

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, March 12, 2020
Commencing at 6:16 p.m.

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

MARGARITA GUTIERREZ
JOHN MEDINA
MIGUEL ORTIZ
DAVID W. PRESSEY
GERALDINE PEREZ, Alternate No. 2
RAYMOND CETINICH, Alternate No. 3,
(Recused, left at 8:45 p.m.)
MINDRY WATLEY, Alternate No. 4
VICTOR M. GRULLON, Vice Chairman

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

LIBERO MAROTTA
ROSIO PENA, Alternate No. 1
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

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

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

GERARD D. PIZZILLO, ESQ.,
Attorney for Applicant, 1401-1407 New York Avenue

DONOVAN BEZER, ESQ.,
Attorney for Applicant, Walter and Esther Zurkovsky

BIANCA P. PEREIRAS, ESQ.,
Attorney for Applicant, Victoria Bustos

J. ALVARO ALONSO, ESQ.,
Attorney for Applicant, 111 35th Street, LLC

J. ALVARO ALONSO, ESQ.,
Attorney for Applicant, Jorge Garcia

CHRISTIAN DIAZ, ESQ.,
Attorney for Applicant, Monica Riera

SANTO T. ALAMPI, ESQ.,
Attorney for Applicant, Noha Polack, MD

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1 MS. DILLON: Okay.

2 On the record.

3 THE SECRETARY: Please take notice that on
4 Thursday, March 12, 2020, six p.m., a Regular
5 Meeting is scheduled for the City of Union City
6 Board of Adjustment, to be held in the Municipal
7 Chamber, located on the Second Floor, 3715
8 Palisade Avenue, Union City, New Jersey.

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

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

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

20

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

23

24 THE SECRETARY: Thank you.

25

1 **ROLL CALL:**

2

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

5 Mr. Bonacci is absent.

6 Mr. Grullon?

7 VICE CHAIRMAN GRULLON: Here.

8 THE SECRETARY: Mr. Marotta is absent.

9 Ms. Gutierrez?

10 MS. GUTIERREZ: Here.

11 THE SECRETARY: Mr. Ortiz?

12 MR. ORTIZ: Here.

13 THE SECRETARY: Mr. Pressey?

14 MR. PRESSEY: Here.

15 THE SECRETARY: Mr. Medina?

16 MR. MEDINA: Here.

17 THE SECRETARY: Ms. Pena is absent.

18 Ms. Perez?

19 MS. PEREZ: Here.

20 THE SECRETARY: Mr. Cetinich?

21 MR. CETINICH: Here.

22 THE SECRETARY: Ms. Watley?

23 MS. WATLEY: Here.

24 THE SECRETARY: Let the record indicate
25 there are eight present.

1 We have a full quorum for tonight's
2 meeting.

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1 **ADOPTION OF MINUTES:**

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3 (1) Regular Meeting held on February 13, 2020

4

5 THE SECRETARY: We are going to the
6 previous meeting minutes of February 13, 2020.

7 Can I have a motion?

8 MS. GUTIERREZ: I'll make a motion.

9 THE SECRETARY: Motion by Ms. Gutierrez.

10 Any second?

11 Second -- any second the motion?

12 No, you was absent, Mr. -- Mr. Ortiz, at
13 the previous meeting.

14 Any other member?

15 No, no. Sorry, Mr. Ortiz. You was
16 present. My apology.

17 Mr. Ortiz seconded.

18 I'm sorry.

19 Roll call on the motion.

20 Ms. Gutierrez?

21 MS. GUTIERREZ: Yes.

22 THE SECRETARY: Mr. Medina?

23 MR. MEDINA: Yes.

24 THE SECRETARY: Mr. Ortiz?

25 MR. ORTIZ: Yes.

1 THE SECRETARY: Ms. Perez?

2 MS. PEREZ: Yes.

3 THE SECRETARY: Mr. Cetinich?

4 MR. CETINICH: Yes.

5 THE SECRETARY: Ms. Watley?

6 MS. WATLEY: Yes.

7 THE SECRETARY: Six in favor.

8 Motion carries.

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

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3 THE SECRETARY: Hearings and applications.

4 First hearing on tonight's agenda is 1015

5 West Street, LLC, 601 11th Street.

6 Mr. Paneque, please?

7 MR. PANEQUE: On this application, the

8 applicant's attorney, Mr. Alonso, who's here

9 tonight, has -- has submitted a letter dated

10 January 6, 2020, requesting that the application

11 be withdrawn.

12 This application had come before the Board

13 on several meetings, since April of 2019.

14 THE SECRETARY: Can I -- can I have a

15 motion to accept the withdrawing by the

16 applicant's attorney?

17 MS. GUTIERREZ: I make a motion.

18 THE SECRETARY: Motion by Ms. Gutierrez.

19 MR. PANEQUE: This is the wrong letter.

20 Mr. Alonso, can you come up?

21 MR. ALONSO: I think I'm going to withdraw

22 Mr. Alampi's application.

23 MR. PANEQUE: Okay. Take a look at this

24 letter.

25 Are you withdrawing or requesting an

1 adjournment?

2 THE SECRETARY: No, they're withdrawing.

3 MR. ALONSO: No, we're withdrawing.

4 MR. PANEQUE: But --

5 MR. ALONSO: There should be a letter --

6 MR. PANEQUE: Okay.

7 MR. ALONSO: -- requesting that it be
8 withdrawn.

9 THE SECRETARY: It's in the records. All
10 right.

11 MR. PANEQUE: Do you have that letter, Mr.
12 Vallejo, because the one I have --

13 THE SECRETARY: Yes.

14 MR. PANEQUE: -- is from January 6 and it's
15 a request to adjourn.

16 Just want to make sure that we have the
17 right one.

18 Okay.

19 Thank you.

20 This is the one I had previously seen.

21 MR. ALONSO: Yes.

22 MR. PANEQUE: So, we have a letter from Mr.
23 Alonso's office, dated February 10, 2020,
24 indicating that he is requesting that the matter
25 be withdrawn without prejudice.

1 Mr. Vice Chairman?

2 THE SECRETARY: Can I have a motion to
3 accept the withdrawing?

4 Motion by Mrs. Gutierrez.

5 Any second the motion?

6 VICE CHAIRMAN GRULLON: Second the motion.

7 THE SECRETARY: Second by Mr. Grullon.

8 Roll call on the motion.

9 Mr. Grullon?

10 VICE CHAIRMAN GRULLON: Yes.

11 THE SECRETARY: Ms. Gutierrez?

12 MS. GUTIERREZ: Yes.

13 THE SECRETARY: Mr. Pressey?

14 MR. PRESSEY: Yes.

15 THE SECRETARY: Mr. Medina?

16 MR. MEDINA: Yes.

17 THE SECRETARY: Mr. Ortiz?

18 MR. ORTIZ: 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. ALONSO: Thank you.

1 MR. PANEQUE: Thank you, Mr. Alonso.

2 THE SECRETARY: Thank you.

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

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

5 Mr. Weller, please?

6 MS. GUTIERREZ: I recuse myself.

7 MR. PANEQUE: You're going to recuse
8 yourself?

9 Let the record reflect that Board member
10 Ms. Gutierrez, is going to recuse herself on this
11 application, due to the conflict that exists with
12 her employment.

13

14 (Whereupon, Margarita Gutierrez recused and
15 stepped down from the dais.)

16

17 THE SECRETARY: Let the record indicate
18 that we have seven members present.

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

21 MR. PIZZILLO: All set?

22 VICE CHAIRMAN GRULLON: Yes. You may
23 proceed.

24 MR. PIZZILLO: Okay.

25 Thank you. Thank you.

1 MR. PANEQUE: Okay.

2 MR. PIZZILLO: Good evening, Commissioners.

3 My name is Gerard Pizzillo. I'm attorney
4 with Genova Burns in Jersey City.

5 I'm here tonight on behalf of the
6 applicant, Tuli Realty, LLC. The applicant is
7 the owner of a property, 1401-1407 New York
8 Avenue.

9 It is currently, or it's located in the
10 neighborhood commercial zone. It's an existing
11 three story, 31 feet six inch building that is
12 mixed use, contains ground floor commercial
13 retail and six residential units.

14 The application before you tonight is a
15 request to legalize the sixth unit. I was here
16 last month and there were some concerns about and
17 some inconsistencies and lack of clarity, in
18 terms of where the ground floor unit in question
19 is located.

20 We did provide the Secretary with 12 sets
21 of the act -- the existing site plan, so the
22 Board members can familiarize themselves with the
23 unit that we're talking about.

24 Additionally, during the last hearing, the
25 Board requested some photos of this site, so they

1 | can also get a better sense of -- you know,
2 | putting some color to the -- to the schematic
3 | designs that are in front of you. So --

4 | VICE CHAIRMAN GRULLON: Sorry to interrupt.

5 | MR. PIZZILLO: Sure.

6 | VICE CHAIRMAN GRULLON: I wasn't here at
7 | the -- at the previous meeting.

8 | MR. PIZZILLO: Right.

9 | VICE CHAIRMAN GRULLON: I'm going to ask
10 | you to please, if you can, to provide testimony
11 | one more time, that I can -- you know, catch up,
12 | because --

13 | MR. PIZZILLO: Okay. So --

14 | VICE CHAIRMAN GRULLON: -- I didn't get a
15 | chance to read the transcript.

16 | MR. PIZZILLO: Understood.

17 | And -- and there was no testimony regarding
18 | the -- the unit, because the plans that were
19 | provided prior, in the -- for -- when we appeared
20 | at the January (sic) meeting, did not have the
21 | unit listed on them.

22 | So, there was no architecture testimony
23 | with regards to the unit in question.

24 | And -- and just to -- to add to that, I
25 | will not be presenting any architecture testimony

1 | tonight. There's no need for an expert in
2 | architecture to testify in terms of the site plan
3 | that is front of you.

4 | I have one witness, who's a professional
5 | planner, who visited the site, who reviewed the
6 | plans, and he's going to opine as to whether the
7 | application does meet the criteria to -- to grant
8 | a D-1 variance, which is essentially what we're
9 | asking for.

10 | VICE CHAIRMAN GRULLON: Okay.

11 | Thank you.

12 | MR. PIZZILLO: Okay.

13 | If the Board would like, I would -- I could
14 | pass out these photos.

15 | MS. DILLON: Are they -- are they packets?

16 | MR. PIZZILLO: They're packets.

17 | MS. DILLON: Okay.

18 | MR. PIZZILLO: There's four photos. I have
19 | ten copies.

20 | MS. DILLON: All right. Let me just take
21 | one to mark.

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

24 | MS. DILLON: So, this will be A-1?

25 | MR. PIZZILLO: Okay.

1

2 (Whereupon, Packet of Four Photographs was
3 received and marked as Exhibit A-1.)

4

5 THE SECRETARY: Thank you.

6 MR. PIZZILLO: Thank you.

7 And note -- and Commissioners, those are
8 just four photos taken by Jeffrey Wenger, who is
9 our -- my expert witness. He can testify as to
10 what they are, but I think they pretty much speak
11 for themselves.

12 And the -- the unit that we're talking
13 about is that beige -- beige house it looks like,
14 but it's an addition to the red brick building.
15 And it's all one address. That's the sixth unit.

16 Back as early as 1993, this was a unit that
17 was registered with the City Rent Leveling Board.
18 At some point in time, the Commissioners of the
19 City amended the Land Development Ordinance and
20 no longer permitted ground floor dwelling units.
21 So, this is really a non -- prior nonconforming
22 use.

23 So, we're not asking for any addition, any
24 construction, nothing. All we're asking for is
25 just to formally -- to have this Board formally

1 | legalize that unit, which has been in existence
2 | for at least 26, 27 years, if not more.

3 | And if the -- I could mark these into
4 | evidence. These are the Rent Leveling
5 | Registration Statements that the prior owner, my
6 | clients bought the -- took ownership of this
7 | property in January of 2019.

8 |
9 | (Whereupon, Packet of Four Rent
10 | Registration Statements were received and marked
11 | as Exhibit A-2.)

12 |
13 | MR. PIZZILLO: At that time, they were
14 | marketing it for a -- you know, a resident to
15 | come in for -- as a Section 8 tenant. And as
16 | part of the Section 8 process, an inspection has
17 | to incur -- occur. The inspection occurred. And
18 | that's when the official flagged the unit as
19 | saying, wait a minute, it's not legal.

20 | So, that's what brought us here tonight.

21 | And if you -- I could -- I don't -- I'm
22 | sorry. I didn't make enough copies of this for
23 | everyone, but if you want to pass them around, or
24 | I could testify, or have Mr. Wenger testify to
25 | them.

1 Each one of those Rent Registration
2 Statements lists six units, six residential units
3 and one commercial unit. The unit that we're
4 talking about is unit number 406. And on each
5 one of those documents, dating back to 19 -- 1993
6 is the earliest one, it has apartment 406 listed
7 on it.

8 So, that basically is an overview of why
9 we're here tonight. If the Commissioners don't
10 have any questions for me at this point, I would
11 ask Mr. Wenger to come forward and provide the --
12 the expert testimony that's required.

13 VICE CHAIRMAN GRULLON: Sure. Please
14 proceed.

15 MR. PIZZILLO: Okay. Do you want to --

16 MS. DILLON: Yes. Yes.

17 MR. PIZZILLO: -- raise your right hand,
18 please.

19 MS. DILLON: Sorry.

20 MR. PIZZILLO: No, I'm sorry.

21 MS. DILLON: Okay.

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

24 MR. WENGER: I do.

25 MS. DILLON: Please state your name and

1 spell it for the record.

2 MR. WENGER: Jeff -- Jeffrey Wenger,
3 W-E-N-G-E-R.

4 MS. DILLON: And spell Jeffrey.

5 MR. WENGER: J-E-F-F-R-E-Y.

6 MS. DILLON: Thank you.

7 MR. PIZZILLO: Okay.

8 I'm just going to -- Jeff, I'm just going
9 to ask you some questions right now, so that
10 you're properly qualified as a -- as an expert
11 witness.

12 So, can you please give the Board the
13 benefit of your educational background?

14 MR. WENGER: I have a Masters degree in
15 city and regional planning from Rutgers. I
16 graduated in 1998.

17 I worked for the Jersey City Planning
18 Division from 1998 to 2017. And I'm a licensed
19 professional planner in the State of New Jersey.

20 MR. PIZZILLO: And is your license current
21 tonight?

22 MR. WENGER: Yes, it is.

23 MR. PIZZILLO: And it's in good standing?

24 MR. WENGER: Yes.

25 MR. PIZZILLO: Counsel, I would ask, or the

1 Board, --

2 VICE CHAIRMAN GRULLON: Yes. We accept --

3 MR. PIZZILLO: -- that he be qualified and

4 --

5 VICE CHAIRMAN GRULLON: -- your
6 qualifications.

7 Thank you.

8 MR. PIZZILLO: Thank you.

9 So, Jeff, can you just walk the Board
10 through kind of what you did, in terms of your
11 analysis as to this -- this unit?

12 MR. WENGER: Sure.

13 So, for a D variance, as I'm sure you're
14 familiar, we have to meet the positive and
15 negative criteria in the statute.

16 I did an inspection of the site, walked
17 through it and I took the photographs that you
18 have there.

19 And you have -- and it's a neighborhood
20 commercial zone, which allows for the ground
21 floor retail, and permits residential above. And
22 it's the ground floor residential unit at the
23 rear of the building that's at issue tonight.

24 And you can see on the pictures there, what
25 looks -- it actually might not appear to be part

1 of the same building. You see the red brick
2 portion of the building that's three stories, and
3 then you see the tan one story portion of the
4 building that sticks out in the back there.
5 That's actually part of the building.

6 Here's what I'm talking about. And you can
7 see in this photograph, it's important to note
8 that you can see that it's actually built on the
9 same foundation as the original building.

10 So, even though it might not look like it's
11 part of the structure, it is, in fact, one
12 building and on one tax lot.

13 And the rear of this opens up into the same
14 rear yard courtyard, which I think there might be
15 a --

16 MR. PIZZILLO: I -- I --

17 MR. WENGER: -- photograph of.

18 MR. PIZZILLO: I didn't include that.

19 MR. WENGER: Okay.

20 So, now, the -- it's a corner lot. It's on
21 -- fronts on New York Avenue. The side of the
22 building is fronting on 14th Street, which is a
23 residential street. And right behind this lot,
24 there's a zoning line, and then, there's a lower
25 density residential zone abutting this property.

1 So, further down the street, and I think
2 there's a photograph that maybe shows you kind of
3 going down 14th Street, that you're right up
4 against residential homes immediately beyond this
5 portion of the building.

6 So, it continues -- so, having residential
7 there really continues the residential pattern
8 and traditional functioning of 14th Street. So,
9 it's a preexisting nonconforming use that's been
10 there for a very long time.

11 So, the positive criteria is that in
12 particular cases, for special reasons, and the
13 special -- and this is easily met, because front
14 -- fronting on 14th Street, which is a residential
15 street. And any change would really disrupt the
16 established functioning of 14th Street.

17 And then, for the negative criteria, which
18 is that not to -- that you provide the D
19 variance, without substantial detriment to the
20 zone and Master Plan.

21 So, the purpose of the neighborhood
22 commercial district is to provide commercial
23 sales and service uses for the adjoining
24 neighborhoods. And this purpose is fully met by
25 the building. There is a retail use at the front

1 of the building, fronting on New York Avenue.

2 So, the purpose of the zone district is
3 met. And in addition to that, there's no
4 potential expansion of that retail use because
5 between the retail and the residential portion of
6 the building on the ground floor is the common
7 stairwell that runs through the building.

8 So, by granting the variance, you're not
9 even taking away the ability to expand the retail
10 use, which is the purpose of the district.

11 So, there's no impairment or detriment to
12 the zone plan or to the Master Plan in granting
13 the variance.

14 Housing is, of course, needed. You have a
15 residential unit here that they are wanting to
16 rent out to a Section 8 tenant.

17 And so, the Medici test for the use
18 variance is also very easily met. It's
19 particularly well suited for residential use,
20 since it's fronting on a residential street, and
21 you have a residential use immediately adjacent
22 to it, and a lower density use -- use zone.

23 So, just to summarize all of that, D
24 variance can be granted. The site is
25 particularly well suited. There's no impairment

1 to the zone plan and the housing will certainly
2 serve a public good.

3 MR. PIZZILLO: Any -- any further
4 statements?

5 I have no -- I have no questions, --

6 VICE CHAIRMAN GRULLON: Mr. Wenger?

7 MR. PIZZILLO: -- Commissioners.

8 VICE CHAIRMAN GRULLON: Could you testify
9 -- could you give us testimony about the
10 condition of the unit and how -- I mean, how --
11 how would the unit benefit, the -- the tenant,
12 the resident?

13 MR. WENGER: Well, they currently are being
14 prohibited from renting it out, unless it's
15 granted the use variance. So, right now, it's
16 sitting empty, and they're wanting to rent it
17 out.

18 If you -- if the variance is not granted,
19 they would have to put a retail use there, which
20 would bring retail further down 14th Street, and
21 put it right up next to this person's house, the
22 neighbor, and that would -- this has been
23 residential for a very long time, and you're --
24 you're putting retail on a residential street and
25 disrupting the traditional functioning of the

1 residential street there.

2 So, given that it's historically been
3 residential, I think it makes sense to grant the
4 variance. There's -- and there's certainly no
5 impairment to the zone plan or to the Master
6 Plan.

7 VICE CHAIRMAN GRULLON: And if this
8 variance is granted, would you be proposing to do
9 -- you know, modification of the apartment or
10 reno the apartment?

11 MR. WENGER: I don't know that the owner of
12 the building was necessarily looking to do that
13 today. But by granting it, it then becomes a
14 legal unit --

15 VICE CHAIRMAN GRULLON: My quest --

16 MR. WENGER: -- that one would want to --

17 VICE CHAIRMAN GRULLON: My question is
18 because the --

19 MR. WENGER: And be able to invest in.

20 VICE CHAIRMAN GRULLON: But I see the
21 condition there, it doesn't look in good
22 condition right now as it is.

23 MR. PIZZILLO: Under -- yeah. I mean, I --
24 I agree. And you know, I personally was not on
25 the inside, but I -- I think I see where you're

1 going, Commissioner. I think -- and I think what
2 you're trying to say is, if there is any
3 modifications, or any kind of renovations, it may
4 trigger another appearance, or another
5 application for an approval.

6 But at this point in time, all we're simply
7 really looking to do is just to legalize it. And
8 then, they're going to go back and -- you know,
9 determine how they want to go forward with the
10 actual unit and renting it out.

11 MR. WENGER: It would only make sense to
12 look into, and start hiring an architect to look
13 into fixing that up, if you knew that it was a
14 legal unit.

15 VICE CHAIRMAN GRULLON: And how big is the
16 unit now?

17 MR. WENGER: I'm sorry?

18 VICE CHAIRMAN GRULLON: How big is the
19 unit? Do you have the --

20 MR. WENGER: I'm going to --

21 VICE CHAIRMAN GRULLON: -- the size?

22 MR. WENGER: -- guess that it's about 400
23 to 500 square feet.

24 It's a one bedroom unit.

25 VICE CHAIRMAN GRULLON: I just want to make

1 | sure that it meets safety; that the windows are
2 | in compliance and the inside of the -- of the
3 | apartment is in condition for -- you know, for
4 | granting the variance.

5 | MR. PIZZILLO: So if -- if -- so as -- as I
6 | said earlier, Commissioner, the -- the applicant,
7 | what triggered all of this was -- you know, they
8 | were looking to -- to lease it, or to rent it to
9 | -- to a Section 8 -- you know, to -- to open it
10 | up to a -- to a Section 8 possibility.

