second.

8 THE SECRETARY: Seconded by Ms. Genao.

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

11 Ms. Capizzi?

12 CHAIRPERSON CAPIZZI: Yes.

13 THE SECRETARY: Ms. Koehler?

14 VICE CHAIRPERSON KOEHLER: Yes.

15 THE SECRETARY: Ms. Genao?

16 MS. GENAO: Yes.

17 THE SECRETARY: Mr. Medina?

18 MR. MEDINA: Yes.

19 THE SECRETARY: Mr. Velazquez?

20 MR. VELAZQUEZ: Yes.

21 THE SECRETARY: Mr. Guareno?

22 MR. GUARENO: Yes.

23 THE SECRETARY: Six in favor.

24 Motion carries.

25 MS. PEREIRAS: Thank you all very much.

1 CHAIRPERSON CAPIZZI: You're welcome.

2 THE SECRETARY: Thank you.

3 * * *

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 **Crestpoint Development UC, LLC -**
2 **511-519 32nd Street:**

3

4 THE SECRETARY: Next application on
5 tonight's agenda, Crestpoint Development, UC,
6 LLC, 511-519 32nd Street.

7 Ms. Pereiras, please?

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

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

12 MR. CHEWCASKIE: I've had the opportunity
13 to review the notice provided by Ms. Pereiras.
14 Same is in appropriate form. The Board has
15 jurisdiction.

16 CHAIRPERSON CAPIZZI: Okay.

17 MS. PEREIRAS: Thank you.

18 The Board may recall this application. We
19 were in front of this Board a few years back to
20 construct, and this Board approved, a 32 unit
21 five story building on 32nd Street. I'm sure some
22 of you have seen --

23 CHAIRPERSON CAPIZZI: Um hum.

24 MS. PEREIRAS: -- the construction.

25 The application before the Board this

1 evening is to modify that approval. So, in
2 essence, what we're looking is to reduce some of
3 the commercial space on the ground floor, to add
4 some amenities for the building and the
5 residents, enlarging our lobby and also providing
6 a fitness center for the residents.

7 This is actually great because it decreases
8 our parking requirement.

9 But we have one expert to testify before
10 the Board, Mr. Manuel Pereiras.

11 MR. PEREIRAS: I recognize I am still under
12 oath.

13 MS. PEREIRAS: Mr. Pereiras, are you
14 familiar with the property at 511-519 32nd Street?

15 MR. PEREIRAS: I am.

16 MS. PEREIRAS: And did you prepare the
17 drawings before the Board?

18 MR. PEREIRAS: I have.

19 MS. PEREIRAS: And would you kindly
20 describe the proposed changes to the Board?

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

22 We find ourselves with a -- a great problem
23 to have. Everyone loved the building. It's up.
24 It's beautiful. Compliments are coming in. And
25 the one problem is, our lobby's kind of too

1 small. It doesn't match the elegance and the
2 beauty of the building.

3 And so, what we did is we're taking one of
4 the commercial spaces that was right next to the
5 lobby, and taking that over, so that we can have
6 a much nicer, more elegant lobby, and a gym area,
7 a lounge area.

8 And let me just show you exactly what that
9 is. This is the area -- this is the overall
10 building. This is the area where we're working
11 in.

12 So, this is the current condition along
13 this side. This is the commercial space. This
14 is the lobby. As you could see, it's a very
15 small lobby. What we're doing is we're combining
16 the two. Now, the lobby becomes all this space.
17 And we have a room for a gym along here.

18 We're not making any changes to the
19 exterior of the building. It stays exactly the
20 same. And the rest of the building stays exactly
21 the same as well. It's simply really an internal
22 wall that we're knocking down. And instead of it
23 being commercial to be rented out for a retail
24 store, it's part of the lobby of the building.

25 So, we're reducing the intensity of the

1 building. We're reducing the -- the amount of
2 parking we're required. It's a very simple
3 application.

4 CHAIRPERSON CAPIZZI: And you're doing this
5 based on feedback from people that --

6 MR. PEREIRAS: Feedback. You're walking
7 into this gorgeous building, and the lobby was --

8 CHAIRPERSON CAPIZZI: Okay.

9 MR. PEREIRAS: -- too small. So, we wanted
10 to -- and we wanted to provide a gym. It looks
11 like residents today are --

12 CHAIRPERSON CAPIZZI: Okay.

13 MR. PEREIRAS: -- require it. You know,
14 it's -- it's --

15 CHAIRPERSON CAPIZZI: Okay.

16 MR. PEREIRAS: People want better living.
17 So, it's -- we're providing a gym.

18 CHAIRPERSON CAPIZZI: Fine with me.

19 MR. CHEWCASKIE: Board members, any
20 questions?

21 MS. GABLE: I have a question.

22 Can you provide some testimony regarding
23 site lighting and the materials to be used for
24 the façade?

25 MR. PEREIRAS: So, this is all preexisting

1 at this point, with this application. The
2 building's actually already up. It's brick.
3 It's not being changed.

