

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

REGULAR MEETING : TRANSCRIPT OF RECORDED
: PROCEEDINGS
:

City Hall
3715 Palisade Avenue
Union City, New Jersey

Thursday, December 12, 2019
Commencing at 6:14 p.m.

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

MARGARITA GUTIERREZ
MIGUEL ORTIZ, (Arrived at 6:26 p.m.)
DAVID W. PRESSEY
ROSIO PENA, Alternate No. 1
GERALDINE PEREZ, Alternate No. 2
RAYMOND CETINICH, Alternate No. 3
MINDRY WATLEY, Alternate No. 4,
(Arrived at 6:16 p.m.)
VICTOR M. GRULLON, Vice Chairman

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

LIBERO MAROTTA
JOHN MEDINA
JOSEPH D. BONACCI, Chairman

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

CARLOS VALLEJO, Secretary to the Board

TOMAS R. PANEQUE, ESQ., Board Attorney

DAVID SPATZ, Consultant
Community Housing and Planning Associates,
(Left at 6:45 p.m.)

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

GEORGE G. GUNDERSEN III, ESQ.,
Attorney for Applicant, 449 Palisades Ave., LLC

ALAIN MULKAY, ESQ.,
Attorney for Applicant,
The Residences at New York Avenue, LLC

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

J. ALVARO ALONSO, ESQ.,
Attorney for Applicant, Roberto Rodriguez

ANTHONY F. SARSANO, ESQ.,
Attorney for Applicant, Ashok Sharma

JON W. WELLER, SENIOR PROPERTY MANAGER
Tuli Realty, LLC, 1401-1407 New York Avenue

I N D E X

	<u>PAGE</u>
CALL TO ORDER	9
SALUTE TO FLAG	9
ROLL CALL	10
APPROVAL OF PREVIOUS MEETING MINUTES	12
RESOLUTIONS	174/178/180
HEARINGS	
449 Palisades Ave., LLC	14
The Residences at New York Avenue, LLC	31
1015 West Street, LLC	112
Roberto Rodriguez	116
Ashok Sharma	54
1401-1407 New York Avenue	81
ADJOURNMENT	182

I N D E X449 Palisade Avenue, LLC - 912 Bergenline Avenue

<u>WITNESS</u>	<u>PAGE</u>
Amy Ng	15

E X H I B I T S

<u>NO.</u>	<u>DOCUMENT</u>	<u>PAGE</u>
A-1	Photograph	15
A-2	Resolution dated December 11, 2008	19

I N D E XThe Residences at New York Avenue, LLC
1211 New York Avenue

<u>WITNESS</u>	<u>PAGE</u>
Albert Arencibia	32
<u>SWORN PUBLIC</u>	
Larry Price	42
Peter Graham	43

E X H I B I T S

<u>NO.</u>	<u>DOCUMENT</u>	<u>PAGE</u>
A-2	Revised Sheet A-103 dated 12/10/19	37

I N D E XAshok Sharma - 209 Roosevelt StreetWITNESSPAGE

Carola Rosas

59

I N D E X1401-1407 New York Avenue

<u>WITNESS</u>	<u>PAGE</u>
Jon W. Weller	85
Sandy Tuli	85
 <u>SWORN PUBLIC</u>	
Larry Price	106

E X H I B I T S

<u>NO.</u>	<u>DOCUMENT</u>	<u>PAGE</u>
A-1	Photograph of Front of Building	90
A-2	Photograph	92
A-3	Photograph of Kitchen	95
A-4	Photograph	96
A-5	Photograph	96
A-6	Photograph	96

I N D E XRoberto Rodriguez - 1711 Manhattan Avenue

<u>WITNESS</u>	<u>PAGE</u>
Orestes Valella	117
John Leoncavallo	123
Roberto Rodriguez	135
 Tomas R. Paneque, Esq. (Translated for Roberto Rodriguez)	 135
 <u>SWORN PUBLIC</u>	
 Larry Price	 133

1 MS. DILLON: Yes.

2 On the record.

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

5 Please take notice that on Thursday,
6 December 12, 2019, at six p.m., a Regular Meeting
7 is scheduled for the City of Union City Zoning
8 Board of Adjustment, to be held in the Municipal
9 Chamber, located on the Second Floor, 3715
10 Palisade Avenue, Union City, New Jersey.

11 Notice of this meeting has been provided as
12 follow:

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

20 Can everybody kindly rise to salute the
21 flag, please?

22

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

25

1 THE SECRETARY: Thank you.

2

3 **ROLL CALL:**

4

5 THE SECRETARY: Roll call for tonight's
6 meeting.

7 Mr. Bonacci?

8 Is absent.

9 Mr. Grullon?

10 VICE CHAIRMAN GRULLON: Here.

11 THE SECRETARY: Mr. Marotta is absent.

12 Ms. Gutierrez?

13 MS. GUTIERREZ: Here.

14 THE SECRETARY: Mr. Ortiz?

15 Is absent.

16 Mr. Pressey?

17 MR. PRESSEY: Here.

18 THE SECRETARY: Mr. Medina?

19 Absent.

20 Ms. Pena?

21 MS. PENA: Here.

22 THE SECRETARY: Ms. Perez?

23 MS. PEREZ: Here.

24 THE SECRETARY: Mr. Cetinich?

25 MR. CETINICH: Here.

1 THE SECRETARY: Mrs. Watley?

2 Is absent.

3 We have a -- let the record indicate there
4 are six present.

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

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 November 14, 2019

4

5 THE SECRETARY: Approval of previous
6 meeting minutes November 14, 2019.

7 Can I have a motion?

8 VICE CHAIRMAN GRULLON: Motion.

9 THE SECRETARY: Motion by Mr. Grullon.

10 MS. GUTIERREZ: Second.

11 THE SECRETARY: Seconded by Ms. Gutierrez.

12

13 (Whereupon, Mindry Watley arrived at 6:16
14 p.m.)

15

16 THE SECRETARY: Roll call on the motion.

17 MS. DILLON: Carlos?

18 THE SECRETARY: Mr. --

19 Oh, let the record indicate that Ms. Mindry
20 Watley joined the meeting.

21 We have seven members present.

22 We have a motion to -- on the table to
23 approve the previous meeting minutes by Mr.
24 Grullon.

25 Seconded by Ms. Gutierrez.

1 Roll call on the motion.

2 Mr. (sic) Gutierrez? Ms. Gutierrez?

3 I'm sorry.

4 MS. GUTIERREZ: Yes.

5 THE SECRETARY: Mr. Grullon?

6 VICE CHAIRMAN GRULLON: Yes.

7 THE SECRETARY: Mr. Pressey?

8 MR. PRESSEY: Yes.

9 THE SECRETARY: Ms. Pena?

10 MS. PENA: Yes.

11 THE SECRETARY: Ms. Perez?

12 MS. PEREZ: Yes.

13 THE SECRETARY: Mr. Cetinich?

14 MR. CETINICH: Yes.

15 THE SECRETARY: Six in favor.

16 Motion carries.

17 * * *

18

19

20

21

22

23

24

25

1 **449 Palisades Ave., LLC - 912 Bergenline Avenue:**

2

3 THE SECRETARY: We are going to tonight's
4 first application is a continuation of -- no, I'm
5 sorry, is a new application.

6 449 Palisade Avenue, LLC, 912 Bergenline
7 Avenue.

8 Mr. Gundersen, please?

9 MR. GUNDERSEN: Good evening, everybody.

10 VICE CHAIRMAN GRULLON: Good evening.

11 MS. GUTIERREZ: Good evening.

12 MR. GUNDERSEN: George Gundersen, on behalf
13 of -- on behalf of the applicant.

14 So, I just wanted to explain before I
15 proceed.

16 If you look at the documentation, it calls
17 for a reversion of a four family house back to a
18 three family. But the issue is, is that it was
19 never a four family, it was always only a three
20 family.

21 I'm going to have my client step up and
22 picture's worth a thousand words, so I always try
23 to use visual.

24 So, this is the -- this is the --

25 MR. PANEQUE: Mr. Gundersen, before we

1 proceed, since you're relying on the photograph,
2 let's have that marked as P-1.

3 MR. GUNDERSEN: P-1, will be marked, which
4 shows the --

5 MS. DILLON: P?

6 MR. PANEQUE: How do you want to mark it?

7 MS. DILLON: A-1?

8 MR. PANEQUE: A-1.

9 MR. GUNDERSEN: A-1.

10

11 (Whereupon, Photograph was received and
12 marked as Exhibit A-1.)

13

14 MR. GUNDERSEN: With regard to the
15 photograph that you see here, can you tell us
16 when this photograph was taken?

17 MS. DILLON: Wait, wait. She needs to be
18 sworn.

19 MR. GUNDERSEN: Oh, I'm sorry.

20 MS. DILLON: Please raise your right hand.

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

23 MS. NG: Yes.

24 MS. DILLON: You need to speak up.

25 MS. NG: Yes.

1 MS. DILLON: Please state your name and
2 spell it for the record.

3 MS. NG: Amy Ng, A-M-Y, N-G.

4 MS. DILLON: A-M --

5 MS. NG: A-M-Y, N-G.

6 MS. DILLON: Okay.

7 Thank you.

8 MR. GUNDERSEN: I show you a photograph.
9 Can you please tell us approximately when this
10 photograph was taken?

11 MS. NG: August 2018.

12 MR. GUNDERSEN: And this photograph is a
13 photo of the property in question.

14 Correct?

15 MS. NG: Yes.

16 MR. GUNDERSEN: Okay.

17 And just so the Board members can see, this
18 -- the property consists of how many floors?

19 MS. NG: Four -- four floors.

20 MR. GUNDERSEN: And I'm -- I'm pointing to
21 the first floor, can you tell the Board members
22 what that use -- that use is of?

23 MS. NG: It's intended use is -- is
24 commercial.

25 MS. DILLON: You have to speak up, ma'am.

1 MS. NG: Commercial space.

2 MS. DILLON: You're being recorded for a
3 transcript.

4 MS. NG: It's being used as a commercial
5 space.

6 MR. GUNDERSEN: And has it always been used
7 as a commercial space?

8 MS. NG: Yes.

9 MR. GUNDERSEN: Is there any other use,
10 other than the commercial use on that --

11 MS. NG: No.

12 MR. GUNDERSEN: -- level?

13 I'm going to go to the next level up, going
14 to say the second level. From the second level,
15 can you tell us, is that residential or
16 commercial?

17 MS. NG: Residential.

18 MR. GUNDERSEN: Is there any apartments or
19 other uses, other than just one single apartment?

20 MS. NG: No.

21 MR. GUNDERSEN: Same question for the third
22 floor.

23 Is it residential or commercial?

24 MS. NG: Residential.

25 MR. GUNDERSEN: How many units are located

1 at that level?

2 MS. NG: One.

3 MR. GUNDERSEN: And for the top floor, the
4 fourth floor, residential or commercial?

5 MS. NG: Residential.

6 MR. GUNDERSEN: And is it being used other
7 than just one unit only?

8 MS. NG: Yes.

9 MR. GUNDERSEN: Okay.

10 So, you -- we have this -- this structure
11 that has never been changed.

12 Correct?

13 MS. NG: Right.

14 MR. GUNDERSEN: So, we have a structure
15 that's never been changed, it's always been
16 commercial on the first level, and then three
17 residential.

18 Now, the problem occurred, 11 years ago,
19 almost to today, there was a Resolution that was
20 adopted by the Board. And if I'm -- Tomas, if
21 I'm reading from it, do you want that marked?

22 MR. PANEQUE: Yes, please.

23 Let's have it marked so it becomes part of
24 the record.

25 MS. DILLON: That will be A-2.

1 And what's the date of the Resolution?

2 MR. GUNDERSEN: Date of the Resolution is
3 December 11th, 2008.

4
5 (Whereupon, Resolution dated December 11,
6 2008 was received and marked as Exhibit A-2.)

7
8 MR. GUNDERSEN: I am -- I have marked the
9 Resolution A-2.

10 In the Resolution, ladies and gentlemen,
11 there was a paragraph. And that paragraph
12 states:

13 "The applicant seeks to legalize an
14 existing attic apartment on the premises commonly
15 known as 912 Bergenline Avenue".

16 Which that's not an issue. That's the top
17 floor.

18 MR. PANEQUE: Mr. Gundersen, just so that
19 the Board can follow you, you're reading from
20 paragraph 5 --

21 MR. GUNDERSEN: Five.

22 MR. PANEQUE: -- on the Resolution, which
23 is on page 2.

24 MR. GUNDERSEN: Page 2, paragraph 5.

25 "Presently, the building consists of a

1 mixed use, with three residential units and" a
2 "commercial space", and as noted, that's exactly
3 what my client just testified is still exactly
4 the same as that, three -- three residential with
5 one commercial.

6 "The building is located on the corner of
7 10th Street and Bergenline Avenue."

8 And here's the issue.

9 "The legalization of the attic apartment
10 will increase the total number of residential
11 units to four.

12 The attic apartment is existing two bedroom
13 apartment with the total square footage of 1,037
14 square feet".

15 Just to complete the paragraph.

16 But the sentence that I said prior, the
17 legalization will increase it from a three to a
18 four, the -- no, it will not.

19 So, there was actually an error in the
20 Resolution back in December of 2008. And the
21 reason being is, the top floor, they wanted to
22 call it the attic apartment, if you did, in fact,
23 legalize it, it would still be three and a one.

24 So, today's meeting, it's more about
25 correction of the error from 2011 -- 2008,

1 | rather, rather than is a reversion back from a
2 | four to a three.

3 | So, that's the -- so, the application here
4 | today is really an affirmation, after the
5 | correction, that the building is a commercial
6 | with three residential units. And then -- and it
7 | has always been.

8 | So, I -- I had asked your attorney, if
9 | approved, if he can simply just amend that
10 | Resolution from 2008, to reflect the error change
11 | back to what it really was supposed to be, and
12 | then my client can then complete the building.

13 | She's pretty much done, as you can see.
14 | She just has to basically do the utility hookups.

15 | VICE CHAIRMAN GRULLON: Mr. -- Mr.
16 | Gundersen, I have a question.

17 | MR. GUNDERSEN: Sure.

18 | VICE CHAIRMAN GRULLON: Are the units
19 | occupied right now?

20 | MR. GUNDERSEN: No.

21 | VICE CHAIRMAN GRULLON: They're not.
22 | They're all empty.

23 | MR. GUNDERSEN: All empty.

24 | VICE CHAIRMAN GRULLON: Including the
25 | commercial space.

1 MR. GUNDERSEN: Yes. I'll --

2 MS. NG: Yes.

3 MR. GUNDERSEN: I'll ask my client to
4 confirm.

5 MS. NG: Yes. There's no utilities
6 connected to the building.

7 VICE CHAIRMAN GRULLON: And your building
8 is sitting on the residential low density zone.
9 Is that correct?

10 MR. GUNDERSEN: I believe so. I believe so.

11 VICE CHAIRMAN GRULLON: For curiosity, why
12 is that -- the building occupies the -- this was
13 approved in 2008.

14 MR. GUNDERSEN: My client was not the owner
15 in 2008. She became the owner in 2012. And she
16 did a renovation to the building. So, the
17 renovation has been basically -- been almost
18 complete for about a year now. So, she's
19 completed that, in anticipation of finalizing
20 with the municipality, and then of course,
21 renting it out.

22 So, the reason that we're here is for the
23 purpose of what you just suggest, it's why isn't
24 it rented? That's why we're here.

25 MR. PANEQUE: Okay. If I could just give

1 the Board what I believe transpired here?

2 Back in 2008, based on reading the content
3 of the Resolution that was approved, it appears
4 that the owner at the time came before the Board,
5 for the purpose of legalizing the attic
6 apartment, which is that third floor apartment.

7 If we read into what took place, apparently
8 that attic apartment, for some reason, was
9 considered illegal and the applicant came to
10 legalize that apartment.

11 In the course of the Resolution being
12 prepared, they mistakenly wrote in that the attic
13 apartment would create a fourth unit. Therefore,
14 the total number of residential units went to
15 four. When, in fact, what should have stated in
16 the Resolution was that it was going from two
17 units, which is two residential plus one
18 commercial, to three units with the attic
19 apartment.

20 So, the Board did, in fact, legalize that
21 apartment. But the Resolution was in error, in
22 calling it a four unit.

23 So, that mistake has been picked up now by
24 the Building Department. And they're -- they
25 have asked the current owner, have it corrected,

1 | so then we would have an approval that matches
2 | what has actually taken place there.

3 |

4 | (Whereupon, Miguel Ortiz arrived at 6:26
5 | p.m.)

6 |

7 | MR. PANEQUE: And what has -- the end
8 | product is now the commercial ground floor, has
9 | been testified to, with the three levels of
10 | residential units above the commercial.

11 | So, the -- the corrected --

12 | THE SECRETARY: Mr. Paneque, allow me two
13 | seconds.

14 | MR. PANEQUE: Yes.

15 | THE SECRETARY: Let -- let the record
16 | reflect that Mr. Ortiz joined the meeting.

17 | Thank you.

18 | Sorry about that.

19 | MR. PANEQUE: Thank you, Mr. Vallejo.

20 | The corrected Resolution will just be
21 | limited to stating that the intent, apparently,
22 | of the Board was to legalize that attic or third
23 | floor unit, thereby creating the commercial on
24 | the ground floor, with three residential units
25 | above.

1 Am I correct, Mr. Gundersen?

2 MR. GUNDERSEN: We weren't there at the
3 2008 meeting, of course, but what Mr. Paneque
4 said I believe is correct.

5 Therefore, the -- the sentence should have
6 read, if that is correct, the legalization of the
7 attic apartment will increase the total number of
8 residential units to three. And therefore, that
9 would have been -- we wouldn't be here tonight,
10 because then the Building Department wouldn't be
11 asking us to make an application for reversion
12 back to three.

13 So, therefore, that would make sense.

14 MR. PANEQUE: Any other questions?

15 VICE CHAIRMAN GRULLON: I don't have any
16 other question.

17 Any other member of the Board?

18 MS. PEREZ: There was never like a basement
19 apartment to that or the -- the ground floor was
20 never part apartment and part --

21 MR. PANEQUE: Okay.

22 MS. PEREZ: -- commercial?

23 MR. PANEQUE: That hasn't been --

24 MR. GUNDERSEN: I'll have my client --

25 MR. PANEQUE: -- testified to, although Mr.

1 Gundersen and I discussed that, and I know the
2 answer, but I'll have Mr. Gundersen --

3 MR. GUNDERSEN: I'll have my client --

4 MR. PANEQUE: -- place that on the record.

5 MR. GUNDERSEN: -- put that on the record.

6 Sure.

7 Can you please tell the Board, does this
8 property have any basement?

9 MS. NG: No.

10 MR. GUNDERSEN: So, the only living or --
11 or areas of -- of living space would be what you
12 can physically see in that photograph.