11 | And as part of that -- you know, there --
12 | there is this pretty -- you know, intensive
13 | inspection to -- to address those issues and to
14 | make sure that the housing stock is up to code,
15 | and you know, it is properly -- you know,
16 | properly situated and properly -- you know,
17 | constructed for -- for a tenant to use.

18 | So, I think those concerns, ultimately,
19 | would be addressed.

20 | And -- and frankly, I don't even know if
21 | there's a Certificate of Occupancy for the unit.
22 | So, either way, the Building Department will have
23 | to come in -- you know, at some point, at the end
24 | of it all, and ultimately -- you know, give it
25 | the yes or no, whether it's -- it's up -- up to

1 code.

2 VICE CHAIRMAN GRULLON: I don't have any
3 more questions.

4 Do you?

5 Do you have any other witness?

6 MR. PIZZILLO: That -- this is my only
7 witness. This concludes our presentation, if the
8 Commissioners don't have any other questions.

9 MR. PANEQUE: I do have some questions, --

10 MR. PIZZILLO: Sure, Counsel.

11 MR. PANEQUE: -- Mr. Pizzillo.

12 MR. PIZZILLO: Sure.

13 MR. PANEQUE: We have the tax assessment
14 record. I don't know if you've been privy to it.

15 MR. PIZZILLO: I read -- I looked at it the
16 last time I was here. I never got a copy of it.

17 MR. PANEQUE: Okay.

18 When the property was assessed, in the
19 1970s, and I'm speaking to you, but also for the
20 edification of the Board, the ground floor
21 consisted of the store, which is shown on your
22 plans.

23 MR. PIZZILLO: Right.

24 MR. PANEQUE: And it consisted of a two
25 bedroom apartment --

1 MR. PIZZILLO: Okay.

2 MR. PANEQUE: -- which that should be that
3 apartment that's still there, sandwiched between
4 the store and this other --

5 MR. PIZZILLO: Correct.

6 MR. PANEQUE: -- apartment.

7 MR. PIZZILLO: Yes.

8 MR. PANEQUE: However, this other apartment
9 was not part of the assessment. It did not exist
10 at that time. Okay. So --

11 MR. PIZZILLO: Okay.

12 MR. PANEQUE: -- when did this apartment
13 come into existence?

14 MR. PIZZILLO: Counselor, if I had the
15 answer to that question, I would give it to you.
16 I -- unfortunately, my clients asked the prior
17 owner and I don't know who the -- the chain of
18 title, whether the -- the prior owner, who my
19 clients bought it from, bought it from someone
20 else.

21 All I could really put on the record is
22 that at some point it happened. At some point,
23 the City understood and recognized it as a unit.

24 MR. PANEQUE: When is --

25 MR. PIZZILLO: Based --

1 MR. PANEQUE: -- that?

2 MR. PIZZILLO: At least in the '90s. If
3 you look at A-2, those rent registration
4 statements that I -- that I provided --

5 MR. PANEQUE: Okay. But --

6 MR. PIZZILLO: -- it has six units.

7 MR. PANEQUE: -- the rent registration
8 statement is a self-serving document in that it's
9 filled by the land owner, not the City.

10 MR. PIZZILLO: But it's received and --

11 MR. PANEQUE: No.

12 MR. PIZZILLO: -- approved by the -- well

13 --

14 MR. PANEQUE: Yeah. That's not an
15 acceptable argument, counselor, because received
16 just means they stamped it. They could have put
17 in there 16 units and it would have been stamped
18 as that.

19 So, I have to inform the Board that that's
20 not an acceptable --

21 MR. PIZZILLO: Okay.

22 MR. PANEQUE: -- proof.

23 MR. PIZZILLO: No, no. I -- I was not
24 aware that that -- that's -- I thought that was a
25 --

1 MR. PANEQUE: Yeah.

2 MR. PIZZILLO: City comes out and inspects
3 it. And you know --

4 MR. PANEQUE: Yeah. No, they do not.

5 MR. PIZZILLO: Okay.

6 MR. PANEQUE: Do you have any testimony as
7 to the existing condition of the apartment
8 inside, and whether the framing, fixtures dating
9 them back to when they were probably put in?

10 MR. PIZZILLO: I do not. I do not.

11 MR. PANEQUE: Okay.

12 Now, on your plans, you do show the
13 dimension of the unit on the one side, which is
14 19 feet ten inches, but there's nothing on the
15 side to give us the side dimension, so that we
16 can calculate a square footage of that unit.

17 Now, on David Spatz's memo, alludes to the
18 fact that we do have a density variance that
19 provides that a one bedroom unit has to be 550
20 square -- 550 square feet.

21 Now, your expert's testimony is that it's
22 about four hundred and something. But we need
23 something more definite than that.

24 Are you able to calculate that and provide
25 the Board with that information?

1 MR. PIZZILLO: Are they there?

2 Is that on the -- is that -- is that on the
3 initial set that you --

4 MR. WELLER: It's on the initial set.

5 MR. PIZZILLO: Okay. So the -- so the
6 first submission back in December --

7 MR. PANEQUE: Okay.

8 MR. PIZZILLO: -- does, according to my
9 client, but I can have Mr. Wenger testify --

10 MR. PANEQUE: If we could, please.

11 MR. PIZZILLO: -- as to those numbers --

12 MR. PANEQUE: Yeah.

13 MR. PIZZILLO: -- right now.

14 MR. PANEQUE: We just need to -- you're
15 going to need a variance for density.

16 MR. PIZZILLO: Okay.

17 MR. PANEQUE: So, we just want to know --

18 MR. PIZZILLO: What --

19 MR. PANEQUE: -- the extent of that
20 variance.

21 MR. PIZZILLO: Understood.

22 MR. WENGER: So, and on the plans that's --

23 MR. PIZZILLO: Wait.

24 Before, but just -- just to we can put it
25 on the record, Jeff, can you just tell the Board,

1 and for the record, what you're reviewing and
2 what you're looking at right now?

3 MR. WENGER: These are plans provided by
4 Studio G2 Architects.

5 MR. PIZZILLO: Where's the date on there?

6 MR. WENGER: Dated February 26 of this
7 year.

8 MR. PIZZILLO: Okay.

9 MR. PANEQUE: And those were part of your
10 original submission.

11 Correct, counselor?

12 MR. PIZZILLO: That's my understanding,
13 yes.

14 MR. PANEQUE: Yes. Okay.

15 MR. WENGER: So, on page A3, you can see
16 the first, second and third floor plans.
17 Unfortunately, the architect lined up the rear of
18 the building, rather than the front. And then,
19 you'd see that this part is the part that sticks
20 out. I'm referring to the one bedroom apartment
21 here. That's actually beyond this wall on the
22 second and third floor.

23 And he's marked it as 19 feet ten inches.
24 It's approximately 19 by 19 square. So, I'm
25 going to guess that it's right around 400 square

1 feet.

2 MR. PANEQUE: Three sixty-one.

3 MR. WENGER: Yeah.

4 MR. PANEQUE: Okay.

5 So, you're short about a hundred ninety
6 square feet for -- in order to meet the density
7 variance that the City has on a one bedroom.

8 MS. DILLON: You have to answer verbally.

9 MR. PIZZILLO: Is that correct?

10 MR. WENGER: Yes.

11 MR. PANEQUE: Mr. Spatz, the one -- the
12 density variance for one bedroom is 550.

13 MR. SPATZ: Five fifty is what is required;
14 400 is what is required for a studio. So,
15 apparently it would need a variance even as a
16 studio apartment. And actually, since the build
17 -- the unit will probably need renovation, my
18 suggestion would be, if the Board were to approve
19 it, that they have it be reduced to a studio
20 apartment. So at least it would be closer to the
21 required size.

22 MR. PANEQUE: Okay.

23 Mr. Pizzillo, any -- you want to discuss
24 that with your client and --

25 (Whereupon, there was a pause in the

1 proceedings.)

2 MR. PIZZILLO: We have no issue --

3 MS. DILLON: Can you uncover the
4 microphone?

5 MR. PIZZILLO: Oh.

6 My client has no issue in marketing it or
7 making it a studio as opposed to a one bedroom.

8 MR. PANEQUE: Okay.

9 At least that will get you, as Mr. Spatz
10 indicated, closer to the density requirement.

11 MR. PIZZILLO: No. Understood.
12 Understood. It's a lesser delta.

13 MR. PANEQUE: Okay.

14 And that would also require a total build
15 out of that unit, getting rid of those walls that
16 created the one bedroom.

17 MR. PIZZILLO: Right. Yes. Yes.

18 MR. PANEQUE: Okay.

19 I have no further questions.

20 Any members of the Board?

21 VICE CHAIRMAN GRULLON: At this time, we
22 want to open to the public.

23 Any -- any member of the public wants to
24 step forward?

25 Seeing none.

1 Closed to the public.

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

4 VICE CHAIRMAN GRULLON: We -- we're going
5 to have to -- you know, have some conditions
6 here.

7 MR. PIZZILLO: Okay.

8 VICE CHAIRMAN GRULLON: You know, one is if
9 we grant this application, you're going to have
10 to agree to have this be a studio apartment.

11 And another thing is that you have to
12 provide information regarding the mean of egress
13 of the apartment. You know, like the window
14 size.

15 MR. PIZZILLO: Okay.

16 VICE CHAIRMAN GRULLON: And the condition
17 of the apartment inside.

18 MR. PIZZILLO: As is, current.

19 VICE CHAIRMAN GRULLON: As is, current.

20 MR. PIZZILLO: Okay.

21 VICE CHAIRMAN GRULLON: Yes.

22 MR. PIZZILLO: Okay.

23 VICE CHAIRMAN GRULLON: And with those
24 condition, I make -- I make my motion to grant
25 the application to approve it for a one studio

1 apartment.

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

4 THE SECRETARY: Mr. Gullon, did you make a
5 motion?

6 VICE CHAIRMAN GRULLON: Yes. Motion to
7 approve.

8 THE SECRETARY: Motion to approve --

9 VICE CHAIRMAN GRULLON: With the condition
10 to --

11 THE SECRETARY: -- the application --

12 VICE CHAIRMAN GRULLON: -- to change this
13 --

14 THE SECRETARY: -- with the conditions by
15 Mr. Gullon.

16 Any second the motion?

17 Seconded by Mr. Pressey.

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

20 VICE CHAIRMAN GRULLON: Condition to -- to
21 submit revised plans.

22 THE SECRETARY: Yes.

23 VICE CHAIRMAN GRULLON: You have to have
24 all the -- the measurements for the apartment.

25 MR. PIZZILLO: Okay.

1 THE SECRETARY: And also revised
2 application plan for -- from one apartment two --
3 from one bedroom to a studio apartment on the
4 application.

5 MR. PANEQUE: Those will be the revised
6 plans.

7 So, Mr. Pizzillo, I can have the Resolution
8 prepared for the next meeting. We're just
9 requesting that ten days prior, at least, revised
10 plans be provided showing --

11 MR. PIZZILLO: The approved plans as a
12 studio --

13 MR. PANEQUE: Yes.

14 MR. PIZZILLO: -- with --

15 MR. PANEQUE: With --

16 MR. PIZZILLO: -- the square footages and
17 the dimensions.

18 MR. PANEQUE: With the square footage --

19 MR. PIZZILLO: And the removal of the
20 interior demising.

21 MR. PANEQUE: And if you could have your
22 architect show -- you know, the layout: kitchen,
23 bathroom.

24 MR. PIZZILLO: Okay. Sure.

25 MR. PANEQUE: Okay.

1 So the Board can take a look at what's
2 actually being proposed.

3 MR. PIZZILLO: Okay.

4 THE SECRETARY: Motion on the table to
5 approve the application by Mr. Grullon.

6 Seconded by Mr. Pressey.

7 Roll call on the motion.

8 Mr. Grullon?

9 VICE CHAIRMAN GRULLON: Yes.

10 THE SECRETARY: Ms. Gutierrez?

11 MS. DILLON: Recused.

12 THE SECRETARY: I'm sorry. Recuse.

13 Mr. Pressey?

14 MR. PRESSEY: Yes.

15 THE SECRETARY: Mr. Medina?

16 MR. MEDINA: Yes.

17 THE SECRETARY: Mr. Ortiz?

18 MR. ORTIZ: Yes.

19 THE SECRETARY: Ms. Perez?

20 MS. PEREZ: Yes.

21 THE SECRETARY: Mr. Cetinich?

22 MR. CETINICH: Yes.

23 THE SECRETARY: Ms. Watley?

24 MS. WATLEY: Yes.

25 THE SECRETARY: Seven in favor.

1 Motion carries.

2 MR. PIZZILLO: Thank you very much,
3 Commissioners.

4 Appreciate it.

5 MR. PANEQUE: Thank you.

6 MR. PIZZILLO: Have a nice night.

7 MR. PANEQUE: How you feeling?

8 MR. PIZZILLO: Almost there.

9 MR. PANEQUE: Almost there?

10 MR. PIZZILLO: I'm feeling good.

11 Thank you.

12 MR. PANEQUE: Don't do any marathons
13 tonight.

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

16 * * *

17

18

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1 **Walter and Esther Zurkovsky - 510 26th Street:**

2

3 THE SECRETARY: Next application --

4 MR. PANEQUE: Wait. We need to get Miss
5 Gutierrez.

6 VICE CHAIRMAN GRULLON: Ms. Gutierrez.

7 MS. DILLON: Here she comes.

8 MR. PANEQUE: Nope. Oh, she's coming.

9 THE SECRETARY: Margarita?

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

12

13 (Whereupon, Margarita Gutierrez returned to
14 the dais.)

15

16 THE SECRETARY: Let the record indicate
17 that Margarita Gutierrez joined the meeting
18 again, that means we have eight members present.

19 Next application on tonight's agenda,
20 Walter and Esther Zurkovsky, 510 26th Street.

21 Mr. Bezer, please?

22 MR. BEZER: Good evening.

23 Donovan Bezer for the applicant.

24 I have some exhibits and I was wondering if
25 I could have the -- the box go around while I'm

1 reading an opening statement? If that would be
2 acceptable?

3 Commissioners, Mr. Paneque --

4 MS. DILLON: Excuse me, Mr. Bezer?

5 How do you want to identify this, it's to
6 be marked as A-1, but how do you want it
7 identified?

8 MR. BEZER: As the applicant's exhibits.
9 Each page is numbered A --

10 MS. DILLON: I see.

11 MR. BEZER: -- blank.

12 MS. DILLON: So, it's A-1 through A-145?

13 MR. BEZER: Correct.

14 MS. DILLON: Okay.

15 So, the entire booklet will be marked as A-
16 1, noting those pages.

17 MR. BEZER: Okay.

18

19 (Whereupon, Applicant's Exhibits Pages A-1
20 through A-145 was received and marked as Exhibit
21 A-1.)

22

23 MR. BEZER: May I proceed?

24 Again, Commissioners, Mr. Paneque,
25 Secretary Vallejo, thank you for hearing this

1 application.

2 Our application concerns a rear house in
3 the backyard of 510 26th Street here in Union
4 City.

5 There's a brick multi-family building in
6 the -- in the front of the property, and a two
7 story wood frame house in the rear. As you know,
8 two principal dwelling structures on one lot are
9 disfavored by the Municipal Land Use Law, which
10 I'll call the MLUL, if that's okay, and are
11 banned by Union City -- Union City Ordinances.

12 We seek a Certificate of Nonconformity
13 pursuant to the MLUL, Section 40:55d-68, and
14 person -- pursuant to Union City Ordinance 20 --
15 223-47b, or in the alternative, use and bulk
16 variances permitting the continued use of the
17 rear house as a dwelling.

18 The MLUL authorizes the Union City
19 Administrative Officer to issue a Certificate of
20 Nonconformity when a Zoning Ordinance makes a
21 preexisting use or structure unlawful. Multiple
22 dwelling structures on one lot became
23 nonconforming in Union City in 1973, and my
24 client did not acquire the property until 1989.

25 Therefore, the MLUL essentially requires us

1 to apply to the Zoning Board for a Certificate of
2 Nonconformity.

3 This second paragraph of Section 68 of the
4 MLUL repeatedly makes reference to what I'm --
5 this certificate that enables the continued use
6 of a preexisting nonconforming structure.

7 We respectfully argue that State law
8 entitles us to this certificate, with the burden
9 of proof that the structure preexisted its
10 nonconformity.

11 Now, this application is very different
12 than -- it's on a very different plane than a
13 request for a variance, which has a different
14 burden of proof. However, we recognize that this
15 Board exists to harmonize the different
16 structures and uses in this City, in conformity
17 with your Zoning Ordinances. And if this Board
18 believes that variances are the appropriate form
19 of relief, that we respectfully disagree, we will
20 make a case for variance relief.

21 We respectfully request that the proceeding
22 be bifurcated with the certificate portion first.
23 And then, if necessary, we'll proceed to
24 demonstrate why relief is also appropriate
25 through variances.

1 But turning back to our request for a
2 Certificate of Nonconformity, we will prove this
3 Board -- to this Board that the rear house in
4 question was erected as a house, that is a
5 dwelling unit, decades before it became
6 nonconforming, and has not been expanded, or
7 demolished, or destroyed by fire, or
8 discontinued, or structurally altered, or
9 experienced any condition that would complicate
10 your duty to issue a Certificate of
11 Nonconformity.

12 The rear house was built by the
13 Pellicciotto family, who owned the property from
14 1920 to 1964. We have a member of that family
15 here. She'll be my first witness.

16 You're probably aware that Union City did
17 not even exist in 1920. It was formed in 1925.
18 So, the Pellicciotto family lived in the rear
19 house and rented out the apartments in the front
20 of the building before Union City came into
21 being.

22 As I just antidotally referred to, our
23 first witness is the granddaughter of the -- one
24 of the female members of the Pellicciotto family.
25 And our witness lived in the rear house as a girl

1 for a summer.

2 We also have an architect who prepared
3 plans for the property, which I believe you have.
4 And our architect will testify as to how the
5 available documents related to this property
6 establish the age of the house.

7 We have a licensed Code Enforcement
8 Officer, who's not here yet, but who I'll call,
9 and is an expert on construction, who will
10 testify as to the aspects of the rear house that
11 make it impossible that it was constructed after
12 1973.

13 We have a planner that can testify about
14 the house's existence and how the property, as a
15 whole, fits into the overall scheme of varied
16 uses in the City's Master Plan. And how the
17 continued use of the house -- the rear house will
18 not disrupt the -- the zone plan that the house
19 is -- that the property is in.

20 We have a surveyor who provided a current
21 survey and photographic documentation of the
22 surrounding area, although the surveyor will not
23 testify.

24 And finally, we have the current owner, who
25 has owned since 1989, to testify about his

1 | firsthand knowledge about the property. His
2 | testimony will be unique to this Board in at
3 | least one respect.

4 | He became friends with the man he purchased
5 | the house from. The former owner, who -- who was
6 | Carlos Vilanova, purchased the property in 1970,
7 | when he fled the Castro regime, before the rear
8 | structure was nonconforming.

9 | And Carlos and my client have stayed
10 | friends. Carlos has provided much help and
11 | documentation in support of this application, but
12 | he is convalescing, near death in Miami. He can
13 | -- he can't even travel to the grocery store, so
14 | he obviously can't come up here to testify
15 | tonight.

16 | I thank the Board and -- and ask if we may
17 | call our first witness.

18 | MR. PANEQUE: Mr. Bezer?

19 | MR. BEZER: Yes.

20 | MR. PANEQUE: Before we proceed with your
21 | first witness, I just want to place on the record
22 | that this matter was carried from the February
23 | 13th meeting, at which time you submitted your
24 | jurisdictional proof, and this Board took
25 | jurisdiction of your case. It was then carried

1 | till tonight.

2 | MR. BEZER: Yes.

3 | MR. PANEQUE: So, that being placed on the
4 | record, yes, you may proceed with your first
5 | witness.

6 | MR. BEZER: Thank you.

7 | Joanne?

8 | MS. DILLON: Hi. Right in front of that
9 | microphone right there, ma'am.

10 | Please raise your right hand.

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

13 | MS. POSTIGLIONE: Yes.

14 | MS. DILLON: Can you please state your name
15 | and spell it for the record?

16 | MS. POSTIGLIONE: Joanne Postiglione.
17 | J-O-A-N-N-E.

18 | MS. DILLON: One word?

19 | MS. POSTIGLIONE: Yes.

20 | Postiglione, P-O-S-T-I-G-L-I-O-N-E.

21 | MS. DILLON: L-I-O-N-E.

22 | MS. POSTIGLIONE: Yes.

23 | MS. DILLON: Okay.

24 | Thank you.

25 | MR. BEZER: Joanne, where do you live right

1 now?

2 MS. POSTIGLIONE: I live at 23 Picket Lane,
3 Centereach, New York.

4 MR. BEZER: And that's far out on Long
5 Island.

6 Correct?

7 MS. POSTIGLIONE: Yes, it is.

8 MR. BEZER: Thank you for coming tonight.
9 Where did you grow up?

10 MS. POSTIGLIONE: I grew up on -- in
11 Brooklyn, 559 Kings Highway.

12 MR. BEZER: Okay.

13 And --

14 MS. POSTIGLIONE: I stayed with my
15 grandmother, when my mother had her gallbladder
16 removed in the summer.

17 MR. BEZER: We're going to get there.

18 MS. POSTIGLIONE: All right.

19 MR. BEZER: Were your maternal or paternal
20 grandparents alive when you grew up?

21 MS. POSTIGLIONE: Yes, they were.

22 MR. BEZER: And who was your mother? What
23 was her name?

24 MS. POSTIGLIONE: My mother was Jennie
25 Pellicciotto and then DeGiulio, is her maiden

1 name, marriage name.