4 CHAIRPERSON CAPIZZI: Right.

5 MR. PEREIRAS: The site lighting was
6 presented at an application before this Board.
7 It was approved. We have some site bollards and
8 different things. We're not looking to change
9 any of that. The exterior of the building stays
10 the same.

11 MS. GABLE: All right. Great.

12 Thank you.

13 MR. GUARENO: And the parking is still the
14 same, as well.

15 MR. PEREIRAS: The parking stays exactly
16 the same, as well.

17 MR. CHEWCASKIE: Any?

18 Mr. Price, if you would come up and just be
19 -- you're still under oath for this application.

20 MR. PRICE: And I'm still Larry Price.

21 MR. CHEWCASKIE: Yes, you are.

22 MR. PRICE: Okay.

23 This is the CC zone.

24 Correct?

25 MR. PEREIRAS: Correct.

1 MR. PRICE: Okay.

2 The -- you're going to eliminate a
3 commercial space --

4 MR. PEREIRAS: Correct.

5 MR. PRICE: -- which is on the ground
6 floor.

7 MR. PEREIRAS: That is correct.

8 MR. PRICE: Okay.

9 Which is a permitted use. In fact, it's
10 almost a required.

11 MR. PEREIRAS: It's a required use. Yes.

12 MR. PRICE: Okay.

13 And you're going to replace it with a
14 larger lobby. Okay. And an exercise room, or
15 whatever you want --

16 MR. PEREIRAS: That's correct.

17 MR. PRICE: Which is limited to residents
18 of the building.

19 Correct?

20 MR. PEREIRAS: That is correct.

21 MR. PRICE: It's not --

22 MR. PEREIRAS: It's not --

23 MR. PRICE: -- an exercise room open to the
24 public. It's an amenity for the residents of the
25 building.

1 MR. PEREIRAS: It is. I understand where
2 you're going.

3 MR. PRICE: Yeah. I'm there. Okay.
4 Would you --

5 MR. PEREIRAS: The use of that is strictly
6 -- it's not -- it's not residential. It's not an
7 apartment. And I believe the Ordinance and in
8 one place, it specifically says dwelling units.
9 It's not a dwelling unit. And I think maybe we
10 need a five minute recess, so I could research
11 it, but I believe it says dwelling unit. No
12 dwelling units are permitted on the ground floor.
13 And this isn't a dwelling unit.

14 MR. PRICE: Well --

15 MR. CHEWCASKIE: If I may, I know Mr. Spatz
16 passed on the jurisdiction several months back on
17 this.

18 MR. PRICE: He what?

19 MR. CHEWCASKIE: He indicated the Board had
20 appropriate jurisdiction, Mr. Spatz, several
21 months back.

22 MR. PRICE: Umm.

23 MR. CHEWCASKIE: The -- the issue is one of
24 -- is that my recollection is the CC zone did not
25 permit residential use on the first floor.

1 MR. PRICE: That is -- well, it -- the
2 actual statement is apartments are only permitted
3 on the upper floors.

4 MR. PEREIRAS: And we comply with that.
5 And if you would think, just by nature of the
6 definition of what we're doing, we have an
7 existing lobby. It's just getting bigger. It's
8 not like we're --

9 MR. PRICE: The lobby --

10 MR. PEREIRAS: -- changing --

11 MR. PRICE: -- I have no problem with.

12 MR. PEREIRAS: Oh, you have an issue with
13 the gym.

14 MR. PRICE: With the gym. Because this is
15 an amenity for residents.

16 MR. PEREIRAS: Isn't --

17 MR. PRICE: This is not a service estab --
18 if it was an -- if it was a service -- you know,
19 a gym for the public -- you know, come in, no
20 problem. That's a service aesthetic that's also
21 a permitted use. But an amenity for the
22 residents --

23 MR. PEREIRAS: Maybe it's just a matter --

24 MR. PRICE: Is --

25 MR. PEREIRAS: -- of semantics.

1 MR. PRICE: -- is part of the resident --

2 MR. PEREIRAS: Would you feel more
3 comfortable if we just defined this simply as a
4 lobby, that has gym equipment in it? Because it
5 -- it really is -- lobbies today have ping pong
6 tables, wall climbing apparatuses. It's the --
7 the --