13 Correct?

14 MS. NG: Right. Correct.

15 MR. PANEQUE: Okay.

16 And just so that we're clear, above that
17 third level, there's no space which could be
18 considered an attic.

19 MS. NG: Nope.

20 MR. PANEQUE: Correct?

21 MS. NG: No.

22 MR. PANEQUE: All right.

23 MS. NG: It's flat.

24 MR. GUNDERSEN: It's a flat roof.

25 MR. PANEQUE: Okay.

1 MR. GUNDERSEN: And which you can barely
2 see.

3 MS. NG: Um hum.

4 MR. GUNDERSEN: We apologize for that.

5 MS. NG: Um hum.

6 MR. PANEQUE: All right.

7 Any other questions of the Board?

8 VICE CHAIRMAN GRULLON: Any other member of
9 the Board?

10 I don't have any more question.

11 At this time, I'm going to open it to the
12 public.

13 Any member of the public want to step
14 forward?

15 Seeing no member of the public.

16 Closed to the public.

17 Taking in consideration that there is no
18 additional construction in the building, and
19 you're here only to make a correction in the
20 Resolution of the 2008, we make a motion to
21 approve the application to change it to three --
22 three dwelling units --

23 MR. PANEQUE: One commercial.

24 VICE CHAIRMAN GRULLON: -- and one
25 commercial.

1 THE SECRETARY: Motion on the table to
2 approve by Mr. Grullon.

3 MS. GUTIERREZ: I'm second.

4 THE SECRETARY: Seconded by Ms. Gutierrez.
5 Roll call on the motion.

6 Mr. Grullon?

7 VICE CHAIRMAN GRULLON: Yes.

8 THE SECRETARY: Ms. Gutierrez?

9 MS. GUTIERREZ: Yes.

10 THE SECRETARY: Mr. Pressey?

11 MR. PRESSEY: Yes.

12 THE SECRETARY: Ms. Pena?

13 MS. PENA: Yes.

14 THE SECRETARY: Ms. Perez?

15 MS. PEREZ: Yes.

16 THE SECRETARY: Mr. Cetinich?

17 MR. CETINICH: Yes.

18 THE SECRETARY: Ms. Watley?

19 MS. WATLEY: Yes.

20 THE SECRETARY: Seven in favor.
21 Motion carries.

22 Thank you.

23 MS. NG: Thank you.

24 MR. GUNDERSEN: Thank you, members.

25 MS. NG: Thank you.

1 MS. GUTIERREZ: Thank you.

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

4 MR. PANEQUE: Mr. Gundersen?

5 MR. GUNDERSEN: Yes.

6 MR. PANEQUE: Your exhibit, the photograph,
7 has to be left with the Board.

8 MR. GUNDERSEN: Sure.

9 MR. PANEQUE: Unless you can give another
10 copy?

11 MR. GUNDERSEN: You can have it.

12 MR. PANEQUE: I don't need the -- the --

13 MR. GUNDERSEN: My client has that.

14 MR. PANEQUE: He has it?

15 Okay.

16 MR. GUNDERSEN: I don't need that.

17 MR. PANEQUE: All right.

18 Thank you, sir.

19 This one is yours. This one. It's just A
20 -- A-1 and A-2, so we can --

21 MR. GUNDERSEN: Let me just make sure that
22 you have all the papers.

23 No, you don't.

24 MR. PANEQUE: Okay.

25 Thank you, sir.

1 MR. GUNDERSEN: I marked it on the wrong --

2 that's --

3 * * *

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 **The Residences at New York Avenue, LLC -**
2 **1211 New York Avenue:**

3

4 THE SECRETARY: Next application on
5 tonight's agenda --

6 MR. GUNDERSEN: Thank you, Tomas.

7 THE SECRETARY: -- The Residences at New
8 York Avenue, LLC, 1211 New York Avenue. This is
9 a continuation.

10 Mr. Mulkey, please?

11 MR. MULKAY: Mr. Chairman, members of the
12 Board, Alain Mulkey, from Mulkey and Rendo, on
13 behalf of the applicant.

14 By way of background, we were here the last
15 time. We made a full presentation. The Board
16 had requested some changes. The main issue of
17 the Board, how to access -- how the residents on
18 the side street would be able to access either
19 Bergenline or New York Avenue.

20 We revised the plans. Mr. Arencibia is
21 here. He's going to give an explanation as to
22 the revision and how we propose to address that
23 issue for the Board.

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

1 MS. DILLON: Please raise your right hand.

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

4 MR. ARENCIBIA: I do.

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

7 MR. ARENCIBIA: Albert Arencibia.

8 MS. DILLON: Thank you.

9 MR. MULKAY: Mr. Arencibia, can you explain
10 to the Board the revisions that we submitted to
11 the Board from the last hearing that we were
12 here?

13 MR. ARENCIBIA: Yes.

14 Really, the -- the essence of the changes
15 were rather minor. As you know, before, in the
16 last meeting, what we had done was we had
17 proposed to put -- set back the units a little
18 bit and create a sidewalk in front of all the
19 residential units.

20 MR. MULKAY: The sidewalk was three feet
21 wide.

22 Correct?

23 MR. ARENCIBIA: I believe three and a half
24 feet, yes.

25 MR. MULKAY: Three and a half feet.

1 MR. ARENCIBIA: So, we have the sidewalk in
2 front. And then, one of the concerns was that,
3 while the other property -- we go to the property
4 line, our sidewalk is within our property line,
5 then by the end of the property, you had to walk
6 out to the street to get out to New York or --

7 So, basically, what we did was we
8 maintained the same size houses. We have --
9 didn't change any of the footprint of the houses
10 at all. All we did was we moved -- we mirrored
11 the houses, so in essence, this is basically --
12 because what happens is since we have a unit on
13 -- on the ground floor, we have a means of egress
14 out. So, where we had before only two foot
15 section between the last house on Tournade
16 and the other property that we have on New York
17 Avenue, we just changed the location of the
18 access from one side to the other, with all --
19 all three families.

20 So by virtue of doing that, we created a
21 continuous sidewalk adjacent to the new three
22 family we're proposing also on New York Avenue,
23 so everybody would have -- you could walk in
24 front of the -- all the homes here, have that
25 three foot eight walkway and the three foot

1 walkway along the back side of the New York
2 Avenue house and be able to directly go out to
3 New York Avenue, without ever having to go out
4 into the street.

5 So, it was a safety consideration and
6 basically, in essence, that was the -- the change
7 on the -- on the application.

8 MR. MULKAY: And for purposes of the Board,
9 we would be able to provide an easement. If the
10 Board was to grant the approval, there would be
11 an easement that would make that a permanent
12 fixture.

13 MR. ARENCIBIA: Correct.

14 MR. MULKAY: Right?

15 MR. ARENCIBIA: Perpetual easement
16 throughout this area here, so then basically it
17 will be maintained.

18 MR. MULKAY: Okay.

19 So -- so that means that the people in the
20 houses on Tournade would be able to walk from New
21 York Avenue to their house, and back, without
22 ever touching the street. It'd be all on private
23 property through the sidewalk.

24 Correct?

25 MR. ARENCIBIA: That is correct.

1 VICE CHAIRMAN GRULLON: Mr. Arencibia, Mr.
2 Mulkey, did you guys made any changes on the
3 bedroom count, as we requested?

4 MR. ARENCIBIA: Well, I mean, the -- the
5 thing is, it's a three family zone. It's --
6 three families are permitted in the zone. I know
7 there was some discussion back and forth, but I
8 don't -- there was never really never a
9 determination as far as -- you know, which
10 direction to go in.

11 So, I don't know how the Board stands on
12 that.

13 VICE CHAIRMAN GRULLON: I mean, if I
14 recall, that was one of the -- you know,
15 conditions that we asked to revise plan and at
16 least for the property on the Tournade Street --

17 MR. MULKAY: Right.

18 VICE CHAIRMAN GRULLON: -- Tournade Street
19 to make it to the -- I believe you had --

20 MR. MULKAY: We had three -- three three --

21 VICE CHAIRMAN GRULLON: You had three --

22 MR. MULKAY: -- bedrooms.

23 MR. ARENCIBIA: Three --

24 VICE CHAIRMAN GRULLON: -- three family --

25 MR. ARENCIBIA: Three three bedrooms. Yes.

1 VICE CHAIRMAN GRULLON: -- and you were
2 going to make it --

3 MR. MULKAY: One of them was a two bedroom.

4 VICE CHAIRMAN GRULLON: One of them was
5 going to be a two family.

6 MR. MULKAY: A two bedroom.

7 VICE CHAIRMAN GRULLON: I mean, yeah, two
8 bedroom.

9 MR. MULKAY: A two bedroom.

10 VICE CHAIRMAN GRULLON: Yes.

11 MR. ARENCIBIA: Well, it just so happens, I
12 do have some revisions with something like that.

13 VICE CHAIRMAN GRULLON: All right.

14 MR. ARENCIBIA: In case the Board would
15 like to look at that.

16 VICE CHAIRMAN GRULLON: Yeah.

17 MR. ARENCIBIA: And I would like to be able
18 to pass that out, if possible.

19 VICE CHAIRMAN GRULLON: Please.

20 MR. ARENCIBIA: I labeled A100, 103. Can
21 we save it?

22 Do you want to do that or just give me
23 another labeling? I'll label it however you
24 want.

25 MS. DILLON: The next exhibit would be A-2.

1 MR. PANEQUE: A-2?

2 MS. DILLON: Yeah.

3 MR. ARENCIBIA: A-2.

4 MS. DILLON: Just give me one to mark.

5 MR. ARENCIBIA: And I have smaller copies,
6 if the Board would like additional copies. I
7 have six large ones and I have smaller copies, as
8 well, too. So, if the Board would like, I can
9 give you --

10 VICE CHAIRMAN GRULLON: I mean, if you
11 could review one of the -- and explain it to us.

12 MR. ARENCIBIA: Okay.

13 VICE CHAIRMAN GRULLON: You have to explain
14 it.

15

16 (Whereupon, Revised Sheet A-103 dated
17 12/10/19 was received and marked as Exhibit A-2.)

18

19 MR. ARENCIBIA: Okay.

20 In essence, so what we did was on the
21 houses on Tournade Place --

22 Is it Tournade or Tornell (phonetic), or
23 how do you actually say that?

24 Do we know?

25 Is it Tournade?

1 Okay.

2 Anyway, so what we have here is, basically,
3 this is the same layouts that we have in the
4 other units. What happens, as you know, the --
5 the units on Tournade on the -- on the first
6 floor level, basically, it's -- it's a three --
7 three bedroom on one flat. The upper units are
8 basically that duplex unit. So, what we have on
9 the second floor, we have the living room on the
10 second floor for the front unit; we have living
11 room on the second floor for the rear unit. And
12 then, the three bedrooms are on the upper floor,
13 the third floor.

14 So what we did was, in order to -- what we
15 did was reduced the bedroom count for the rear
16 unit by creating a studio -- creating a studio
17 and eliminating the other bedroom. So,
18 basically, the upper units, so they go from -- so
19 all of them be -- before there were three three
20 bedroom units, now they're going to be two three
21 bedroom units and one two bedroom units on the
22 homes on Tournade.

23 As far as the footprint, it basically stays
24 the same. We just added the study, TV room.
25 Everything's open. It's an open railing.

1 | There's no -- there's no walls. There's nothing
2 | there, so it's an open space completely.

3 | VICE CHAIRMAN GRULLON: Mr. Mulkay, I want
4 | -- I want to thank you and thank -- and thank
5 | your client for -- you know, considering our --
6 | what we -- what we're looking for here is to
7 | reduce the amount of traffic -- the amount of --
8 | of pedestrian in that street. And even if it's
9 | only one -- a one bedroom that you're eliminating
10 | from -- from the units, from each unit, it's --
11 | it's going to make a difference.

12 | MR. MULKAY: Um hum.

13 | VICE CHAIRMAN GRULLON: I know this side of
14 | the -- New York Avenue, the entrance is -- is
15 | really -- it's wide enough, you know. But the
16 | exit of that street, on Bergenline Avenue, is
17 | very narrow. And I know that now by having five
18 | units there, you're going to have a lot more
19 | traffic and pedestrian walking -- walking in --
20 | walking out to Bergenline. And that would --
21 | that's one of the reasons we're trying to
22 | minimize the amount of -- of pedestrian walking
23 | to that area. And this will -- you know, help
24 | with that at least.

25 | And in my opinion now, this is a -- it's a

1 | better application. It's -- it's going to remove
2 | a nonconforming use, which is the industrial use
3 | of the building.

4 | And -- and I also want to thank you for
5 | setting back the building.

6 | You -- could you go over the setbacks
7 | again? The front yard --

8 | MR. ARENCIBIA: Sure.

9 | VICE CHAIRMAN GRULLON: -- setback and what
10 | was it before and what -- what is it now?

11 | MR. ARENCIBIA: Well, the -- well, the --
12 | the setbacks didn't --

13 | MR. MULKAY: So the --

14 | MR. ARENCIBIA: -- change from the previous
15 | application.

16 | MR. MULKAY: No, no. But just -- what
17 | currently exists on the property, there is no
18 | setback. The property -- the structure that's
19 | there is currently up to the property line.

20 | MR. ARENCIBIA: Right on the property line
21 | itself. Yes.

22 | VICE CHAIRMAN GRULLON: Yes. And it's
23 | going to --

24 | MR. MULKAY: And what we --

25 | VICE CHAIRMAN GRULLON: And --

1 MR. MULKAY: And what we propose, based on
2 the Board's comments is, now we're pushing back
3 the property, minimum of three and a half feet.

4 MR. ARENCIBIA: Three and a half feet to
5 where the stairs are, and basically, 18 feet
6 eight to where the actual structure of the house
7 is.

8 MR. MULKAY: Right.

9 MR. ARENCIBIA: So, it's a huge setback
10 compared --

11 VICE CHAIRMAN GRULLON: Sure.

12 MR. ARENCIBIA: -- to what is there right
13 now.

14 VICE CHAIRMAN GRULLON: That's what you --
15 you already have 15, 15.3.

16 MR. ARENCIBIA: And then we set back --

17 VICE CHAIRMAN GRULLON: Set back --

18 MR. ARENCIBIA: -- to put the sidewalk in
19 the front.

20 So that way that would pick up that
21 additional space.

22 VICE CHAIRMAN GRULLON: Okay.

23 All right.

24 MS. GUTIERREZ: Um hum.

25 VICE CHAIRMAN GRULLON: I don't have any

1 more questions.

2 Do you guys have any questions from the
3 Board?

4 Nobody from the Board. No one from the
5 Board?

6 At this time, I'm going to open it to the
7 public.

8 MS. DILLON: Mr. Price, please raise your
9 right hand.

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

12 MR. PRICE: I do.

13 MS. DILLON: Please state your name and
14 address for the record.

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

17 MS. DILLON: Thank you.

18 MR. PRICE: One question.

19 The reduction in bedroom count, that's only
20 for the five buildings along -- the one on New
21 York Avenue will remain two, or sorry, three
22 three bedroom apartments.

23 MR. ARENCIBIA: Correct.

24 MR. PRICE: Okay.

25 Thank you.

1 VICE CHAIRMAN GRULLON: Any other member of
2 the public want to step forward?

3 MR. GRAHAM: Good evening, Board.

4 MS. DILLON: Sir, please raise your right
5 hand.

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

8 MR. GRAHAM: I do.

9 MS. DILLON: Please state your name and
10 spell it for the record?

11 MR. GRAHAM: Sure.

12 Peter Graham, G-R-A-H-A-M, 1208 Palisade
13 Avenue.

14 MS. DILLON: Thank you.

15 MR. GRAHAM: I've been following this
16 project since the inception, and I think that the
17 people that are behind it are genuine. They're
18 -- have further -- they've had previous projects
19 in the neighborhood that I've observed. They do
20 everything on the up and up. They don't cheat,
21 which is very important to our neighborhood.

22 So, I'm all in favor of making it a better
23 neighborhood.

24 VICE CHAIRMAN GRULLON: Okay.

25 MR. GRAHAM: Thank you.

1 VICE CHAIRMAN GRULLON: Thank you.

2 Thank you, Mr. Graham.

3 MS. GUTIERREZ: Thank you.

4 VICE CHAIRMAN GRULLON: Thank you.

5 MS. GUTIERREZ: Thank you.

6 VICE CHAIRMAN GRULLON: Thank you.

7 It's just -- just one of these -- anybody
8 else from the public?

9 Any other member of the public want to step
10 forward?

11 At this time, closed to the public.

12 Just one more comment that I would like to
13 make. I know it's not something that we can put
14 as a condition, but the -- if we -- if we approve
15 this application, what I would like to see is
16 more -- something that can alert pedestrian when
17 -- when the -- when the cars are going out to
18 Bergenline Avenue.

19 MS. GUTIERREZ: Um hum.

20 VICE CHAIRMAN GRULLON: Right now, you can
21 see maybe one or two car every five minutes going
22 through that street. But you know, having five
23 units there, you might -- the traffic is going to
24 increase. If you can see like a -- maybe the
25 City could put a stop sign there, with more

1 lighting on it.

2 MR. MULKAY: Right.

3 VICE CHAIRMAN GRULLON: And get better
4 lighting to that street and to the corner.

5 MR. MULKAY: So -- so part of the plans
6 that we submitted show increased lighting. My
7 client is putting in lighting on every -- every
8 house, and that whole area is going to be very
9 well lit.

10 As -- as to a stop sign, it's actually the
11 City that controls putting a stop sign on
12 Bergenline. We don't have that -- we don't have
13 that authority or ability to put it in, or
14 request it. That's up to the City.

15 MS. PENA: There is a stop sign there.

16 MR. MULKAY: Oh, there is one?

17 MS. PENA: Um hum.

18 MR. MULKAY: Okay. There you go. All
19 right.

20 VICE CHAIRMAN GRULLON: Okay.

21 MR. MULKAY: Okay.

22 VICE CHAIRMAN GRULLON: I mean, with --
23 with that, taking in consideration that it's
24 going to remove an industrial, a nonconforming
25 use of the area, and is going to promote the well

1 -- and provide a better space for the residents,
2 I will make a motion to grant the application.

3 MR. PANEQUE: Before we vote on that
4 motion, Mr. Grullon, I just want to set down the
5 conditions that are part of this approval.

6 VICE CHAIRMAN GRULLON: This is a
7 condition. Yes.

8 MR. PANEQUE: So, since this plan that's
9 been marked A-2 --

10 MR. MULKAY: A-2.

11 MR. PANEQUE: Okay.

12 That's going to substitute the --

13 MR. ARENCIBIA: Same sheet number T001.

14 MR. PANEQUE: The -- the homes that are on
15 Tournade.

16 MR. ARENCIBIA: Correct.

17 MR. PANEQUE: With respect to the first
18 floor level of --

19 MR. ARENCIBIA: The --

20 MR. PANEQUE: -- those houses.

21 MR. ARENCIBIA: -- third floor level --

22 MR. MULKAY: It's actually third floor
23 level.

24 MR. ARENCIBIA: -- of --

25 MR. PANEQUE: Third floor?

1 MR. ARENCIBIA: -- of the rear unit.

2 MR. MULKAY: Of the rear unit.

3 MR. PANEQUE: Okay.

4 All right. So --

5 MR. ARENCIBIA: And it's all circled here,
6 and it's also circled at revision number 4 on
7 Sheet T00.1.

8 MR. PANEQUE: All right.

9 So, this is going to be substituting that
10 sheet.

11 Now, this is the question for Mr. Mulkay.

12 Mr. Mulkay, you did mention an easement.
13 That easement would be on the property that is on
14 --

15 MR. MULKAY: It's going to be on --

16 MR. PANEQUE: -- facing New York Avenue?

17 MR. MULKAY: Well, it's going to be on
18 both. It's going to be an access easement on Lot
19 2.05 and Lot 2, proposed Lot 2.05 and Lot 2. So,
20 there will be an access and an access easement
21 for pedestrians on those two lots.

22 MR. PANEQUE: Okay.

23 Wouldn't you need an easement on each of
24 the lots, since you're actually putting in that
25 sidewalk on your private property?

1 MR. ARENCIBIA: I think so. Yeah. Yes.

2 MR. PANEQUE: Okay.

3 MR. ARENCIBIA: So, we'll do an easement
4 for the whole front of --

5 MR. MULKAY: So, we're going to -- an
6 easement for the whole --

7 MR. PANEQUE: Yeah. So, you -- you need an
8 easement that would run with the land on each of
9 those lots.

10 MR. MULKAY: From Lot .201 all the way to
11 Lot 2.

12 MR. PANEQUE: All the way through to New
13 York Avenue.

14 MR. MULKAY: Yes. Correct.

15 MR. PANEQUE: Okay.

16 So, we would like to see that as part of
17 the subdivision deeds that you're going to --

18 MR. MULKAY: Right.

19 MR. PANEQUE: -- prepare.

20 MR. MULKAY: Okay.

21 MR. PANEQUE: Okay.

22 So, let's just make that a point. It's
23 going to be a easement to run along the whole
24 length of that --

25 MR. MULKAY: The whole length of the

1 property.

2 MR. PANEQUE: -- sidewalk.

3 MR. MULKAY: Right.

4 MR. PANEQUE: Okay.

5 Were there any other conditions that was
6 mentioned by the Board?

7 VICE CHAIRMAN GRULLON: Just that and the
8 bedroom count.

9 MR. PANEQUE: The bedroom count. Okay.
10 And the easement.

11 MS. GUTIERREZ: And the stop sign is
12 already there.

13 MR. PANEQUE: The stop sign is not
14 something that the applicant can control.

15 MS. GUTIERREZ: No.

16 MR. PANEQUE: That's done through the New
17 Jersey Department of Transportation.

18 And if there's one there already, which I'm
19 sure there is, because how else would you exit
20 onto Bergenline?

21 VICE CHAIRMAN GRULLON: Um hum.

22 And the client is providing more lighting.

23 MS. GUTIERREZ: More lighting.

24 MR. MULKAY: Right.

25 MR. PANEQUE: Okay. And the lighting.

1 MR. ARENCIBIA: Right.

2 MR. PANEQUE: Okay.

3 So, there's --

4 MR. MULKAY: There's --

5 MR. PANEQUE: -- going to be lighting all

6 --

7 MR. MULKAY: The --

8 MR. PANEQUE: -- along --

9 MR. ARENCIBIA: We have it on the drawing.

10 MR. MULKAY: We have it on the drawings

11 already. There's plenty --

12 MR. PANEQUE: So, that's part of the

13 drawings.