2 MR. BEZER: And -- and was your mother Lena
3 Pellicciotto's daughter?

4 MS. POSTIGLIONE: Yes, she was.

5 MR. BEZER: And where exactly was your
6 mother born?

7 MS. POSTIGLIONE: My mother was born in
8 Union City, in the house, 92 years ago.

9 MR. BEZER: And what's the address of the
10 house?

11 MS. POSTIGLIONE: 510 26th Street.

12 MR. BEZER: Okay. Gotcha.

13 If you could, please look at exhibit -- and
14 first of all, Exhibit A-1, that's the front of
15 the house that --

16 MS. POSTIGLIONE: Yes, it is.

17 MR. BEZER: -- you're talking about?

18 MS. POSTIGLIONE: And there's that wrought
19 iron fence that I remember.

20 MR. BEZER: Okay.

21 And Exhibit --

22 MS. POSTIGLIONE: And the back --

23 MR. BEZER: -- A-2, A-3, you -- A-4, you
24 recognize --

25 MS. POSTIGLIONE: Yes.

1 MR. BEZER: -- these as the house?

2 MS. POSTIGLIONE: Yes.

3 MR. BEZER: And Exhibit A-6 --

4 MS. POSTIGLIONE: A-6 --

5 MR. BEZER: -- who's -- who's --

6 MS. POSTIGLIONE: No. No. This is --

7 MS. DILLON: Can you please speak one at a
8 time?

9 MR. BEZER: Sure. Sorry.

10 MS. DILLON: Thank you.

11 MS. POSTIGLIONE: Oh, I'm sorry. I come
12 from Brooklyn, that's why.

13 MS. DILLON: That's all right. But it's
14 going to be hard to get down on paper.

15 MS. POSTIGLIONE: All right.

16 Yes. I recognize every picture.

17 A-5 is the naturalization of my
18 grandfather. I do have the original on me
19 tonight, if you wanted to see it.

20 MR. BEZER: Okay.

21 So, he is, in fact, your grandfather.

22 MS. POSTIGLIONE: Nicholas is my
23 grandfather.

24 MR. BEZER: Okay.

25 How about A-6? Can you turn to that?

1 MS. POSTIGLIONE: A-6 is my birth
2 certificate. I was born in Brooklyn. And my
3 mother's name was Jennie DeGiulio or Pellicciotto
4 as the mother.

5 MR. BEZER: And you have the original of
6 that --

7 MS. POSTIGLIONE: Yes, I do.

8 MR. BEZER: -- certificate.

9 Okay.

10 Can you turn the page, to A-7?

11 MS. POSTIGLIONE: Page -- A-7 is my
12 mother's death certificate.

13 MR. BEZER: Okay.

14 And you wouldn't have that if you were
15 conning us about who you're related to.

16 Correct?

17 MS. POSTIGLIONE: Nope.

18 MR. BEZER: Okay.

19 MS. POSTIGLIONE: Because there's my
20 grandfather, and my grandmother was a Marciano.

21 MR. BEZER: Okay.

22 And it has your grandfather on there, does
23 it?

24 MS. POSTIGLIONE: Yes, it does. Nicholas
25 Pellicciotto.

1 MR. BEZER: Okay.

2 And there are family -- family heirlooms
3 that you've saved, these documents, that you --

4 MS. POSTIGLIONE: Yes.

5 MR. BEZER: You gave them to me and I put
6 them in the exhibit --

7 MS. POSTIGLIONE: Yes. I have them --

8 MR. BEZER: -- copies --

9 MS. POSTIGLIONE: -- all the originals in my
10 pocketbook.

11 MR. BEZER: Okay.

12 You just mentioned your grandfather. Where
13 did your grandfather die, exactly?

14 MS. POSTIGLIONE: My grandfather, he died
15 in the house.

16 MR. BEZER: In which house?

17 MS. POSTIGLIONE: August -- 510 26th
18 Street. He died in the living room in August of
19 1960.

20 MR. BEZER: And there's two buildings at
21 that property.

22 MS. POSTIGLIONE: It was in the rear.

23 MR. BEZER: Okay.

24 MS. POSTIGLIONE: They had to break down
25 the door for my grandmother to get in, because

1 she had gone out to a birthday party in Jersey
2 City. North Bergen.

3 MR. BEZER: Okay.

4 And you have a younger sister?

5 MS. POSTIGLIONE: Yes. Michelle
6 (phonetic).

7 MR. BEZER: And it was around that time
8 that -- that -- you know, your mother gave birth
9 and also had the gallbladder issue.

10 MS. POSTIGLIONE: Well, my mother gave
11 birth to my sister in '61, and my mother had the
12 gallbladder operation maybe a year or two later.
13 And grandma took care of us. Grandma Lena took
14 care of us.

15 MR. BEZER: And where did Grandma Lena
16 live?

17 MS. POSTIGLIONE: At 510 26th Street.

18 MR. BEZER: So, where were you -- while she
19 was taking care of you, where were you living
20 during that time?

21 MS. POSTIGLIONE: I was living in her
22 house.

23 MR. BEZER: What year was that?

24 MS. POSTIGLIONE: Maybe '62, '63.

25 MR. BEZER: Okay.

1 MS. POSTIGLIONE: Because my great-
2 grandfather, Angelo Pellicciotto, was with us.

3 MR. BEZER: Okay.

4 MS. POSTIGLIONE: He lived in the house; my
5 great-grandfather.

6 MR. BEZER: Okay.

7 And can you -- can you describe the layout
8 of the house? The -- the Commissioners have
9 blueprints of the -- the house.

10 MS. POSTIGLIONE: All right.

11 MR. BEZER: They might be following around.

12 MS. POSTIGLIONE: There's -- you go through
13 the front door, there's the doorway. There was a
14 long hallway. Over to the left hand side, is the
15 steps going up to the bedroom. If you went
16 straight, you went straight into the kitchen.
17 You had to make a right and there was, like the
18 stove and everything. And if you made another
19 right, in the kitchen itself, you went into like
20 a small dinette, or dining room, and the living
21 room was in the front.

22 MR. BEZER: And was there a basement?

23 MS. POSTIGLIONE: Yes.

24 MR. BEZER: Okay.

25 MS. POSTIGLIONE: In that thin hallway, on

1 the left hand side, beyond the steps was a little
2 door and you went down, and there was the
3 basement.

4 MR. BEZER: Okay.

5 You mentioned a stove. It seems like a
6 silly question, but while you were living with
7 your grandmother, did she have a kitchen and a
8 bathroom?

9 MS. POSTIGLIONE: Yes, she did.

10 MR. BEZER: Running water?

11 MS. POSTIGLIONE: Yes, she did.

12 MR. BEZER: The -- the kind of amenities
13 that a house would have at that time?

14 MS. POSTIGLIONE: Yes, she did.

15 MR. BEZER: Okay.

16 Now, again, silly question, but are you
17 sure that this was a house and not a garage or a
18 shed or a storage --

19 MS. POSTIGLIONE: No.

20 MR. BEZER: -- apartment of some kind?

21 MS. POSTIGLIONE: It was a house.

22 MR. BEZER: Okay.

23 MS. POSTIGLIONE: It had three bedrooms
24 upstairs. My great-grandfather lived upstairs.

25 MR. BEZER: Okay.

1 And --

2 MS. POSTIGLIONE: You know?

3 MR. BEZER: Now, did you tell me earlier
4 that -- that the photograph at Exhibit A-3 shows
5 cement?

6 MS. POSTIGLIONE: Yes. And there is the --
7 the basement door.

8 MR. BEZER: Okay.

9 MS. POSTIGLIONE: Over to your right hand
10 side of the picture.

11 MR. BEZER: And did you --

12 MS. POSTIGLIONE: There was also an awning
13 there. Maybe it is still there. I don't tell.
14 I can't tell.

15 MR. BEZER: Was there cement in between
16 that rear house and the apartment building, when
17 you --

18 MS. POSTIGLIONE: Yes, there was. There
19 was always cement.

20 MR. BEZER: And do you see cement there
21 now?

22 MS. POSTIGLIONE: Yes, I do.

23 MR. BEZER: Does it appear to be the same?

24 MS. POSTIGLIONE: Yes.

25 MR. BEZER: Okay.

1 And throughout the '60s and the '70s, did
2 your family visit relatives in the area?

3 MS. POSTIGLIONE: Yes. In North Bergen.

4 MR. BEZER: And -- and did your -- your
5 father occasionally drive by 510 26th Street?

6 MS. POSTIGLIONE: Yes, because my mom --
7 grandmother had cousins that lived like a block
8 away, in another apartment building.

9 MR. BEZER: Okay.

10 And -- and you would -- was the house still
11 there?

12 MS. POSTIGLIONE: Yes, it was.

13 MR. BEZER: Okay.

14 And can you look at Exhibit A-8?

15 MS. POSTIGLIONE: All right.

16 MR. BEZER: And that --

17 MS. POSTIGLIONE: This --

18 MR. BEZER: This --

19 MS. POSTIGLIONE: This is my aunt.

20 MR. BEZER: What's her -- what's her name?

21 MS. POSTIGLIONE: It's Rosemary Copp.

22 That's her maiden name, but she was a
23 Pellicciotto. She married my Uncle Angelo.

24 MR. BEZER: Okay.

25 MS. POSTIGLIONE: And --

1 MR. BEZER: And can you -- can you turn the
2 page? Do you recognize her signature?

3 MS. POSTIGLIONE: That's her handwriting.

4 MR. BEZER: And do you -- do you recognize
5 the handwritten narrative that's below this?

6 MS. POSTIGLIONE: Yes.

7 MR. BEZER: I mean, given that you are
8 familiar with her handwriting, can you --

9 MS. POSTIGLIONE: Yes.

10 MR. BEZER: -- make out --

11 MS. POSTIGLIONE: That's her.

12 MR. BEZER: -- what it says? Can you read
13 it?

14 MS. POSTIGLIONE: Yes, of course.

15 Rosemary Copp Pellicciotto married Angelo
16 Pellicciotto in 1959.

17 I actually went to their wedding. I was in
18 the car and they went to -- I don't know,
19 Minnesota or whatever.

20 MR. BEZER: I -- keep going, if you could.

21 MS. POSTIGLIONE: All right.

22 I wish the house is back -- no. I visited
23 the house in the back of 510 26th Street in 1959.
24 And many times throughout the years, through 1959
25 to '65. After grandma -- grandpa -- grandfather

1 Angelo P. died, that's my great-grandfather,
2 died, the house was sold around 1965. When Lena
3 moved to Brooklyn -- she didn't move to Brooklyn,
4 she moved to North -- North Bergen with her
5 sister, and the Union City records office should
6 indicate exactly when this property was built.

7 Because then, grandma moved in with us
8 later on.

9 MR. BEZER: Okay.

10 Now, I want to show you what you probably
11 can't read, because my eyes are too weak, too. I
12 have zoomed up copies, but could you look at page
13 A-22?

14 MS. POSTIGLIONE: Yes.

15 MR. BEZER: And you might not be able to
16 read everything that's in there, but can you tell
17 me what that document looks like?

18 MS. POSTIGLIONE: This is a census.

19 MR. BEZER: From what year?

20 MS. POSTIGLIONE: From 19 -- no, it -- what
21 year? 1930.

22 MR. BEZER: Okay.

23 And again, I don't expect you to, because I
24 can't, but can you read --

25 MS. POSTIGLIONE: Yeah, here's Pellicciotto

1 right here. Angelo Pellicciotto, the head of the
2 household, Jennie is the wife, the son is
3 Nicholas, Lena is the daughter-in-law, and Lena
4 -- Jennie would be my mother.

5 MR. BEZER: Okay.

6 Now, the -- the census is in like it would
7 be a huge document like --

8 MS. POSTIGLIONE: Yes.

9 MR. BEZER: -- architectural plans, if we
10 printed it out.

11 Can you turn to page A-25?

12 MS. POSTIGLIONE: A-25.

13 MR. BEZER: Which, if you flip back and
14 forth, you can see is a zoomed out -- zoomed in
15 copy --

16 Yeah. Keep going.

17 MS. POSTIGLIONE: Oh, sorry.

18 MR. BEZER: A-20 -- right here.

19 MS. POSTIGLIONE: Right.

20 And my mother should have only been two
21 years old, because she was born in 1928.

22 MR. BEZER: Okay.

23 So, do you see where it says 510, over --
24 over here --

25 MS. POSTIGLIONE: Yes.

1 MR. BEZER: -- in this column? Referring
2 to -- if you go back to A-22.

3 MS. POSTIGLIONE: The little one. Yes.

4 MR. BEZER: If -- if you look at A-22, you
5 can see that this is a census of 26th Street.

6 MS. POSTIGLIONE: Yes.

7 MR. BEZER: And -- and the census taker, it
8 would appear, is recording the people who live at
9 that address, 510 26th Street.

10 And so can -- can you -- is it -- are you
11 able to read off the -- the family names?

12 The first one I know you have.

13 MS. POSTIGLIONE: Yes.

14 MR. BEZER: Because that's your relatives.

15 MS. POSTIGLIONE: Oh, read off the other
16 names?

17 MR. BEZER: We'll -- we'll --

18 MS. POSTIGLIONE: Well, I have --

19 MR. BEZER: Right --

20 MS. POSTIGLIONE: Well --

21 MR. BEZER: Right here is --

22 MS. POSTIGLIONE: Right there, there's
23 Jennie, the wife --

24 MR. BEZER: No, no, no, no. The last
25 names. The first --

1 MS. POSTIGLIONE: Oh.

2 MR. BEZER: -- last name is Pellicciotto.

3 Correct?

4 MS. POSTIGLIONE: It's all Pellicciotto.

5 MR. BEZER: And then, what about underneath
6 that? Does --

7 MS. POSTIGLIONE: Delgassio (phonetic).

8 MR. BEZER: Okay.

9 And the next one?

10 MS. POSTIGLIONE: Ralph. I have Salvatino
11 (phonetic), Salvatore (phonetic).

12 MR. BEZER: Okay.

13 MS. POSTIGLIONE: I have --

14 MR. BEZER: Sixteen. What is that?

15 MS. POSTIGLIONE: Six -- oh --

16 MR. BEZER: And --

17 MS. POSTIGLIONE: -- 16, Antonio (phonetic)
18 Sylvia.

19 MR. BEZER: Okay.

20 And then, what about 17?

21 MS. POSTIGLIONE: Mazulla, John.

22 MR. BEZER: Okay.

23 So am I correct in counting that that would
24 be five families, five last names?

25 MS. POSTIGLIONE: Yes.

1 MR. BEZER: Thirteen through 17, the 13th
2 through 17th family that the census visit -- the
3 census takers --

4 MS. POSTIGLIONE: Right. That was probably
5 the --

6 MR. BEZER: Okay.

7 MS. POSTIGLIONE: -- apartment building.

8 MR. BEZER: And 512 is obviously next door
9 --

10 MS. POSTIGLIONE: Next --

11 MR. BEZER: -- there.

12 MS. POSTIGLIONE: -- door.

13 MR. BEZER: Right?

14 And then, do you see underneath 512, where
15 the census writer writes a number of a house
16 that's not 510? I mean, not 512. Can you tell
17 us what number that is?

18 MS. POSTIGLIONE: It says 510.

19 MR. BEZER: Okay.

20 And I don't know if you can make out --

21 MS. POSTIGLIONE: Dangelo.

22 MR. BEZER: Yeah.

23 MS. POSTIGLIONE: Frank.

24 MR. BEZER: Yes. There was a family living
25 there. But I don't know if you can make out the

1 word that's written next to 510, but if you
2 can't, if you flip to page A-26, it's blown up
3 even further. And I think you can read the word.

4 MS. POSTIGLIONE: A-26 says rear.

5 MR. BEZER: Yeah. Does this say -- am I
6 correct, it says 510 rear?

7 MS. POSTIGLIONE: Yes.

8 MR. BEZER: And that's at our page A-26?

9 MS. POSTIGLIONE: Yes.

10 MR. BEZER: Okay.

11 Okay. I -- I have no further questions for
12 this witness.

13 The -- the Commissioners may have questions
14 for you.

15 MS. POSTIGLIONE: Did I tell you enough?

16 VICE CHAIRMAN GRULLON: I think we have
17 enough testimony --

18 MR. BEZER: Okay.

19 VICE CHAIRMAN GRULLON: -- at this point.

20 MS. POSTIGLIONE: I have --

21 VICE CHAIRMAN GRULLON: Oh, you have --

22 MS. POSTIGLIONE: I -- I am the only living
23 survivor.

24 VICE CHAIRMAN GRULLON: And God bless you.
25 You have a great memory.

1 MS. POSTIGLIONE: I do. It was very
2 enjoyable memory there. It was grandma's little
3 old house.

4 MR. PANEQUE: Thank you.

5 MS. POSTIGLIONE: You know?

6 MR. PANEQUE: Thank you so much.

7 MS. POSTIGLIONE: You're welcome.

8 VICE CHAIRMAN GRULLON: Thank you.

9 MS. GUTIERREZ: Thank you.

10 VICE CHAIRMAN GRULLON: Thank you.

11 MR. PANEQUE: All right.

12 Mr. Bezer?

13 MR. BEZER: Yes.

14 MR. PANEQUE: You have done an outstanding
15 job, if I may say.

16 MS. GUTIERREZ: Yes. Yes.

17 MR. PANEQUE: And I think this Board will
18 join me --

19 MS. GUTIERREZ: Yes.

20 VICE CHAIRMAN GRULLON: Right.

21 MR. PANEQUE: -- in just the tremendous
22 amount of work that you've put into this
23 presentation.

24 That being said, we do have a number of
25 applications to hear tonight.

1 MR. BEZER: Exactly.

2 MR. PANEQUE: And your first witness was so
3 convincing that I think this Board is ready to
4 make a decision.

5 MS. GUTIERREZ: Um hum.

6 MR. PANEQUE: So, I don't want to step on
7 anybody's toes, but --

8 VICE CHAIRMAN GRULLON: Yes.

9 MR. PANEQUE: -- Mr. Vice Chairman?

10 MS. GUTIERREZ: No, you're right.

11 VICE CHAIRMAN GRULLON: Yes. Yes. I
12 agree. I agree.

13 MR. BEZER: Can -- can I make a very quick
14 proffer just for the record?

15 MR. PANEQUE: I --

16 VICE CHAIRMAN GRULLON: Yes.

17 MR. PANEQUE: Stand still.

18 Stand well.

19 Don't say anything else.

20 MR. BEZER: Okay.

21 As I indicated, we have an architect, who's
22 -- who's going to testify as -- from an
23 architectural point of view that the house did
24 exist as a dwelling unit. Has not been
25 discontinued, has continued to be lived in.

1 The -- the surveyor, obviously, you have
2 his work.

3 Our planner would testify as to how -- even
4 if the Board was a little bit disconcerted about
5 granting this Certificate of Nonconformity, how
6 we -- we really do fit into the zone. It -- it's
7 an R zone: one, two, or three unit buildings.
8 And yet, if you look at it from a planner's
9 perspective, it fits squarely in that zone.
10 There's -- there's much greater density in the
11 area.

12 And lastly, we would -- we would have had a
13 -- a Code expert, who would go through nearly
14 every nail and -- and aspect of the house, to
15 testify as to why -- again, I said, it is
16 impossible that the house could have been
17 constructed after 1973. And indeed, has not been
18 altered at all, which bodes well for our request
19 for the certificate.

20 MR. PRESSEY: I think Mr. Paneque said it
21 well.

22 MR. BEZER: Thank you.

23 MR. PANEQUE: Is there --
24 Open to the public?

25 VICE CHAIRMAN GRULLON: Yeah. At this

1 time, we just want to open it to the public.

2 MS. GUTIERREZ: Mr. Price?

3 VICE CHAIRMAN GRULLON: No? No? No one
4 from the public?

5 Closed to the public.

6 With the -- you know, testimony that we --
7 was provided by your first witness, I think we
8 are convinced that this property was built -- you
9 know, prior to 1930. And -- and we are sure that
10 the -- the house was there at that time.

11 And I make a motion to grant the
12 application.

13 THE SECRETARY: Motion to grant the
14 application by --

15 MS. GUTIERREZ: I second.

16 THE SECRETARY: -- Mr. Grullon.

17 Seconded by Ms. Gutierrez.

18 MR. PANEQUE: Just so that we're clear on
19 the record, the approval is to grant a
20 Certificate of Nonconformity.

21 Correct?

22 VICE CHAIRMAN GRULLON: Correct. Yes.

23 MR. PANEQUE: Thank you.

24 THE SECRETARY: Motion on the table to
25 approve the nonconforming use for -- by Mr.

1 Grullon.

2 Seconded by Ms. Gutierrez.

3 Roll call on the motion.

4 Mr. Grullon?

5 VICE CHAIRMAN GRULLON: Yes.

6 THE SECRETARY: Ms. Gutierrez?

7 MS. GUTIERREZ: Yes.

8 THE SECRETARY: Mr. Pressey?

9 MR. PRESSEY: Yes.

10 THE SECRETARY: Mr. Medina?

11 MR. MEDINA: Yes.

12 THE SECRETARY: Mr. Ortiz?

13 MR. ORTIZ: Yes.

14 THE SECRETARY: Ms. Perez?

15 MS. PEREZ: Yes.

16 THE SECRETARY: Mr. Cetinich?

17 MR. CETINICH: Yes.

18 THE SECRETARY: Seven in favor.

19 Motion carries.

20 Thank you.

21 MR. PANEQUE: Thank you, Mr. Bezer.

22 MR. BEZER: Thank you very much,

23 Commissioners.

24 MS. GUTIERREZ: Thank you.

25 MR. BEZER: I appreciate it.

1 Have a lovely night.

2 MR. PANEQUE: Excellent job.

3 MR. BEZER: Thank you very much.

4 MS. GUTIERREZ: Yes.

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

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1 **Victoria Bustos - 543 28th Street:**

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3 THE SECRETARY: Next application on
4 tonight's agenda, Victoria Bustos, 543 28th
5 Street.