8 MR. PRICE: Not in my building.

9 CHAIRPERSON CAPIZZI: Ask --

10 VICE CHAIRPERSON KOEHLER: There are other
11 commercial spaces on the ground floor.

12 Right?

13 MR. PEREIRAS: Yes, there are.

14 VICE CHAIRPERSON KOEHLER: So --

15 MR. PEREIRAS: And we're keeping those.

16 VICE CHAIRPERSON KOEHLER: You -- yeah.

17 MR. PRICE: And -- and that's permitted.
18 That's --

19 VICE CHAIRPERSON KOEHLER: Exactly.

20 MR. PRICE: The only problem with this gym,
21 and if the gym were open to the general public,
22 it would be a commercial establishment, a service
23 establishment. That would be a permitted use.

24 But here, we have a gym that's restricted
25 to the residents of the building. That's an

1 amenity for the people upstairs. It's not --

2 MR. PEREIRAS: But so is a lobby.

3 MR. PRICE: -- a commercial establishment.

4 MR. CHEWCASKIE: I -- I think if -- if I
5 may, Mr. Price, and I got to go back years ago
6 when we developed the Ordinance, there are
7 existing commercial uses. I don't think that was
8 exclusive to the fact that you couldn't have
9 areas that were designated for use of the
10 residents, such as the lobby. If there was a
11 concierge service, a package room, a community
12 room in that area, I don't think those were -- a
13 lot of things that we contemplated years ago may
14 not be what we're seeing today. But I believe
15 the intent of the Ordinance is being satisfied
16 because there will be building amenities on the
17 first floor that will be available for residents.

18 MR. PRICE: Concierges off -- on -- on the
19 ground floor would be permitted?

20 MR. CHEWCASKIE: Concierges for the
21 building.

22 And I don't believe the Ordinance is going
23 to be exhaustive and we have to review the
24 Ordinance in occurrence with current situations.

25 So, what I'm seeing is not specifically

1 prohibited. So, when I reviewed what Mr. Spatz
2 sent me the other day, that's why I don't have an
3 issue with the application.

4 MR. PRICE: The easy way is they just open
5 it to select members of the general public.

6 MR. CHEWCASKIE: Well, like -- like
7 somebody that lives on Palisade Avenue or --

8 MR. PRICE: Located between 10th and 11th
9 Street.

10 MR. CHEWCASKIE: I mean, I know -- I --

11 MR. PRICE: No, I don't go to gyms. I
12 don't climb walls either, in the lobby.

13 Okay. Am I going to file an action against
14 this? Of course not. You know, I've got better
15 things.

16 MR. CHEWCASKIE: I -- yeah. I --

17 MR. PRICE: But that -- this --

18 MR. CHEWCASKIE: I mean, I -- I understand
19 your point and the idea is, is that what we see
20 today, in residential buildings is much different
21 when the Ordinance you're referring to existed.
22 You know, now, we have extremely large package
23 rooms, because everybody has Amazon. Is that a
24 commercial use? No. It's an amenity for the
25 building, but there are commercial uses within

1 the building.