14 MR. MULKAY: Yup.

15 MR. PANEQUE: All right. Anything else I'm
16 missing, Mr. Mulkay?

17 MR. MULKAY: I think that was it.

18 MR. PANEQUE: No?

19 VICE CHAIRMAN GRULLON: Yeah.

20 MR. PANEQUE: Thank you.

21 MR. MULKAY: Thank you.

22 MR. PANEQUE: All right. So --

23 VICE CHAIRMAN GRULLON: And again, I make a
24 motion to approve the application with the stated
25 conditions.

1 THE SECRETARY: Motion on the table to
2 approve the application by Mr. Grullon with the
3 conditions.

4 Any second?

5 Second by Ms. Gutierrez.

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

8 Mr. Grullon?

9 VICE CHAIRMAN GRULLON: Yes.

10 THE SECRETARY: Ms. Gutierrez?

11 MS. GUTIERREZ: Yes, with all the
12 conditions.

13 THE SECRETARY: Mr. Pressey?

14 MR. PRESSEY: Yes.

15 THE SECRETARY: Mr. Ortiz?

16 MR. ORTIZ: Yes.

17 THE SECRETARY: Ms. Pena?

18 MS. PENA: Yes.

19 THE SECRETARY: Ms. Perez?

20 MS. PEREZ: Yes.

21 THE SECRETARY: Mr. Cetinich?

22 MR. CETINICH: Yes.

23 THE SECRETARY: Seven in favor.

24 Motion carries.

25 MR. ARENCIBIA: Thank you very much

1 everybody.

2 Happy holidays.

3 MS. GUTIERREZ: Happy holiday.

4 MR. ARENCIBIA: Merry Christmas.

5 MR. MULKAY: Merry Christmas everyone.

6 Thank you.

7 THE SECRETARY: Make sure to provide the
8 revised please.

9 MS. GUTIERREZ: Happy holiday.

10 THE SECRETARY: Thank you.

11 MR. ARENCIBIA: Okay.

12 Thank you so much for everything.

13 MS. GUTIERREZ: All right.

14 Good night.

15 MR. ARENCIBIA: I have another meeting to
16 run to.

17 (Whereupon, there was a pause in the
18 proceedings.)

19 THE SECRETARY: Debbie, can we go off, for
20 a second please?

21 MS. DILLON: Sure.

22

23 (Whereupon, David Spatz left the meeting at
24 6:45 p.m.)
25

1 (Whereupon, the Board recessed from 6:45
2 p.m. to 6:52 p.m.)

3 * * *

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 **Ashok Sharma - 209 Roosevelt Street:**

2

3 THE SECRETARY: Let me call.

4 MS. DILLON: On the record.

5 THE SECRETARY: Let me call.

6 Next application on tonight's agenda, Ashok
7 Sharma, 209 Roosevelt Street.

8 Mr. Sarsano, please?

9 MR. SARSANO: Good even --

10 MR. PANEQUE: Excuse me, Mr. Sarsano.

11 For the record, I've been provided by Mr.
12 Sarsano with the following documentation:

13 I've been provided with an Affidavit of
14 Service indicating that notice was provided to
15 all property owners within the 200 foot radius of
16 209 Roosevelt Street in Union City.

17 I also have an Affidavit from The Jersey
18 Journal, indicating that notice of tonight's
19 hearing was published on November 29th.

20 The notice does indicate that on December
21 12, a public hearing will be held, six p.m., at
22 the Union City Board of Adjustment at this
23 address. Application is with respect to the
24 property at 209 Roosevelt Street.

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

1 200 foot list of all property owners within the
2 radius. And that's from the Tax Assessor's
3 Office, with a date of November 15th.

4 I do note that in that 200 foot list, we
5 have Vice Chairman Grullon, who is the property
6 owner next door, at 208.

7 VICE CHAIRMAN GRULLON: 207.

8 MR. PANEQUE: 207. Therefore, Mr. Grullon
9 is going to recuse himself from this hearing.
10

11 (Whereupon, Vice Chairman Victor Grullon
12 recused and stepped down from the dais.)
13

14 MR. PANEQUE: All right.

15 Let the record reflect that Mr. -- Vice
16 Chairman Grullon --

17 THE SECRETARY: All right.

18 MR. PANEQUE: -- has recused himself and --

19 THE SECRETARY: We are going to -- we need
20 to appoint a temporary chairperson for -- for the
21 application.

22 MR. PANEQUE: That is correct.

23 THE SECRETARY: All right.

24 Let me ask --

25 MR. PANEQUE: By order of seniority?

1 THE SECRETARY: Then will be --

2 MR. PANEQUE: Miss Gutierrez?

3 MS. GUTIERREZ: No.

4 THE SECRETARY: Yeah.

5 MS. GUTIERREZ: No.

6 THE SECRETARY: No? No you don't --

7 MR. PANEQUE: Ms. Gutierrez, do you --

8 THE SECRETARY: What about -- then David.

9 Oh, no, Mr. Ortiz.

10 MS. GUTIERREZ: Mr. Ortiz.

11 MR. PANEQUE: Mr. Ortiz?

12 MS. GUTIERREZ: Mr. Ortiz can do it.

13 MR. PANEQUE: Mr. Ortiz.

14 MR. ORTIZ: No?

15 MR. PANEQUE: Okay.

16 THE SECRETARY: Yes or no?

17 MS. GUTIERREZ: Yes. Yes. Yes.

18 MR. PANEQUE: Raise your hand, Mr. Ortiz.

19 THE SECRETARY: Hold on. Hold on one

20 second.

21 MS. GUTIERREZ: I vote for him.

22 THE SECRETARY: All right.

23 Can I have a motion to appoint temporary

24 Chairperson to run the meeting on this

25 application?

1 MS. GUTIERREZ: Yes.

2 THE SECRETARY: Motion -- who's -- motion?

3 MS. GUTIERREZ: Mr. Ortiz.

4 THE SECRETARY: Your motion, Mr. Ortiz.

5 Gutierrez.

6 MS. GUTIERREZ: Mr. Ortiz, come over here.

7 THE SECRETARY: Any second the motion for a

8 temporary Chairperson, Mr. Ortiz?

9 Ms. -- what is Mr. --

10 MS. GUTIERREZ: Mr. Pressey.

11 THE SECRETARY: Pressey?

12 MS. GUTIERREZ: Mr. Ortiz, come over here,

13 please.

14 THE SECRETARY: Roll call on the motion.

15 Ms. Gutierrez?

16 MS. GUTIERREZ: Yes.

17 THE SECRETARY: Mr. --

18 I'm sorry.

19 Mr. Cetinich?

20 MR. CETINICH: Yes.

21 THE SECRETARY: Ms. Perez?

22 MS. PEREZ: Yes.

23 THE SECRETARY: Ms. Pena?

24 MS. PENA: Yes.

25 THE SECRETARY: Ms. Watley?

1 MS. WATLEY: Yes.

2 THE SECRETARY: Mr. Pressey?

3 MR. PRESSEY: Yes.

4 THE SECRETARY: Who's missing?

5 I am missing one.

6 MS. GUTIERREZ: Who's he missing?

7 MR. PRESSEY: You.

8 MS GUTIERREZ: No, I already did.

9 THE SECRETARY: Ms. Perez?

10 MS. PEREZ: Yes.

11 THE SECRETARY: Seven in favor.

12 Motion carries.

13 Thank you.

14 MR. PANEQUE: Thank you.

15 THE SECRETARY: Go ahead, Mr. Paneque.

16 MR. PANEQUE: All right.

17 Now that we have a temporary Chairman, I'll
18 go through the rest of the jurisdictional proofs.

19 I've also been provided with the certified
20 mail receipts for all property owners within the
21 200 foot radius, as well as the green cards that
22 have come back to date, as well as a copy of the
23 notice that went out.

24 Based on the documentation provided, it --
25 this Board has jurisdiction to proceed and hear

1 | this matter.

2 | Thank you, --

3 | MR. SARSANO: Thank --

4 | MR. PANEQUE: -- Mr. Sarsano.

5 | MR. SARSANO: Thank you, Mr. Paneque.

6 | Good evening, members of the Board, Acting
7 | Chairman, counsel, my name is Anthony Sarsano. I
8 | represent the applicant in this matter.

9 | The application is to convert a three
10 | family residential into a four family
11 | residential.

12 | I intend to present two witnesses, both
13 | experts, my architect and planner.

14 | I would like to start with Ms. Rosas who is
15 | my architect.

16 | MS. DILLON: Miss Rosas, could you just
17 | take one step closer to the microphone? I'm not
18 | going to hook you up.

19 | Please raise your right hand.

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

22 | MS. ROSAS: I do.

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

25 | MS. ROSAS: Carola Rosas, C-A-R-O-L-A,

1 Rosas, R-O-S-A-S.

2 MS. DILLON: Thank you.

3 MR. SARSANO: May I proceed, counsel?

4 MR. PANEQUE: You may.

5 MR. SARSANO: Okay.

6 Ms. Rosas, were you asked to draft the
7 plans that are the subject to the application
8 this evening?

9 MS. ROSAS: Yes.

10 MR. SARSANO: Okay.

11 Could you give the Board an overview of
12 exactly what the plans entail?

13 MS. ROSAS: Yes.

14 I'd like you to refer to your floor plans,
15 so -- and I'll take you through it.

16 Okay?

17 (Whereupon, there was a pause in the
18 proceedings.)

19 MS. ROSAS: Okay.

20 We could refer to the plot plan at the
21 upper right hand corner. Basically, this lot is
22 an interior lot and measures 23 feet deep by
23 88.82 feet. That's approximately 2,039 square
24 feet.

25 The existing zoning district is an R

1 district and where -- it's low density
2 residential district. That's a one to three
3 family is permitted as of use. And what we have
4 here is an existing four family frame building.

5 The CO actually indicates three dwelling
6 units. The taxes paid for this building is four
7 dwelling -- is for four dwelling units. And what
8 we would like to do is legalize a fourth unit on
9 the top floor, and also convert the existing
10 garage space to a den, to increase the square
11 footage to the unit on the ground level.

12 The -- the footprint of the building's
13 about 1,035 square feet, all four levels, has a
14 total of 3,676 square feet for building area.

15 As for the setbacks, we have a front yard
16 of 22 feet, side yard of zero feet, and rear yard
17 of 22 feet.

18 If you refer to the plan, right -- we'll
19 start on the left hand side, which is number two,
20 diagram number two, is a ground floor.

21 The area that's circled is the garage
22 space. We're going to convert the garage space
23 to a den, so it's going to be tied to the unit at
24 the rear, which is a one bedroom apartment. So,
25 we're going to increase the square footage from

1 451 square feet to 656 square feet.

2 The total gross square footage, including
3 the utility and the hall, is about 800 square
4 feet for --

5 Oh, one point.

6 The -- the two open space parking will
7 remain at the front yard. We have 22 -- 22 foot
8 front yard. So, we have two open space parking
9 to remain.

10 The next diagram, number three, is the
11 first floor plan. Basically, what we have here
12 is a two bedroom apartment. The gross square
13 footage for this is about 841 square feet.
14 There's no change to the first floor.

15 Diagram number four is a second floor plan.
16 It's very similar to the previous one. The
17 square footage is 840 square feet, two bedroom
18 apartment. No change on this floor.

19 And lastly, the unit that we want to
20 legalize is the very top one, it's the third
21 floor, which is a one bedroom apartment. The
22 total square footage is 530 square feet.
23 Basically, it's an open space, kitchen, living,
24 dining area, and a bedroom, and a bathroom, is
25 existing. In the bedroom, there's a dashed line

1 at the -- facing the window. I'm going to square
2 off that corner. It's about four feet by seven
3 feet, 28 feet, and -- and raise the roof at that
4 point, just to increase the -- the square footage
5 to -- to that bedroom. So, it's about 30 square
6 feet. It's small.

7 So, one of the points that -- of these four
8 units, these four units will have two means of
9 egress. That is the internal stair and access to
10 the fire escape through egress windows.

11 That's one. So, in terms of egress, we do
12 satisfy Code.

13 The second point is the hallways are going
14 to be upgraded to two hour fire rated
15 construction.

16 And also, the entry to each unit will have
17 90 minute minimum metal doors. They'll be
18 fireproof and self-closing.

19 And -- and lastly, we're going to sprinkler
20 the building fully, in order to make a safe
21 building.

22 So, the -- the diagram below that, which is
23 a front façade, diagram number 11, where the
24 garage door will be, we're going to infill the
25 ground floor level and include a door into

1 windows. So, it's diagram 11, front façade. And
2 so that's going to be the façade to the den, the
3 new den.

4 And -- and on item number 12, we have the
5 rear façade.

6 Most of the facades will remain as is.
7 It's just the very top left hand corner of the
8 facade, the rear façade where you see the lines
9 to represent siding, that is a 30 square foot
10 that is going to be squared off, so it could
11 blend in with existing roof, 30 square feet. So,
12 we're not going beyond the footprint of the
13 building.

14 MR. PRICE: Miss -- I cannot hear. I'm
15 five feet from her. I cannot hear a single word
16 that she is saying. You must ask the witness to
17 speak up.

18 MR. SANSANO: Okay.

19 ACTING CHAIRMAN ORTIZ: Could you raise
20 your voice a little bit, please?

21 MS. ROSAS: Yes.

22 Yes, so what we're doing here is we want to
23 -- we want to legalize --

24 ACTING CHAIRMAN ORTIZ: Could you --

25 MS. ROSAS: -- the fourth unit.

1 ACTING CHAIRMAN ORTIZ: Just hold on a
2 minute.

3 Could you start over, so Mr. Price be able
4 to hear part of the process?

5 Up to what part you didn't hear, Mr. Price?

6 MR. PRICE: What's that? I haven't heard a
7 single word of her presentation, because she's
8 faced away from me, and she's speaking in a very
9 soft tone, which is -- I'm five feet from her, I
10 can't hear her.

11 ACTING CHAIRMAN ORTIZ: Okay.

12 Would you kind over your --

13 MR. PRICE: She must speak up.

14 MR. SANSANO: Try and speak louder so it
15 can be heard.

16 MS. GUTIERREZ: You have to speak up a
17 little --

18 MS. ROSAS: Okay.

19 THE SECRETARY: Can you bring a chair close
20 to her?

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

23 MR. PANEQUE: We're -- we're not letting
24 you vote, though.

25 THE SECRETARY: You cannot vote.

1 Right?

2 MR. PANEQUE: All right. Mr. --

3 MR. SARSANO: You want her to start from
4 the beginning?

5 MR. PANEQUE: -- Sarsano?

6 Yes, please. If we can start the testimony
7 from the very beginning.

8 MR. SARSANO: Okay.

9 MR. PANEQUE: I know it's an inconvenience,
10 but the public does have a right to hear and Mr.
11 Price did raise that objection.

12 MR. SARSANO: No, I understand that.

13 Okay.

14 Ms. Rosas, what I'd like you to do is after
15 I indicated would you give an overview of the
16 presentation, of the project and the plans, would
17 you please take it from there?

18 MS. ROSAS: Yes. Okay. Okay.

19 So, the plot plan -- we're going to start
20 over again.

21 It's an interior lot. It measures 23 feet
22 by 88.82 feet, okay, 2,038 square feet.

23 The zone is an R zone, which is a low
24 density residential zone, where one to three
25 family is permitted as of use.

1 So, what we have here is an existing four
2 story building. We're going to -- the C of O
3 indicates it's a three unit building, residential
4 unit. And taxes are being paid four dwelling
5 units -- for four dwelling units. So, what we
6 want to do is legalize the fourth unit on the top
7 floor.

8 And also, on the ground floor, there's a
9 garage space. We want to convert the garage to a
10 den. And that's going to be part of the dwelling
11 unit on the ground level.

12 So, this -- the setbacks to this building
13 is 22 feet for the front yard. The side yard is
14 zero, rear yard is 22 feet. It's existing.
15 There's no change to the footprint.

16 We could review the -- the plan, diagram
17 two, which is the ground floor plan.

18 The area that I circled is basically the
19 den. The garage being converted to a den.
20 That's going to be part of the apartment at the
21 rear. We're increasing the existing square
22 footage of the apartment, 451 to 656 square feet.

23 In front of the building, two open space
24 parking will remain.

25 The first floor plan, the next diagram, is

1 a two bedroom apartment, approximately 840 square
2 feet. The second floor apartment is pretty much
3 identical to -- to the first floor, is two
4 bedroom apartment, 840 square feet, with a minor
5 change, there's an existing den. There is no
6 work being done on the first floor and the second
7 floor.

8 The unit that we want to legalize is the
9 top floor, 530 square feet. It's existing. It's
10 an open space, kitchen, living, dining area. And
11 there's a bedroom.

12 I'm going to square the rear part, about 28
13 square feet, an increase toward the rear. It's
14 just a small area at the very top, right here.
15 The very corner, just to kind of square off and
16 it's going to look nice. It's going to enhance
17 the building façade, too.

18 So, instead of having a niche cut into the
19 building, we're just going to build it out. It's
20 going to blend nicely.

21 As I mentioned, each of the units will have
22 two means of egress; internal stair and fire
23 escape. They'll have access to the fire escape.

24 The walls at the hallways are going to be
25 upgraded to two hours. The entry doors to each

1 unit will be upgraded to metal, 90 minute
2 minimum, fire rated doors, self-closing doors.

3 The building will also be fully
4 sprinklered.

5 So, how does this affect the façade? Well,
6 the garage doors will be removed and we're going
7 to infill the opening, a door and windows.

8 And the rear façade, that little 30 square
9 foot that I want to add on and square off is
10 going to be filled in in the top. It's going to
11 blend very nicely below the existing roof height.

12 So, the variance we are requesting will be
13 for the lot size, lot width, lot depth, side
14 yard, rear yard, and parking. Mind you, most of
15 these variance is existing condition, no change.

16 And the parking, let me mention again, the
17 two open space parking at the front yard will
18 remain.

19 If you have any questions?

20 ACTING CHAIRMAN ORTIZ: You say you're
21 providing two spaces for parking?

22 MS. ROSAS: Yes, in the front yard, because
23 the front yard is 22 feet deep. You could see in
24 the plot plan, at the upper right hand corner,
25 way up in the right hand corner, at the very top,

1 to the left. I mean, to the right. To the
2 right, you see -- I --

3 MS. GUTIERREZ: Right here.

4 MS. ROSAS: I indicate -- yes, I indicate
5 the -- the front yard, with two parking spaces,
6 open space parking, to remain.

7 MS. PEREZ: How many --

8 ACTING CHAIRMAN ORTIZ: What's the --

9 MS. PEREZ: -- parking spots --

10 ACTING CHAIRMAN ORTIZ: How many --

11 MS. PEREZ: -- are being --

12 ACTING CHAIRMAN ORTIZ: What's the --

13 MS. PEREZ: -- taken away? How many
14 parking --

15 ACTING CHAIRMAN ORTIZ: What's the --

16 MS. PEREZ: -- spots were there before?

17 MS. ROSAS: It's the garage. The -- the
18 enclosed garage will be converted to a den.

19 MS. PEREZ: So, you could fit one car there
20 before or two?

21 MS. ROSAS: Yes.

22 MS. PEREZ: Just one or two?

23 MS. ROSAS: Two.

24 MS. PEREZ: Two?

25 MR. PANEQUE: So, Ms. Rosas, you're

1 eliminating the parking inside the garage?

2 MS. ROSAS: Yeah. In the garage.

3 MR. PANEQUE: So --

4 MS. ROSAS: Enclosed garage.

5 MR. PANEQUE: What you're doing is you're
6 -- right now you have the capacity to have four
7 off-street parking spaces, two in the apron and
8 two inside the garage.

9 MS. ROSAS: True.

10 MR. PANEQUE: And you're increasing the
11 number of units and reducing the number of
12 parking spaces.

13 MS. ROSAS: True.

14 MR. PANEQUE: Yes?

15 MS. ROSAS: But it would be in tandem.
16 Parking in tandem, one in front of the other. So
17 --

18 MR. PANEQUE: I understand, but the
19 question is, you're going from four parking
20 spaces to two.

21 MS. GUTIERREZ: To two.

22 MR. PANEQUE: And you're also increasing
23 the number of units from three to four.

24 MS. GUTIERREZ: Um hum.

25 MS. ROSAS: Yes. And we -- and I also want

1 to mention that the owner pays for -- taxes for
2 four dwelling units. Has been.