6 Ms. Pereiras, please?

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

9 MR. PANEQUE: Let the record reflect the
10 following:

11 I've been provided by Ms. Pereiras with a
12 certification as to publication and service,
13 indicating that notice of tonight's hearing with
14 respect to the property located at 111 35th Street
15 --

16 Strike that.

17 -- 543 28th Street, need new glasses, 543
18 28th Street, Union City, was provided to all
19 property owners within the 200 foot radius. Said
20 notice indicates that meeting will take place
21 tonight at this location.

22 I've also been provided with an Affidavit
23 of Publication from The Jersey Journal. Said --
24 said publication indicates that notice was given
25 for tonight, March 12th, at six p.m., at this

1 location, with respect to the property at 543 28th
2 Street.

3 I've also been provided with the certified
4 mail receipts, with a postmark date of March 2nd,
5 2020, as well as the 200 foot list from the Union
6 City Tax Assessor's Office.

7 Said list was prepared by the Tax Assessor
8 on February 24th, 2020, and it provides all
9 property owners within the 200 foot radius of 543
10 28th Street, as well as the certified mail
11 receipts that have come back to date, and the
12 envelopes that have come back to date unclaimed.

13 Based on the documentation that has been
14 provided by Ms. Pereiras, this Board has
15 jurisdiction to proceed and hear this matter.

16 MS. PEREIRAS: Thank you, counsel.

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

19 May it please the Board, Bianca Pereiras,
20 on behalf of the applicant, for 543 28th Street,
21 also known as Block 154, Lots 24 and 25.

22 Currently, onsite, we have a mixed use
23 structure. There is commercial on the ground
24 floor, with residential.

25 The application before the Board this

1 evening, the goal is to convert two of the
2 commercial spaces back to residential.

3 We have one expert to testify before the
4 Board this evening, and that is our architect,
5 Mr. Manuel Pereiras.

6 MS. DILLON: Please raise your right hand.

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

9 MR. PEREIRAS: I do.

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

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

15 MS. DILLON: Thank you.

16 MS. PEREIRAS: And for purposes of the
17 record, Mr. Pereiras has --

18 VICE CHAIRMAN GRULLON: Yes. Welcome back,
19 --

20 MS. PEREIRAS: Thank you very much.

21 VICE CHAIRMAN GRULLON: -- Mr. Pereiras.

22 MR. PEREIRAS: Hello everyone.

23 MS. PEREIRAS: Mr. Pereiras, are you
24 familiar with 543 28th Street?

25 MR. PEREIRAS: I am.

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

3 MR. PEREIRAS: I have.

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

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

7 For purposes of the record, the drawings
8 that you see on my right, on the easel, are the
9 same drawings that were presented to the Board.

10 Just to give you a little bit of history on
11 this project. We've been working on it for at
12 least four years, really making this building
13 better. It's been -- the applicant had it and he
14 -- it had a lot of Code issues. And we've been
15 fixing it, little by little, with permits from
16 the City, bringing it up to a good standard.

17 It's on the southeast corner of 28th and
18 Central. The building has a two story portion, a
19 one story portion, and then another one story
20 portion that's a little bit taller.

21 It currently has seven residential units
22 there and two commercial units. The two
23 commercial units are a headache and a blight for
24 the neighborhood. It was a bar at one point, and
25 it was a billiards, it was a -- it was a

1 restaurant for some time, and it's -- it's been
2 an issue for the neighborhood. It's -- it was a
3 nonconforming use. It is commercial, in the R
4 neighborhood.

5 And what we want to do is remove all that
6 commercial and replace it with residential, so it
7 could be more in conformance with the
8 neighborhood.

9 Now, this will bring us from seven units to
10 nine units. However, we're basically not
11 building out on this building. We're taking the
12 same footprint. We're not increasing it in any
13 way. We're taking that commercial space and
14 making it residential and improving the building
15 significantly in that sense, because now all
16 Codes are going to apply to that -- that space,
17 as well.

18 So, we're going to upgrade everything, and
19 make the aesthetics of the building a lot nicer
20 and just make the neighborhood significantly
21 better.

22 I'm going to walk you now through it. We
23 also have an oversized site. It's 40 feet wide
24 by a hundred feet, which brings us to a total of
25 4,000 square feet, whereas only 2,500 are

1 required in that district.

2 We're in conformance with lot width, well
3 above it. We're in conformance with lot depth.

4 Our front yard is 3.55 feet, which is in
5 conformance, because it is the prevailing lot --
6 front yard side -- front yard requirement for the
7 neighborhood.

8 We have a rear yard that is at zero. Side
9 yards are both at zero. Again, these are
10 preexisting nonconformities, which we are not
11 changing in any way.

12 Our building height stays at two -- two
13 stories and 22 feet. No -- no variances there.

14 Our maximum lot coverage is an existing
15 nonconformity. We are at 98 percent.

16 And our impervious coverage is at a hundred
17 percent, which is not a variance.

18 And parking, of course. The requirement
19 with our proposal is 21 parking spaces. We are
20 proposing zero. It's a preexisting condition.
21 There's nothing we could do about that. There's
22 no opportunity -- it's a hardship to provide
23 parking on the site. There's no way of doing it
24 on this preexisting building, so we're requesting
25 a variance for that, as well.

1 Turning now to the improvements that we're
2 doing to this.

3 You see three different plans on this
4 sheet. On the left, we have the existing
5 condition of the ground floor. And on the right,
6 we have the proposed condition on the right floor
7 -- on the -- on the first floor. The middle just
8 shows you the existing conditions of the floor
9 above, so that the Board could understand what's
10 up there.

11 This is the area in question.

12 That corner area where we have 28th and we
13 have Central, that's the -- the plague that we're
14 dealing with right now, that we're going to make
15 a lot better.

16 So, it's an existing two businesses on that
17 spot. One business, which is 806.5 square feet,
18 and another business that's 589 square feet.

19 What we're proposing to do is create a -- a
20 fire wall between the two and create a vestibule,
21 where you can enter and have two apartments. So,
22 we have one residential entrance. We're creating
23 nice, new windows along both sides of the façade.
24 And we have two clean entrances from the
25 vestibule.

1 The apartment on the left hand side is a
2 585 square foot one bedroom. The one bedroom
3 sits in the front, and the rest of the space is a
4 nice and open living, dining room, kitchen area.
5 And it will be fully ADA compliant, so someone in
6 a wheelchair may be able to use this apartment.

7 Same thing for the apartment on the right.
8 We have a two bedroom that's 828 square feet.
9 And it has -- you enter into a living area,
10 kitchen and dining, and then, two bedrooms on the
11 side that face Central Avenue, where we're
12 creating nice new windows there, as well.

13 We're completely wrapping this building
14 with new siding. We would love to do brick or
15 something else. There's no opportunity to do
16 that because the building's sitting right on the
17 property line. And so, we have to deal with that
18 existing condition. We can't go over the
19 property line. So, we're going to replace that
20 with nice beautiful siding, and improve it, make
21 it -- get rid of the signage, get rid of the
22 canopy that's on the front of the building, so
23 that it fits into a residential neighborhood much
24 better.

25 MS. PEREIRAS: Mr. Pereira, just to

1 clarify, there are currently three commercial
2 spaces.

3 Correct?

4 MR. PEREIRAS: That is correct. There are
5 three spaces. That is correct. There are three
6 commercial spaces.

7 MS. PEREIRAS: And one commercial space is
8 to remain.

9 Correct?

10 MR. PEREIRAS: That is correct.

11 The space over here, in the back, is
12 remaining, which is 799 square feet.

13 VICE CHAIRMAN GRULLON: Thank you, Mr.
14 Pereiras.

15 MR. PEREIRAS: I'm open for questions.

16 VICE CHAIRMAN GRULLON: Yes. Do you have
17 any other witness?

18 MS. PEREIRAS: No, we do not.

19 VICE CHAIRMAN GRULLON: No, you have
20 complete your witness.

21 Mr. Pereiras, the application is to go from
22 -- from four residential and three business, to
23 six residential and one business?

24 MR. PEREIRAS: I actually don't think
25 that's correct.

1 MS. PEREIRAS: No. We have seven
2 residential units, plus three commercial. It
3 would be, if approved, --

4 MR. PEREIRAS: Correct.

5 MS. PEREIRAS: -- nine residential units,
6 one commercial.

7 VICE CHAIRMAN GRULLON: So, I'm reading
8 through the memo here, it was proposed for seven.

9 MR. PANEQUE: Yes. The way the memo reads,
10 and this is for the Board, we have the memo from
11 Mr. Martinetti's office, indicating that under
12 the Building Department records, this property is
13 shown as a seven unit structure and one
14 commercial space.

15 Commercial spaces are not demarcated. So,
16 that commercial space, right now, is divided into
17 --

18 VICE CHAIRMAN GRULLON: Into three.

19 MR. PANEQUE: -- three portions.

20 VICE CHAIRMAN GRULLON: I see.

21 MR. PANEQUE: And those three spaces are in
22 compliance with what the Building Department has.

23 It's the residential unit count that's
24 changing, from seven to nine.

25 VICE CHAIRMAN GRULLON: To nine.

1 MR. PANEQUE: By reducing a portion of that
2 commercial space.

3 VICE CHAIRMAN GRULLON: Okay.

4 And consider you already testify about the
5 safety of the apartments, and the condition, and
6 the improvement that you're making.

7 The only question that I have was if you
8 were going from an amount of apartment units and
9 one commercial, and you say that it's going to be
10 nine apartment units and one commercial?

11 MR. PEREIRAS: Yes.

12 MS. PEREIRAS: That's correct.

13 VICE CHAIRMAN GRULLON: And with that, I
14 don't have any question.

15 Do any member of the -- any Board member
16 has any question?

17 MS. PEREZ: What's the commercial property?
18 Is it something that's there or something new?

19 MR. PEREIRAS: It's an office. I'm not
20 sure if it's an attorney's office or a tax
21 office, but it's an office.

22 VICE CHAIRMAN GRULLON: And -- and that
23 commercial unit is going to sit in the middle of
24 the --

25 MR. PEREIRAS: Yes.

1 VICE CHAIRMAN GRULLON: -- of the building.
2 On the 28th Street side or Central Avenue?

3 MR. PEREIRAS: It's on the Central Avenue
4 side.

5 VICE CHAIRMAN GRULLON: Central Avenue
6 side.

7 MR. PEREIRAS: So that we're keeping 28th
8 Street fully residential, with the two units that
9 we're doing.

10 MR. PANEQUE: Mr. Pereiras, did you provide
11 testimony as to the size of the units?

12 MR. PEREIRAS: I did. I'll clarify that.

13 MR. PANEQUE: Okay.

14 MR. PEREIRAS: So, we have a one bedroom
15 that's 585 square feet, and we have a two bedroom
16 that's 828 square feet.

17 MR. PANEQUE: So, they're both in
18 compliance with the --

19 MR. PEREIRAS: Yes.

20 MR. PANEQUE: -- density variance.

21 Okay.

22 VICE CHAIRMAN GRULLON: Any other member of
23 the Board?

24 At this time, I want to open it up to the
25 public.

1 Any member of the public want to step
2 forward?

3 No one from the public.

4 Closed to the public.

5 Taking in -- taking in consideration that
6 it's going to improve the -- the application is
7 improving the condition of the -- of the R zone,
8 by removing two commercial units and making it
9 into residential, that you are more in compliance
10 with the Zoning Ordinance, we make a motion to
11 grant the application to --

12 THE SECRETARY: Motion on the table to
13 grant the application by --

14 VICE CHAIRMAN GRULLON: -- to --

15 THE SECRETARY: -- Mr. Grullon.

16 Any second the motion?

17 VICE CHAIRMAN GRULLON: -- change it from
18 nine -- nine residential and one commercial.

19 THE SECRETARY: Seconded by Ms. Gutierrez.

20 Roll call on the motion to grant this
21 application.

22 Mr. Grullon?

23 VICE CHAIRMAN GRULLON: Yes.

24 THE SECRETARY: Ms. Gutierrez?

25 MS. GUTIERREZ: Yes.

1 THE SECRETARY: Mr. Pressey?

2 MR. PRESSEY: Yes.

3 THE SECRETARY: Mr. Medina?

4 MR. MEDINA: Yes.

5 THE SECRETARY: Mr. Ortiz?

6 MR. ORTIZ: Yes.

7 THE SECRETARY: Ms. Perez?

8 MS. PEREZ: Yes.

9 THE SECRETARY: Mr. Cetinich?

10 MR. CETINICH: Yes.

11 THE SECRETARY: Seven in favor.

12 Motion carries.

13 MS. PEREIRAS: Thank you all very much.

14 THE SECRETARY: Thank you.

15 MR. PEREIRAS: Thank you everyone.

16 MS. PEREIRAS: Have a good night.

17 MS. GUTIERREZ: Good night.

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

20 * * *

21

22

23

24

25

1 **111 35th Street, LLC - 111 35th Street:**

2

3 THE SECRETARY: All right.

4 Next application on tonight's agenda, 111
5 35th Street, LLC.

6 Mr. Alonso, please?

7 MR. ALONSO: I was really good at hide and
8 seek when I was a kid.

9 MR. SPATZ: Yeah.

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

13 I have an Affidavit indicating that notice
14 of tonight's hearing was sent to all property
15 owners within the 200 foot radius of 111 35th
16 Street in the City of Union City. It's signed by
17 Mr. Alonso.

18 I have an Affidavit of Publication from The
19 Jersey Journal indicating that on tonight's
20 night, at six p.m., this Board will hear the
21 application with respect to 111 35th Street in
22 Union City.

23 I've also been provided with a copy of the
24 notice that was included in the notices, as well
25 as the tax list from the Tax Assessor's Office

1 | noting all property owners within the 200 foot
2 | radius of 111-113 35th Street. Said tax list was
3 | prepared by the Tax Assessor on December 13,
4 | 2019.

5 | I've also been provided with the certified
6 | mail receipts with a postmark date of -- I hate
7 | when they do these little arrows -- February --
8 | looks like 29th? February 29th, 2020.

9 | Based on the documentation that has been
10 | provided, this Board has jurisdiction to proceed
11 | and hear this matter.

12 | MR. ALONSO: Thank you, Mr. Paneque.

13 | And also for the record, a courtesy copy
14 | was sent to Mr. Price, based on his objection at
15 | the last hearing, although we believe he wasn't
16 | entitled to notice. We did send a notice, as --
17 | as I represented to the Board, that I would.

18 | Good evening, Mr. Chairman, members of the
19 | Board.

20 | For the record, Alvaro Alonso on behalf of
21 | the applicant.

22 | The Board may recall that this application
23 | was previously approved, exactly as it is being
24 | presented this evening. There -- there are no
25 | changes to the application.

1 At the time that the application was
2 approved, we did not present a planner to provide
3 testimony.

4 Mr. Price appealed this matter to Superior
5 Court, it has been remanded back for the purposes
6 of presenting planning testimony, and hopefully,
7 get another vote approving the application.

8 I know some of you were present at one or
9 all of the hearings, but to the extent that you
10 weren't, I believe that you were provided with
11 the transcripts.

12 And if you read the transcripts, then
13 you're all qualified to -- to participate and
14 vote in this hearing.

15 So, essentially, we're here just to hear
16 the testimony from our planner.

17 MR. PANEQUE: Okay.

18 Just before we --

19 MR. ALONSO: Yeah.

20 MR. PANEQUE: -- proceed on that note, Mr.
21 Alonso.

22 I have been provided with certifications
23 indicating that the following Board members, and
24 I have individual certifications for each Board
25 member, has read the transcripts and minutes from

1 the November 1st, 2018, December 3rd, 2018 and
2 January 10th, 2019 Zoning Board meetings.

3 I have a certification from Ms. Mindry
4 Watley.

5 I have a certification from Ms. Geraldine
6 Perez.

7 I have a certification from Mr. David W.
8 Pressey.

9 And I have a certification from Mr. Raymond
10 Cetinich.

11 Therefore, these members, who were not here
12 during those previous meetings, have certified
13 that they have read the transcripts, and they're
14 able to participate in the decision tonight.

15 MR. ALONSO: Very good.

16 Thank you very much.

17 With that said, although Mr. Pereiras, our
18 architect, his testimony is already in the record
19 and the transcripts, I was going to call him just
20 to give you an overview, just refresh your
21 recollection of what the project was.

22 We're not going to do a full presentation,
23 just a summary. And then I'll bring up our
24 planner.

25 MS. DILLON: And he continues under oath.

1 MR. PEREIRAS: I recognize that I continue
2 to be under oath.

3 MR. ALONSO: Okay.

4 Thank you.

5 Mr. Pereiras, the application or the plans
6 before the Board this evening is exactly the same
7 as the plans that were previously approved.

8 Is that correct?

9 MR. PEREIRAS: That is correct.

10 MR. ALONSO: Okay.

11 So just please provide us with a brief
12 overview of what it is that we're proposing.

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

14 The lots are on the -- on the south side of
15 35th Street. It's the area that I'm pointing to
16 here. It's a skewed lot that has a depth of a
17 hundred feet, a width along the rear of -- what
18 we're doing is subdividing it to a width that's
19 along the front of the building, 23.38 feet,
20 23.39 and 23.39 feet. And along the rear of the
21 property, it's square for the first two
22 properties, 23.38, 23.39 and the rear over here
23 30.67 feet.

24 And what we're looking to do is provide
25 three three family houses, typical of what the

1 | current Union City Ordinance is.

2 | So, when we presented this at time of
3 | application, we only had the Master Plan, and we
4 | didn't have the Ordinance. But we designed these
5 | looking to the future of Union City, and what the
6 | Ordinance requires.

7 | What we have for each of these is a three
8 | foot side yard setback on one side. The other
9 | side varies from four inches to nine inches.

10 | The front yard setback is five feet,
11 | whereas the prevailing is actually zero along the
12 | corner.

13 | The rear yard is five feet, as well.

14 | The building floor plans are what's
15 | typical. We literally took this from the Master
16 | Plan. This is the parking layout that Union City
17 | recommends and we provided it here. We have a
18 | residential entry, vehicle entry and parking for
19 | six cars in pairs of tandems.

20 | We have an elevator for the building and
21 | two means of egress. A stairwell here and a
22 | stairwell here.

23 | And then, the apartments above are three
24 | floors above this of -- they equal, the same
25 | apartments. They're three bedroom apartments.

1 And the square footage of each apartment is --
2 let me walk through the bedroom sizes of each
3 one.

4 We have 12 foot two by 12 foot ten; master
5 bedroom. We have nine foot ten by 13.11 bedroom;
6 nine foot ten by 13.11 for the second bedroom.

7 So, they're nice size units, fully in
8 compliance with the Union City Ordinance. And
9 it's the same design, three levels up.

10 For the façade of the building, we have
11 beautiful brick buildings and we're creating some
12 interest with metal panels. And having each of
13 the three buildings have a different location for
14 the metal panels, to add some architectural
15 interest.

16 The building is compliance in height. It's
17 -- well, it's --

18 I'm sorry.

19 It's -- we are requesting a variance in
20 height. The planner is going to talk about that.
21 It would be in compliance in what today's
22 Ordinance is, which is 45 feet, which would be
23 permitted today if this were -- were a new -- new
24 application.

25 MR. ALONSO: Okay.

1 MR. PEREIRAS: Was that simple?

2 MR. ALONSO: That's a brief overview.

3 If the Board has any specific questions,
4 we'll be happy to address those.

5 VICE CHAIRMAN GRULLON: I remember the
6 application. And I -- I believe it's a very nice
7 and conforming with the -- with the current
8 zoning map. And the layout that you -- Mr.
9 Pereiras designed is -- is in compliance with the
10 Ordinance.

11 MR. ALONSO: Okay.

12 So, with that, then, I'll bring up Mr.
13 McDonough.

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

16 MS. DILLON: Mr. McDonough, please raise
17 your right hand.

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

20 MR. McDONOUGH: Yes, I do.

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

23 MR. McDONOUGH: Sure.

24 Hi, everyone.

25 My name is John McDonough, M-C capital

1 D-O-N-O-U-G-H.

2 MS. DILLON: Thank you.

3 MR. ALONSO: Mr. Chairman, Mr. McDonough
4 has been qualified --

5 VICE CHAIRMAN GRULLON: Yes.

6 MR. ALONSO: -- in the past as a planner.

7 VICE CHAIRMAN GRULLON: We accept your
8 qualifications.

9 MR. ALONSO: Thank you very much.

10 MR. McDONOUGH: Good to be back.

11 VICE CHAIRMAN GRULLON: Yes, he's been
12 here.

13 MR. ALONSO: Mr. McDonough, have you
14 prepared a planning analysis in connection with
15 this application?

16 MR. McDONOUGH: Yes, I have.

17 MR. ALONSO: Okay.

18 And with respect to that, you also prepared
19 an exhibit that we're going to mark with today's
20 date as A-1.

21 MR. McDONOUGH: Correct.

22 It's a -- it's a five part exhibit, a five
23 page exhibit. File size 11 by 17, stapled
24 together. So, it effectively reads as one.

25

1 (Whereupon, Planning Exhibit, Five Pages,
2 was received and marked as Exhibit A-1.)

3

4 MR. ALONSO: Okay.

5 And that's been handed to the Board.

6 MR. McDONOUGH: Yes.

7 MR. ALONSO: And I'm going to ask you just
8 to review your -- your analysis, and refer to the
9 exhibit as needed.

10 MR. McDONOUGH: Okay.

11 We're going to qualify this as what I would
12 categorize as a -- as a textbook C-2 application,
13 C-2 variance application.