2 MR. PRICE: Okay.

3 On that, okay. We'll -- nevertheless, as
4 we all know, the camel's nose and the tent.

5 MR. CHEWCASKIE: Um hum.

6 MR. PRICE: And so, this -- this is pushing
7 the envelope is all I'm saying. And you know --

8 MR. CHEWCASKIE: Thank you, Mr. Price.

9 MR. PRICE: Okay.

10 You're welcome, Mr. Chewcaskie.

11 CHAIRPERSON CAPIZZI: I'll make a motion to
12 approve the application.

13 THE SECRETARY: Motion to approve the --

14 VICE CHAIRPERSON KOEHLER: Second.

15 THE SECRETARY: -- application by Ms.
16 Capizzi.

17 VICE CHAIRPERSON KOEHLER: I'll second.

18 THE SECRETARY: Seconded by Ms. Koehler.

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

21 Ms. Capizzi?

22 CHAIRPERSON CAPIZZI: Yes.

23 THE SECRETARY: Ms. Koehler?

24 VICE CHAIRPERSON KOEHLER: Yes.

25 THE SECRETARY: Ms. Genao?

1 MS. GENAO: Yes.

2 THE SECRETARY: Mr. Medina?

3 MR. MEDINA: Yes.

4 THE SECRETARY: Mr. Velazquez?

5 MR. VELAZQUEZ: Yes.

6 THE SECRETARY: Mr. Guareno?

7 MR. GUARENO: Yes.

8 THE SECRETARY: Six in favor.

9 Motion carries.

10 MS. PEREIRAS: Thank you very much.

11 CHAIRPERSON CAPIZZI: You're welcome.

12 THE SECRETARY: Thank you, Ms. Pereiras.

13 MS. PEREIRAS: Have a Happy Thanksgiving.

14 CHAIRPERSON CAPIZZI: You, too.

15 MR. CHEWCASKIE: Go home.

16 Thank you.

17 Good night.

18 MR. PEREIRAS: Happy Thanksgiving everyone.

19 VICE CHAIRPERSON KOEHLER: Hope your

20 daughter feels better.

21 MS. PEREIRAS: Thank you.

22 THE SECRETARY: Can we have a five minute

23 break, please?

24 MR. CHEWCASKIE: Five minute break.

25 THE SECRETARY: Okay.

1 Five minute break, Madam Chair?

2

3 (Whereupon, the Board recessed from 7:43

4 p.m. to 7:50 p.m.)

5

* * *

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 **Joseph Gaudio - 2500 New York Avenue:**

2

3 MS. DILLON: Okay.

4 On the record.

5 THE SECRETARY: May I have your attention,
6 please?

7 Next application on tonight's agenda,
8 Joseph Guadio, 2500 New York Avenue.

9 Mr. Gonzalez, please?

10 MR. GONZALEZ: Thank you.

11 Good evening. My name is Ramon Gonzalez.
12 Last name G-O-N-Z-A-L-E-Z. I represent Joseph
13 Gaudio, who is standing to my right.

14 MR. GAUDIO: Good evening, Board.

15 MR. GONZALEZ: And why don't you sit down,
16 Joe? You're a big guy, you're scaring --

17 I guess maybe we could proceed with the
18 first applicant, which is 2500 New York Avenue.
19 And the reason I say that is because there's
20 actually two applications. Joe owns both
21 properties and turns out that he has the same
22 issue with both of them.

23 Just to give the Board a little bit of a
24 background; the application is somewhat simple.
25 It's not as complicated as some of the ones the

1 Board has heard.

2 It's an apartment that we have found out
3 that is not properly registered. And what we've
4 made here is an application to approve this --
5 this particular unit.

6 Just so the Board has a little bit of
7 history, I would say about two years ago, maybe
8 three years ago, Joseph bought 2500 New York
9 Avenue. And he actually started residing there.
10 When he purchased the property, he did his
11 inspections, he got the letter from the Union
12 City Building Department. And the house also had
13 a green card. And you have a green card when the
14 State comes in to do the inspections to see that
15 it's three units and it's properly in good shape.

16 The actual building at 2500 New York Avenue
17 actually has sprinklers. Fire Department came,
18 gave the -- the proper certificates and we -- and
19 -- and I didn't represent him, my partner
20 represented him when he purchased, we were always
21 under the impression that it was a three family
22 house.

23 Since he's purchased it, he's also been
24 paying taxes as a three family house.

25 After two years, it came to his attention

1 | that there was a problem that in the Building
2 | Department, they did not have it recognized as a
3 | three bed -- three unit building. It was only
4 | recognized as a two, although everywhere else
5 | throughout the town, it was recognized as a
6 | three.

7 | So, we're here to make an application to
8 | legalize this unit that the town did -- Building
9 | Department did not recognize. We're not making
10 | any changes to the structure. And what is
11 | existing there is exactly what we plan on
12 | requesting this Board to approve.

13 | I have one expert, Mr. Izquierdo. I can go
14 | through his background, but I believe he has
15 | testified --

16 | CHAIRPERSON CAPIZZI: Yes, he has.

17 | MR. GONZALEZ: -- here before. If he could
18 | be recognized --

19 | MR. IZQUIERDO: Thank you, Diane.

20 | MR. GONZALEZ: -- as an expert?

21 | CHAIRPERSON CAPIZZI: You're welcome.

22 | MR. CHEWCASKIE: Before you get started,
23 | Mr. Gonzalez, do you --

24 | MR. GONZALEZ: Yes.

25 | MR. CHEWCASKIE: Do you have notice on

1 | this, or was that --

2 | MR. GONZALEZ: Oh, we did.

3 | MR. CHEWCASKIE: -- previously submitted?