3 MR. PANEQUE: Okay.

4 MS. ROSAS: Okay.

5 MR. PANEQUE: Why do we need to get rid of
6 the parking spots in the garage?

7 MS. ROSAS: Well, since we're here, we're
8 -- we're asking.

9 MR. PANEQUE: But why?

10 MS. ROSAS: Why? Well, the owner
11 suggested, since we're going through the Board,
12 the owner would like to use -- increase the
13 apartment on the first floor, ground floor.

14 MR. PANEQUE: Okay.

15 ACTING CHAIRMAN ORTIZ: So, in other words
16 you're going to increase the size of --

17 MS. GUTIERREZ: The unit.

18 MS. ROSAS: The square footage because --
19 yeah. So, the square footage. It's a one
20 bedroom apartment at the rear, it's about 450
21 square feet. And by -- by changing this to a
22 den, the apartment can increase to 656 square
23 feet. So, it's an increase of square footage.

24 MS. GUTIERREZ: The apartment on the fourth
25 floor is 530.

1 MS. ROSAS: Yes, 530 square feet on the
2 third level.

3 MR. PANEQUE: They're making the first
4 floor apartment a larger apartment, calling it a
5 den.

6 MS. GUTIERREZ: Um hum.

7 MS. ROSAS: Yes.

8 MR. PANEQUE: When, in reality, it's going
9 to be a bedroom probably.

10 MS. GUTIERREZ: Yeah. Another bedroom.

11 MR. PANEQUE: Okay.

12 MR. CETINICH: Yeah.

13 MS. PEREZ: That's bigger than a bedroom.

14 MR. CETINICH: Two bedroom.

15 MR. PANEQUE: Yes.

16 MS. GUTIERREZ: Um hum.

17 MR. PANEQUE: Okay. You see where --

18 MS. ROSAS: No, I do. I see.

19 MR. PANEQUE: Okay? So why don't --

20 MS. ROSAS: I see.

21 MR. PANEQUE: -- we call it what it is?

22 MS. GUTIERREZ: But you have -- you have
23 two apartments, 841 square feet.

24 MS. ROSAS: Yes.

25 MS. GUTIERREZ: One 803 and the -- the one

1 | you ask for is 530.

2 | MS. ROSAS: Yes.

3 | MR. PANEQUE: The 530 square foot apartment
4 | is the top floor.

5 | MS. GUTIERREZ: The top floor.

6 | MS. ROSAS: Right.

7 | MR. PANEQUE: Which is not conforming with
8 | our Ordinance.

9 | MS. GUTIERREZ: With our Ordinance.

10 | MS. ROSAS: Yes.

11 | MR. PANEQUE: Okay. There's been no
12 | testimony as to that.

13 | MS. GUTIERREZ: Um hum.

14 | MS. ROSAS: Right. And it's a -- mind you
15 | that the building is -- is existing. The spaces
16 | are existing. We're not really extending to the
17 | building.

18 | MR. PANEQUE: But it --

19 | MS. ROSAS: It's all existing.

20 | MR. PANEQUE: It's not a legal apartment
21 | now.

22 | MS. ROSAS: No. It's not. That's why
23 | we're here to --

24 | MR. PANEQUE: Okay. To legalize it.

25 | ACTING CHAIRMAN ORTIZ: Legalize.

1 MS. ROSAS: -- request. Request.

2 MR. PANEQUE: Okay.

3 MS. ROSAS: Any --

4 MR. PANEQUE: My --

5 MS. ROSAS: -- questions?

6 MR. PANEQUE: My only concern --

7 MS. ROSAS: Um hum.

8 MR. PANEQUE: -- and I'm speaking now --

9 MS. ROSAS: Yes.

10 MR. PANEQUE: -- is the fact that you're
11 increasing the number of residential units from
12 three to four.

13 MS. ROSAS: Um hum.

14 MR. PANEQUE: And coming in, and also
15 decreasing the number of off-street parking
16 spaces.

17 MS. GUTIERREZ: Exactly. Um hum.

18 MS. ROSAS: Okay.

19 MR. PANEQUE: And increasing the -- the
20 size of the first floor apartment --

21 MS. ROSAS: Okay.

22 MR. PANEQUE: -- so that it would
23 accommodate even a larger family.

24 MS. ROSAS: Okay. Can I -- if it's -- if
25 it's becoming an issue with the parking, we can

1 omit -- we can keep the garage. We're here and
2 the owner asked me to --

3 MR. SARSANO: Here's what I'd like to do.

4 I can see the Board has a serious concern
5 --

6 MS. GUTIERREZ: With parking.

7 MR. SARSANO: -- with respect to the
8 parking.

9 MS. GUTIERREZ: Um hum.

10 MR. SARSANO: I'd like an opportunity to
11 carry this.

12 MS. GUTIERREZ: Um hum.

13 MR. SARSANO: Rework the plans and make it
14 in a fashion which might be more satisfactory to
15 the Board.

16 From our perspective, I think it would be
17 more prudent.

18 MS. GUTIERREZ: Because in that area, the
19 parking is very hard.

20 MR. SARSANO: I'm cognizant of that.

21 MS. GUTIERREZ: It's very hard.

22 MS. ROSAS: Um hum.

23 MR. SARSANO: If the Board would consider
24 that?

25 MS. ROSAS: Um hum.

1 MS. GUTIERREZ: Yeah.

2 MR. PANEQUE: Mr. Chairman?

3 ACTING CHAIRMAN ORTIZ: Yes?

4 MR. PANEQUE: Is there a request to adjourn
5 the matter?

6 MR. SARSANO: There is.

7 MS. GUTIERREZ: Yes.

8 MR. PANEQUE: Okay.

9 MR. SARSANO: There is.

10 MR. PANEQUE: You're requesting that the
11 matter be adjourned with no further notices?

12 MR. SARSANO: Yes, I do.

13 MR. PANEQUE: Okay.

14 MS. GUTIERREZ: Um hum.

15 MR. PANEQUE: Is there an application -- a
16 motion on the floor?

17 MS. GUTIERREZ: I make the motion to
18 adjourn.

19 MR. PANEQUE: Motion to adjourn?

20 MS. GUTIERREZ: To adjourn.

21 THE SECRETARY: Motion on the table to
22 adjourn this application for January 9, 2019
23 (sic).

24 MS. GUTIERREZ: No, 2000 and -- two-20.

25 ACTING CHAIRMAN ORTIZ: Twenty.

1 THE SECRETARY: Two-20?

2 MS. GUTIERREZ: Yeah.

3 THE SECRETARY: Thank you.

4 MS. GUTIERREZ: Two-20.

5 THE SECRETARY: I just was waiting you
6 correct me.

7 MS. GUTIERREZ: 2020.

8 THE SECRETARY: January 9, 2020.

9 MS. GUTIERREZ: Two-20. Two-20. 2020.

10 THE SECRETARY: Motion on the table by --
11 by --

12 MR. SARSANO: Thank you very much.

13 THE SECRETARY: -- Ms. Gutierrez.

14 MS. GUTIERREZ: All right.

15 MR. SARSANO: Thank you very much.

16 MS. ROSAS: Thank you.

17 THE SECRETARY: Any second on the motion?
18 Second by Mr. Pressey.

19 Roll call on the motion to adjourn this
20 application, no new notice required.

21 Mr. -- Ms. Gutierrez?

22 MS. GUTIERREZ: Yes.

23 THE SECRETARY: Mr. Pressey?

24 MR. PRESSEY: Yes.

25 THE SECRETARY: Mr. Ortiz?

1 ACTING CHAIRMAN ORTIZ: Yes.

2 THE SECRETARY: Ms. Pena?

3 MS. PENA: Yes.

4 THE SECRETARY: Ms. Perez?

5 MS. PEREZ: Yes.

6 THE SECRETARY: Mrs. -- Mr. Cetinich?

7 MR. CETINICH: Yes.

8 THE SECRETARY: Ms. Watley?

9 MS. WATLEY: Yes.

10 THE SECRETARY: Seven in favor.

11 Motion carries.

12 This application will be heard on January
13 9, 2019 (sic).

14 Thank you and have a good night.

15 MS. GUTIERREZ: No.

16 THE SECRETARY: 2020. Right. Second time.
17 Strike out.

18 MS. GUTIERREZ: Carlos.

19 THE SECRETARY: Two minute break. I got to
20 go to the bathroom.

21 ACTING CHAIRMAN ORTIZ: I think that's what
22 it is.

23 MS. GUTIERREZ: That's why you got a
24 problem.

25

1 (Whereupon, the Board recessed from 7:16
2 p.m. to 7:22 p.m.)

3

4 (Whereupon, Vice Chairman Gullon returned
5 to the dais at 7:22 p.m.)

6

* * *

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 **1401-1407 New York Avenue:**

2

3 THE SECRETARY: -- please?

4 MS. DILLON: Start over.

5 THE SECRETARY: Next application on
6 tonight's agenda, 1401-1407 New York Avenue.

7 Mr. Weller, please?

8 MR. PANEQUE: Ready?

9 On the record?

10 MS. DILLON: Um hum.

11 MR. PANEQUE: All right. Your appearance,
12 sir?

13 MR. WELLER: Okay.

14 Good evening, Board.

15 I'm Jon Weller with 1401-1407 New York
16 Avenue, LLC.

17 Mr. Tuli here, who is the President of the
18 LLC.

19 I -- I'll speak up for Mr. Price. I've act
20 --

21 MS. GUTIERREZ: All right. Please. Yes.

22 MR. WELLER: I've actually been told --

23 MS. GUTIERREZ: Please. Please.

24 MR. WELLER: -- I have a big voice, so
25 shouldn't be a problem tonight.

1 MR. PANEQUE: Mr. Weller, if we can address
2 the jurisdictional issue?

3 You have your proofs, please?

4 MR. WELLER: Yes, I do.

5 MR. PANEQUE: Thank you.

6 MR. WELLER: Certification, posting. This
7 is an actual copy of the --

8 MR. PANEQUE: This is fine.

9 MR. WELLER: That's fine?

10 MR. PANEQUE: You could hold on to the
11 newspaper.

12 MR. WELLER: The return envelopes.

13 MR. PANEQUE: Okay.

14 I need your 200 foot list, as well as the
15 notice that went out.

16 MR. WELLER: Okay. Two hundred foot list.
17 Find that quick here.

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

20 MR. WELLER: I'm sorry, Board. I'm trying
21 to find this list.

22 MR. PANEQUE: Take your time.

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

25 MR. PANEQUE: You have the 200 foot list?

1 MR. TULI: Yeah. It's in here.

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

4 THE SECRETARY: Oh, yeah, yeah.

5 MR. PANEQUE: You have it?

6 THE SECRETARY: Yup. Yes, I do.

7 MR. PANEQUE: We'll work with this one.

8 MR. WELLER: Great. Okay.

9 I appreciate. Thank you.

10 MR. PANEQUE: All right.

11 Thank you, sir.

12 All right. For the record, I've been
13 provided with the following documentation:

14 You have a certification of service?

15 MR. WELLER: Do we have a certification?

16 MR. PANEQUE: All right.

17 (Whereupon, there was a pause in the
18 proceedings.)

19 THE SECRETARY: This is what I get by
20 email.

21 MR. PANEQUE: No. I need his
22 certification; whoever mailed it out.

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

25 MR. PANEQUE: Okay.

1 Mr. Weller, I'm going to make that a
2 request, that you provide us with a certification
3 of service that the notices went out to all
4 property owners within 200 feet. And that will
5 be a condition.

6 Okay, sir?

7 Now, for purposes of the record, I have a
8 200 foot list with a date of October 28, 2019,
9 listing all property owners within the 200 foot
10 radius of 1401 New York Avenue.

11 I've been provided with the certified mail
12 receipts, as well as the green cards that have
13 come back to date, as well as envelopes that have
14 been returned.

15 I note that on the envelopes, the -- it's
16 got a metered postage, postmark of November 15th,
17 2019.

18 I've also been provided with an Affidavit
19 of Publication from The Jersey Journal,
20 indicating that notice of tonight's hearing was
21 published on November 21st, 2019. Said notice
22 indicates that the applicant is coming before the
23 Board at this location, with respect to the
24 property at 1401 New York Avenue, Union City, New
25 Jersey.

1 With the condition that a certification of
2 service be provided before the Resolution is
3 approved, this Board has jurisdiction to proceed
4 and hear this matter.

5 MR. WELLER: Okay.

6 MR. PANEQUE: And we -- you can -- we can
7 talk about the certification.

8 MR. WELLER: Okay.

9 Thank you. I appreciate it.

10 MS. DILLON: Swear them both in?

11 MR. PANEQUE: Yes.

12 THE SECRETARY: I got it here.

13 MR. WELLER: Back in January --

14 MS. DILLON: Gentlemen, I need to swear you
15 in.

16 MR. WELLER: Oh.

17 MS. DILLON: If you would please both raise
18 your right hand?

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

21 MR. WELLER: I do.

22 MR. TULI: I do.

23 MS. DILLON: Okay.

24 If you would each please state your name
25 and spell it for the record?

1 MR. WELLER: Jon, J-O-N, Weller,
2 W-E-L-L-E-R.

3 MR. TULI: Sandy Tuli. S-A-N-D-Y, T-U-L-I.

4 MS. DILLON: Thank you.

5 Go ahead, Mr. Weller.

6 MR. WELLER: Thank you.

7 Back in late January of this year, the
8 property at 1401 New York Avenue was purchased
9 over.

10 It was our understanding or belief, at the
11 time, that it was one store and six apartments.
12 And when we were in the transition of the sale,
13 right afterwards, there actually was a tenant
14 lined up for that -- for this apartment that
15 we're talking about here. It was then learned
16 that this was not an apartment.

17 So, we've had it vacant since that period
18 of time. It's been sitting there.

19 It's a small unit, about 315 square feet.
20 It's been in existence as an apartment from, a
21 lot of people telling us, including the former
22 owner who had this in his family, mid-80s or so
23 was when the conversion actually took place.

24 And probably recently renovated as recent
25 as maybe three to five years ago it looks like,

1 in terms of what inside looks like.

2 I do have pictures. I don't know if
3 they've come around, if you've seen it before or
4 not, but I'd be happy to show you what it looks
5 like.

6 Really, we're just asking for the variance
7 to take from the total of seven units, which is
8 five apartments and two retail, to six apartments
9 and one retail. And it's really been like that
10 for the last 25, 30 years.

11 VICE CHAIRMAN GRULLON: Mr. Weller,
12 question.

13 MR. WELLER: Sure.

14 VICE CHAIRMAN GRULLON: You say it's six
15 apartment and one --

16 MR. WELLER: Legally it is five apartments,
17 two stores. It's being run as six apartments,
18 one store.

19 VICE CHAIRMAN GRULLON: Mr. Spatz here,
20 because the -- on the memo from Mr. Spatz, it
21 goes from 12 -- 12 -- 12 apartments, going from
22 12 to 13.

23 MR. WELLER: I think 1401 is one address;
24 1405 is the next address.

25 MR. PANEQUE: Okay.

1 MR. WELLER: Sure.

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

4 MR. PANEQUE: 1401 is the property in
5 question here.

6 MR. WELLER: Correct.

7 MR. PANEQUE: Now, there's an -- a
8 companion property or --

9 MR. WELLER: There's --

10 MR. PANEQUE: -- an adjacent property?

11 MR. WELLER: There's -- there's actually
12 two adjacent properties, 1401, which we own,
13 1405, we own, and 1409.

14 MR. PANEQUE: Okay.

15 MR. WELLER: Okay.

16 The 1409 is actually under a different LLC.
17 So like, technically, a different owner. But the
18 two next door to each other are under this LLC
19 ownership, but they are two separate buildings.

20 MR. PANEQUE: Now, 1401 is which lot?

21 MR. PRICE: Lot 24.

22 MR. WELLER: Yeah. I believe so.

23 MR. PANEQUE: So, it's just Lot 24.

24 MR. WELLER: Correct.

25 MR. PANEQUE: Okay.

1 Because the memo from Mr. Spatz, and this
2 is for the -- referring to the question that Mr.
3 Grullon asked --

4 MR. WELLER: Um hum.

5 MR. PANEQUE: -- refers to two lots, 24 and
6 25. So, then, Lot 25 would be the 1405 --

7 MR. WELLER: It's probably -- the next door
8 lot -- yeah. The next --

9 MR. PANEQUE: The next building.

10 MR. WELLER: The next building over.

11 MR. PANEQUE: Okay. So, let's just
12 concentrate on 1401.

13 MR. WELLER: Yes, sir.

14 MR. PANEQUE: What currently exists on that
15 property, with respect to the number of
16 residential units?

17 MR. WELLER: The -- the actual design right
18 now is six residential units, one store. I have
19 a picture I could show --

20 MR. PANEQUE: Okay.

21 MR. WELLER: -- what the building looks
22 like.

23 VICE CHAIRMAN GRULLON: That's the picture?

24 MR. PANEQUE: If you're going to be showing
25 pictures, we need to have them marked.

1 MR. WELLER: They're the same pictures I
2 believe you have.

3 MR. PANEQUE: Okay.

4 I understand that. But we need to have a
5 record.

6 MR. WELLER: Sure.

7 MR. PANEQUE: So, if you could, Mr. Weller?

8 MR. WELLER: Sure.

9 MR. PANEQUE: Each picture that you're
10 going to show, one at a time, we'll just mark it
11 individually.

12 MR. WELLER: Okay.

13 MR. PANEQUE: So, that picture shows what?

14 MR. WELLER: That's the front of the
15 building, 1401.

16 MR. PANEQUE: Okay.

17 And that's going to be marked A-1.

18 MR. WELLER: Okay.

19

20 (Whereupon, Photograph of Front of Building
21 was received and marked as Exhibit A-1.)

22

23 MR. PANEQUE: Now, that building, just so
24 that the Board is clear, currently has six
25 residential units and one commercial?

1 MR. WELLER: The design is six -- the way
2 it's built -- the way it is right now, yes, six;
3 legally, five and two.

4 MR. PANEQUE: Okay.

5 MS. DILLON: Excuse me?

6 I'm just going to --

7 MR. WELLER: Sorry.

8 MS. DILLON: -- connect the wireless mic to
9 you.

10 MR. WELLER: Okay.

11 MS. DILLON: This can go into a pocket.

12 MR. WELLER: Okay.

13 MR. TULI: Five residential, two
14 commercial. One -- somebody in the past
15 converted one store to apartment.

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

18 MR. PANEQUE: All right.

19 So, so that we're clear, if you want to
20 circulate that picture now with --

21 MR. WELLER: That's the first one.

22 MR. PANEQUE: -- the Board. All right. So
23 this --

24 MR. WELLER: That -- that's the corner,
25 looking at the front of the property.

1 MR. PANEQUE: Okay.

2 Now, the unit, which you're trying to
3 legalize --

4 MR. WELLER: Okay.

5 As you go down 14th Street, off of New York
6 Avenue, the unit is this area of the building
7 right here.

8 MR. PANEQUE: Okay.

9 Let's mark that as A-2.

10

11 (Whereupon, Photograph was received and
12 marked as Exhibit A-2.)

13

14 MR. PANEQUE: Okay.

15 And if you could just, for purposes of
16 having a record, what you're describing and
17 circling around is the different colored
18 building.

19 MR. WELLER: The different colored little -
20 - smaller building attached to it, yes.

21 MR. PANEQUE: Okay.

22 So that's in the rear of the ground floor.

23 MR. WELLER: It's in the rear of the ground
24 floor.

25 MR. PANEQUE: And currently, that is a

1 residential unit.

2 MR. WELLER: It's a -- a small one bedroom
3 residential unit.

4 MR. PANEQUE: All right.

5 MR. WELLER: Yes.

6 MR. PANEQUE: And the dilemma comes in, in
7 that the City Building Department is telling you
8 that they had that as a commercial unit?

9 MR. WELLER: A commercial store. Yes.

10 MR. PANEQUE: All right.

11 So, somewhere along the timeline, the
12 commercial unit was converted to a residential
13 unit.

14 MR. WELLER: Correct.

15 MR. PANEQUE: Okay.

16 Now, do you have anyone here to testify as
17 to how long that unit has been a residential
18 unit?

19 MR. WELLER: I don't have anybody here to
20 testify. I -- I mean, I'm -- I will give you my
21 hearsay statement, but --

22 MR. PANEQUE: I --

23 MR. WELLER: -- I understand.

24 MR. PANEQUE: Yeah.

25 MR. WELLER: But it is -- this has been --

1 the actual 1409, which is the last building we
2 bought from the -- the son of the original
3 owners, he told us it's mid-80s, when that
4 converted over.