14 Now, I'm sure the Board knows there's
15 really two different types of C variances that
16 are allowed under the statute.

17 You've got the C-1, that's the older
18 standard that's been in the law since the Land
19 Use Law came out. That's the -- the hardship
20 standard and that would be the -- the burden on
21 an applicant, pretty much anywhere in the United
22 States. If we went anywhere outside of New
23 Jersey, you would have to show hardship to be
24 granted a variance condition.

25 Here in New Jersey, we have a unique

1 | circumstance where we have this additional
2 | standard and an applicant doesn't need to meet
3 | both C-1 and C-2. But we have the newer
4 | standard, which the statute introduced, which is
5 | this -- this balancing. You -- an applicant
6 | doesn't need to show hardship, but rather that
7 | the benefits of the application as a whole
8 | substantially outweigh the detriments.

9 | And I -- I think this is clearly a better
10 | zoning alternative that would meet the C-2 tests
11 | for two reasons. And -- and they'll come out
12 | from the exhibits here.

13 | The first is that this is going to
14 | eliminate what is purely a nonconforming use in
15 | what is an otherwise very strong residential
16 | neighborhood. This is a commercial, in fact, an
17 | industrial use right in the heart of a
18 | residential neighborhood.

19 | The applicant is going to eliminate that.
20 | It's going to make this use go away altogether,
21 | pull in residential.

22 | The second overriding benefit of this
23 | application is that the applicant is going to
24 | pull in building forms that compliment what is --
25 | what is really a very strong neighborhood

1 pattern. And these three family dwellings are
2 going to be situated on lots that basically copy
3 the neighborhood pattern. They do need some
4 relief, but the relief is really unperceivable to
5 the public eye, to -- to the normal passer-by as
6 being a deviation.

7 And, in fact, new Ordinances have come
8 online here which would effectively render most
9 of these variance conditions non-applicable
10 anymore. And there's actually case law out there
11 that says the Board can give deference to that,
12 as well. I'll cite that as -- as I go through my
13 proofs.

14 But just to take you through the exhibits
15 that underscore what I say in terms of this C-2
16 balancing.

17 First exhibit is just a simple tax parcel
18 map. And you'll see on there indicated three tax
19 parcels in yellow. That's the subject site. The
20 tax map here in the City actually shows three
21 lots. And bear in mind, we're -- we're proposing
22 three lots.

23 They're actually taxed as -- as two lots.
24 Lots 45 and 46 have -- have merged from a -- a
25 taxation standpoint as -- as one lot. And then,

1 Lot 44 stands on its own.

2 So, effectively, even though the -- the tax
3 cards do show three lots, this is going from a
4 two lot subdivision to a three lot subdivision.
5 But you can clearly see that that is going to be
6 consistent with the neighborhood pattern, and --
7 and basically, reinforcing that which is already
8 there.

9 Under the C-2 balancing, when we look at
10 the form of the neighborhood and we consider
11 these variances for lot area, which the applicant
12 needs, we look at a case known as the Kaufmann
13 case, which is a case that talked about better
14 neighborhood harmony in terms of a subdivision
15 creating undersized lots.

16 In Kaufmann, the court found that three
17 undersized lots was a better alternative than two
18 fully conforming lots, whereby the homes would be
19 larger than the rest of the homes in the
20 neighborhood.

21 So, what happens here by creating three
22 lots, again we continue that rhythm, we continue
23 that pattern of what we see already happening on
24 the street. And these are going to produce homes
25 that are in harmony with the surrounding

1 neighborhood. Not monster homes, not out of
2 context or out of character homes, which a zone
3 conforming plan would provide.

4 Next page just again underscores what I
5 previously told you; the very strong neighborhood
6 pattern here. This is going to continue that
7 theme, and I would call the subject lot the
8 missing tooth, in what is an otherwise very nice
9 streetscape here. So, this applicant is going to
10 fix this problem site on this street.

11 Third page is a color coding that further
12 reinforces what I was talking about in terms of
13 the problem with the site as it exists. What you
14 see in red is non-residential use. What you see
15 in gold or yellow are residential uses.

16 This is going to pull those three lots that
17 you see on the subject sheet 3, back into
18 residential use, which will compliment all the
19 yellow lots that you see on 35th Street.

20 The fourth page shows the reason why we're
21 here. We're in the R zone district, which has
22 recently been amended to effectively render most
23 of these deviations as now conforming. Such as
24 the number of stories, four stories are allowed
25 here; such as the overall lot area of 2500 square

1 feet. The lot coverage, the rear yard setback
2 all would comply with your Ordinance standards as
3 it now stands.

4 And then, finally, I'll call this the home
5 run shot here. Number five shows why this is
6 clearly a better zoning alternative for the
7 property. You look at this frame compared to our
8 architect's after shot. Clearly, the after is
9 more in harmony with a residential neighborhood
10 than this industrial building and this industrial
11 garage that we see on the property right now,
12 which -- which invites truck traffic, which
13 invites truck traffic backing out into a live
14 lane of traffic.

15 Clearly, a better zoning alternative
16 functionally, and visually, and certainly
17 physically from that which is presently there.

18 With that backdrop, we take this and we tie
19 it back to the statutory test, in terms of what
20 the applicant needs.

21 Applying the flexible C balancing here, the
22 relief that the applicant is seeking, is
23 predominantly related to the lot area. Lots 44
24 and 45 are going to be 23,338 (sic) square feet;
25 whereas 2500 square feet is the requirement.

1 MR. ALONSO: Twenty -- 2300.

2 MR. McDONOUGH: Twenty -- 20 -- 2500.

3 MR. ALONSO: No, you said 23,000.

4 MR. McDONOUGH: Oh, I'm sorry.

5 Twenty-three -- 2,338 square feet versus
6 2,500 square feet.

7 The lot width is 23.38 feet versus 25 feet.
8 And then, the side yards combined are going to be
9 at three feet versus five feet.

10 All of the other relief that the applicant
11 is seeking here essentially is mitigated by the
12 fact that you have new zoning in effect that
13 would render that nonconformance now conforming.

14 And I would just, for the record, for the
15 Board, point out, in the brand new handbook from
16 -- from Cox, the 2020 edition, on page 406,
17 there's reference to the Appellate Division case
18 Jai Sai Ram, LLC versus the Planning Board, 446
19 N.J. Super 338, 343-345 Appellate Division 2016,
20 which held out amendments to a zoning ordinance
21 that are in favor of an applicant would actually
22 override and -- and give an applicant the benefit
23 of -- of that new zoning.

24 So, I think the Board can give that
25 deference here. The applicant is not asking for

1 that per se. The justifications are there for
2 the relief. But this new law in line would
3 effectively render those nonconformances as -- as
4 conforming.

5 MR. ALONSO: And -- and the significant
6 part of that goes to the D-6 variance for the
7 height.

8 MR. McDONOUGH: Correct.

9 And just to point out for the -- for the
10 Board, the relief that the applicant is seeking
11 with respect to D-6 is to allow those buildings
12 to be one foot above what the threshold would be
13 for a D-6 variance. One foot lower and it would
14 be a C variance.

15 So, again, not substantially departing from
16 the intent and purpose of -- of the zone scheme.

17 In terms of the positive criteria, I think
18 the Board can certainly find that this is going
19 to move the site more into conformance with the
20 use aspect of what would be allowed in the
21 residential zone; replacing a discordant use with
22 a use that is in harmony with the neighborhood.

23 It is going to promote the planning goal
24 for new housing stock, as your own Master Plan
25 recognizes that the housing stock here in the

1 City is older, and encourages the need for -- for
2 new housing options.

3 And all of this would go towards the
4 purposes of the Land Use Law, especially Purpose
5 A, the promotion of the general welfare.

6 Purpose G can provide for a variety of uses
7 in appropriate locations.

8 Purpose I, to promote a desirable visual
9 environment.

10 And I'll point again to the -- the
11 beautiful facades that will be visible from 35th
12 Street.

13 And then, Purpose M, the planning goal to
14 efficiently use land, and redevelopment being the
15 most efficient form of land use that there is.

16 On the negative side, none of the Grasso
17 purposes or height -- of height control are
18 violated by that additional one foot here. This
19 is not going to create additional population
20 density. This is not going to create an overly
21 large structure that will block scenic views. It
22 will not create negative shadow effects, and
23 certainly will not give this property an unfair
24 height advantage over that which could be
25 realized under the zone plan.

1 All of this conforms to the overall intent
2 of the zone plan and the Master Plan, as it
3 presently exists. And again, in that regard,
4 does not substantially impair the intent and
5 purpose of the zone plan.

6 With respect to the C relief, the lower
7 relief that the applicant needs here, they all
8 tie to the benefits of the application as a
9 whole. That goes towards the Pullen case,
10 P-U-L-L-E-N, as being a better zoning alternative
11 to the property, and necessary to effectuate this
12 beneficial redevelopment project before you.

13 All of the bulk variances that I've
14 mentioned significantly comply with the new
15 zoning. If we were to take the overall lot area
16 of the three lots combined, we're looking at a
17 combined aggregate area that is 98.5 percent
18 compliance with the Ordinance. So, the overall
19 subdivision falls just shy of the requirement.
20 Again, clearly not a substantial departure from
21 the intent and purpose of the zone scheme.

22 The homes are not oversized. They are
23 typical of new construction for three family
24 homes in the neighborhood. And clearly, not
25 substantially different than the established

1 neighborhood pattern.

2 With that said, this is a very positive
3 infill development. It brings forth very
4 positive community benefits for the City as a
5 whole. And in that regard, the statutory tests
6 for all of the relief that the applicant is
7 seeking are met and approval is warranted here.

8 MR. ALONSO: Thank you, Mr. McDonough.

9 I have no further questions.

10 VICE CHAIRMAN GRULLON: Thank you, Mr.
11 McDonough.

12 I think you covered every single aspect of
13 the -- of the zoning map and presenting the --
14 the tax -- the tax map. And explaining how the
15 application outweigh the negative criteria, by
16 replacing a nonconforming use with the -- with
17 residential -- with residential apartment.

18 But I want to leave -- you know, leave it
19 open for the other Board members, before I open
20 to the public.

21 You have any question?

22 MR. ORTIZ: No.

23 VICE CHAIRMAN GRULLON: So, at this time, I
24 just want to open it to the public.

25 Any member of the public want to step

1 forward?

2 Mr. Price?

3 MS. DILLON: Mr. Price, please raise your
4 right hand.

5 Do you affirm the testimony --

6 MR. PRICE: I -- I did already.

7 MS. DILLON: Pardon me?

8 MR. PRICE: I did already. Right? Okay.

9 MS. DILLON: No.

10 MR. PRICE: Didn't I? Okay.

11 MS. DILLON: You didn't speak yet, tonight.

12 MR. PRICE: Oh, I didn't?

13 MS. DILLON: Did you? I don't think so.

14 VICE CHAIRMAN GRULLON: No. No, he did
15 not.

16 MR. PRICE: I didn't. Okay.

17 MR. ORTIZ: Welcome, Mr. Price.

18 MR. PRICE: It's the Coronavirus getting to
19 me.

20 Sorry.

21 MS. DILLON: Do you affirm the testimony
22 you're about -- do you affirm the testimony
23 you're about to give this Board is the whole
24 truth?

25 MR. PRICE: I do.

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

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

5 MS. DILLON: And not to crowd everybody,
6 you can move.

7 MR. ALONSO: That's okay. I don't have to
8 run away from Mr. Price.

9 MS. DILLON: No, no, no, no, no, no, no.
10 It's probably better.

11 MR. PRICE: Okay.

12 The first question I have is that the
13 previous meeting, the planning testimony was
14 given by John --

15 MR. ALONSO: There was no previous meeting.

16 MR. PRICE: What?

17 MR. ALONSO: There was no previous meeting
18 because you indicated that the notice was
19 defective, even though we don't agree with you.
20 So, we brought Mr. McDonough in. We provided
21 notices to today's meeting. There's no objection
22 as to the notice. So --

23 MR. PRICE: Okay.

24 But this -- this meeting is it. Than the
25 certifications were unneeded.

1 Correct?

2 MR. PANEQUE: The certifications were
3 needed in order to catch the Board up with the
4 meetings that took place in 2018, because some of
5 these Board members were not here at that time.

6 Okay?

7 MR. PRICE: Okay.

8 MR. PANEQUE: Because we're tying in to the
9 previous approval of the Board.

10 So, the certification, as I read on the
11 record, referred to the 2018 meetings that took
12 place. And the Board having read those
13 transcripts and catching up, so that they would
14 be ready to hear the presentation today of the
15 planner.

16 MR. PRICE: Okay.

17 MR. PANEQUE: Now, Mr. Alonso did present a
18 concise testimony of Mr. Pereiras, the architect,
19 but that was concise. So, the Board can, having
20 read the transcript, go back to those meetings of
21 November 1st, 2018, December 13, 2018 and January,
22 2019, if they want to have a full picture of what
23 the testimony was from Mr. Pereiras.

24 MR. PRICE: Okay. Fine.

25 Understood.

1 Okay. Mr. McDonough?

2 MR. McDONOUGH: Hi, Mr. Price.

3 MR. PRICE: Yes.

4 Question?

5 Application at the time of --

6 MR. McDONOUGH: Prior application.

7 MR. PRICE: Sorry. Sorry. Yeah.

8 At the time of application, your -- you
9 want to explain that?

10 MR. McDONOUGH: Sure.

11 We -- we now have in New Jersey what's
12 known as the time of application rule, which
13 protects an applicant from changes in zoning that
14 would harm an application or an applicant, after
15 an application was made.

16 In other words, if multi-family development
17 was permitted and an applicant made an
18 application for a multi-family development, towns
19 would change the zoning so that it was no longer
20 permitted.

21 Time of application protected applicants
22 against that.

23 MR. PRICE: Okay.

24 So, the rule is that it is the Zoning
25 Ordinance at the time of the application which

1 applies to the hearing.

2 Correct?

3 MR. McDONOUGH: Except that, and I just
4 read from Cox, the intent of the time of
5 application rule is to give favoritism to the
6 applicant, protection to the applicant. And that
7 Jai Ram case actually says that if subsequent
8 zoning comes into place, this is an Appellate
9 Division case, if subsequent zoning comes into
10 place that favors an applicant, that can be
11 applied.

12 And I gave you the cite, if you want to
13 check it out.

14 MR. PRICE: I have. It's page 406.

15 Okay.

16 In terms of the differentiation between C-1
17 and C-2, okay, we're both acquainted --

18 MR. ALONSO: I'm just going to object.

19 There is no C-1 relief being requested. So
20 a discussion and the comparison of C-1, C-2 is
21 irrelevant in this application.

22 MR. PANEQUE: Mr. Price, do you want to
23 proffer as to why you're --

24 MR. PRICE: First of all --

25 MR. PANEQUE: -- comparing C-1 to C-2?

1 MR. PRICE: -- the C-1 was requested for
2 the initial -- you know --

3 MR. ALONSO: Correct.

4 MR. PRICE: -- application --

5 MR. ALONSO: And that was -- that was
6 vacated --

7 MR. PRICE: -- in 2018.

8 MR. ALONSO: Correct.

9 And that was vacated. We're back here with
10 the proofs and we're proceeding under the C-2
11 standard. There is no C-1 standard.

12 MR. PRICE: Okay.

13 What I'm questioning, Mr. McDonough made
14 comments about C-1 and C-2, and they're saying C-
15 2 would be appropriate. And I'm questioning
16 those comments.

17 MR. ALONSO: His --

18 MR. PRICE: I'm entitled to question his --
19 his --

20 MR. ALONSO: As to the historical
21 perspective? Go right ahead, but we're not
22 proceeding on the proofs for a C-1.

23 MR. PRICE: Okay.

24 MR. ALONSO: Want a history lesson? Go
25 right ahead.

1 MR. PRICE: Okay.

2 Mr. Chairman, again, I have a statutory
3 right to question Mr. McDonough, without
4 interruption --

5 MR. ALONSO: Just that --

6 MR. PRICE: -- from Mr. Alonso. If Mr.
7 Alonso --

8 MR. ALONSO: That's not --

9 MR. PRICE: -- wants to --

10 MR. ALONSO: That's not -- that's not true.
11 I -- I have an obligation to represent my client.

12 MR. PRICE: You can represent your --

13 MR. ALONSO: And -- and --

14 MR. PRICE: -- client --

15 MR. ALONSO: -- your ability to question
16 the witnesses is -- is limited to relevant
17 information. That's the statutory obligation
18 that you have, not unfettered questions.

19 Go ahead.

20 MR. PRICE: If he wants to -- you know,
21 question his -- after -- after my questioning --

22 VICE CHAIRMAN GRULLON: Mr. Price, proceed
23 with your question, please.

24 MR. PRICE: No. Mr. Chairman, I am tired
25 of constant interruptions from Mr. Alonso. You

1 have an obligation to -- to -- you know, it's not
2 permitted. You should keep him under -- under
3 control.

4 Okay. I'm entering an objection.

5 MR. ALONSO: I'm under control.

6 MR. PRICE: Okay. Okay. Fine.

7 Remember, I'm -- can I interrupt his
8 presentation?

9 VICE CHAIRMAN GRULLON: No, no, no.

10 MR. PRICE: Okay.

11 VICE CHAIRMAN GRULLON: Mr. Alonso, please.

12 MR. PRICE: Okay.

13 VICE CHAIRMAN GRULLON: Let's hear --

14 MR. ALONSO: Mr. Chairman, just --

15 VICE CHAIRMAN GRULLON: Let's hear the
16 question from Mr. Price.

17 MR. ALONSO: I understand that. But for
18 the record, I have an obligation, as the
19 attorney, to make sure that there's a clear
20 record. Okay.

21 VICE CHAIRMAN GRULLON: Okay. But you stay
22 --

23 MR. ALONSO: And -- and I have the right to
24 make objections when appropriate.

25 And there was no testimony with respect to

1 the C-1 proofs. And therefore, any questions
2 with respect to the proofs is irrelevant. And
3 under the statute, it's an -- it's an
4 objectionable question. That's all it is. So --

5 MR. PRICE: But Mr. McDonough --

6 VICE CHAIRMAN GRULLON: His comment is
7 acceptable. You -- you may proceed. His comment
8 is accepted. Now you may proceed with your --
9 with your question.

10 MR. PRICE: Okay. My -- okay.

11 If I were to read just the C -- the C-1
12 from -- this is Section 70 under the powers, it -
13 - it -- C-1 begins: where by reason of
14 exceptional narrowness, shallowness, or shape of
15 a specific piece of property, whatever, by reason
16 of exceptional, whatever, okay.

17 Now, what we're talking about here is a
18 property that's too narrow and too small.

19 Correct?

20 MR. McDONOUGH: No. It's -- it -- no, it's
21 not. I'm not -- I'm not understanding the
22 question. Too -- too narrow and too small in
23 terms of what?

24 MR. PRICE: It's -- in terms of our
25 standards. The -- they -- all the -- the lots

1 | will be 23 feet wide when 25 is required.

2 | MR. McDONOUGH: From a -- from a
3 | mathematical standpoint, yes. They are
4 | undersized lots. But again, if I -- if I keep
5 | going, that's what the C-2 test is, is whether --

6 | MR. PRICE: Well, but first, the C-1. Tell
7 | me why the C-1 is not appropriate.

8 | MR. ALONSO: Well that's --

9 | MR. PRICE: It says too narrow. It says
10 | too small. It says why -- why isn't a C-1
11 | variance appropriate in this particular case?

12 | MR. McDONOUGH: I'm not going to say
13 | whether C-1 is or is not appropriate, because I
14 | think the basis under C-2 is so strong and so
15 | clear cut here, hardship doesn't even have to be
16 | considered. It's -- the Board doesn't have to
17 | find both C-1 and C-2. It's one or the other.

18 | And this is right on point with that
19 | Kaufmann case. This is exactly what the Kaufmann
20 | case talked about under C-2.

21 | MR. PRICE: Okay.

22 | MR. McDONOUGH: And C-2 -- the Kaufmann
23 | case, remember, was you could have gotten one
24 | oversized lot, or you could have had two
25 | undersized lots. And the court in Kaufmann found

1 | that that was a better alternative, because the
2 | homes were more in harmony with the neighborhood.

3 | MR. PRICE: Okay.

4 | But if I may read from --

5 | MR. ALONSO: What are you reading?

6 | MR. PRICE: Kaufmann versus Planning Board
7 | for Warren.

8 | MR. ALONSO: Well, you're not reading
9 | Kaufmann, you're reading -- it looks like a
10 | brief.

11 | MR. PRICE: Yeah.

12 | MR. ALONSO: What are you reading from?

13 | MR. PRICE: I'm reading from a court
14 | opinion. Okay.

15 | MR. ALONSO: Can you cite the court?

16 | MR. PRICE: Ah. I'm -- we'll assume the
17 | judge got it right.

18 | MR. ALONSO: You're ask --

19 | MR. PRICE: Okay?

20 | MR. ALONSO: You're asking the witness a
21 | question with respect to a document. He needs to
22 | know what the document is.

23 | MR. PRICE: I'm going to read from the
24 | Kaufmann opinion.