4 | MR. GONZALEZ: We -- we set notice last
5 | time. And --

6 | MR. CHEWCASKIE: I just want to make sure
7 | that it was accepted --

8 | MR. GONZALEZ: It --

9 | MR. CHEWCASKIE: -- at the last meeting.

10 | MR. GONZALEZ: It was and --

11 | MR. CHEWCASKIE: As long as we --

12 | MR. GONZALEZ: -- I believe the Clerk --

13 | MR. CHEWCASKIE: -- have it and Mr. --

14 | THE SECRETARY: Vallejo.

15 | MR. CHEWCASKIE: So, this was listed for
16 | the 22nd, and was provided.

17 | Thank you.

18 | MS. DILLON: Mr. Izquierdo, please raise
19 | your right hand.

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

22 | MR. IZQUIERDO: I do.

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

25 | MR. IZQUIERDO: My name is Jose Izquierdo,

1 I-Z like zebra, Q-U-I-E-R-D like David O.

2 MS. DILLON: Thank you.

3 MR. GONZALEZ: Mr. Izquierdo, are you
4 familiar with 2500 New York Avenue?

5 MR. IZQUIERDO: Yes.

6 MR. GONZALEZ: And you had an opportunity
7 to go to the location, and you prepared the plans
8 that have been presented to the Board?

9 MR. IZQUIERDO: Yes.

10 MR. GONZALEZ: Could you please explain to
11 the Board what the applicant is -- is requesting
12 here today?

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

15 2500 is the corner property at New York and
16 25th Street, and it lies on the southeastern
17 corner.

18 It is a three story building. Actually, a
19 two story building, with -- where the ground
20 floor -- the basement is not considered a floor
21 above grade, because of the architecture of the
22 building.

23 The building has the very classical
24 architecture of all the northeast. It has an
25 octagonal part in the front, with the living

1 room, and the dining room. And 2500 has one,
2 two, three -- two, three bedrooms, which are on
3 the ground floor and on the second floor. Mr.
4 DelGaudio (sic) lives at the ground floor of
5 2500. He rents the second floor.

6 And as Mr. Gonzalez indicated, the basement
7 apartment was completely built. It is
8 sprinklered, it is fully finished. It's very
9 nice. Nice kitchens, nice doors, ceiling height
10 7.6. It has independent means of egress directly
11 from the outside. It has a -- an access from the
12 inside of the building, as well.

13 This property has two parking spaces. It
14 has a detached garage in the back, that backs
15 onto 25th Street, and it has a -- a space for a
16 second parking space next to it.

17 In order to approve this application, the
18 Planning Board gains jurisdiction of the
19 application because site plan approval is
20 required, because we're increasing the number of
21 bedrooms. And also a three family house is an
22 allowed use in the zone.

23 The lot area, the lot width and the lot
24 depth conforms, since this is a 25 by a hundred
25 and it's 25 by a hundred, and that's the area

1 required.

2 The front yard, the side yard and the rear
3 yard are all existing conditions. We're not
4 building anything new to the building.

5 So, these are preexisting conditions. The
6 front yard allows with all the other houses on --
7 on New York Avenue. And the side yards are
8 typical, because these were -- all these houses
9 were basically built at the same time.

10 The building height is two and a half
11 stories, so it's less than the allowed of three
12 stories.

13 And the building coverage, we're at 60.40
14 percent for the building. And for the lot
15 coverage, we're at 99.99 percent. These are all
16 existing conditions.

17 However, the parking is a variance that
18 we're seeking because the existing building has
19 two parking spaces, none tandem. And we're
20 required to have, as the existing condition, 4.2
21 parking spaces, and with the basement apartment,
22 six parking spaces. We have two.

23 The minimum unit size conforms. Actually,
24 the -- the two bedroom on the ground floor is 942
25 square feet. It has, as I say, it has an access

1 from the -- from the rear. All the residents of
2 this building have an independent laundry room.
3 It has a dining room and living room, windows are
4 very nice, and they -- they open out onto the
5 sidewalk.

6 And essentially, the -- the entire
7 apartment is electric. It has electric heat. It
8 has an electric stove and there's no -- no gas.

9 The building is not required to be
10 accessible, so the building and the apartment
11 conforms in every way with the -- with the
12 Building Code. It's just that in terms of the --
13 of the Building Department records, it does not
14 appear listed as a three family house.

15 MR. GONZALEZ: Mr. Izquierdo, I want to ask
16 you, the plans that you submitted show that
17 there's an apartment and that's what's existing.