5 MR. PANEQUE: Okay.

6 MR. WELLER: So, it's 30, 40 years of time
7 --

8 MR. PANEQUE: All right.

9 MR. WELLER: -- it seems.

10 MR. PANEQUE: The only witness you have
11 here tonight is your client?

12 MR. WELLER: Yes.

13 MR. PANEQUE: Mr. Tuli?

14 MR. WELLER: Yes.

15 MR. PANEQUE: Okay.

16 Any other pictures you have there?

17 MR. WELLER: I have quite a few. I could
18 show you interiors of the property and I could
19 show you street scenes. I don't know if street
20 scenes are helpful. We could just pass it out
21 for -- for --

22 MR. PANEQUE: All right.

23 MR. WELLER: -- viewing purposes, if you
24 want but --

25 MR. PANEQUE: Let's just --

1 MR. WELLER: But --

2 MR. PANEQUE: Give us just one of the
3 interior, just to get an idea of what that
4 apartment looks like.

5 MR. WELLER: Sure. Let me give you like a
6 kitchen or something. It's a -- it's a picture
7 of the kitchen inside.

8 MS. WATLEY: This is it?

9 MS. DILLON: Okay.

10 So this will be A-3.

11 MS. WATLEY: I'm sorry. Is it this right
12 here?

13 MR. TULI: Correct.

14 MR. WELLER: Yes. Yes.

15

16 (Whereupon, Photograph of Kitchen was
17 received and marked as Exhibit A-3.)

18

19 MR. WELLER: Let's see if I can get a
20 couple nice shots here.

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

23 MS. DILLON: Tomas?

24 MR. PANEQUE: Thank you.

25 MS. DILLON: Do you want this one marked?

1 MR. WELLER: Yeah, please.

2 It's all hardwood floors throughout the
3 place.

4 MR. PANEQUE: Okay.

5 MR. WELLER: Not that it's that big, but it
6 is hardwood floors.

7

8 (Whereupon, Photograph was received and
9 marked as Exhibit A-4.)

10

11 (Whereupon, Photograph was received and
12 marked as Exhibit A-5.)

13

14 (Whereupon, Photograph was received and
15 marked as Exhibit A-6.)

16

17 (Whereupon, there were multiple speakers.)

18 MS. DILLON: I can't have --

19 MR. PANEQUE: Okay.

20 For purposes of the record, we can't have
21 everybody talking. So, Mr. Weller is talking.
22 It just confuses the record and it -- it makes
23 our court reporter's task very much difficult to
24 do.

25 MR. WELLER: It's got a little ceramic tile

1 | entranced area, kitchen area, and then hardwood
2 | floors in the living room and the bedroom.

3 | MR. PANEQUE: Okay.

4 | All right. Mr. Weller, you -- do you mind
5 | if I question your client?

6 | MR. WELLER: Yes, please.

7 | MR. PANEQUE: All right.

8 | Mr. Tuli, when did you buy this property?

9 | MR. TULI: January of 2019.

10 | MR. PANEQUE: Okay.

11 | At the time that you bought the property,
12 | was this apartment existing there?

13 | MR. TULI: Yes.

14 | MR. PANEQUE: Okay.

15 | Was there a tenant in there?

16 | MR. TULI: It was -- there was a tenant
17 | when we looked at the property. When we
18 | purchased it, a -- like 15 days later, the tenant
19 | moved out.

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

22 | MR. PANEQUE: Okay.

23 | How did you come to find out that the
24 | Building Department did not recognize this as a
25 | residential unit?

1 MR. TULI: We got a call from Mr. Alex
2 Velazquez, in the Mayor's Office, requesting to
3 put a tenant in the apartment for Section 8. We
4 said sure. We filled out an application. The
5 Building Department went in, inspected the
6 apartment. They did, I guess, a search, tax
7 search, and they said that this is -- they
8 couldn't approve the apartment because it was not
9 a -- it was a nonconforming apartment. It was
10 not a legal apartment, according to them.

11 So, they advised us to go through these
12 steps to legalize the apartment.

13 MR. PANEQUE: And what, if anything, did
14 the Building Department indicate to you that they
15 recognize that space as?

16 MR. TULI: They had no record.

17 MR. PANEQUE: Okay.

18 MR. TULI: They said that they had no
19 record.

20 We assumed, at one time, that it was a
21 commercial space. And they said, yeah, it may
22 have been a commercial space, but they didn't
23 know what it was.

24 MR. PANEQUE: Okay.

25 Did you get anything in writing from the

1 Building Department?

2 MR. TULI: No. We only got a violation
3 that that's a nonconforming apartment.

4 MR. PANEQUE: Okay.

5 Is that violation still pending?

6 MR. TULI: Yes.

7 MR. PANEQUE: Do you have that with you?

8 MR. WELLER: Yes.

9 MR. PANEQUE: While we look for that, is
10 the unit still vacant?

11 MR. TULI: Yes.

12 MR. PANEQUE: Thank you, sir.

13 MR. WELLER: Sure.

14 MR. PANEQUE: For the record, I've been
15 provided with a copy of a summons with a summons
16 number SC-2019-07 -- strike that -- 067881. The
17 violation is issued by Inspector James Hernandez,
18 and it's issued to the property owner, and it
19 indicates that they're seeking the penalty
20 collection for a nonconforming rear ground floor
21 apartment, at the location of 1401 New York
22 Avenue.

23 Okay. So, it's -- it's what you have
24 testified to.

25 MR. TULI: Yes.

1 MR. PANEQUE: Okay.

2 The front of the ground floor, that's the
3 commercial establishment?

4 MR. TULI: Yes.

5 MR. PANEQUE: And what is there now?

6 MR. TULI: There's a -- a bodega in the
7 front. You go down 14th Street, and that other
8 space is vacant. And there's two entrances to
9 the entrance of the building, where there's
10 residential units upstairs.

11 MR. PANEQUE: Okay.

12 So, the space that's taken up by the
13 bodega, that's on the front of the ground floor.

14 MR. TULI: Correct.

15 MR. PANEQUE: And does that connect to this
16 section, where the apartment is?

17 MR. TULI: No.

18 MR. PANEQUE: There's a hallway in between?

19 MR. TULI: There's two hallways in between.
20 Yes.

21 MR. PANEQUE: Two hallways.

22 MR. TULI: Yes.

23 MR. PANEQUE: Okay.

24 This apartment has its own separate
25 entrance.

1 MR. TULI: Yes.

2 MR. PANEQUE: Okay.

3 MR. TULI: If I may?

4 It also has an exit in the back. So, it
5 has a front entrance and an exit at the back door
6 also.

7 MR. PANEQUE: Okay.

8 And what is the square footage on this
9 apartment?

10 MR. TULI: Three hundred and 15 square
11 feet.

12 MR. PANEQUE: Okay.

13 MR. TULI: It's a small one bedroom.

14 MR. PANEQUE: Yeah. So, it does not meet
15 the density requirements under our Ordinance.

16 MR. TULI: Correct.

17 MR. PANEQUE: Okay.

18 And Mr. Weller, you have no one here to
19 testify as to the condition and state of the
20 apartment, or anything of that effect?

21 MR. WELLER: I think the pictures speak
22 pretty well for themselves --

23 MR. PANEQUE: Yeah.

24 MR. WELLER: -- as to the condition of the
25 apartment.

1 MR. PANEQUE: In the past, when these kind
2 of cases have come before us, we normally -- or
3 the Board has normally asked for an expert to
4 come in and testify as to, for example, the
5 fixtures in the apartment being 30 plus years
6 old.

7 I -- I do note, from the pictures, that
8 these fixtures that are there, the kitchen and
9 the cabinets are relatively new. So, it looks
10 like the apartment was remodeled not too long
11 ago.

12 MR. WELLER: I -- I would agree with that.
13 Yes.

14 MR. PANEQUE: So, having an expert come in,
15 I think would be futile at this point because of
16 the remodeling that has taken place.

17 Do you have any of the tax records from
18 1973, which shows -- which would indicate what
19 was there?

20 MR. WELLER: I don't think we have anything
21 to that effect.

22 MR. PANEQUE: No?

23 MR. WELLER: No.

24 MR. PANEQUE: Okay.

25 That would be another avenue of trying to

1 prove that that apartment existed there prior to
2 the Ordinance taking effect, which would have
3 been the 1973 tax assessment. I --

4 MR. TULI: If I may?

5 MR. PANEQUE: Yeah.

6 MR. TULI: I think we asked, requested that
7 from the Tax Assessor's Office. They didn't have
8 -- it wasn't there in 1973.

9 MR. PANEQUE: So what was there?

10 MR. TULI: It was a commercial space.

11 MR. PANEQUE: Commercial space?

12 MR. TULI: Yes.

13 MR. PANEQUE: And you -- did you bring that
14 with you or --

15 MR. TULI: No. But it was --

16 MR. PANEQUE: Yeah.

17 MR. TULI: -- the five apartments and two
18 stores.

19 MR. PANEQUE: Okay.

20 MR. TULI: At that -- in 1970 -- whenever
21 it was, 1970. Somewhere in the '80s it was
22 converted to a -- an apartment.

23 MR. PANEQUE: Yeah.

24 See, one of the issues that I'm struggling
25 with is that I -- I need to, in my Resolution,

1 and this Board needs to go from the approved use,
2 which we don't know what it is because we don't
3 have the memo from the Building Department here
4 tonight, to what this Board is going to legalize.

5 So, if it was a commercial, I can have the
6 Board make an application or a motion to go from
7 commercial to residential.

8 If it was residential, then we can just
9 legalize it as a residential.

10 I'm missing the memo from the Building
11 Department. For some reason, it wasn't included
12 and we don't have anything being provided from
13 you to show that.

14 MR. WELLER: I don't think I have anything.

15 MR. TULI: Can we get an adjournment and we
16 can obtain that document?

17 MR. PANEQUE: We can. Yeah. And that
18 would also give us time to get the memo.

19 MR. TULI: Okay.

20 MR. PANEQUE: So, that would be my
21 suggestion to the Board, to carry this matter, so
22 that we can pinpoint exactly what it is that
23 you're -- this Board is being asked to do.
24 Because right now, we know the apartment is
25 there. If you had come in and shown us pictures

1 with 1940s -- you know, like see the framework
2 around --

3 MR. TULI: Yes. Yes.

4 MR. PANEQUE: -- these windows?

5 MR. WELLER: Sure.

6 MR. PANEQUE: I can tell you, this
7 framework wasn't done last week. It's --

8 MR. TULI: Right.

9 MR. PANEQUE: It's woodwork from -- you
10 know, 80 years ago.

11 MS. GUTIERREZ: Um hum.

12 MR. PANEQUE: This Board can then take
13 notice of the condition of the apartment, and
14 say, we're going to approve it because it was
15 there before 1973.

16 MS. GUTIERREZ: Um hum.

17 MR. PANEQUE: The pictures that you showed
18 us kind of show an apartment that was -- could
19 have been done yesterday.

20 MR. TULI: Yeah. Like four, five years
21 ago, they renovated it.

22 MR. PANEQUE: Um hum.

23 But it looks very good. So we just need to
24 know what was there and what this Board is going
25 to go to approve.

1 MR. TULI: Okay.

2 MR. PANEQUE: Okay.

3 So, the -- my suggestion would be to carry
4 this matter to the next meeting.

5 The applicant can come back and bring
6 whatever proofs they have, and at the same time,
7 we can get the memo.

8 If you want to open it to the public, in
9 case anybody has any comments?

10 Mr. Price?

11 VICE CHAIRMAN GRULLON: Mr. Price?

12 Open to the public.

13 MR. PRICE: Still Larry Price, still under
14 oath.

15 This site is about five blocks from my home
16 and I probably walk by this site -- you know, a
17 dozen times a week. So, I'm well acquainted with
18 the site.

19 Anyway, the point -- one legal point I
20 would make would be, I think it's admitted that
21 in 1974 it was a store. And I remember it as
22 being a store way back when. And it then got
23 converted to this apartment. Okay.

24 I don't think they have to go back to 1974,
25 because in 1974, an apartment on the ground floor

1 | was a legal use. It was only until 2012 when we
2 | adopted the Land Development Ordinance that
3 | apartments had to be on upper floors.

4 | So, the thing that makes this a -- a
5 | prohibited use is the fact -- is from 2012. And
6 | my recollection -- you know, as we get older, we
7 | get senile, but you'll make allowances, is that
8 | at least from 2012 and before, this apartment was
9 | already in place.

10 | MR. PANEQUE: You would have been the
11 | perfect witness to have presented.

12 | MR. WELLER: Can we bring him back on?

13 | MR. PANEQUE: Unfortunately, we cannot at
14 | this point. He's come --

15 | MR. PRICE: There are other problem, the
16 | size of the apartment --

17 | MR. PANEQUE: The size of the apartment --

18 | MR. PRICE: -- is a problem.

19 | MR. PANEQUE: -- is a problem.

20 | MR. PRICE: But I think the -- the -- you
21 | know, the fact is on the day when it became
22 | illegal to have a residential apartment on that
23 | -- in that space, it was already there. And --
24 | and, in fact, well before.

25 | MR. PANEQUE: And there -- there may be

1 | some tax assessments after 1973 which may point
2 | that out.

3 | MR. PRICE: Probably.

4 | MR. PANEQUE: Yeah.

5 | MR. PRICE: I would -

6 | MR. PANEQUE: But that --

7 | MR. TULI: But we're paying taxes still on
8 | that space, it's just whether it was, looking at
9 | the records, as --

10 | MR. PANEQUE: Yeah, but --

11 | MR. TULI: -- the City thought it was a
12 | commercial or a residential.

13 | MR. PANEQUE: Um hum.

14 | MR. TULI: But we were still paying taxes
15 | on that --

16 | MR. PANEQUE: Yeah, --

17 | MR. TULI: -- space.

18 | MR. PANEQUE: -- it's not a question of
19 | whether you're paying taxes on that, it's a
20 | question of what was there. So, if you have a
21 | tax assessment, let's say, from -- you know, 2006
22 | that shows that there was a kitchen, a bathroom
23 | and a bedroom there, then Mr. Price's argument
24 | will get you through the hurdle, because the Land
25 | Use Ordinance didn't take effect outlawing ground

1 floor apartments until 2012.

2 MR. TULI: Thank you.

3 MR. WELLER: Thank you, Mr. Price.

4 MR. PANEQUE: He's actually helping your
5 case here.

6 MR. TULI: Yeah. He helped us a lot.

7 MR. WELLER: Yes.

8 MR. PANEQUE: All right.

9 So, Mr. Weller --

10 MR. WELLER: Yes.

11 MR. PANEQUE: -- you have a motion to --
12 you have a request to adjourn this matter?

13 MR. WELLER: We'll -- we'll make the
14 request to adjourn.

15 MR. PANEQUE: Okay.

16 THE SECRETARY: Can I have a motion to
17 adjourn this application, no new notice required?

18 Motion by?

19 Ms. Gutierrez.

20 VICE CHAIRMAN GRULLON: Second.

21 THE SECRETARY: Seconded by Mr. Grullon.

22 Roll call on the motion to adjourn this
23 application for January 9, 2020.

24 Mr. Grullon?

25 VICE CHAIRMAN GRULLON: Yes.

1 THE SECRETARY: Ms. Gutierrez?
2 MS. GUTIERREZ: Yes.
3 THE SECRETARY: Mr. Pressey?
4 MR. PRESSEY: Yes.
5 THE SECRETARY: Mr. Ortiz?
6 MR. ORTIZ: Yes.
7 THE SECRETARY: Ms. Pena?
8 MS. PENA: Yes.
9 THE SECRETARY: Ms. Perez?
10 MS. PEREZ: Yes.
11 THE SECRETARY: Mr. Cetinich?
12 MR. CETINICH: Yes.
13 THE SECRETARY: Seven in favor.
14 Motion carries.
15 Thank you.
16 MR. PANEQUE: Thank you, sir.
17 MR. WELLER: Thank you.
18 MR. TULI: Thank you very much.
19 THE SECRETARY: See you next year.
20 (Whereupon, there was a pause in the
21 proceedings.)
22 MR. WELLER: Thank you.
23 Thank you, Board.
24 Appreciate your time.
25 (Whereupon, there was a pause in the

1 proceedings.)

2 MS. DILLON: Carlos, do you need to go off
3 the record for --

4 THE SECRETARY: Yes.

5 MS. DILLON: -- a moment?

6

7 (Whereupon, the Board recessed from 7:49
8 p.m. to 7:53 p.m.)

9

* * *

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

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

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, 1015
8 West Street, LLC, 601 11th Street.

9 Mr. Alonso, please?

10 MR. ALONSO: Good evening.

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

13 I requested a -- an adjournment for two
14 reasons. We're still trying to determine exactly
15 what we do. And the Board may recall that
16 there's an issue, in terms of the actual use.
17 The Building Department has this as four
18 residential and one commercial. We -- we've
19 presented proofs as to what the actual use is.

20 I know that some of the Board members
21 wanted to visit the site. To this date, we
22 haven't had a visit yet, I don't believe. So,
23 we're still trying to coordinate that in order to
24 move forward.

25 VICE CHAIRMAN GRULLON: I recall -- I

1 recall that. And I know Mr. Bonacci reached out
2 to me once, for us to go together. We couldn't
3 -- you know --

4 MR. ALONSO: Coordinate. Yeah.

5 VICE CHAIRMAN GRULLON: -- coordinate on
6 the schedule, but we will do it in the next few
7 weeks.

8 MR. ALONSO: Yeah.

9 And then, again, if you want, I'll give you
10 my card again. You guys can reach --

11 VICE CHAIRMAN GRULLON: Yeah. Please.

12 MR. ALONSO: -- reach out to me.

13 VICE CHAIRMAN GRULLON: Give it to me. I
14 know you give it to Mr. --

15 MR. ALONSO: I'll coordinate it and
16 hopefully we'll move forward.

17 VICE CHAIRMAN GRULLON: Okay.

18 And your request is to -- to adjourn it to
19 the next meeting?

20 MR. ALONSO: Yes, please.

21 VICE CHAIRMAN GRULLON: To January 9?

22 I make a motion to adjourn this application
23 to the next Board meeting of January 9.

24 THE SECRETARY: Motion on the table to
25 adjourn this application for January 9, 2020 by

1 Mr. Grullon.

2 Any second the motion?

3 Seconded by Ms. Gutierrez.

4 MR. PANEQUE: That would be an adjournment
5 without any notice requirements.

6 MR. ALONSO: That is correct.

7 MR. PANEQUE: Okay.

8 THE SECRETARY: New notice?

9 MR. PANEQUE: No notice.

10 THE SECRETARY: No notice. I'm sorry.

11 I am suffering the same by Mr. -- Mr.

12 Price.

13 All right. Motion on the table to adjourn
14 this application for January 9, 2020.

15 Seconded by Ms. Gutierrez.

16 Roll call on the motion.

17 Mr. Grullon?

18 VICE CHAIRMAN GRULLON: Yes.

19 THE SECRETARY: Ms. Gutierrez?

20 MS. GUTIERREZ: Yes.

21 THE SECRETARY: Mr. Pressey?

22 MR. PRESSEY: Yes.

23 THE SECRETARY: Mr. Ortiz?

24 MR. ORTIZ: Yes.

25 THE SECRETARY: Ms. Pena?

1 MS. PENA: Yes.

2 THE SECRETARY: Ms. Perez?

3 MS. PEREZ: Yes.

4 THE SECRETARY: Mr. Cetinich?

5 MR. CETINICH: Yes.

6 THE SECRETARY: Seven in favor.

7 Motion carries.

8 MR. ALONSO: Thank you.

9 * * *

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 **Roberto Rodriguez - 1711 Manhattan Avenue:**

2

3 THE SECRETARY: Next application on
4 tonight's agenda, Roberto Rodriguez, 1711
5 Manhattan Avenue.

6 Mr. Alonso, please?

7 MR. ALONSO: Yes.

8 Mr. Chairman, members of the Board, notices
9 were previously provided to this Board. The
10 Board obtained jurisdiction and the matter had
11 been carried to today.

12 This is an application where my client is
13 seeking to construct an addition to an existing
14 structure. The existing structure currently
15 contains two commercial units and two residential
16 units, which is not a permitted use in the zone.
17 So, we will be asking for a D-2 variance for an
18 expansion of a preexisting nonconforming use.
19 We'll have a total of two commercial units and
20 three residential units, if approved.

21 The addition of the building does not
22 impact any of the setbacks that are preexisting.
23 So, we do need variance relief for those
24 preexisting conditions.

25 I have two witnesses this evening. My

1 first witness is Mr. Valella, who is our
2 architect. I'll ask that he be sworn in at this
3 time.