25 | MR. ALONSO: You're not reading from the

1 Kaufmann opinion. You're reading from another
2 opinion.

3 What opinion are you reading from?

4 MR. PRICE: I am reading the Kaufmann
5 opinion.

6 MR. ALONSO: No, no. You're reading a
7 citation to a Kaufmann opinion.

8 MR. PRICE: Okay.

9 MR. ALONSO: What's the opinion --

10 MR. PRICE: What's --

11 MR. ALONSO: -- you're reading?

12 MR. PRICE: What's the difference, Mr. --

13 MR. ALONSO: Because you're not reading --

14 MR. PRICE: If a judge cites the Kaufmann
15 decision, we'll assume he cites it correctly.

16 MR. ALONSO: Are you reading from a
17 published opinion or a non-published opinion?

18 MR. PRICE: I'm citing from Kaufmann.

19 MR. ALONSO: Case --

20 MR. PRICE: Okay. Okay.

21 MR. ALONSO: Mr. Chairman?

22 MR. PRICE: Anyway -- again, I object to --

23 MR. ALONSO: What's -- what --

24 MR. PRICE: I object to this hectoring.

25 MR. ALONSO: I'm not hectoring you.

1 MR. PRICE: Okay. You certainly are.

2 Okay.

3 MR. ALONSO: If you're going to cross
4 examine, you should know how to cross examine
5 properly. And if you're going to identify --
6 refer to a document, you need to identify the
7 document for the record.

8 So, that way, when we go on appeal, if
9 there is an appeal, the judge knows what you're
10 referring to.

11 You're not referring to Kaufmann. You're
12 referring to a citation in another opinion.

13 MR. PRICE: Okay.

14 MR. PANEQUE: Mr. Price?

15 Okay, just so that we have a clear record,
16 can you please identify the document --

17 MR. PRICE: Sure.

18 MR. PANEQUE: -- that you are quoting from?

19 MR. PRICE: Okay.

20 This is Larry Price versus Oz Holdings.

21 I -- an opinion issued on March 5th by the
22 Honorable Joseph Turula, who's the Presiding
23 Judge of the Law Division. The docket number was
24 HUD-1377-17.

25 MR. PANEQUE: And was that a published

1 opinion, sir?

2 MR. PRICE: No, it is not.

3 MR. PANEQUE: Okay.

4 MR. PRICE: And but Judge Turula cites
5 Kaufmann. It was easier to do that than to find
6 the -- whatever.

7 MR. ALONSO: Well, the problem --

8 MR. PRICE: And we have assume Judge
9 Turula, as the presiding judge, managed to -- you
10 know, quote it accurately.

11 MR. ALONSO: The -- the quote is not the
12 problem. The context is the issue.

13 MR. PRICE: I'm going to -- I'm going to
14 read from the Kaufmann decision, as delivered by
15 Judge Turula.

16 MR. ALONSO: No, no. What you're --

17 MR. PRICE: Okay.

18 MR. ALONSO: -- reading is a -- is a quote
19 from the Kaufmann opinion, as cited by Judge
20 Turula.

21 MR. PRICE: I'm reading a citation by Judge
22 Turula of the Kaufmann decision. And you -- are
23 you assuming that he got it wrong?

24 MR. ALONSO: I'm not making any
25 assumptions.

1 MR. PRICE: Okay. Fine.

2 MR. ALONSO: I'm just trying to make a --

3 MR. PRICE: Okay. Good.

4 MR. ALONSO: -- clear record.

5 MR. PRICE: Now, let me ask my question.

6 Okay.

7 By definition then, no C-2 variance should
8 be granted when merely the purposes of the owner
9 will be advanced. The grant of the approval must
10 actually benefit the community in that it
11 represents a better zoning alternative for the
12 property.

13 MR. McDONOUGH: Exactly.

14 MR. PRICE: Okay.

15 Have we -- we agree. Okay.

16 MR. McDONOUGH: A hundred percent.

17 MR. PRICE: So, the basis of a C-2 is a
18 better zoning alternative.

19 MR. McDONOUGH: For the community.

20 MR. PRICE: Okay.

21 How large is this property?

22 MR. McDONOUGH: It's just under 7500 square
23 feet.

24 MR. PRICE: Okay.

25 MR. McDONOUGH: It's a -- like I said, it's

1 98.5 percent of 7500 --

2 MR. PRICE: Okay.

3 MR. McDONOUGH: -- square feet.

4 MR. PRICE: And, whatever.

5 Okay. But the -- okay. But when we divide
6 this property, which is 7300 square feet, we end
7 up with all three lots being too narrow and two
8 of the lots being undersized. Being 2336 square
9 feet versus the 2500.

10 MR. McDONOUGH: Yes.

11 MR. PRICE: Correct.

12 Okay. If you were to divide the property
13 in half, instead of in three places, would we be
14 creating undersized and too narrow lots anymore?

15 MR. McDONOUGH: Mathematically, no. But
16 that's not where the analysis --

17 MR. PRICE: Well, okay.

18 MR. McDONOUGH: -- stops.

19 MR. PRICE: Fine.

20 But then, why -- why is a division into
21 three lots instead of two a better zoning
22 alternative for the property?

23 MR. McDONOUGH: Because those three lots
24 are more on par with the 25 by a hundreds that
25 are in the neighborhood, than the larger lot.

1 You get bigger houses that are not in scale with
2 the rest of the neighborhood. There's a very,
3 very strong pattern here, a repetitive pattern.
4 The applicant is repeating that pattern.

5 And by the way, the lot that this property
6 backs up to is 20 feet wide. The applicant is
7 proposing 23 feet.

8 There's another lot, Lot number 19, that's
9 17 feet wide.

10 MR. PRICE: Okay.

11 But we're dealing with a lot that's 7300
12 square feet.

13 MR. McDONOUGH: Correct.

14 MR. PRICE: Okay.

15 And your contention is creating two
16 conforming lots --

17 Sorry.

18 Strike that.

19 Could creating three nonconforming lots is
20 a better zoning alternative than -- than creating
21 two conforming lots?

22 MR. McDONOUGH: Two -- three slightly
23 undersized lots is a better zoning alternative
24 than two substantially oversized lots.

25 MR. PRICE: Okay. Okay.

1 I will briefly -- now I have testimony. Do
2 I hold that or present right now?

3 MR. ALONSO: I just have one follow up
4 question.

5 Mr. -- just to clarify something,
6 misconception based on the question.

7 We don't have one lot that's just under
8 7500 square feet. We have an assemblage of lots.

9 MR. McDONOUGH: The aggregate area of the
10 three lots is 98.4 percent of the 7500 that would
11 be required to split into three lots.

12 MR. ALONSO: Because we have two lots and
13 one lot. So the one lot --

14 MR. McDONOUGH: Correct.

15 MR. ALONSO: -- is already there. I
16 believe it's 25 feet.

17 MR. McDONOUGH: Yes.

18 MR. ALONSO: And it's the other two lots.

19 MR. McDONOUGH: Correct.

20 MR. ALONSO: So, we can maintain the one
21 lot at 25 feet.

22 MR. McDONOUGH: Yes.

23 MR. ALONSO: And have two that are
24 narrower. But then, splitting the difference
25 would make them all consistent.

1 MR. McDONOUGH: And again, given the -- the
2 makeup of the geometry of the outbound, you could
3 actually have two fully conforming lots, 25 by a
4 hundred, and then the third lot being slightly
5 undersized.

6 I think the applicant has done it right by
7 striking a balance so that all of the lots are
8 slightly undersized, from a width standpoint.
9 It's just got better balance, symmetry,
10 proportionality.

11 MR. PRICE: The third lot is not
12 undersized.

13 MR. McDONOUGH: From a lot width standpoint
14 it is.

15 MR. PRICE: From a width stand -- but it's
16 not undersized. It --

17 MR. McDONOUGH: Correct. From a -- from a
18 width standpoint, it's still at 23.98 feet. But
19 it does not -- and I'm talking about Lot 46. It
20 does not need lot area relief.

21 MR. PRICE: Correct.

22 Because it gets the extra at the back, it's
23 30 feet wide at the back.

24 MR. McDONOUGH: Right.

25 And we're not arguing hardship here. But

1 | bear in mind, that -- it's not a perfect square.
2 | There is a skew to it, to the lot as well. So,
3 | it is an irregular --

4 | MS. DILLON: Can you hold up, Mr.
5 | McDonough?

6 | (Whereupon, there was a pause in the
7 | proceedings while sirens passed.)

8 | MS. DILLON: Thank you.

9 | MR. McDONOUGH: It -- it is an irregular
10 | shaped lot. It does not have a regular geometry
11 | to it. I'm not arguing C-1. But that could be
12 | considered as part of this application.

13 | MR. PRICE: Okay.

14 | You know, a quick presenta -- on the D-6
15 | height variance.

16 | MR. ALONSO: Well, before -- they still
17 | control the -- the meeting.

18 | MR. PRICE: What?

19 | MR. ALONSO: They still control the
20 | meeting. Right now, it's open to the public to
21 | Mr. McDonough. So, before you start your
22 | testimony, --

23 | MR. PRICE: Well --

24 | MR. ALONSO: -- and public comments --
25 | typically, you finish with the witness.

1 MR. PRICE: That was my question. Do you
2 want my testimony now or --

3 VICE CHAIRMAN GRULLON: Ah --

4 MR. PRICE: -- do you want me to wait?

5 VICE CHAIRMAN GRULLON: Just --

6 MR. PANEQUE: Okay. Are you done with your
7 questioning, --

8 MR. PRICE: Yes, I am.

9 MR. PANEQUE: -- Mr. Price?

10 Okay. I would request then that you have a
11 seat.

12 And are there any other members of the
13 public who are here with questions on this
14 application for the witness?

15 Okay.

16 Mr. Alonso, it goes back to you.

17 At this time, do you have any other
18 witnesses to present?

19 MR. ALONSO: I do not. That -- that
20 concludes our presentation.

21 MR. PANEQUE: That concludes? Any closing
22 argument or --

23 MR. ALONSO: No. I'll wait to hear what
24 Mr. Price has to say --

25 MR. PANEQUE: Okay.

1 MR. ALONSO: -- in terms of his testimony.

2 I get to cross examine him.

3 MR. PANEQUE: Mr. Price, you stated you
4 want to --

5 MR. PRICE: Yes.

6 MR. PANEQUE: -- make a comment to this
7 Board?

8 MR. PRICE: Yes.

9 MR. PANEQUE: The floor is yours.

10 MR. PRICE: Okay.

11 A D-6 height variance is required here --
12 McDonough kind of downplays it, but this -- since
13 this is under the old application, the standard
14 is 40 feet, and this building will be 45 feet.
15 So, they need a D-6 height variance.

16 So, I did a 200 foot study. I have -- I
17 have four copies for the Board. Two are in
18 color, and two are in black and white. Mr.
19 Alonso gets a black and white copy.

20 MS. DILLON: I need one to mark.

21 MR. PRICE: What?

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

24 MS. DILLON: So, this will be O-1.

25 MR. PRICE: O-1.

1
2 (Whereupon, 200 Foot Study was received and
3 marked as Exhibit O-1.)

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

7 MR. PRICE: There are a lot of pictures at
8 the back. And the pictures are key to the pages
9 -- the fourth through the eighth pages, which are
10 the 200 foot list, which was provided to the
11 Board.

12 And basically, all I did was take this list
13 and go through and look at each of the houses.
14 In terms of if there are any questions, you can
15 then turn to the picture.

16 The only picture that I would point out is
17 29 -- sorry -- 28 and 29.

18 That's -- that's the proposed site. And
19 you can see, it's kind of jamming three three
20 family houses into that site might be a little
21 bit difficult.

22 In any case, in terms of the overall
23 numbers there on the front, and what I find out
24 is there were 47 entries on the -- on the 200
25 foot list from the Tax Assessor. There are one

1 double count and there's one empty lot. So,
2 there are 45 buildings. Two of the buildings are
3 one story high, two are one and a half stories
4 high, 25 are only two stories high. This is a
5 very residential neighborhood. Four are two and
6 a half stories high. Nine are three stories
7 high.

8 Only three buildings are more than three
9 stories. And they're listed there by address.
10 But they don't need a height variance. The 200
11 foot list -- 200 foot zone includes mostly R
12 zone, but it also includes part of the CG zone,
13 where the height limit is 60 feet. And along
14 Park Avenue, which is the CN zone, where the
15 height limit is 50 feet in those buildings.

16 So, what it comes down to is there is not
17 one building in the 200 foot zone which is
18 nonconforming as to height.

19 Okay.

20 And you've heard references to the Grasso
21 decision. This is actually, by the way, the
22 decision. So, I guess Mr. Alonso will be happy.

23 In any case.

24 MR. ALONSO: More happy.

25 MR. PRICE: You're never happy.

1 MR. ALONSO: I'm always happy.

2 MR. PRICE: Yes, as is the case with the D-
3 3 and D-4 variances, plaintiffs could prove
4 special reasons for a height variance, if they
5 could pursue -- persuade the Board that a taller
6 structure than permitted by Ordinance, would
7 nevertheless be consistent with the surrounding
8 neighborhood.

9 Again, and what I would suggest by that,
10 that is the -- basically, the seminal case in
11 terms of D-6 height variances. And a -- you
12 know, a nonconforming height would not be
13 consistent with this neighborhood. There are no
14 other nonconforming heights in the neighborhood.

15 Thank you.

16 MR. ALONSO: May I ask a question --

17 MR. PANEQUE: You may.

18 MR. ALONSO: -- in multiple parts?

19 Here we go.

20 Is this the only document that you're
21 relying on to support your position that none of
22 these properties require a height variance?

23 MR. PRICE: You're referring to the --

24 MR. ALONSO: O-1.

25 MR. PRICE: -- page?

1 MR. ALONSO: O-1. Your document. Your --
2 your exhibit, O-1, which concludes of the 45
3 structures, in the 200 foot zone, not a single
4 one is nonconforming as to height.

5 Is this the only document that you're
6 relying on?

7 MR. PRICE: Yes.

8 MR. ALONSO: Okay.

9 Now, height is measured in terms of
10 stories.

11 Correct?

12 MR. PRICE: Well, that is nothing --

13 MR. ALONSO: My second part of the
14 question.

15 Correct?

16 In terms of stories, which is what you have
17 here.

18 Correct?

19 You list it here. So, it would be a
20 correct answer.

21 Does your exhibit, you include stories --

22 MR. PRICE: I include --

23 MR. ALONSO: You measured --

24 MR. PRICE: I include --

25 MR. ALONSO: -- by stories.

1 MR. PRICE: -- stories. That has nothing
2 to do with height. Height has to do with feet.

3 MR. ALONSO: Oh, so where does it state
4 here, in terms of the number of feet?

5 Where, in this document, does it refer to
6 the height, in terms of feet for any one of these
7 structures?

8 MR. PRICE: It doesn't.

9 MR. ALONSO: So, you concluded based on the
10 number of stories, but not the number of feet.

11 MR. PRICE: No. I -- I base it on a visual
12 inspection --

13 MR. ALONSO: No, no, no, no, no, no.

14 MR. PRICE: -- of the property, which is
15 documented by the photos included.

16 MR. ALONSO: No, no, no.

17 You didn't say you were basing your visual
18 inspection. You're talking about this exhibit.
19 Exhibit O-1 is what you're referring to --

20 MR. PRICE: Wait a minute.

21 MR. ALONSO: -- to form your opinion that a
22 height variance would not be required. And it
23 only refers to the number of stories.

24 Correct?

25 But you're indicating that the variance

1 would be by feet.

2 Correct?

3 MR. PRICE: Mr. Alonso, I did a visual --
4 how do you think I took those photos?

5 MR. ALONSO: I understand.

6 MR. PRICE: I did a visual inspection at
7 each property.

8 MR. ALONSO: Okay.

9 MR. PRICE: I documented that by taking a
10 photo.

11 Now, you -- you --

12 MR. ALONSO: (Indiscernible) -- how many
13 feet?

14 MR. PRICE: -- can look at the photos. You
15 tell me.

16 MR. ALONSO: You tell --

17 MR. PRICE: Okay.

18 MR. ALONSO: -- me.

19 MR. PRICE: You tell me where you see an
20 exception.

21 MS. DILLON: One a time, please.

22 MR. ALONSO: Mr. Price, you tell me. This
23 is your exhibit, that you're very proud of. Some
24 of them are in color. I get a black and white
25 one.

1 You tell me where in here does it list --

2 MR. PRICE: He's -- he's very upset that he
3 got a black and white --

4 MR. ALONSO: Oh, I'm --

5 MR. PRICE: -- one.

6 MR. ALONSO: -- not upset, because --

7 MR. PRICE: Okay.

8 MR. ALONSO: -- you know where it's going
9 right after I leave here.

10 You tell me where in this document you
11 measured any of these structures, total of 45, in
12 terms of the number of feet?

13 Where?

14 MR. PRICE: There -- it's not in there.

15 MR. ALONSO: It's not in there.

16 MR. PRICE: No.

17 MR. ALONSO: So, you formed a conclusion,
18 without knowing the actual height that they don't
19 need a height variance.

20 Correct?

21 MR. PRICE: I did a visual inspection.

22 MR. ALONSO: I know you did a --

23 MR. PRICE: I know the limit is --

24 MR. ALONSO: -- visual inspection.

25 MR. PRICE: -- 40 feet. Okay.

1 MR. ALONSO: Well, --

2 MR. PRICE: If a building is two stories
3 high, is it going to be 40 feet high, Mr. Alonso?

4 MR. ALONSO: I don't know. Is it? What is
5 it? It's not what I think it's -- what it is.
6 It's what it actually is. And you formed an
7 opinion that there's no height variance required.
8 You presented this lovely little exhibit, O-1, to
9 the Board to convince them that none of these
10 buildings require a height variance.

11 However, you don't have the dimensions of a
12 single building. So, you can't stand here and
13 tell us that none of these requires a height
14 variance.

15 Isn't that true?

16 MR. PRICE: Can you tell me that there is?

17 MR. ALONSO: I'm not testifying.

18 MR. PRICE: Okay.

19 MR. ALONSO: You're testifying.

20 MR. PRICE: I have shown --

21 MR. ALONSO: It's your opinion.

22 MR. PRICE: -- you a picture of the
23 building.

24 MR. ALONSO: Pretty picture.

25 MR. PRICE: A reasonable person can make a

1 judgement as to the height.

2 MR. ALONSO: No. It's not about
3 reasonable.

4 MR. PRICE: The Board members --

5 MR. ALONSO: No, no, no, no, no, no, no,
6 no.

7 MR. PRICE: -- can make --

8 MR. ALONSO: A variance is not based on --

9 MR. PRICE: Well, wait a minute.

10 MR. ALONSO: -- reasonableness.

11 MR. PRICE: So you know --

12 VICE CHAIRMAN GRULLON: Okay.

13 MS. DILLON: One at a time.

14 MR. ALONSO: Hold on.

15 VICE CHAIRMAN GRULLON: Let the record --

16 MR. ALONSO: A variance is not about
17 reasonable person can look at it and say whether
18 or not more or less it is. Either it is or it
19 isn't. It's based on the measurement. That's
20 why Mr. Pereiras puts his measurements on his
21 plans, so he can then say to the Board --

22 MR. PRICE: Okay.

23 MR. ALONSO: -- it's 45 feet.

24 MR. PRICE: What's your authority for
25 saying that, Mr. Alonso? Cite me an opinion.

1 MR. ALONSO: I don't have to cite you an
2 opinion.

3 MR. PRICE: Okay.

4 MR. ALONSO: I'm asking you, you're the one
5 --

6 MR. PRICE: Okay.

7 MR. ALONSO: -- who proffered this document
8 to support your opinion that none of these 45
9 buildings requires a height variance. Yet, you
10 failed to identify even one structure in terms of
11 the height.

12 Isn't that correct?

13 MR. PRICE: I don't need the exact height
14 of a structure.

15 MR. ALONSO: So how do you --

16 MR. PRICE: I need to know within
17 reasonable bounds whether it is more or less than
18 40 feet.

19 MR. ALONSO: There's three -- there's three
20 buildings that are three plus stories.

21 MR. PRICE: Yes.

22 MR. ALONSO: There's nine buildings that
23 are three stories. Do you know the -- the
24 dimensions of the floor to height ceiling?

25 MR. PRICE: Wait a minute.

1 Wait a minute.

2 I have to be able to make a reasonable
3 judgement as to whether it's more or less than 40
4 feet. The pictures document that effort.
5 Precise measurements are not required.

6 MR. ALONSO: You say here not a single one
7 is nonconforming as to height.

8 MR. PRICE: Correct. Do you want to --

9 MR. ALONSO: This document --

10 MR. PRICE: -- take an exception? Point
11 out a picture. Take a look.

12 MR. ALONSO: I don't -- I'm asking you, to
13 support your opinion, this document does not
14 reference a single building with respect to the
15 height.

16 Isn't that correct?

17 MR. PRICE: That's not necessary. That's
18 what I'm saying to you, Mr. Alonso.

19 MR. ALONSO: I -- I'm not asking you if
20 it's necessary or not. I'm just trying to --

21 MR. PRICE: Mr. Chairman, the questioning
22 has now gotten repetitive. He's entitled to ask
23 --

24 MR. ALONSO: I'm entitled to an answer.

25 MR. PRICE: No. You're not.

1 MR. ALONSO: I'm entitled to an answer.

2 MR. PRICE: He's entitled to question me on
3 my testimony. He's not entitled to cross examine
4 me. He's not entitled.

5 MR. ALONSO: I'm not entitled to cross
6 examine you?

7 MR. PRICE: No, you're not.

8 MR. ALONSO: Really?

9 MR. PRICE: No, you're not.

10 MR. ALONSO: Would you like to cite the
11 citation in the statute for that?

12 MR. PRICE: I can. Yeah.

13 MR. ALONSO: Okay. I'm entitled --

14 MR. PRICE: Okay.

15 MR. ALONSO: -- to cross examine.

16 Anyway, I have no further questions. I
17 think we -- we've beat this one to death.

18 VICE CHAIRMAN GRULLON: Mr. Price, does
19 that conclude your testimony?

20 MR. PRICE: It does.

21 MR. ALONSO: Good.

22 VICE CHAIRMAN GRULLON: Thank you, Mr.
23 Price.

24 MR. PEREIRAS: To refute Mr. Price's
25 opinion, 134 35th Street and 136 35th Street

1 required height variances. We provide -- we
2 presented them before the Board, and the Board
3 granted height variances, on the same block.