18 MR. IZQUIERDO: That's exactly what's
19 existing.

20 MR. GONZALEZ: Okay.

21 And, in fact, you stated that the property
22 is sprinkled.

23 Is that right?

24 MR. IZQUIERDO: Yes, it is. The basement
25 is.

1 MR. GONZALEZ: Okay.

2 Which would -- which --

3 MR. IZQUIERDO: Which is required.

4 MR. GONZALEZ: -- which is required.

5 MR. IZQUIERDO: Exactly.

6 MR. GONZALEZ: Okay.

7 I have nothing further.

8 CHAIRPERSON CAPIZZI: Any questions?

9 MR. CHEWCASKIE: Anyone in the public have
10 any questions on this application?

11 CHAIRPERSON CAPIZZI: Okay.

12 I'll make a motion to approve the
13 application.

14 THE SECRETARY: Motion to approve the
15 application by Ms. Capizzi.

16 MR. GUARENO: Second.

17 THE SECRETARY: Second by Mr. Guareno.

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

20 Ms. Capizzi?

21 CHAIRPERSON CAPIZZI: Yes.

22 THE SECRETARY: Ms. Koehler?

23 VICE CHAIRPERSON KOEHLER: Yes.

24 THE SECRETARY: Ms. Genao?

25 MS. GENAO: Yes.

1 THE SECRETARY: Mr. Medina?

2 MR. MEDINA: Yes.

3 THE SECRETARY: Mr. Velazquez?

4 MR. VELAZQUEZ: Abstain.

5 THE SECRETARY: Abstain.

6 Mr. Guareno?

7 MR. GUARENO: Yes.

8 THE SECRETARY: Five in favor.

9 One abstained.

10 Motion carries.

11 MR. IZQUIERDO: Thank you.

12 * * *

13

14

15

16

17

18

19

20

21

22

23

24

25

1 **Joseph Gaudio, 2502 New York Avenue:**

2

3 THE SECRETARY: Next application on
4 tonight's agenda, Joseph Gaudio, 2502 New York
5 Avenue.

6 Mr. Gonzalez, please?

7 MR. GONZALEZ: Thank you.

8 Once again, for the record, Ramon Gonzalez,
9 G-O-N-Z-A-L-E-Z, on behalf of the applicant.

10 Mr. Gaudio is seated here.

11 This is an application for 2502 New York
12 Avenue, which is the property which is exactly
13 next door to the one that we just made the
14 application for.

15 This is the trigger that we are here for
16 because when my client owned this, and -- and he
17 has owned it for quite some time, we had an issue
18 with the tenant. That's why we went to the
19 Building Department and we checked everything
20 out. That's where we found out that the Building
21 Department had an issue with 2502.

22 But my client, being proactive, he said,
23 well, let's see what's going on with 2500,
24 because he doesn't want to have a problem; 2500
25 obviously is this one application that you had

1 just heard.

2 2502 is the exact same situation. It's
3 also sprinkled. They look almost identical, the
4 homes.

5 CHAIRPERSON CAPIZZI: Um hum.

6 MR. GONZALEZ: I think the only difference
7 might be the -- the offset bump in the front.

8 But once again, I have my expert, Mr.
9 Izquierdo.

10 And I guess, Mr. Izquierdo, if you could
11 please tell the Board if there's a difference
12 between 2502 to 2500?

13 MR. IZQUIERDO: There always is a
14 difference, counselor.

15 This application is different from the
16 other one, because this building actually has
17 three means of egress.

18 It's also different because this building
19 has a landscaped rear yard, so it's very nice.

20 It's also different because it doesn't have
21 two parking spaces, because the two parking
22 spaces are just accessible from 25th Street, and
23 this is the -- the building that is just north of
24 2500.

25 And the variances are less for this than

1 for the other application, because the lot area,
2 the lot width and the lot depths conform. We
3 have a 25 by a hundred, which is what the
4 Ordinance calls for.

5 Board gains jurisdiction because we need
6 site plan approval and a three family house is an
7 allowed use. The front yard and the side yard
8 are exactly as the other house, because they're
9 identical, kind of identical in the footprint.
10 The building height -- but the building coverage
11 is -- the lot coverage is less. We don't have
12 an existing condition, because we have a
13 landscaped rear yard.

14 However, in terms of the parking, the
15 existing, the two family house, we -- would
16 require us to have 4.2 parking spaces, according
17 to RSIS. And according to the -- once we have a
18 three family with the two bedroom, on the
19 basement, we would need six parking spaces. We
20 have none.