4 MS. DILLON: Do you affirm the testimony
5 you're about to give this Board is the whole
6 truth?

7 MR. VALELLA: I do.

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

10 MR. VALELLA: Sure.

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

12 VICE CHAIRMAN GRULLON: We accept your
13 qualifications, Mr. Valella.

14 MR. VALELLA: Thank you.

15 VICE CHAIRMAN GRULLON: It's our pleasure.

16 MR. VALELLA: Thank you.

17 MR. ALONSO: Thank you, Mr. Chairman.

18 Mr. Valella, I gave the Board a brief
19 overview of the project. So, I'm going to ask
20 you to please review the Board, (A), what are the
21 existing conditions; and (B), how is it that we
22 intend to develop it, if approved?

23 MR. VALELLA: Sure.

24 The property is on the corner of Manhattan
25 Avenue and 18th Street. It is Lot 6 on Block 180.

1 It is a 25 by 100 foot property, 25 by 100, or
2 2,500 square feet. It has an existing three
3 story structure on it.

4 The ground floor has two commercial spaces;
5 sports bar and a retail convenience store.

6 The second floor has two dwelling units
7 which we call apartment number one and apartment
8 number two.

9 Apartment number two, which is the one on
10 the corner, has a third floor, it's a duplex, and
11 it has the master bedroom, master bathroom on the
12 third floor. To the rear of that apartment is a
13 flat roof, which is a two story space. So, what
14 we have before you is to infill the third floor
15 roof to complete the rectangle and create there
16 apartment number three.

17 Counsel stated accurately no bulk
18 dimensions would be effected by this application.
19 The footprint of the building stays the same.
20 The lot, the side yards, front and rear all
21 remain the same. The height remains the same.
22 What increases is the density by an additional
23 dwelling unit.

24 The building actually has a story with me.
25 The -- we came before you, I don't know time --

1 I'm not good with timeframes, a minimum of ten
2 years ago, where we presented to you the
3 renovation of the building and we created the
4 third floor duplex at that time. We renovated
5 the entire structure. And that turned out pretty
6 successfully.

7 Our client has come back and he wants to
8 infill the roof with the third dwelling unit.

9 Originally, the ground floor retail was a
10 bar, and the bar took up the entire ground floor.
11 Now it is a -- a retail store and a sports bar.
12 So, the bar component of it has shrunk in half.

13 The apartments remain the same. The
14 apartment number one is 757 square feet.

15 And apartment number two is 1,973 square
16 feet. Now, that apartment, under our proposal,
17 would become a little smaller, because the master
18 bedroom on the third floor would be eliminated.
19 So, I'm going to go to that, the new layouts on
20 V2.

21 Oh. I stand corrected.

22 The master bedroom on the third floor
23 remains as is. It doesn't get -- it doesn't get
24 removed. It's just we're infilling the rear
25 only.

1 So, I apologize for the misrepresentation.

2 Apartment number two is still 1,973, and
3 the master bedroom on the third floor still
4 remains there. The unit as being created is
5 apartment number three, which is 1,605 square
6 feet. It is a two bedroom, open kitchen, living
7 room, dining room with two bathrooms, walk-in
8 closets, et cetera. So, where a two bedroom,
9 1,605 is very nice.

10 The reason it is that big is because the
11 roof is that size, so we're infilling that --
12 that space.

13 But as I mentioned before, there's no
14 impact from a bulk standpoint. It all remains
15 the same. The ground floor remains the same.
16 There's some minor modifications to the -- to a
17 stair to access the third apartment. But the
18 dwelling units, basically, remain as they are, as
19 well.

20 So the -- the one error is that the
21 apartment number two, I had mentioned to you,
22 that we'd be removing the master bedroom, we're
23 not. We're just infilling behind that.

24 MR. ALONSO: Okay.

25 And I'm just going to ask you to just go

1 over the -- the zoning table in terms of the bulk
2 requirements. Although they are preexisting
3 conditions, technically we need a -- a variance
4 --

5 MR. VALELLA: Yeah.

6 MR. ALONSO: -- in order to -- to do the
7 addition.

8 MR. VALELLA: Yes. This is in the R low
9 density residential district. It is an existing
10 mixed use with commercial on the ground and two
11 residential units above. A 5,000 square foot lot
12 area would be required and we have 2500.

13 The lot width required would be 50, we have
14 25. The lot depth is a hundred and we have a
15 hundred.

16 The front yard would be ten feet or the
17 prevailing setback. We have .08 as an existing
18 condition.

19 The side yard, one would be six, and we
20 have .5 as an existing. The combined side yards
21 would be 12 and we have .5

22 The rear yard would be 25 percent of the
23 lot depth. We have .9 percent. Again, an
24 existing condition.

25 The building coverage is 60 percent

1 maximum, and we have 97 percent existing and
2 proposed.

3 The lot coverage would be 75 and we're at a
4 hundred.

5 The maximum number of stories is three, we
6 have three. We're retaining that.

7 The maximum height permitted would be 42.
8 The existing height is 32. And that would
9 remain.

10 The parking would be six and we have
11 nothing. And that condition would remain.

12 MR. ALONSO: So, the only -- the only new
13 variance, essentially, besides the D-2 expansion
14 of a preexisting nonconforming use variance, will
15 be a parking variance, because the parking demand
16 would increase with the addition of the new
17 apartment.

18 Is that correct?

19 MR. VALELLA: Yes. The two bedroom
20 apartment would require two additional spaces.

21 MR. ALONSO: Okay.

22 I have no further questions, unless you
23 have anything else to -- to add.

24 MR. VALELLA: No, I don't. I mean, we have
25 our -- our planner that's going to provide more

1 testimony. But you know, suffice it to say that
2 the -- the addition of this dwelling unit does
3 not impact the physical structure as it is
4 perceived. There would be the same bulk, the
5 same height, the same configuration at the ground
6 floor, the same configuration on the second. So,
7 the -- the only thing is that we're infilling a
8 corner, the rear of -- of the building.

9 MR. ALONSO: Chair, I have no further
10 questions.

11 VICE CHAIRMAN GRULLON: Do you want to
12 bring your next witness?

13 MR. ALONSO: Sure.

14 MS. DILLON: Mr. Valella, you can keep it
15 on, he can stand in front of this mic.

16 MR. VALELLA: Oh, okay.

17 MS. DILLON: Okay.

18 Just right there, sir.

19 MR. LEONCAVALLO: Good evening.

20 MS. DILLON: Please raise your right hand.

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

23 MR. LEONCAVALLO: I do.

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

1 MR. LEONCAVALLO: First name is John. Last
2 name is Leoncavallo. It's L-E-O-N-C-A-V-A-L-L-O,
3 388 Washington Road, Suite E, Sayreville, New
4 Jersey.

5 MS. DILLON: Thank you.

6 MR. ALONSO: Okay.

7 I believe Mr. Leoncavallo has been before
8 this Board in the past and his qualifications
9 accepted in the --

10 VICE CHAIRMAN GRULLON: Yes.

11 MR. ALONSO: -- field of planning.

12 VICE CHAIRMAN GRULLON: Yes. Yes. We
13 accept --

14 MR. LEONCAVALLO: Yes.

15 VICE CHAIRMAN GRULLON: -- your
16 qualifications, Mr. Leoncavallo.

17 MR. LEONCAVALLO: Oh, thank you, Mr.
18 Chairman.

19 VICE CHAIRMAN GRULLON: Real good to see
20 you back.

21 MR. LEONCAVALLO: Good to see you.

22 MR. ALONSO: Thank you.

23 Now, you prepared a -- a planning analysis.
24 Is that correct?

25 MR. LEONCAVALLO: Yes, I did.

1 MR. ALONSO: I'm going to ask you to review
2 that with the Board at this time.

3 MR. LEONCAVALLO: Okay.

4 I looked at the -- the existing conditions,
5 the proposed conditions, Ordinances and your
6 Master Plan.

7 The overview of the site is the site is one
8 tax lot. It's Block 180, Lot 6. It's a
9 developed mix use with two stories, as our
10 architect had said, and a partial third story,
11 which will be infilled to create full three
12 stories.

13 Tax card recognizes there's a mixture of
14 commercial and residential use on the site.
15 There is a sports bar now on the first floor,
16 along with a convenience store. I think the
17 sports bar, as -- as the architect mentioned, was
18 the full first floor and -- and that has changed
19 now. There's two apartments above and there will
20 be another apartment, which will be approximately
21 1600 square feet. There is no parking at the
22 present time.

23 The area is predominantly residential in
24 the -- in the use. The plan itself will create a
25 full third story, as the architect has mentioned.

1 It will not only be a partial, but it will be the
2 upper story and squared off. The new space,
3 we'll be adding a full dwelling unit of 1600
4 square feet, so there will be three, three
5 dwelling units total. No other changes.

6 The zoning considerations are it is an R
7 residential low density zone. The zone is aimed
8 at residential uses, up to three families.
9 Commercial is not permitted in the R -- R
10 residential low density zone.

11 We need a D-2 use variance for the
12 expansion of an existing nonconforming mixed use.
13 The parking relief is two new spaces and there
14 are no spaces existing with the -- with the
15 project.

16 The planning justifications for relief
17 include the burden of proof for a D-2 relief.
18 The essence of the D-2 test is site betterment.
19 The -- the use itself is not an issue at all.

20 The positive criteria includes promotion of
21 the general planning goal of a vari -- providing
22 of a variety of housing choices.

23 The application promotes the planning goal
24 for efficient use of the land. It's an easy
25 retrofit, as to what's there now and what has to

1 be completed.

2 The application also promotes the desirable
3 visual environment. There's no height relief
4 needed here. It matches the existing rooflines,
5 as is.

6 All the above promotes purposes of the
7 Municipal Land Use Law, especially promoting
8 general welfare, site sufficient use for space
9 for residential uses, promoting visual -- a
10 visual environment. And the efficient use of --
11 of land. All these are accomplished by this
12 application.

13 The negative criteria.

14 The relief can be granted without
15 substantial detriment to the area. The new space
16 fulfills a void, squares off the upper level of
17 the building. And no higher than that is the
18 height of the building. It will stay what it --
19 as is.

20 There is another three story building
21 across the street from this application. And a
22 six story building on 18th Street, which is a few
23 lots away.

24 The parking relief is subsumed in -- within
25 the relief, the use relief. There is a

1 residential building, parking on -- on the site.

2 Regardless of the above, the increase in
3 parking demand is minor and mitigated by transit
4 in the area.

5 The relief can be granted without
6 substantial impairment to the zone plan. The
7 project is making the site more residential,
8 which is in concert with the -- the Master Plan.
9 And that's the way the zone R -- the R zone likes
10 to do that, is create more residential uses.

11 The project promotes the goals of the 2018
12 Master Plan, to promote balance of land uses,
13 recognizing existing development patterns.

14 So given all that, I think it's a good
15 appropriate application, and one that will be an
16 asset to the community.

17 VICE CHAIRMAN GRULLON: Okay.

18 Thank you -- thank you for your testimony.

19 I'm not sure my first question, who going
20 to answer this.

21 We're going from two commercial and two
22 residential to two and three.

23 MR. ALONSO: That's correct. Two
24 commercial and three residential.

25 VICE CHAIRMAN GRULLON: And three

1 residential. On the existing layout, you have
2 the two commercial on the ground floor.

3 MR. ALONSO: Correct.

4 VICE CHAIRMAN GRULLON: And the two
5 residential that you have are only on the second
6 floor.

7 MR. ALONSO: The second floor, and then the
8 third floor has the master bedroom for one of the
9 units.

10 VICE CHAIRMAN GRULLON: For one of the
11 units.

12 MR. ALONSO: And then, the infill for the
13 third floor would be the third unit. So it will
14 be floors two and three will have apartments.

15 VICE CHAIRMAN GRULLON: It's from two two
16 to two three.

17 MR. LEONCAVALLO: Yes.

18 MR. ALONSO: Two two, two three. That's
19 correct.

20 VICE CHAIRMAN GRULLON: Yes.

21 Mr. Valella, on your layout, the footprint
22 of the building height, the footprint and the
23 height of the building is not changing at all.
24 No?

25 MR. VALELLA: Not at all. It stays the

1 same.

2 VICE CHAIRMAN GRULLON: The only
3 construction in the building will be on the
4 second floor and third floor.

5 MR. VALELLA: The only construction -- the
6 only new construction would be on the third
7 floor, where we're infilling the roof to create
8 the new apartment. There's a minor alteration on
9 the second to create the stair, to give it
10 access. But the -- the bulk of the construction
11 is the third floor.

12 VICE CHAIRMAN GRULLON: Okay.

13 That's for the planner.

14 The density of the building, how -- how is
15 that going to change? Could you go over the
16 density?

17 MR. LEONCAVALLO: Well, the density will be
18 one more apartment.

19 MR. ALONSO: Well, three -- three units are
20 permitted on the site. Three family is permitted
21 there. So, there is no increase in the density.
22 And typically, this Board also reviews density in
23 terms of the square footage. And the Zoning
24 Ordinance has a -- a breakdown in terms of the
25 square footage required for the bedroom

1 distribution, one, two, three, four bedroom
2 apartments. And I believe we meet those
3 requirements.

4 MR. VALELLA: I can give you those numbers
5 for you.

6 We have an existing one bedroom, where 550
7 square feet is the minimum that you allow and we
8 have 757.

9 We have an existing two bedroom, where 900
10 is the minimum that you permit. And we have
11 1,973.

12 And the third apartment that we're
13 proposing is a two bedroom apartment. Again, 900
14 would be the -- the threshold for being
15 permitted, and we are proposing 1,605.

16 So, the units that are existing and the
17 unit that is being proposed are all substantially
18 bigger than your -- than your requirement.

19 MR. ALONSO: Right. So, if you look at it
20 either from the Board's interpretation, in terms
21 of the size of the units, or the number of units
22 per acre, there is no density variance required.

23 VICE CHAIRMAN GRULLON: And there's no
24 parking on-site right now. You don't have that
25 option to create parking spaces?

1 MR. ALONSO: That -- that's correct. Mr.
2 Valella, that's --

3 MR. VALELLA: No. There -- no, the -- the
4 property does not have parking and it's not
5 possible to -- there's no space to create it.

6 VICE CHAIRMAN GRULLON: Okay.

7 And what is the requirement now and the
8 change that is requested?

9 MR. VALELLA: We would be required to add
10 an additional two parking spaces for the third
11 dwelling unit. And we have none.

12 The building occupies basically the entire
13 site, so there's no space for a driveway or
14 something like that to introduce in a parking
15 space.

16 VICE CHAIRMAN GRULLON: I don't have any
17 further question.

18 Any member of the Board has any question?

19 MS. PEREZ: Just a concern with the
20 parking, because that's a tough area to park as
21 it is.

22 MS. GUTIERREZ: Um hum.

23 VICE CHAIRMAN GRULLON: Right -- right now,
24 the bedroom count is three bedrooms.

25 No?

1 MR. ALONSO: Right now, it's a -- it's a
2 one bedroom and a two bedroom. Correct.
3 Currently.

4 MR. VALELLA: Currently, we have a one
5 bedroom and a two bedroom. And we're requesting
6 an additional two bedroom.

7 VICE CHAIRMAN GRULLON: Which is going to
8 bring up the bedroom count to four or five?

9 MS. GUTIERREZ: Five.

10 MR. VALELLA: Five.

11 MS. GUTIERREZ: Five.

12 VICE CHAIRMAN GRULLON: Five.

13 At this point, there's no other member of
14 the Board has any question?

15 No member of the Board.

16 At this point, I'm going to open it up to
17 the public.

18 Members of the public.

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

21 MR. PRICE: First problem I have with this

22 --

23 MS. DILLON: Just state your name for the
24 record.

25 MR. PRICE: Oh, sorry.

1 Larry Price, 1006 Palisade Avenue. I'm
2 still under oath.

3 The applicant and the published applicant
4 is Roberto Rodriguez. But the tax for this --
5 the tax records for this property indicate that
6 the property is owned by 1711 Manhattan Avenue.

7 MR. PANEQUE: It appears, Mr. Alonso, that
8 Roberto Rodriguez was an owner in the chain of
9 title. And in May 24th, 2010, it went from
10 Roberto Rodriguez to 1711 Manhattan Avenue.

11 Is he a member of that LLC?

12 MR. ALONSO: He -- well, let me just find
13 out.

14 One second.

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

17 MR. PRICE: This is my original. That's
18 the published ad, which is in Mr. Rodriguez'
19 name.

20 MR. PANEQUE: Um hum.

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

23 MR. ALONSO: Mr. Rodriguez is the owner of
24 the LLC, but the applicant is Roberto Rodriguez.

25 MR. PANEQUE: Is he -- is that a sole

1 member LLC?

2 MR. ALONSO: Yes.

3 MR. PANEQUE: Is he here?

4 MR. ALONSO: He is.

5 THE SECRETARY: I believe he signed the
6 affidavit. And also -- (indiscernible).

7 MR. PANEQUE: Okay.

8 You want to bring him up and just place
9 that on the record?

10 MR. ALONSO: Sure.

11 Roberto?

12 MS. DILLON: Right in front of that mic.

13 Right in front of the microphone.

14 Please raise your right hand.

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

17 MR. RODRIGUEZ: Yeah. Si.

18 MR. ALONSO: Yes.

19 MR. RODRIGUEZ: Yes.

20 MS. DILLON: Please state --

21 MR. ALONSO: Do you need an interpreter?

22 MS. DILLON: -- your name for the record.

23 MR. RODRIGUEZ: Yeah. I need interpreter.

24 MR. ALONSO: He needs an interpreter.

25 MR. PANEQUE: Okay.

1 If this Board and Mr. Chairman allows, I
2 can interpret as best as I can.

3 All right?

4 Mr. Alonso, for purposes of expediting this
5 meeting and -- and getting through this facet of
6 it, I will act as an interpreter.

7 I will ask that you ask the question, I'll
8 interpret.

9 MR. ALONSO: Sure.

10 MR. PANEQUE: Wait for an answer. And
11 then, I'll interpret into English.

12 MR. ALONSO: Sure.

13 MS. DILLON: Do you want to interpret the
14 oath?

15 MR. PANEQUE: I will, as an attorney member
16 of the New Jersey Bar, I will do the utmost, in
17 my capacity, to interpret from English to Spanish
18 and Spanish to English.

19 MS. DILLON: Okay.

20 Do you want to repeat the oath to --

21 MR. PANEQUE: The oath, too? I will.
22 Okay.

23 Ask the oath again.

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

1 (Whereupon, Tomas R. Paneque, Esquire,
2 Board Attorney, translated for Roberto
3 Rodriguez.)
4

5 MS. DILLON: Do you affirm the testimony
6 you're about to give this Board is the whole
7 truth?

8 MR. PANEQUE FOR MR. RODRIGUEZ: Yes.

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

11 MR. PANEQUE FOR MR. RODRIGUEZ: Roberto
12 Rodriguez.

13 MR. PANEQUE: Mr. Alonso?

14 MR. ALONSO: Thank you.

15 Mr. Rodriguez, is the property owned by
16 1711 Manhattan Avenue, LLC?

17 MR. PANEQUE FOR MR. RODRIGUEZ: That's
18 correct.

19 MR. ALONSO: Okay.

20 And who owns 1711 Manhattan Avenue, LLC?

21 MR. PANEQUE FOR MR. RODRIGUEZ: I am.

22 MR. ALONSO: Is there anybody else who's an
23 owner or is it just you?

24 MR. PANEQUE FOR MR. RODRIGUEZ: Only I am
25 the owner.

1 MR. ALONSO: I believe that should satisfy
2 the inquiry. I could ask further questions.

3 MR. PANEQUE: Mr. Price, does that answer
4 your question?

5 MR. PRICE: Well, it answers my question.
6 It doesn't take care of my objection, which is --

7 MR. PANEQUE: Okay.

8 MR. PRICE: -- the requirement for a
9 developer is that they be the owner of the
10 property or beneficial owner.

11 Mr. Rodriguez is not a beneficial owner.
12 He's an indirect owner. And I will just read
13 whatever, I will give you a citation at the end.

14 Courts generally abide by the fundamental
15 proposition that a corporation is a separate
16 entity from its shareholders.

17 Okay. And the --

18 MR. PANEQUE: Okay.

19 MR. PRICE: -- cite, by the way, is 195 N.J.
20 457, 472, 2008 decision.

21 MR. PANEQUE: Okay.

22 MR. ALONSO: Decision of what?

23 MR. PRICE: What?

24 MR. ALONSO: You said it was a decision.
25 Decision of what?

1 MR. PRICE: I'm sorry?

2 MR. ALONSO: What -- what are you citing
3 to?

4 MR. PRICE: That a corporation is separate
5 from the shareholders.

6 MR. ALONSO: No. I know what the substance
7 is, but what are you citing to? What's the legal
8 authority that you're citing?