4 MR. ALONSO: Okay.

5 VICE CHAIRMAN GRULLON: Thank you, Mr.
6 Pereiras.

7 MR. ALONSO: So, the Board will give it
8 whatever weight it wants to --

9 MR. PRICE: Wait. What was the -- what was
10 the --

11 MR. ALONSO: -- to this document.

12 MR. PEREIRAS: 134 and 136.

13 MR. ALONSO: All right.

14 Mr. Chairman, in conclusion, there was a
15 whole issue that was raised by Mr. Price with
16 respect to a D-6 height variance. A D-6 height
17 variance is what gives this Board the
18 jurisdiction. At the time that we made the
19 application, the -- the height was 40 feet that
20 was permitted. The zone has since been changed
21 to permit a 45 foot height and four stories. We
22 are at 45 feet and four stories. We do not
23 require, under the new Ordinance, a height
24 variance.

25 Now, under the time of application rule,

1 | which is when we first applied, we did need a 6
2 | -- the D-6 height variance, and we did request
3 | it, and we did submit the proofs today, under the
4 | Grasso test, for that D-6 height variance.

5 | We can withdraw this application. We can
6 | go to the Planning Board and do an application,
7 | as of right, with the -- with respect to the
8 | height. But we felt since we were already here,
9 | and since the zoning changed to permit the
10 | height, and it's supported by the case law that
11 | was cited by -- by Mr. McDonough, saying that we
12 | -- the Board can give deference to the fact that
13 | the zone now permits it and we do not need a
14 | height variance in the zone any longer, I think
15 | makes Mr. Price's argument moot.

16 | VICE CHAIRMAN GRULLON: And your
17 | application now, you are requesting for a D-6
18 | variance.

19 | MR. ALONSO: We are requesting, because
20 | still at the time of the application, we believe
21 | we met the proofs, again withstanding that the
22 | zone has changed and the height is permitted. And
23 | if we were to file the application today, we
24 | don't need a D-6 height variance anymore.

25 | VICE CHAIRMAN GRULLON: Thank you, Mr.

1 | Alonso.

2 | Thank you.

3 | Okay.

4 | After hearing the testimony from your
5 | architect and your planner, I come to a
6 | conclusion that the applicant has proved that the
7 | application in front of us is a better
8 | alternative for the zoning and a better -- it's
9 | better for the community.

10 | I make a motion to grant the application.

11 | THE SECRETARY: Motion to -- to grant the
12 | application by Mr. Grullon.

13 | Seconded by --

14 | MS. GUTIERREZ: Second.

15 | THE SECRETARY: -- Mr. -- somebody lift
16 | their other hand behind her.

17 | Mr. Ortiz.

18 | Roll call on the motion.

19 | Mr. Grullon?

20 | VICE CHAIRMAN GRULLON: Yes.

21 | THE SECRETARY: Ms. Gutierrez?

22 | MS. GUTIERREZ: Yes.

23 | THE SECRETARY: Mr. Pressey?

24 | MR. PRESSEY: Yes.

25 | THE SECRETARY: Mr. Medina?

1 MR. MEDINA: Yes.

2 THE SECRETARY: Mr. Ortiz?

3 MR. ORTIZ: Yes.

4 THE SECRETARY: Ms. Perez?

5 MS. PEREZ: Yes.

6 THE SECRETARY: Mr. Cetinich?

7 MR. CETINICH: Yes.

8 THE SECRETARY: Seven in favor.

9 Motion carries.

10 MR. ALONSO: Thank you very much.

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1 **Jose Garcia - 614 10th Street:**

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3 MR. ALONSO: No. I'm just going to -- I'm
4 just going to adjourn the next one.

5 MR. PANEQUE: Okay.

6 THE SECRETARY: Next application on
7 tonight's agenda, Jorge Garcia, 614 10th Street.

8 Mr. Alonso, please?

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

11 Again, Alvaro Alonso, on behalf of the
12 applicant.

13 I'm providing the proofs to your attorney.

14 I am requesting an adjournment.

15 Unfortunately, our architect, Mr. Valella,
16 was ill. And under the circumstances, we thought
17 it prudent for him not to -- to attend the
18 meeting.

19 MR. PANEQUE: Thank you, Mr. Alonso.

20 Let the record reflect that I've been
21 provided by Mr. Alonso with the following
22 documentation:

23 I have an Affidavit indicating that notice
24 of tonight's hearing was sent out to all property
25 owners within the 200 foot radius of 614 10th

1 Street on February 29th, 2020. Said Affidavit is
2 signed by Mr. Alonso.

3 I also have been provided with an Affidavit
4 from The Jersey Journal. Said publication
5 indicates that a meeting will take place tonight,
6 at this location, with respect to the property,
7 614 10th Street.

8 I've also been provided with a copy of the
9 notice that went out, indicating a date of March
10 12.

11 I've also been provided with the 200 foot
12 list from the Tax Assessor's Office, with a date
13 of January 28, 2020.

14 Based on the documentation that's been
15 provided --

16 Strike that.

17 I've also been provided with the certified
18 mail receipts, with a postmark date, it appears
19 to be February 29th.

20 Based on the documentation provided, this
21 Board has jurisdiction to proceed and hear this
22 matter.

23 Mr. Alonso, you're requesting an
24 adjournment of this matter, due to the fact that
25 your architect, Mr. Valella, is ill?

1 MR. ALONSO: That is correct.

2 VICE CHAIRMAN GRULLON: When is the next
3 meeting? The next meeting?

4 THE SECRETARY: April 9.

5 MS. GUTIERREZ: April 9th.

6 VICE CHAIRMAN GRULLON: April 9th.

7 Okay. Mr. Alonso, you're requesting an
8 adjournment for the April 9 meeting on this
9 application?

10 MR. ALONSO: Yes, please.

11 VICE CHAIRMAN GRULLON: I vote the motion
12 to grant this.

13 THE SECRETARY: Motion to adjourn this
14 application by Mr. Grullon.

15 MS. GUTIERREZ: Second.

16 THE SECRETARY: Seconded by Ms. Gutierrez.

17 Roll call on the motion to adjourn this
18 application.

19 No new notice required.

20 Mr. Grullon?

21 VICE CHAIRMAN GRULLON: Yes.

22 THE SECRETARY: Ms. Gutierrez?

23 MS. GUTIERREZ: Yes.

24 THE SECRETARY: Mr. Pressey?

25 MR. PRESSEY: Yes.

1 THE SECRETARY: Mr. Medina?

2 MR. MEDINA: Yes.

3 THE SECRETARY: Mr. Ortiz?

4 MR. ORTIZ: Yes.

5 THE SECRETARY: Ms. Perez?

6 MS. PEREZ: Yes.

7 THE SECRETARY: Mr. Cetinich?

8 MR. CETINICH: Yes.

9 THE SECRETARY: Seven in favor.

10 Motion carries.

11 MR. ALONSO: Thank you very much.

12 Have a good evening.

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

14 Mr. Vallejo, we're going to take a ten
15 minute break. We will resume with the meeting in
16 approximately ten minutes.

17 Off the record, please.

18

19 (Whereupon, the Board recessed from 8:31
20 p.m. to 8:43 p.m.)

21

22 MS. DILLON: On the record.

23 VICE CHAIRMAN GRULLON: On the record.

24 THE SECRETARY: May I have your attention,
25 please?

1 MS. GUTIERREZ: Let's go.

2 MR. PANEQUE: No, one second.

3 THE SECRETARY: Oh, one second.

4 Off the record.

5

6 (Whereupon, the Board recessed from 8:43

7 p.m. to 8:45 p.m.)

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1 **Monica Riera - 532 42nd Street:**

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3 MS. DILLON: On the record.

4 THE SECRETARY: Next application on
5 tonight's agenda, Monica Riera, 532nd (sic) 42nd
6 Street -- 532 42nd Street.

7 Mr. Alum, please?

8 MR. DIAZ: Christian Diaz on behalf of --

9 THE SECRETARY: Okay.

10 Mr. Diaz?

11 MR. DIAZ: -- Alum is for --

12 Good evening, Board.

13 THE SECRETARY: Let the -- let the record
14 reflect that Mr. Cetinich recusing from this
15 application.

16 We have seven Board members.

17 Thank you.

18 And he's leaving for the rest of the
19 meeting.

20

21 (Whereupon, Raymond Cetinich recused and
22 left the meeting at 8:45 p.m.)

23

24 MR. PANEQUE: For the record, I've been
25 provided by Mr. Diaz with the following

1 documentation:

2 I have a certification as to mailing,
3 indicating that notice of tonight's hearing, with
4 respect to the property in question, was mailed
5 to all property owners within the 200 foot radius
6 on the 29th of February.

7 I also have a Affidavit from The Jersey
8 Journal, which was published on March 2nd, 2020.
9 Said Affidavit indicates that notice of tonight's
10 hearing was published for tonight's hearing,
11 March 12th, 2020.

12 I also have a copy of the notice that went
13 out. I have a copy of the 200 foot list, which
14 was done on May 20th, 2020, indicating all
15 property owners within the 200 foot radius of
16 532nd (sic) 42nd Street, as well as the certified
17 mail receipts with a postmark date of February
18 29.

19 Based on the documentation provided by Mr.
20 Diaz, this Board has jurisdiction to proceed and
21 hear this matter.

22 MR. DIAZ: Thank you.

23 Good evening, Board.

24 Christian Diaz from the law offices of Alum
25 and Ferrer on behalf of my client, Monica Riera,

1 regarding 532 42nd Street.

2 Mine will not be as eventful as the prior
3 ones, but nevertheless, we'll try to get this
4 done as quickly and efficiently as possible.

5 This is just legalizing an existing
6 freestanding structure. We were last here, I
7 believe it was almost a year ago today, before
8 the Planning Board, by error, because the -- it's
9 one lot, but with two structures.

10 I will be calling up an expert, Mr. Manny
11 Pereiras, which everybody I'm sure knows who he
12 is, so I can just call him up now, just to
13 discuss the plans, and we'll get on our way.

14 MR. PEREIRAS: I recognize that I am still
15 under oath --

16 MS. DILLON: Thank you.

17 MR. PEREIRAS: -- and I'm still Manny
18 Pereiras.

19 MR. DIAZ: Thank you, Mr. Pereiras.

20 Are you familiar with 532 42nd Street?

21 MR. PEREIRAS: I am.

22 MR. DIAZ: And are you familiar with the
23 plans?

24 MR. PEREIRAS: I am.

25 MR. DIAZ: Is that because you did the

1 plans?

2 MR. PEREIRAS: That is correct.

3 MR. DIAZ: I will let you proceed with the
4 plans, and what we're doing for legalization
5 here.

6 MR. PEREIRAS: Thank you very much.

7 The drawings that you see to my right on
8 the easel are the same drawings that were
9 presented to the Board.

10 We're dealing with a very simple property.
11 It's 25 by 100, so it's a complying lot. We have
12 an existing two family house along the front.
13 The applicant is basically legalizing an
14 apartment that's in the rear, where his
15 grandmother lives.

16 It's an 82 year old lady. She's been there
17 for a long while. We don't want to displace her.
18 We want to continue that apartment, and at the
19 end of the day, we're -- we're providing a three
20 family, which is permitted on the lot, on the
21 zone.

22 The reason we're before this Board is
23 because we have two primary structures --
24 principal structures on the same lot. And that's
25 why we're before this Board and not the Planning

1 Board.

2 The lot -- the existing building has a few
3 preexisting nonconformities. We have a two foot
4 side yard, a two foot rear yard, but that's just
5 because of the -- the way the building actually
6 sits on the lot.

7 It's skewed. As you could see, there's a
8 lot of open space on the -- on the site. The
9 front of the building, or the front structure has
10 1.5 side yard setback on one side, and two feet
11 on the other, and only a two foot front yard
12 setback.

13 So, we have a few preexisting
14 nonconformities. And I'm just going to list them
15 all, just to be very clear.

16 Front yard, rear yard, side yard, building
17 coverage. This application -- when was time of
18 application? Was this in --

19 MR. DIAZ: I believe it was March of --

20 MR. PEREIRAS: So -- so, to clarify, the --
21 the same drawings that were submitted previously
22 for the Planning Board, were the same drawings
23 that were submitted today. And if it was in
24 March then this -- we actually don't have a lot
25 coverage variance, because we would be in

1 conformance.

2 Impervious coverage the same thing. We're
3 at 92 percent, where a hundred will be permitted.

4 And we do have a parking variance. We're
5 expanding on that parking variance because we
6 have a unit in the back. So, we would -- we --
7 and we have no opportunity, due to a hardship of
8 the site, we're dealing with a preexisting
9 building, there is no way of getting additional
10 parking in there.

11 Just to describe what we have. Here, we
12 see the floor plans. We see the two apartments
13 in the front.

14 Apartment number one is 980 square feet.
15 Apartment number two is 1,070 square feet. No
16 changes to either of those.

17 And we propose no changes to the existing
18 -- the preexisting nonconforming space of the
19 rear unit, where it is 401 square feet and it's a
20 two bedroom. The bedroom sizes are nine by ten
21 each. And then, there's a living, kitchen,
22 dining room area. And yes, it's undersized by
23 Union City Ordinance, but it doesn't apply to the
24 -- to the R-1 structure.

25 And I'll -- I'll defer to your planner if

1 -- to make sure I'm okay with that.

2 But this is -- we're not proposing to
3 expand this in any way. No changes to the
4 exterior. Simply legalizing what the existing
5 structure is.

6 And from a Code standpoint, we actually
7 have a very simple structure because it's a --
8 even though it's a three family here before this
9 Board, from a Code standpoint, it's a one family
10 house because it's separate and detached. So, it
11 has to meet the standards of a one family house
12 which is technically called an R-5, and we will
13 be complying with all those requirements.

14 VICE CHAIRMAN GRULLON: Do you have any
15 other --

16 MR. DIAZ: I -- I don't have anything,
17 aside from the fact that the property was also
18 purchased in 2012 as is, with the existing --

19 VICE CHAIRMAN GRULLON: Any other --

20 MR. DIAZ: -- structure.

21 VICE CHAIRMAN GRULLON: -- witness to
22 present, or just Mr. Pereiras?

23 MR. DIAZ: Just Mr. Pereiras.

24 VICE CHAIRMAN GRULLON: I don't have any
25 question.

1 Do you -- do you have any questions? Any
2 -- any members of the Board?

3 No?

4 At this time, I want to open it to the
5 public.

6 Open to the public.

7 Any question? Any?

8 Okay.

9 Closed to the public.

10 Mr. -- Mr. Pereiras, could you review again
11 the -- the dimension of the rooms?

12 MR. PEREIRAS: Absolutely.

13 VICE CHAIRMAN GRULLON: Please?

14 MR. PEREIRAS: The apartment that we are
15 legalizing has two bedrooms. The bedrooms are
16 each nine by ten, with no modification by us.

17 VICE CHAIRMAN GRULLON: Nine by ten?

18 MR. PEREIRAS: Nine by ten. And each of
19 the bedrooms have preexisting windows. And those
20 windows are already egress conforming.

21 VICE CHAIRMAN GRULLON: And what is the
22 square -- the total square footage of that --

23 MR. PEREIRAS: Ninety --

24 VICE CHAIRMAN GRULLON: -- of the
25 apartment?

1 MR. PEREIRAS: -- square feet each.

2 VICE CHAIRMAN GRULLON: No. I mean, the --

3 MR. PEREIRAS: Oh, the apartment?

4 VICE CHAIRMAN GRULLON: -- the apartment.

5 MR. PEREIRAS: Four hundred and one square
6 feet.

7 VICE CHAIRMAN GRULLON: With the two
8 bedroom.

9 MR. PEREIRAS: For the two bedroom. Yes.
10 It's undersized by --

11 VICE CHAIRMAN GRULLON: It's undersized.

12 MR. PEREIRAS: -- Union City standards.

13 VICE CHAIRMAN GRULLON: Five-fifty is
14 required.

15 MR. PEREIRAS: Yes.

16 VICE CHAIRMAN GRULLON: Are you making any
17 -- any changes inside the apartment?

18 MR. PEREIRAS: We hope to disturb the lady
19 that's been living there -- she's 82 years old,
20 --

21 VICE CHAIRMAN GRULLON: Okay.

22 MR. PEREIRAS: -- we hope to disturb her as
23 little as possible. We don't want to touch
24 anything there.

25 VICE CHAIRMAN GRULLON: Okay. I get it.

1 With that, any question?

2 No members of the public.

3 MR. PANEQUE: Just as a point of
4 clarification, and this is a question for Mr.
5 Spatz.

6 MR. SPATZ: Yes.

7 MR. PANEQUE: Mr. Spatz, the density
8 variance doesn't apply here.

9 Correct?

10 MR. SPATZ: It does not apply because
11 that's only triggered by four units or more.

12 MR. PANEQUE: Yes.

13 MR. SPATZ: This is three units, so --

14 VICE CHAIRMAN GRULLON: Okay.

15 Thank you for that clarification.

16 MR. PANEQUE: Thank you, Mr. Spatz.

17 VICE CHAIRMAN GRULLON: Taking in
18 consideration there is a preexisting condition,
19 make a motion to grant this application.

20 THE SECRETARY: Motion on the table to
21 grant the application by Mr. Grullon.

22 MS. GUTIERREZ: Second.

23 THE SECRETARY: Seconded by Ms. Gutierrez.

24 Roll call on the motion to approve this
25 application.

1 Mr. Grullon?

2 VICE CHAIRMAN GRULLON: Yes.

3 THE SECRETARY: Ms. Gutierrez?

4 MS. GUTIERREZ: Yes.

5 THE SECRETARY: Mr. Pressey?

6 MR. PRESSEY: Yes.

7 THE SECRETARY: Mr. Medina?

8 MR. MEDINA: Yes.

9 THE SECRETARY: Mr. Ortiz?

10 MR. ORTIZ: Yes.

11 THE SECRETARY: Ms. Perez?

12 MS. PEREZ: Yes.

13 THE SECRETARY: Ms. Watley?

14 MS. WATLEY: Yes.

15 THE SECRETARY: Seven in favor.

16 Motion carries.

17 MR. DIAZ: Thank you.

18 MR. PEREIRAS: Thank you, everyone.

19 MR. DIAZ: Thank you, Board.

20 MS. GUTIERREZ: Good night.

21 MR. DIAZ: Have a good weekend.

22 MR. PEREIRAS: See you next time.

23 MS. GUTIERREZ: Good night.

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

1 **Noha Polack, MD - 4110 Kennedy Boulevard &**
2 **543-547 42nd Street:**

3

4 THE SECRETARY: All right.

5 May I have your attention, please?

6 Next -- next application on tonight's
7 agenda, Noha Polack, MD, 4110 Kennedy Boulevard.

8 Mr. Alampi, please?

9 MR. ALAMPI: Thank you.

10 Good evening, everybody.

11 My name is Santo Alampi. I am the attorney
12 for the applicant, Dr. Polack, who is here; that
13 is her sitting right there.

14 We have two witnesses. We have an
15 architect and planner, who is setting up on the
16 easel. And then, we will offer Dr. Polack to
17 provide some testimony regarding her practice and
18 her interest in this particular property.

19 MR. PANEQUE: Mr. Alampi, just one second,
20 please.

21 We need to establish jurisdiction.

22 MR. ALAMPI: Absolutely.

23 MR. PANEQUE: So, if you don't mind, we
24 just need to have -- I know you submitted your
25 stuff ahead of time.

1 MR. ALAMPI: I have a copy, should we need
2 any of it, but he has all the originals.

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

5 MR. PANEQUE: All right.

6 For the record, I've been provided with the
7 following documentation from Mr. Alampi's office:

8 I have a certification, Affidavit of
9 Service, signed by Mr. Alampi, indicating that
10 notice of tonight's hearing was sent to all
11 property owners within the 200 foot radius on the
12 29th of February and the 27th.

13 I've also been provided with an Affidavit
14 from the North Jersey Media Group?

15 MR. ALAMPI: Well, I published in both The
16 Bergen Record --

17 MS. DILLON: You have to go to the
18 microphone.

19 Thank you.

20 MR. ALAMPI: Counsel, I published in both
21 The Bergen Record and The Jersey Journal.

22 MR. PANEQUE: Okay.

23 The one in the -- this appears to be the
24 one in The Bergen Record and that was with a date
25 of February 21st, giving notice of tonight's

1 hearing at this location.

2 And then, I have a confirmation for the
3 February 27th publication date from The Jersey
4 Journal.

5 Did you also include that one in your
6 package?

7 MR. ALAMPI: I have not received the
8 Affidavit of Publication back for The Jersey
9 Journal yet.

10 MR. PANEQUE: Okay.

11 MR. ALAMPI: Which is --

12 MR. PANEQUE: I will note that we have an
13 email from a Mayda Arrue, A-R-R-U-E. She is the
14 legal advertising clerk, indicating that there
15 was a confirmation of the publication on the 27th
16 of February.

17 And Mr. Alampi, it's your testimony and
18 your representation for this Board that what was
19 published in The Jersey Journal was the notice
20 for tonight's hearing.

21 MR. ALAMPI: That is correct.

22 MR. PANEQUE: On this application.

23 MR. ALAMPI: Correct.

24 MR. PANEQUE: Thank you.

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

1 Notice of Hearing. Said notice indicates that
2 the matter will take place tonight.

3 I've also been provided with a copy of the
4 tax list, with a date of February 11th, 2020,
5 noting all property owners within the 200 foot
6 radius of 4110 Kennedy Boulevard and 543-547 42nd
7 Street.

8 I've also been provided with the original
9 certified mail receipts, with a postmark stamped
10 date of February 27th, as well as the green cards
11 that have come back to date.