21 The apartment is 900 square feet. And I
22 personally think this apartment is a little nicer
23 than the other one, because the layout is more
24 open. It doesn't have a laundry room, but it has
25 that rear access and it has a rear yard. So,

1 | it's a very nice unit.

2 | Both applications, specifically this one,
3 | because I didn't say it for the other one,
4 | conforms to the Master Plan, because this is
5 | traditional architecture of the city, preserves
6 | the character of the city; does not encroach onto
7 | anybody.

8 | It's just that the parking is a problem in
9 | the city, but we're -- we're creating one more
10 | unit that is -- conforms to Code, has the height,
11 | and everything is conforming to Code.

12 | Nothing further.

13 | MR. GONZALEZ: I have no further questions.

14 | CHAIRPERSON CAPIZZI: Any questions?

15 | No?

16 | Public?

17 | Seeing none.

18 | I'll make a motion to approve the
19 | application.

20 | THE SECRETARY: Motion to approve the
21 | application by Ms. Capizzi.

22 | Seconded by Ms. Genao.

23 | Roll call on the motion to approve this
24 | application.

25 | Ms. Capizzi?

1 CHAIRPERSON CAPIZZI: Yes.

2 THE SECRETARY: Ms. Koehler?

3 VICE CHAIRPERSON KOEHLER: Yes.

4 THE SECRETARY: Ms. Genao?

5 MS. GENAO: Yes.

6 THE SECRETARY: Mr. Medina?

7 MR. MEDINA: Yes.

8 THE SECRETARY: Mr. Velazquez?

9 MR. VELAZQUEZ: Abstain.

10 THE SECRETARY: Abstain.

11 Mr. Guareno?

12 MR. GUARENO: Yes.

13 THE SECRETARY: Five in favor.

14 One abstained.

15 Motion carries.

16 MR. IZQUIERDO: Thank you and Happy

17 Thanksgiving.

18 THE SECRETARY: Thank you.

19 CHAIRPERSON CAPIZZI: Thank you.

20 MR. GONZALEZ: Have a very nice

21 Thanksgiving.

22 THE SECRETARY: Thank you.

23 CHAIRPERSON CAPIZZI: Thank you.

24 MR. CHEWCASKIE: Thank you.

25 CHAIRPERSON CAPIZZI: You, too.

1 MR. CHEWCASKIE: You, too.

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

4 * * *

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

RESOLUTIONS:

(1) Resolution Appointing the Planning Board Secretary for the Year 2020

(2) Resolution to Approve the Planning Board Schedule for the Year 2020

(3) Mardamer Builders, 546-548 35th Street, Block 213, Lots 17 & 18. Construction of a three story dwelling with two residential units, three bedrooms and four parking spaces on the ground floor in each lot. **Approved**

(4) Mardamer Builders, 547 36th Street, Block 213, Lots 64, 65, 66. Possible subdivision into three lots and construction of a three story dwelling with two residential units with three bedrooms and four parking spaces on the ground floor in each lot. **Approved**

(5) Mardamer Builders, 545 41st Street, Block 234, Lots 53 & 54. Construction of a three story dwelling with two residential units with three bedrooms and four parking spaces on the ground floor in each lot. **Approved**

(6) 514 39th Street, LLC, 514 39th Street, Block 229, Lot 24. New three family dwelling. Propose to demolish existing two and a half story

1 dwelling. Applicants request a one year
2 extension. The resolution was memorialized on
3 March 28, 2017. **Approved**

4 (7) Robert Focht, 312 21st Street, Block 112,
5 Lot 25. Applicant proposes to legalize an attic
6 studio apartment. **Approved**

7 (8) Madelyn Perez, 219 Roosevelt Street, Block
8 270, Lot 17. Applicant proposes the legalization
9 of a ground floor apartment to convert from a two
10 family to three families. **Approved**

11

12 THE SECRETARY: We are going to go to
13 Resolutions now.

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

16 THE SECRETARY: Right.

17 We are going to go to Resolutions. We have
18 a few Resolution on tonight's agenda. All
19 together, are nine. We are going to go from one
20 to eight, now.

21 Resolution number 1.

22 Appoint -- Appointing the Planning Board
23 Secretary for the Year 2020.

24 Resolution number 2.

25 To Approve the Planning Board Schedule for

1 the Year 2020.

2 Resolution number 3.

3 Mardamer Builder, 546-548 35th Street.

4 Resolution number 4.

5 Mardamer Builder, 547 36th Street.

6 Number 5.

7 Mardamer Builder, 545 41st Street.

8 Number 6.

9 514 39th Street.