9 MR. PRICE: I just cited it.

10 MR. ALONSO: I understand that. But --

11 MR. PRICE: It will be in the record.
12 Okay.

13 MR. ALONSO: But it's your objection. If
14 the Board -- if the Board's going to rule on your
15 objection --

16 MR. PRICE: Okay.

17 MR. PANEQUE: The objection is -- what's
18 the cite, --

19 MR. PRICE: Okay.

20 MR. PANEQUE: -- Mr. Price?

21 MR. PRICE: Okay. Again, 195 N.J. 457, 472
22 at 2008.

23 MR. PANEQUE: So, you're citing a Superior
24 Court case --

25 MR. PRICE: State Supreme Court decision.

1 MR. PANEQUE: State Superior Court.

2 MR. PRICE: No. Supreme Court.

3 MR. PANEQUE: Supreme Court?

4 MR. PRICE: State Supreme Court. Yeah.

5 MR. PANEQUE: Okay.

6 And what is the name of the case, so that
7 we have the full citation?

8 MR. PRICE: Richard A. Pulaski Construction
9 Company versus Air Frame Hangars, Inc.

10 MR. PANEQUE: Okay.

11 Thank you.

12 MR. PRICE: Okay.

13 MR. ALONSO: And what was the -- the
14 context in which that decision was made?

15 MR. PRICE: It's pretty -- pretty
16 straightforward statement that -- you know, Mr.
17 Rodriguez is not --

18 MR. ALONSO: But --

19 MR. PRICE: He may own it, but he is not --

20 MR. ALONSO: How does that apply in the
21 context of a land use application?

22 MR. PRICE: The land use -- the applicant
23 has to be either the owner of the property or the
24 beneficial owner --

25 MR. ALONSO: Does that case --

1 MR. PRICE: -- of the property.

2 MR. ALONSO: -- say that?

3 MR. PRICE: And Mr. Rodriguez is neither.
4 He's an indirect owner.

5 MR. ALONSO: Is that what that case stands
6 for?

7 MR. PRICE: Excuse me.

8 MR. ALONSO: Is that what that case stands
9 for? Other than the fact that you cited
10 something about a corporation, is that in the
11 context of a land use case?

12 MR. PRICE: No.

13 MR. ALONSO: It's not.

14 MR. PRICE: No. Read your -- read your
15 definitions in the Municipal Land Use Law, Mr. --

16 MR. ALONSO: I don't -- I don't have to
17 read anything. I'm asking you. You're making
18 the objection. You're citing legal authority.

19 MR. PRICE: Yes. What I said was the --
20 the applicant must be the owner of the property
21 or the beneficial. That's a definition --

22 MR. ALONSO: And then you said --

23 MR. PRICE: -- in the Municipal Land Use
24 Law. Look it up.

25 MR. ALONSO: You're not -- you're not

1 citing --

2 MR. PRICE: I don't have to look it up for
3 you buddy.

4 MR. ALONSO: I'm not asking you to look it
5 up for me. But you're citing a case.

6 MR. PRICE: No.

7 MR. ALONSO: Or a proposition that you're
8 referring to the Municipal Land Use Law. That
9 case does not support --

10 MR. PRICE: What --

11 MR. ALONSO: -- your argument.

12 MR. PRICE: We can -- we can argue this in
13 court.

14 MR. ALONSO: I'm not looking to argue.

15 MR. PRICE: Okay.

16 MR. ALONSO: I'm just trying to get a clear
17 record.

18 MR. PRICE: The clear record, Mr. Alonso,
19 is the Municipal Land -- look up the definition
20 of an applicant --

21 MR. ALONSO: I'm not deciding --

22 MR. PRICE: -- a developer.

23 MR. ALONSO: -- on the objection. You're
24 making the objection to the Board.

25 MR. PRICE: Yes.

1 MR. ALONSO: Correct.

2 So, my -- my question to you is, does that
3 case supports what you're talking about, in terms
4 of a corporation in --

5 MR. PRICE: This case --

6 MR. ALONSO: -- the context --

7 Excuse me.

8 MR. PRICE: -- supports the idea --

9 MR. ALONSO: -- of a land use.

10 MR. PRICE: -- that the owner of a company
11 is separate from the company. That's the --

12 MR. ALONSO: How does that apply to a land
13 use application? You do understand that
14 approvals by a land use board runs with the land,
15 it's not personal to the corporation or to the
16 individual. It runs with the land. So, a -- an
17 owner --

18 MR. PRICE: Where -- where is your
19 authority for making that statement, Mr. Alonso?

20 MR. ALONSO: It's in the Municipal Land Use
21 Law. Look it up.

22 MR. PRICE: Oh, yeah. Where?

23 MR. ALONSO: In the Municipal Land Use Law.

24 MR. PRICE: Where?

25 MR. ALONSO: Look it up. I'm not going to

1 look --

2 MR. PRICE: Where?

3 MR. ALONSO: I'm not going to look it up
4 for you.

5 MR. PRICE: Okay. It's not there.

6 MR. ALONSO: It's there. Okay. So, an
7 applicant could be an owner, an owner could be a
8 corporation, could be an individual. An
9 applicant could be --

10 MR. PRICE: That's exactly correct. That's
11 the point that I'm making --

12 MR. ALONSO: An applicant --

13 MR. PRICE: -- here.

14 MR. ALONSO: -- could --

15 MR. PRICE: I --

16 MR. ALONSO: Excuse me.

17 MR. PRICE: The owner.

18 MR. ALONSO: Excuse me.

19 MR. PRICE: The owner makes --

20 MR. ALONSO: Excuse me.

21 MR. PRICE: -- the application.

22 MR. ALONSO: Excuse me. And --

23 MR. PRICE: Mr. Rodriguez --

24 MR. ALONSO: An applicant --

25 MR. PRICE: -- is not the --

1 MR. ALONSO: -- can --

2 MR. PRICE: -- owner.

3 MS. DILLON: One at a time.

4 MR. ALONSO: An applicant can also be a
5 tenant, who's not the owner. An applicant can
6 also be a contract purchaser, who's not the
7 owner.

8 Right?

9 So, you don't have to be the owner to make
10 the application.

11 Isn't that correct?

12 MR. PRICE: You have to be either the owner
13 or a contract purchaser.

14 MR. ALONSO: Or a tenant.

15 MR. PRICE: I don't agree --

16 MR. ALONSO: Or other.

17 MR. PRICE: -- with the tenant. That --
18 you'll have to cite authority --

19 MR. ALONSO: Okay.

20 MR. PRICE: -- to that. Okay.

21 MR. ALONSO: But you --

22 MR. PRICE: All I'm saying --

23 MR. ALONSO: But -- but the case that
24 you're citing is not in the context of a land use
25 case. You're just -- you're citing a case and

1 | you pulled out a -- some verbiage that talks
2 | about a corporation and an individual.

3 | MR. PRICE: Yes.

4 | MR. ALONSO: Which is --

5 | MR. PRICE: Which --

6 | MR. ALONSO: -- not within the context --

7 | MR. PRICE: Which our --

8 | MR. ALONSO: -- of our case.

9 | MR. PRICE: -- Supreme Court said -- you
10 | know, we keep the owners of corporations separate
11 | from the corporations. That's the point that I
12 | make here.

13 | MR. ALONSO: And I guess that --

14 | MR. PRICE: The Municipal Land --

15 | MR. ALONSO: And I guess --

16 | MR. PRICE: -- Use --

17 | MR. ALONSO: -- that would be relevant if
18 | we're trying to pierce a corporate veil, and I'm
19 | assuming that's the context in which that case
20 | was decided. But we're not talking about
21 | corporate veils here, are we? We're talking
22 | about a land use application and whether or not
23 | Mr. Rodriguez has the right to file the
24 | application.

25 | MR. PRICE: On what basis? He's not the

1 owner of the property.

2 MR. ALONSO: Well, we just went through
3 that.

4 MR. PRICE: He's the owner --

5 MR. ALONSO: You don't have to be owner.

6 MR. PRICE: -- of the LLC that owns the --
7 that's a different --

8 MR. ALONSO: We just -- we just went
9 through it and you agree with me that you don't
10 have to be the owner. You can be a contract
11 purchaser. You --

12 MR. PRICE: Is he a contract purchaser?

13 MR. ALONSO: You could be a tenant.

14 MR. PRICE: No. I did not agree about
15 tenant.

16 MR. ALONSO: Well --

17 MR. PRICE: He's got to be -- we can look
18 it up.

19 MR. ALONSO: You can have a -- just an
20 interest in the property.

21 Isn't that true?

22 MR. PRICE: No.

23 MR. ALONSO: No?

24 Okay.

25 MR. PRICE: No. No.

1 MR. ALONSO: We'll disagree with that.

2 MR. PRICE: He cannot be an indirect owner,
3 which is what he is.

4 You know, okay. So, I think that -- one
5 thing, why -- why was this application even --
6 why -- why wasn't it -- why wasn't it made in the
7 name of the LLC?

8 MR. ALONSO: It was made in an individual's
9 name. You don't have to be -- the -- you don't
10 have to be the owner of a property to file an
11 application. And that's why I'm asking you,
12 within the context of a zoning application, that
13 -- what you cited is irrelevant.

14 MR. PRICE: Okay.

15 I think we've exhausted all those
16 possibilities.

17 I have other -- anyway, that's -- that's
18 the point I make.

19 I think you have a defective application.
20 I think you have also a defective notice, since
21 the notice was in the name of Mr. Rodriguez --

22 MR. ALONSO: The applicant.

23 MR. PRICE: -- and not the owner. No.

24 MR. ALONSO: Is the name of the applicant.

25 MR. PANEQUE: Mr. Price, I -- I understand

1 your objection.

2 MR. PRICE: Yeah.

3 MR. PANEQUE: Your objection is grounded on
4 the fact that this application is made by the
5 individual, Mr. Rodriguez, and it's not made by
6 the owner of record, which you've provided proof,
7 through the tax records, that the owner of record
8 is an LLC.

9 MR. PRICE: Correct.

10 MR. PANEQUE: Now, you've had Mr. Alonso
11 bring up the individual, Mr. Rodriguez, who made
12 the application. And you've had Mr. Alonso, or
13 I've had Mr. Alonso had Mr. Rodriguez testify to
14 the fact that he is the sole member of the LLC.

15 MR. PRICE: Correct.

16 MR. PANEQUE: Okay.

17 Now, so, your objection is noted.

18 Anything else?

19 MR. PRICE: Yes. I -- now I have a couple
20 questions, and I could get Mr. Valella up.

21 You testified --

22 MR. VALELLA: Um hum.

23 MR. PRICE: -- that the parking requirement
24 was six parking spaces.

25 Correct?

1 MR. VALELLA: For the residential
2 component. Yes.

3 MR. PRICE: Well, for the -- okay. What is
4 the -- that, by the way, and the six is after you
5 build the third unit.

6 MR. VALELLA: Exactly. Correct.

7 MR. PRICE: Okay. What is the parking
8 requirement for the entire site? For the entire
9 building?

10 MR. VALELLA: Well, the only thing that is
11 not referenced there is the commercial portion of
12 it.

13 MR. PRICE: Correct.

14 MR. VALELLA: We have 1,800 -- 1,900 square
15 feet of commercial space.

16 MR. PRICE: That is both the store --

17 MR. VALELLA: And the bar.

18 MR. PRICE: -- and the bar.

19 MR. VALELLA: Right.

20 MR. PRICE: How big is the store?

21 MR. VALELLA: The store is 833.

22 MR. PRICE: Okay. I would point out that a
23 store is -- if you'll accept --

24 MR. VALELLA: One.

25 MR. PRICE: -- is one parking space for

1 every 300 --

2 MR. VALELLA: Right.

3 MR. PRICE: -- square feet.

4 MR. VALELLA: Exactly.

5 MR. PRICE: So, 800 would be three more.

6 MR. VALELLA: Three more.

7 MR. PRICE: Correct?

8 MR. VALELLA: Yes.

9 MR. PRICE: Okay. Now, I have to ask you a
10 question.

11 In terms of it's --

12 MR. VALELLA: Let me just write that down
13 so I can --

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

16 MR. VALELLA: Go ahead.

17 MR. PRICE: Okay. The second requirement,
18 there's a separate requirement for bars,
19 restaurants, eating and whatever --

20 MR. VALELLA: Yeah.

21 MR. PRICE: -- establish -- which is one
22 for each three seats.

23 MR. VALELLA: Right.

24 MR. PRICE: How many seats are in the
25 sports bar?

1 MR. VALELLA: Twenty-two.

2 MR. PRICE: How many?

3 MR. VALELLA: Twenty-two.

4 MR. PRICE: Twenty-two divided by three is
5 seven --

6 MR. VALELLA: Seven.

7 MR. PRICE: -- and change, which means
8 eight.

9 MR. ALONSO: Seven.

10 MR. VALELLA: All right.

11 MR. PRICE: We --

12 MR. ALONSO: You round --

13 MR. PRICE: We round up.

14 MR. ALONSO: -- if it's .5 you round up.
15 If it's less than .5, you round down.

16 MR. PRICE: We round up, Mr. Alonso.

17 MR. VALELLA: Eleven.

18 MR. PRICE: Okay.

19 MR. VALELLA: Eleven spaces. Or ten or 11,
20 we can argue.

21 MR. PRICE: Well, okay. And three -- okay,
22 11. Plus you have an existing requirement --

23 MR. VALELLA: Four.

24 MR. PRICE: -- of four.

25 MR. VALELLA: So, a total of 14.

1 MR. PRICE: Okay. So, a total of --

2 MR. VALELLA: Fourteen or 15, depending on
3 interpretation.

4 MR. PRICE: Okay. Depending on -- 14.

5 MR. VALELLA: Right.

6 MR. PRICE: Okay. We'll say 14. I'll be
7 generous to Mr. Alonso. That's -- and very
8 uncharacteristic of me, but --

9 MR. VALELLA: That's very kind of you.
10 It's Christmas.

11 MR. PRICE: Very kind of me.

12 Okay.

13 Okay. So, we're going from 14 spaces to
14 16.

15 MR. VALELLA: To 16. Yes, sir.

16 MR. PRICE: Okay.

17 Okay. And there is no parking --

18 MR. VALELLA: No.

19 MR. PRICE: -- on the --

20 MR. VALELLA: The property fills the site.

21 MR. PRICE: The property fills the site.

22 So, we have a large current unfilled --

23 MR. VALELLA: Right. But now, take into
24 account that this use has been there for decades
25 and decades. And it's run successfully, and it's

1 a nice area. So, there doesn't seem to have been
2 a detrimental impact to that demand being
3 unfulfilled.

4 You know, that bar was there before I
5 renovated the building. So, I -- decades ago.

6 MR. PRICE: Okay.

7 MR. VALELLA: Okay.

8 MR. PRICE: Okay. Okay.

9 I'll skip that. Ah, it's 8:30, I'll -- one
10 -- could I ask you --

11 MR. ALONSO: What's his name?

12 MR. PRICE: Yes.

13 MR. LEONCAVALLO: John is the first name.

14 MR. PRICE: Okay.

15 Okay. You had testimony about the parking
16 and you just said, it was minor.

17 Correct?

18 MR. LEONCAVALLO: Well, as we talked about,
19 and the architect talked about, this -- the
20 parking is -- is minor in terms of the impact.
21 The impact has been there for a number of years,
22 going back decades. And the impact has been very
23 small.

24 There's transit in the area. A lot of that
25 has been taken up, some of the impact of personal

1 vehicular parking.

2 MR. PRICE: I'm sorry. I did not --

3 MR. LEONCAVALLO: You didn't understand
4 that?

5 MR. PRICE: No. I --

6 MR. LEONCAVALLO: The transit that exists,
7 bus or whatever, bus transit --

8 MR. PRICE: Yeah.

9 MR. LEONCAVALLO: -- has been -- has taken
10 up the area or the responsibility for personal
11 parking by vehicles, in the whole area. Transit,
12 bus -- bus transit creates a -- a demand and is
13 fulfilled and takes the place of vehicular
14 parking.

15 So, as we said before, or the architect has
16 said, there's not -- there's not a big impact
17 from the -- the parking requirement.

18 MR. PRICE: Okay.

19 Okay. Allow me to -- some testimony.

20 MR. ALONSO: Well, I'm just going to -- got
21 a lot of follow up questions.

22 MR. PRICE: Oh, no. That's it. That was
23 -- that was my only question. I --

24 MR. ALONSO: I understand that. But I have
25 a right to --

1 MR. PRICE: Oh.

2 MR. ALONSO: -- question the witness before
3 you testify.

4 MR. PRICE: No, you don't. You -- I think
5 -- you can take -- you can rehab your witness at
6 the end.

7 MR. ALONSO: The witness is on the stand
8 right now. I'm entitled to cross -- re --

9 MR. PRICE: No.

10 MR. ALONSO: -- redirect.

11 MR. PRICE: I -- I disagree with that.

12 MR. ALONSO: Before we take another --

13 MR. PANEQUE: Yeah.

14 MR. ALONSO: -- witness -- you're
15 essentially another witness.

16 MR. PANEQUE: No, Mr. Alonso. I think Mr.
17 Price is here in -- during the public testimony
18 aspect of it. I would suggest that we let Mr.
19 Price finish. And then, if you want to rebut
20 what Mr. Price has to say, or what he has said,
21 you can call up Mr. Leoncavallo up and rebut his
22 testimony at that time.

23 MR. ALONSO: All right. I'll defer to the
24 Board.

25 MR. PANEQUE: Okay.

1 MR. ALONSO: Procedurally, he was
2 questioning a witness, and now, he's becoming a
3 witness. So, I just thought that typically we
4 finish with the witness before you bring the next
5 witness up.

6 But I'll defer --

7 MR. PANEQUE: That's --

8 MR. ALONSO: -- to the Board.

9 MR. PANEQUE: That's deferred.

10 MR. PRICE: Okay. My testimony.

11 Number one, you all know I'm -- or probably
12 all know that I'm in the parking business.

13 Parking in this neighborhood, this site, is
14 -- I -- I get -- well, there are garage -- very
15 limited number of garages in that neighborhood.
16 And some of which go for as much as \$400.00 a
17 month, which is considerably more than I charge,
18 so I'm green with -- parking is very, very tight
19 in that neighborhood.

20 And this -- this particular use has a very
21 large current unmet parking -- whatever, and it's
22 going to add to it. And that has to be a
23 detriment to the -- to the neighborhood.

24 The second thing is, there was testimony
25 that there was no impact by these activities.

1 Well, you're not the only group that I harass and
2 harangue and whatever. I also go to all the
3 Board of Commissioner meetings. And the Board of
4 Commissioner meetings -- the Board of
5 Commissioners, rather, is also the Alcohol
6 Control Board. And this site, in the last three
7 years, has --

8 MR. ALONSO: Well, I'm -- I'm going to
9 object to -- I'm -- I'm just going to object to
10 any testimony regarding findings or hearings
11 before the Alcohol Beverage Control Board,
12 because you don't have any documentation as to
13 what happened in those hearings.

14 MR. PRICE: No. I'll --

15 MR. ALONSO: And it's not -- and it's not
16 relevant for purposes --

17 MR. PRICE: You can -- you can --

18 MR. ALONSO: -- of this application.

19 MR. PRICE: -- you can object at the end.

20 MR. ALONSO: No, I'm objecting now --

21 MR. PRICE: The --

22 MR. ALONSO: -- before you start --

23 MR. PRICE: Okay. Fine.

24 MR. ALONSO: -- presenting the Board with
25 the --

1 MR. PRICE: Okay. The --

2 MR. ALONSO: -- your testimony.

3 MR. PRICE: The great problem seems to be
4 there's no park -- the bar is a popular one.
5 There is no parking at the bar, so people park in
6 the neighborhood. And when they leave the bar,
7 they have to go find their cars. And that
8 creates a tremendous impact.

9 It has -- you know, resulted in repeated
10 citations of the -- of the bar.

11 MR. ALONSO: Wait. He -- he --

12 MR. PRICE: And so --

13 MR. PANEQUE: Mr. Price?

14 MR. PRICE: -- it's --

15 MR. ALONSO: The bar has citations for
16 parking?

17 MR. PANEQUE: If I may, Mr. Alonso?

18 Mr. Price, I appreciate the fact that
19 you're bringing this to the attention of the
20 Board. But can you give us why this Board should
21 take that into consideration?

22 And I'll tell you my rationale. The bar
23 exists there.

24 MR. PRICE: Yes.

25 MR. PANEQUE: Okay?

1 Whether this Board approves a third unit,
2 okay, will make no difference to the operations
3 of the bar, to what has been going on with the
4 bar, to what will be going on with the bar.

5 So, how does the third unit -- and -- and
6 you're bringing in all this testimony about the
7 bar, which really will have no impact on whether
8 there's a third unit there.

9 So, tie it in, so we can know why you're --

10 MR. PRICE: Okay. The tie in is a slim
11 one, but --

12 MR. PANEQUE: Okay. But --

13 MR. PRICE: -- is as follows:

14 MR. PANEQUE: But make your tie in --

15 MR. PRICE: Okay.

16 MR. PANEQUE: -- whether it's a slim one or
17 not.

18 MR. PRICE: Parking is critical. One
19 reason why the -- the bar is a nuisance is the
20 lack of parking at the bar. The addition of this
21 apartment will add a parking requirement of two
22 additional cars. And by -- by the way, and an
23 apartment with 1600 square feet, there'll
24 probably be two cars. And they can't park them
25 on the site. So, where will they park them? In

1 the \$400.00 a month garage? Possibly. More
2 likely, they will park on the street.

3 So, the -- the situation which is
4 aggravating the neighborhood already, will be
5 exacerbated to some small degree. That's the tie
6 in.

7 MR. PANEQUE: All right. So that's your
8 nexus.

9 MR. PRICE: That's my message.

10 MR. PANEQUE: Okay. All right.

11 Anything else?

12 MR. PRICE: That's it.

13 You -- he's allowed to cross examine and
14 I'll bet he'll take advantage of it.

15 Yes. Yes, Mr. Alonso?

16 MR. ALONSO: All right.

17 MR. PRICE: I am.

18 MR. ALONSO: Okay. You're in the parking
19 business.

20 What does that mean?

21 MR. PRICE: I rent garages.

22 MR. ALONSO: So you're a landlord.

23 MR. PRICE: Yes.

24 MR. ALONSO: That's not a parking business,
25 you're -- you're a landlord.

1 MR. PRICE: Well, okay. I'm a landlord in
2 the parking business.

3 MR. ALONSO: But you're not --

4 MR. PRICE: Okay. There you are.

5 MR. ALONSO: All right.

6 MR. PRICE: Okay.

7 MR. ALONSO: Because you're not testifying
8 as an expert in the --

9 MR. PRICE: I didn't --

10 MR. ALONSO: -- parking business, are you?

11 MR. PRICE: I didn't say I was an expert in
12 the parking business.

13 MR. ALONSO: Well --

14 MR. PRICE: I said, I'm in the parking
15 business.

16 MR. ALONSO: I just wanted to make sure
17 that the Board didn't misunderstand or
18 misinterpret your testimony as an -- as an expert
19 in the parking business. You're just a landlord
20 that rents out parking spaces.

21 Correct?

22 MR. PRICE: I'm just a -- okay.

23 MR. ALONSO: As opposed to an expert
24 witness. You're not testifying as an expert
25 witness, are you?

1 MR. PRICE: No.

2 MR. ALONSO: Okay.

3 Do you own property in this immediate
4 neighborhood?

5 MR. PRICE: Six blocks away.

6 MR. ALONSO: In the immediate neighborhood,
7 within blocks?

8 MR. PRICE: Within what?

9 MR. ALONSO: In the immediate neighborhood.

10 MR. PRICE: Do I own property in --

11 MR. ALONSO: Yes.

12 MR. PRICE: What is your definition of
13 immediate neighborhood?

14 MR. ALONSO: Well, walking distance. If
15 you're going to park, you're not going to park
16 six blocks away, you're going to park in the
17 immediate neighborhood.

18 Right?

19 MR. PRICE: Excuse me. I --

20 MR. ALONSO: You don't understand the
21 question?

22 MR. PRICE: No. Not at --

23 MR. ALONSO: It's a --

24 MR. PRICE: -- all.

25 MR. ALONSO: -- simple question.

1 MR. PRICE: You -- your question was, do I
2 own property in the immediate neighborhood?

3 MR. ALONSO: Correct.

4 MR. PRICE: And I said, what's your
5 definition of immediate neighborhood? I said, I
6 own --

7 MR. ALONSO: Within two blocks.

8 MR. PRICE: -- property six --

9 MR. ALONSO: Six blocks away.

10 MR. PRICE: Six blocks away. Yeah, I --
11 yes. The answer is yes. I own property six
12 blocks --

13 MR. ALONSO: Okay.

14 And people who park in your parking spaces,
15 are they -- relatively reside within a block or
16 two from the parking space that you rent out?

17 MR. PRICE: All of them within four blocks
18 of -- of the garage location.

19 MR. ALONSO: Okay.

20 So, not six blocks away.

21 MR. PRICE: No.

22 MR. ALONSO: Okay.

23 So, your testimony's really relevant to
24 your neighborhood, not to this neighborhood.

25 Isn't that correct?

1 MR. PRICE: No. I mean, look, I'm in the
2 business, --

3 MR. ALONSO: No, you're not --

4 MR. PRICE: -- Mr. Alonso.

5 MR. ALONSO: You're not -- you're not an
6 expert.

7 MR. PRICE: I know what happens -- do I
8 know what my --

9 MR. ALONSO: Just --

10 MR. PRICE: -- competitors do? Do I know
11 what they charge?

12 MR. ALONSO: Competitors?

13 MR. PRICE: Well, yeah.

14 MR. ALONSO: Competitors?

15 MR. PRICE: What do you call them?

16 MR. ALONSO: Well, you just testified that
17 you're not an expert in the parking business.

18 MR. PRICE: I'm also not dumb, deaf and
19 blind. Okay.

20 MR. ALONSO: Well --

21 MR. PRICE: Do I know -- I've been in this
22 business for 45 years, Mr. Alonso. Do I know
23 what other people charge for garages? Of course
24 I do.

25 MR. ALONSO: Okay. So, but it's not a

1 parking business, because you're not testifying
2 as -- as a professional in the parking business.
3 You're testifying as a landlord in your
4 neighborhood.

5 Is that correct?

6 MR. PRICE: I'm testifying as somebody in
7 the parking business, Mr. Alonso. Okay.

8 MR. ALONSO: But not as an expert.

9 MR. PRICE: I don't know.

10 MR. ALONSO: Okay.

11 MR. PRICE: I don't know of any experts in
12 the parking business.

13 MR. ALONSO: Now, you're talking about the
14 -- about the impact. But this is a D-2 variance.

15 Correct?

16 It's not a D-1 use variance.

17 MR. PRICE: It's a D-2.

18 MR. ALONSO: Correct.

19 So, with respect to the 16 total parking
20 spaces required, if this was a new application
21 for a new structure, for two commercial units and
22 three residential units, we would require a
23 variance for the 16 parking spaces, and the Board
24 would have a different, higher standard for the
25 D-1 to consider the impact of these 16 parking

1 spaces.

2 Isn't that correct?

3 MR. PRICE: Not necessarily.

4 MR. ALONSO: Okay. And a D-2 --

5 MR. PRICE: That's a Board judgement.

6 MR. ALONSO: No, I'm asking you.

7 MR. PRICE: That's a --

8 MR. ALONSO: You're talking about --

9 MR. PRICE: -- Board --

10 MR. ALONSO: You're talking about the
11 impact. And here, from a zoning perspective, the
12 impact is really because it's a D-2 variance, we
13 already take a credit for the 14 parking spaces
14 that are already there. So, the impact is really
15 the incremental, substantial negative impact from
16 the two parking spaces, not from the totality of
17 the 16.

18 Isn't that correct?

19 MR. PRICE: I -- I already said that. And
20 I replied to Mr. Paneque.

21 MR. ALONSO: Right. And we have to prove
22 that it's a substantial negative impact.

23 Correct?

24 MR. PRICE: I have to prove a negative --

25 MR. ALONSO: We have to prove that there is

1 no substantial negative impact.

2 Isn't that correct?

3 MR. PRICE: That is correct.

4 MR. ALONSO: Okay. But -- but your own
5 testimony, there's an impact to a small degree
6 for the parking.

7 Isn't that correct?

8 MR. PRICE: Correct.

9 MR. ALONSO: All right.

10 So by your own testimony, you've conceded
11 that there is no substantial negative impact for
12 the two additional parking spaces.

13 I have no further questions.

14 MR. PRICE: Mr. Alonso, as I --

15 MR. ALONSO: I have no further questions.

16 MR. PANEQUE: Any other Board -- any other
17 public members?

18 VICE CHAIRMAN GRULLON: Any other member of
19 the public want to step forward?

20 Closed to the public.

21 MR. ALONSO: Mr. Chairman, clearly, parking
22 is an issue in all of North Hudson, Union City,
23 and all -- all the towns up here. And -- and I
24 know and -- and I notice that the Board was
25 initially concerned with respect to the impact of

1 the parking.

2 As a quasi-judicial board, you have to take
3 into account the testimony and the evidence, and
4 whether or not the addition of the two parking
5 spaces that are required that we cannot provide,
6 whether or not that constitutes a substantial
7 negative impact, not just an impact. By virtue
8 of the fact that we can't provide the parking,
9 there is an impact automatically. The question
10 is whether or not that is a substantial negative
11 impact.

12 Mr. Price conceded that it's a impact to a
13 small degree. It doesn't rise to a level that
14 the Board should not grant the variance for the
15 parking.

16 In terms of the -- the D-2 variance relief,
17 it's not a permitted use, but the use is already
18 there. So, the Board takes that into account.
19 Okay. So, it's not the high standard for the D-1
20 use variance, because should the Board deny this
21 application, the rest of the use is going to
22 remain. So, the question is, whether or not the
23 additional unit is going to create that
24 substantial negative impact.

25 And I believe based on the testimony by Mr.

1 Valella and Mr. Leoncavallo, as well as conceded
2 to by Mr. Price, that there is no substantial
3 negative impact. And I believe that the Board
4 can grant this -- this application.

5 VICE CHAIRMAN GRULLON: See Mr. Alonso,
6 like we're not -- we're not looking right now for
7 the use of the -- of the property. The use --
8 it's existing use. It's nothing -- nothing you
9 can do about it right now.

10 But the existing negative criteria of four
11 -- of having 14 parking spaces is not -- that are
12 not being provided at the -- at the site, and now
13 we come up and increase that negative criteria to
14 16 parking spaces. That's a -- that's an issue
15 that I have here.

16 MR. ALONSO: Absolutely. And that's why --
17 exactly why I made the comment that I made. The
18 14 spaces that we're deficient is an existing
19 condition.

20 So, it's not whether or not -- you don't
21 look at the 16, you look at the additional two.
22 Okay. The 14, we already gave credit for because
23 it's there.

24 VICE CHAIRMAN GRULLON: Yes. Yes.

25 MR. ALONSO: The question is whether or not

1 adding two more is a substantial negative impact,
2 and we believe that it is not.

3 VICE CHAIRMAN GRULLON: But in that
4 neighborhood, parking situation is -- is bad;
5 bad situation right now. And the way I feel, in
6 order for us to increase that problem in the
7 area, will be a detriment to the area. And I
8 don't think we going to make anything good here.

9 I just want to make a motion to deny the
10 application at this -- at this time.

11 THE SECRETARY: Motion on the table --

12 VICE CHAIRMAN GRULLON: Motion to deny.

13 THE SECRETARY: -- to deny the application
14 by Mr. Grullon.

15 MS. PEREZ: I second it.

16 THE SECRETARY: Who second it?

17 MS. PEREZ: I did.

18 MS. DILLON: Ms. Perez.

19 THE SECRETARY: Ms. Perez second the
20 motion.

21 Roll call on the motion to deny this
22 application.

23 Mr. Grullon?

24 VICE CHAIRMAN GRULLON: Yes.

25 THE SECRETARY: Ms. Gutierrez?

1 MS. GUTIERREZ: Yes.

2 THE SECRETARY: Mr. Pressey?

3 MR. PRESSEY: No.

4 THE SECRETARY: Mr. Ortiz?

5 MR. ORTIZ: Yes.

6 THE SECRETARY: Ms. Pena?

7 MS. PENA: Yes.

8 THE SECRETARY: Ms. Perez?

9 MS. PEREZ: Yes.

10 THE SECRETARY: Mr. Cetinich?

11 MR. CETINICH: Yes.

12 THE SECRETARY: Let the record indicate

13 that motion carries.

14 Six in favor to deny the application, one

15 against.

16 Motion carries.

17 Thank you.

18 MR. ALONSO: Thank you very much.

19 VICE CHAIRMAN GRULLON: Thank you.

20 MR. ALONSO: Have a Merry Christmas.

21 VICE CHAIRMAN GRULLON: Thank you.

22 Thank you.

23 MR. PANEQUE: Merry Christmas.

24 MS. GUTIERREZ: Merry Christmas.

25 Thank you.

1 MR. ALONSO: See you guys next year.

2 MR. VALELLA: Happy Holidays, everybody.

3 MS. GUTIERREZ: Thank you.

4 MR. VALELLA: See you next year.

5 MS. GUTIERREZ: Bye.

6 THE SECRETARY: Don't leave. Don't leave.

7 Wait. Two more minutes. Two more minutes.

8 * * *

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 **RESOLUTIONS:**

2

3 (1) Jose and Maribel Jorge, 4103 Palisade
4 Avenue, Block 241, Lot 13.01. Construction of a
5 new two family house. Approved

6

7 THE SECRETARY: We are going to
8 Resolutions.

9 MS. GUTIERREZ: Okay.

10 THE SECRETARY: All right.

11 The first Resolution on tonight's agenda,
12 Jose and Maribel Jorge, 4103 Palisade Avenue.

13 Can I have a motion to approve this
14 application?

15 Motion by Ms. Gutierrez.

16 Seconded by Mr. Ortiz.

17 Roll call on the motion.

18 Mr. Grullon?

19 VICE CHAIRMAN GRULLON: Yes.

20 THE SECRETARY: Ms. Gutierrez?

21 MS. GUTIERREZ: Yes.

22 THE SECRETARY: Mr. Pressey?

23 MR. PRESSEY: Yes.

24 THE SECRETARY: Mr. Ortiz?

25 MR. ORTIZ: Yes.

1 THE SECRETARY: Ms. Pena?

2 MS. PENA: Yes.

3 THE SECRETARY: Mrs. Perez?

4 MS. PEREZ: Yes.

5 THE SECRETARY: Mr. Cetinich?

6 MR. CETINICH: Yes.

7 THE SECRETARY: Seven in favor.

8 Motion carries.

9 Give me two seconds, please.

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

12 THE SECRETARY: Give me two seconds.

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

15 THE SECRETARY: All right.

16 We are going -- we are going to call again
17 for the resolution number one, Jose and Maribel
18 Jorge, 4103 Palisade Avenue.

19 Mr. Ortiz join that application at 6:18
20 p.m. And the member who was present on time was
21 Mr. Gullon --

22 MR. PANEQUE: Your vote?

23 VICE CHAIRMAN GRULLON: Yes.

24 THE SECRETARY: Mr. Gullon --

25 VICE CHAIRMAN GRULLON: Yes.

1 THE SECRETARY: Give me two seconds.

2 Let me call Ms. Gutierrez, Mr. Pressey --

3 MS. DILLON: Are you -- are you --

4 THE SECRETARY: -- Mr. --

5 MS. DILLON: Are you doing a roll call?

6 THE SECRETARY: No, I am doing the -- I'm
7 just doing the members who are allowed to vote on
8 this application, if they were on time.

9 MS. DILLON: I apologize.

10 THE SECRETARY: All right.

11 Let me -- let me again, the only person who
12 can -- was not on time was Mr. Ortiz and Mrs.
13 Pena. That mean the rest of the members, they
14 was present on time.

15 Can I have a motion to approve this
16 Resolution?

17 MR. PANEQUE: Motion?

18 VICE CHAIRMAN GRULLON: Motion.

19 THE SECRETARY: Motion by Mr. Grullon.

20 MS. GUTIERREZ: Second.

21 THE SECRETARY: Seconded by Ms. Gutierrez.

22 Roll call on the motion.

23 Mr. Grullon?

24 VICE CHAIRMAN GRULLON: Yes.

25 THE SECRETARY: Ms. Gutierrez?

1 MS. GUTIERREZ: Yes.

2 THE SECRETARY: Mr. Pressey?

3 MR. PRESSEY: Yes.

4 THE SECRETARY: Mrs. Perez?

5 MS. PEREZ: Yes.

6 THE SECRETARY: Mr. Cetinich?

7 MR. CETINICH: Yes.

8 THE SECRETARY: Five in favor.

9 Motion carries.

10 * * *

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 **RESOLUTIONS:**

2
3 (2) Shannon Guy Errico, 110 42nd Street, Block
4 248, Lot 15. Applicant proposes the legalization
5 of basement floor apartment. Approved

6 (3) Angel Denis, 542 40th Street, Block 234, Lot
7 11. Legalization of second floor to convert one
8 family to two families. Approved

9
10 THE SECRETARY: All right.

11 We are going to Resolution 2 and 3.

12 Resolution number 2.

13 Shannon Guy Errico, 110 42nd Street.

14 Resolution number 3.

15 Angel Denis, 542 40th Street.

16 Members was present on this application was
17 Mr. Bonacci, Mr. Grullon, Ms. Gutierrez, Mr.
18 Pressey, Mr. Medina who is absent today, Mr.
19 Ortiz, and Ms. Pena, Ms. Perez, and Mr. Cetinich.

20 Can I have a motion?

21 VICE CHAIRMAN GRULLON: Motion.

22 THE SECRETARY: Motion by Mr. Grullon to
23 adopt this Resolution.

24 Can I have a second?

25 Seconded by Mr. Ortiz.

1 Roll call on the motion.

2 Mr. Grullon?

3 VICE CHAIRMAN GRULLON: Yes.

4 THE SECRETARY: Ms. Gutierrez?

5 MS. GUTIERREZ: Yes.

6 THE SECRETARY: Mr. Pressey?

7 MR. PRESSEY: Yes.

8 THE SECRETARY: Mr. Ortiz?

9 MR. ORTIZ: Yes.

10 THE SECRETARY: Ms. Pena?

11 MS. PENA: Yes.

12 THE SECRETARY: Ms. Perez?

13 MS. PEREZ: Yes.

14 THE SECRETARY: Mr. Cetinich?

15 MR. CETINICH: Yes.

16 THE SECRETARY: Seven in favor.

17 Motion carries.

18 * * *

19

20

21

22

23

24

25

1 **RESOLUTIONS :**

2

3 (4) Resolution Appointing the Zoning Board of
4 Adjustment Secretary for the Year 2020

5

6 THE SECRETARY: Resolution number 4.

7 Resolution to appoint the Zoning Board of
8 Adjustment Secretary for the year 2020.

9 Can I have a motion?

10 VICE CHAIRMAN GRULLON: Motion.

11 THE SECRETARY: Everybody make motion.

12 Motion by Mr. Grullon.

13 Seconded by?

14 Mr. Ortiz.

15 Roll call on the motion.

16 Mr. Grullon?

17 VICE CHAIRMAN GRULLON: Yes.

18 THE SECRETARY: Ms. Gutierrez?

19 MS. GUTIERREZ: Yes.

20 THE SECRETARY: Mr. Pressey?

21 MR. PRESSEY: Yes.

22 THE SECRETARY: Mr. Ortiz?

23 MR. ORTIZ: Yes.

24 THE SECRETARY: Ms. Pena?

25 MS. PENA: Yes.

1 THE SECRETARY: Ms. Perez?

2 MS. PEREZ: Yes.

3 THE SECRETARY: Mr. Cetinich?

4 MR. CETINICH: Yes.

5 THE SECRETARY: Seven 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 **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 MR. PRESSEY: Yes.

7 THE SECRETARY: Motion by Mr. Pressey.

8 MS. GUTIERREZ: Second.

9 THE SECRETARY: Seconded by Ms. Gutierrez.
10 All in favor?

11

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

13

14 THE SECRETARY: The ayes have it.

15 Let the record indicate --

16 MS. GUTIERREZ: Merry Christmas.

17 THE SECRETARY: -- that it shows --

18 MS. GUTIERREZ: Happy New Year.

19 THE SECRETARY: -- that it showed -- let
20 the record indicate that the meeting has ended.

21 Motion carries.

22 Thank you.

23 Good night everybody.

24 Happy Holidays.

25 MS. GUTIERREZ: Merry Christmas.

1 Happy New Year.

2

3 (Whereupon, the proceedings were concluded
4 at 8:53 p.m.)

5

6

7

8

9

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 I, DEBRA A. KASZNIAK, assigned transcriber,
6 do hereby affirm that the foregoing is a true and
7 accurate transcript in the matter of the REGULAR
8 MEETING of the UNION CITY ZONING BOARD OF
9 ADJUSTMENT heard on Thursday, December 12, 2019
10 and digitally recorded.

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25 Monitored and proofread by: Deborah Dillon