10 Number 7.

11 Robert Focht, 312 21st Street.

12 Number 8.

13 Madelyn Perez, 219 Roosevelt Street.

14 Can I have a motion to memorialize these

15 Resolution?

16 CHAIRPERSON CAPIZZI: I'll make a motion.

17 THE SECRETARY: Motion by Ms. Capizzi.

18 MR. VELAZQUEZ: Second.

19 THE SECRETARY: Seconded by Mr. Velazquez.

20 Roll call on the motion.

21 Ms. Capizzi?

22 CHAIRPERSON CAPIZZI: Yes.

23 THE SECRETARY: Ms. Koehler?

24 VICE CHAIRPERSON KOEHLER: Yes.

25 THE SECRETARY: You have to abstain, Ms.

1 Koehler.

2 VICE CHAIRPERSON KOEHLER: Oh, no.

3 Abstain.

4 Sorry. Sorry. Sorry.

5 THE SECRETARY: Ms. Genao?

6 MS. GENAO: Yes.

7 THE SECRETARY: Mr. Medina?

8 MR. MEDINA: Yes.

9 THE SECRETARY: Mr. Velazquez?

10 MR. VELAZQUEZ: Yes.

11 THE SECRETARY: Mr. Guareno?

12 MR. GUARENO: Yes.

13 THE SECRETARY: Five in favor.

14 One abstained.

15 Motion carries.

16 * * *

17

18

19

20

21

22

23

24

25

1 **RESOLUTIONS:**

2

3 (9) Hudson Yards West, LLC

4

5 THE SECRETARY: We are going to Resolution
6 number 9.

7 That's Hudson Yards West, LLC.

8 Can I have a motion to adopt this
9 Resolution?

10 CHAIRPERSON CAPIZZI: I'll make a motion.

11 THE SECRETARY: Motion by Ms. Capizzi.

12 MR. VELAZQUEZ: Second.

13 THE SECRETARY: Seconded by Mr. Velazquez.
14 Roll call on the motion.

15 Ms. Capizzi?

16 CHAIRPERSON CAPIZZI: Yes.

17 THE SECRETARY: Ms. Koehler?

18 VICE CHAIRPERSON KOEHLER: Yes.

19 THE SECRETARY: Ms. Genao?

20 MS. GENAO: Yes.

21 THE SECRETARY: Mr. Medina?

22 MR. MEDINA: Yes.

23 THE SECRETARY: Mr. Velazquez?

24 MR. VELAZQUEZ: Yes.

25 THE SECRETARY: Mr. Guareno?

1 MR. GUARENO: Yes.

2 THE SECRETARY: Six in favor.

3 Motion carries.

4 * * *

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

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 CHAIRPERSON CAPIZZI: Make a motion.

7 THE SECRETARY: Motion by Ms. Capizzi.
8 Seconded by?

9 MR. VELAZQUEZ: Second.

10 THE SECRETARY: By Mr. Velazquez.
11 Ms. Capizzi?

12 CHAIRPERSON CAPIZZI: Yes.

13 THE SECRETARY: Ms. Koehler?

14 VICE CHAIRPERSON KOEHLER: Yes.

15 THE SECRETARY: Ms. Genao?

16 MS. GENAO: Yes.

17 THE SECRETARY: Mr. Medina?

18 MR. MEDINA: Yes.

19 THE SECRETARY: Mr. Velazquez?

20 MR. VELAZQUEZ: Yes.

21 THE SECRETARY: Mr. Guareno?

22 MR. GUARENO: Yes.

23 THE SECRETARY: Six in favor.

24 Motion carries.

25 Let the record show that the meeting has

1 ended.

2 Thank you and good night everyone.

3 VICE CHAIRPERSON KOEHLER: Thank you.

4 CHAIRPERSON CAPIZZI: Happy Thanksgiving.

5 THE SECRETARY: And Happy Thanksgiving Day.

6 I'll see you next year.

7

8 (Whereupon, the proceedings were concluded

9 at 8:07 p.m.)

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 STATE OF NEW JERSEY :

2 :

3 COUNTY OF ESSEX :

4

5

6 I, DEBRA A. KASZNIAK, assigned transcriber,
7 do hereby affirm that the foregoing is a true and
8 accurate transcript in the matter of the REGULAR
9 MEETING of the UNION CITY PLANNING BOARD heard on
10 Tuesday, November 26, 2019 and digitally
11 recorded.

12

13

14

15

16

17

18

19

20

21

22

23 Monitored by: Kevin Dillon, Jr. and

24 Deborah Dillon

25 Proofread by: Deborah Dillon