12 Based on the documentation that has been
13 provided, this Board has jurisdiction to proceed
14 and hear this matter.

15 VICE CHAIRMAN GRULLON: You may proceed,
16 Mr. Alampi.

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

18 Counsel, do we mark that as an exhibit for
19 the record as A-1 or --

20 MR. PANEQUE: No, we do not.

21 MR. ALAMPI: Okay.

22 MR. PANEQUE: That's been placed on the
23 record. And once we've established jurisdiction,
24 you're allowed to proceed.

25 MR. ALAMPI: Very good.

1 So, again, good evening.

2 This is 4110 Kennedy Boulevard. It's also
3 543 through 547 42nd Street. The lots are tax
4 lots. There are three separate lots. And I'm
5 sure the Board is familiar. This is the funeral
6 home on Kennedy Boulevard, across from the
7 secretary on the border of North Bergen to the
8 north.

9 The property is oversized. It's irregular
10 in shape. And the building is constructed in a T
11 shaped manner. The building is an existing
12 funeral home, with a surface parking lot. And
13 there is one residential unit on the second floor
14 of the funeral home.

15 The applicant this evening is seeking to
16 convert the building into a pediatrician's
17 office. Dr. Polack is a pediatrician here in
18 Union City, and you will hear from her a little
19 later on, but she's seeking to convert a funeral
20 home into a pediatrician's office, retain the
21 surface parking lot, and make some upgrades to
22 that, as well as retain the existing unit on the
23 second floor.

24 This is in the R zone, so we do need a use
25 variance. And our architect and planner will

1 provide the necessary proof to establish and
2 justify the granting of that variance.

3 So, I don't want to beat a dead horse.
4 There are some C variances that exist now because
5 the lot is built and constructed in such a way,
6 especially the frontage along Kennedy Boulevard.
7 That building is built lot line to lot line, and
8 comes back into that T configuration. And since
9 we're going to be rehabbing and renovating the
10 existing structure, with this Board's blessing,
11 those conditions will continue.

12 So, without further ado, I'd like to swear
13 in the witness, and we'll start marking some
14 exhibits and taking some testimony.

15 MS. DILLON: Please raise your right hand.

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

18 MS. VILLANUEVA: Yes, I do.

19 MS. DILLON: You need to keep your voice
20 up.

21 MS. VILLANUEVA: Yes, I do.

22 MS. DILLON: Thank you.

23 State your name for the record.

24 MS. VILLANUEVA: My name is Lycel P.
25 Villanueva.

1 Lycel is spelled L-Y-C-E-L, middle initial
2 P, Villanueva is V as in Victor, I-L-L-A-N
3 as in Nancy, U-E-V as in Victor, A.

4 MS. DILLON: Thank you.

5 MR. ALAMPI: Ms. Villanueva, just before we
6 begin, I think we need to qualify you both as an
7 architect and a planner, --

8 MS. VILLANUEVA: Um hum.

9 MR. ALAMPI: -- so if you could give the
10 Board the benefit your educational background and
11 the licenses that you hold.

12 MS. VILLANUEVA: Yes. Gladly.

13 I hold the first professional five year
14 degree in architecture from New Jersey Institute
15 of Technology, and a Master of City and Regional
16 Planning from the Bloustein School of Planning
17 and Public Policy, Rutgers University.

18 I have been in the field of architecture
19 for almost 30 -- three decades, since graduating
20 college in 1991.

21 I have been licensed -- I have been
22 practicing as a registered architect in 2000 --
23 since 2001, and a professional planner since
24 2002. I am also a LEED AP professional, which is
25 a sustainable design certification by the U.S.

1 Green Building Counsel.

2 MR. ALAMPI: And Ms. Villanueva, your
3 licenses are current and in good standing as you
4 stand here --

5 MS. VILLANUEVA: Yes.

6 MR. ALAMPI: -- this evening.

7 MS. VILLANUEVA: Yes, they both are.

8 MR. ALAMPI: Chairman, I would ask that you
9 accept her both as an architect and a
10 professional planner this evening.

11 VICE CHAIRMAN GRULLON: Have you testified
12 in any other -- any municipality?

13 MS. VILLANUEVA: Yes. Jersey City, Newark,
14 New Jersey. Most -- mostly in urban areas.

15 VICE CHAIRMAN GRULLON: Thank you.

16 MS. VILLANUEVA: Yeah.

17 VICE CHAIRMAN GRULLON: We accept your
18 qualification.

19 Thank you.

20 MS. VILLANUEVA: Thank you.

21 MR. ALAMPI: Ms. Villanueva, I realize you
22 have a drawing up on the easel. That is, and
23 looks like the drawing that we submitted.

24 Is there anything about that drawing that
25 is different or is that the drawing that was

1 submitted?

2 MS. VILLANUEVA: That was the drawing that
3 has been submitted.

4 MR. ALAMPI: Okay.

5 And then, you have some other exhibits that
6 you're going to be going through this evening.

7 MS. VILLANUEVA: Yes.

8 MR. ALAMPI: Would you like to premark
9 those so that we can move quicker through the
10 testimony? Or do you want to make them as you
11 go?

12 MS. VILLANUEVA: Yes. They are actually --
13 it's marked as Exhibit A and Exhibit B, and I
14 will refer to them in my presentation.

15 There should be enough copies for each
16 member of the Board.

17

18 (Whereupon, Land Uses Within 200 Foot
19 Radius of 4110 Kennedy Boulevard was received and
20 marked as Exhibit A.)

21

22 (Whereupon, Proposed Freestanding Sign
23 Detail was received and marked as Exhibit B.)

24

25 MR. ALAMPI: So, Ms. Villanueva, it looks

1 | like Exhibit A is a colorized version of the tax
2 | map.

3 | MS. VILLANUEVA: Exactly.

4 | MR. ALAMPI: And Exhibit B looks like a
5 | sign detail. Is that --

6 | MS. VILLANUEVA: Exactly.

7 | MR. ALAMPI: Okay.

8 | MS. VILLANUEVA: And the colorized version
9 | is actually on the --

10 | MS. DILLON: I'm sorry.

11 | MS. VILLANUEVA: -- board, as well.

12 | MS. DILLON: The colored map is Exhibit A?

13 | MS. VILLANUEVA: Yes.

14 | MS. DILLON: Okay.

15 | MS. VILLANUEVA: It is labeled underneath.
16 | I think I have it right there.

17 | MS. DILLON: Okay.

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

20 | MR. ALAMPI: Okay.

21 | Ms. Villanueva, --

22 | MS. VILLANUEVA: Okay.

23 | MR. ALAMPI: -- if you could take us
24 | through the drawing and the variances?

25 | MS. VILLANUEVA: Yes.

1 So, we're here before you tonight to
2 respectfully request variances and relief from
3 the Union City Land Use Ordinance, in order to
4 permit Dr. Polack's desire to relocate her
5 existing medical practice from -- from her office
6 at three -- 3196 JFK, which is a Sears and
7 Roebuck building, that's approximately half a
8 mile south of our site, and about eight blocks
9 away.

10 So, the application is seeking your
11 systematic -- systematic consideration for the
12 following variances: the use variance, parking
13 and side and rear yards.

14 We intend to demonstrate to the Board that
15 our project will improve and benefit the
16 community, not pose an adverse effect on its
17 immediate neighborhood, and not be a detriment to
18 the overall intent of the City's Master Plan in
19 furthering its goals.

20 I'd like to take this time to familiarize
21 you with height.

22 MS. DILLON: You know what? We're going to
23 have put this on you.

24 MS. VILLANUEVA: Yeah, that's fine.

25 (Whereupon, there was a pause in the

1 proceedings.)

2 MS. VILLANUEVA: So, this is a survey
3 that's included in our sets. So, the existing
4 property, the existing parcel consists of four --
5 three -- four contiguous original parcels.

6 Lot -- we have frontage on Kennedy
7 Boulevard and 42nd Street. Lot 56 is a 25 foot by
8 hundred foot lot, that is on the border of North
9 Bergen, as well.

10 Lots 52 -- 51, 52 and 53 front 42nd Street.
11 Each one of them is also 25 by a hundred.

12 The records indicate that the existing
13 building that's there now, and is shaded on this
14 plan, and they're pretty much on -- on the
15 property line, were built in 1930. And it's been
16 in continuous use since then.

17 We don't propose to alter the footprint,
18 the massing and the volume of the existing
19 property, the existing buildings, and it's part
20 of our approach to retain the existing structure.

21 So, the site is in an R zone, which is a
22 low density residential zone. The current
23 structure is nonconforming. It's a mixed use,
24 which houses a funeral parlor and an apartment --
25 two bedroom apartment up top.

1 And the entrances to the commercial portion
2 is off JFK and also on the parking lot, off the
3 parking on this side, on 42nd Street.

4 The entrance to the dwelling unit is
5 exclusive and it's right off the -- the door,
6 right on 42nd Street. So, there is a distinct --
7 distinction right now.

8 Our combined site plan, and I'm just going
9 to put this back here, our combined site plan and
10 our floor plan illustrate what we are trying to
11 do.

12 There is an existing parking -- surface
13 parking lot at the property right now. And as
14 you could tell -- you could count, there are 17
15 parking spaces in there. Unfortunately, the
16 spaces are undersized and substandard and they
17 don't comply with current regulations.

18 So, our site work is rather limited to
19 reconfigure -- reconfiguring the site to -- so
20 that we would be able to provide ample size
21 parking, not only for the actual spots, but also
22 the turnaround space.

23 MR. ALAMPI: Ms. Villanueva, what's the
24 designation on the board that's up right now?

25 MS. VILLANUEVA: The designation, this is

1 -- I'm sorry. The -- the --

2 MS. DILLON: I'm sorry, Mr. Alampi. Can I
3 just ask you to go there?

4 Thank you.

5 MR. ALAMPI: Can you just tell us which
6 sheet is on the easel so that the --

7 MS. VILLANUEVA: Oh, that they could follow
8 it.

9 MR. ALAMPI: -- Commissioners --

10 MS. VILLANUEVA: I'm sorry.

11 MR. ALAMPI: -- can follow.

12 MS. VILLANUEVA: This is Sheet A-103, which
13 is on the fifth of the six sheets that we had
14 provided in the set. As I said, it's a combined
15 site plan and floor plan.

16 So, the improvement that we are proposing
17 on the parking lot, however, will yield only ten
18 parking spaces. So, we're essentially
19 eliminating seven spaces. And this is something
20 that we are compelled to do because Dr. Polack is
21 a pediatrician, and we expect children to be on
22 the site. And we feel that safety is important.

23 As it -- as it now stands, to get into the
24 site, you would pull in from 42nd Street, and the
25 only way to get out is to actually back out of

1 42nd Street, which we don't recommend keeping.

2 Other improvements to the site is providing
3 a buffer, a landscape buffer between the sidewalk
4 and the -- the property, as well as a pedestrian
5 path that will take you from the 42nd Street
6 sidewalk to the entrance. It's not really --
7 this is where you enter now, but to a modified
8 entrance that we have on the building.

9 So, these features, the landscaping, the
10 trees and the pedestrian path, are currently not
11 existing on the site. It's really just virtually
12 an asphalt lot.

13 So, as I previously noted, the access is
14 gained from the JFK entrance. So, the people
15 using public transportation would have -- you
16 know, could easily get into the building that
17 way.

18 We are proposing a new stoop at the
19 entrance, a new stair, and a new barrier free
20 ramp to replace what's existing, which is also
21 substandard.

22 So, this allows for a safe way for our
23 users to get into the building, because not only
24 the people who are in wheelchairs, but also
25 parents and caretakers who use strollers and --

1 | you know, carriages for their charges.

2 | So, the entrance, as I said, is coming --
3 | coming from Kennedy and from 42nd Street. Both of
4 | them lead to a front desk. We are proposing a
5 | ramp, an internal ramp from this side to -- to
6 | the actual front entrance, because there is a
7 | grade difference between the finished floors of
8 | the two buildings, the adjoining buildings.

9 | From here, we are providing a waiting lobby
10 | that has designated seating areas for sick
11 | patients, and also for those who are having well
12 | -- well --

13 | Additionally, nursing mothers also have an
14 | option to wait in a more private and quieter
15 | area, beyond the reception desk.

16 | Once patients are ready to be seen, they
17 | are escorted to the nurse's station, in a pre-
18 | check room, after which they -- they can go to
19 | one of eight exam rooms that we are proposing.

20 | The configuration of the -- the floor plan
21 | has, as with staff and the doctors, the support
22 | staff, on the extreme ends of the building, with
23 | services provided in the middle.

24 | As I said, we are -- we're not doing any
25 | alternation to the footprint. In the base --

1 most of our work is an internal rehabilitation of
2 the first floor of the two buildings.

3 In the basement, which will serve as the
4 storage and utility spaces for the facility, work
5 is limited. We are removing the morgue that is
6 there and as well as the mechanical equipment
7 which will be replaced. Essentially, the first
8 floor will be gutted to provide everything.
9 Everything will be new; finishes, mechanical,
10 electrical and plumbing.

11 Work on the outside, besides the site plan
12 that I've already --

13 Well, hold on. Let me just walk you
14 through really quickly, just for informational
15 purposes.

16 On the second floor apartment, for which we
17 are not proposing anything -- any major work. It
18 will remain occupied. The only proposal that we
19 have is to replace an existing window that's
20 accessible only -- it's not really part of the
21 project, it's off the stairwell. And to replace
22 a guardrail that is essentially just a fence.
23 We're providing it with a more substantial guard
24 -- Code compliant guardrail.

25 So, work on the outside, which is this, is

1 | primarily -- well, the building, is primarily
2 | just façade renovations.

3 | This is the existing configuration. And
4 | this is our proposed demolition. And this is
5 | Sheet A-201, which is the last sheet of our set.

6 | What you'd see is -- on -- the work that
7 | we're proposing for the primary facades on JFK
8 | Boulevard is pretty -- is pretty minimal, and
9 | it's the same thing that we're doing on 42nd
10 | Street.

11 | This -- I must point out that this is a
12 | revised elevation, because I wanted to show the
13 | signage that we are proposing on the site.

14 | This Sheet A-2 -- 201. And that's --

15 | MR. ALAMPI: It's been revised.

16 | MS. VILLANUEVA: It's been revised, only to
17 | show the signage that we're putting in.

18 | MR. ALAMPI: So, why don't we mark that
19 | then?

20 | MS. DILLON: It will be C?

21 | MR. ALAMPI: It will be C, --

22 | MS. VILLANUEVA: Okay.

23 | MR. ALAMPI: -- since we're marking these
24 | in letters.

25 | So, why don't you go ahead and mark it and

1 initial it --

2 MS. VILLANUEVA: Okay.

3 MR. ALAMPI: -- and give it today's date?

4 MS. VILLANUEVA: I do have copies -- I have
5 two copies signed and sealed that I could
6 present, as well.

7 MS. DILLON: So, do you want me to mark
8 this or --

9 MS. VILLANUEVA: You could -- I could give
10 you --

11 MS. DILLON: -- do you have something else?

12 MS. VILLANUEVA: I could give you.

13

14 (Whereupon, Sheet A-201 was received and
15 marked as Exhibit C.)

16

17 MS. VILLANUEVA: And again, the only thing
18 that we're showing here is the signage.

19 I have two copies for the Board, if that's
20 going to help.

21 MR. ALAMPI: So, Ms. Villanueva, if I
22 understand you, the only change to the sheet is
23 for signage, that's bubbled.

24 MS. VILLANUEVA: Um hum.

25 MR. ALAMPI: I assume with some kind of

1 squiggly line.

2 MS. VILLANUEVA: Yes. It's called -- it's
3 identified as revision one, dated 3 March 2020.

4 And we are -- and I was compelled to do
5 this, based on the comments provided by Mr. David
6 Spatz, on his memo from February 11th that was
7 sent to the Board.

8 So, the bulk of the exterior work is
9 primarily on the façade, the extensive façade
10 that is readily seen from the parking lot.

11 I'll go back to what we're proposing on the
12 JFK side.

13 The work is limited to replacing the window
14 and cleaning the brick masonry façade that's
15 there, and repainting all the painted surfaces;
16 that would be the doors and the pediments and the
17 pilasters, the nonstructural pilasters that adorn
18 the -- the elevation.

19 Signage will be placed in between these two
20 pilasters and the canvass on it would -- are
21 materials that we are proposing on -- on the --
22 on the parking lot façade.

23 On the north elevation, on 42nd Street,
24 we're taking a similar approach in which we are
25 cleaning the masonry and repainting -- repainting

1 all the finished surfaces that are there.

2 The bulk of the work is on this façade that
3 will be readily visible for all the users.

4 The structure is sound and we are not
5 proposing any alterations except for opening
6 windows and providing a glazed entrance to permit
7 more natural light to permeate the interior.

8 What we are proposing is cedar boards on
9 the façade that's closer to the street, to give
10 it a warmer feel. And board and batten fiber
11 cement siding on the entrance area. And beyond
12 that is also fiber cement siding that is a
13 horizontal lap siding, essentially. And with --
14 breaks down the façade systematically.

15 On the second floor, we are retaining --
16 since not much work is getting done there, we are
17 retaining the existing siding, repainting it,
18 changing one window and providing a new guardrail
19 to match the guardrail that we're proposing on
20 our entrance.

21 Essentially, this -- this screen, is what
22 I'm going to call it, is a façade that we are
23 appending to the existing facades. It's not --
24 it's not structurally going to be to service
25 anything. So, it's our way to distinguish the

1 first floor from the second floor is to -- to
2 provide a more pleasing look to the building.

3 I'm going to refer back to the site plan,
4 because the same approach that we are doing for
5 the building, we're also going to continue it to
6 the rear portion, where there is an existing
7 chain link fence. We are replacing that with a
8 -- with a fence that uses the same materials that
9 we are proposing for the building. So, it's
10 either cedar boards or horizontal lap siding, to
11 -- to give a comprehensive, pleasing aesthetic in
12 the parking lot, the public could readily see.

13 So, signage.

14 We are providing -- providing limited
15 signage on the site.

16 I'm sorry. I'm going to keep referring --
17 referring back to this. I only have one easel.

18 The signage that we're providing is
19 limited. The freestanding -- so freestanding one
20 we're putting in this landscaped area, and this
21 is primarily to direct people to our driveway,
22 because 42nd Street goes one way this way, and we
23 don't want anybody missing the entrance,
24 otherwise you'd have to go around the block, and
25 -- you know, nobody wants to do that, especially

1 if you have a sick kid with you.

2 On the building, we are proposing signage,
3 essentially raised metal letters that would
4 comply with existing regulations. We have them
5 no less than eight feet from the grade plane.

6 So, on Kennedy Boulevard, it's on the left
7 side of the building, if you're looking at it.
8 And on 42nd Street, it's on the building -- it's
9 on the building closest to the street, just --
10 just to identify the -- the business that's
11 there.

12 So, Dr. Polack's medical office is not an
13 as of right allowed use in the district. The --
14 the primary consideration we're asking from you
15 today, in addition to the D variance, which is a
16 use variance, we're also seeking the C variances
17 that Mr. Alampi had noted for parking
18 requirement, the rear yard and the side yard.

19 We had initially, I believe in our -- in
20 our initial application, applied for impervious
21 coverage. But it turns out that we comply with
22 that. And this was confirmed by Mr. David Spatz
23 in his memo to the Board.

24 So, the Municipal Land Use Law sets forth
25 the statutory positive and negative criteria for

1 variance relief. We appreciate this mechanism,
2 which the Board of Adjustment may consider to
3 permit our variances and allow for our project to
4 move forward.

5 Decisions established with precedent cases,
6 the Medici statute, that other planners have
7 mentioned tonight -- tonight. That will be the
8 standards by which we are requesting our relief.

9 I'd like to describe the existing land use
10 and context of the site, and this is where
11 Exhibit A comes into play.

12 So, the primary frontage is on JFK
13 Boulevard, which is a highly trafficked artery.
14 It's a -- it's a county -- it's a county road and
15 we had actually gone before the County Planning
16 Board.

17 It's on the northern most boundary of the R
18 district, along neighboring North Bergen.
19 Despite being in the residential zone, the
20 existing land use fronting Kennedy on this block,
21 and adjacent blocks north and south of that is
22 mixed and predominantly commercial in nature, as
23 well as religious.

24 This -- Exhibit A identifies the current
25 land uses found within the 200 foot radius of our

1 | extremities. But I also went beyond that
2 | boundary to -- to better illustrate how the
3 | neighborhood is.

4 | On our block, besides the funeral parlor,
5 | is a commercial auto leasing and garage business,
6 | directly to its north. To the left of it or to
7 | the south of it are two -- is a three story, I
8 | believe, three family residential use. Another
9 | building that is -- that is residential, and
10 | another building next to it that is like a social
11 | club. And to the south of the -- to the south of
12 | the block, are two lawyer offices.

13 | Directly to the north is a -- is a church,
14 | Saint Rocco's Roman Catholic Church. And that
15 | property has frontage on Kennedy, 42nd and 43rd.
16 | Above that is a fire station and another
17 | commercial building, plus a condo.

18 | And then, as we go to the south, there is a
19 | -- there is another used auto dealership, two
20 | houses, and it's cut off here, but it's a church
21 | that pretty much occupies the rest of that
22 | frontage.

23 | Across the street, North Bergen, this
24 | diagram shows that there are no residential uses
25 | there. So, the character of Kennedy Boulevard is

1 primarily that of commercial. We have a
2 mausoleum, the crematoria, an exempt -- exempted
3 church property. It's a -- so it's a community
4 center, and I believe it's the North Bergen Town
5 Hall.

6 The diagram would indicate -- it actually
7 indicates that in this residential district, the
8 residential character of the neighborhood is
9 predominantly in the middle of the block.

10 Regardless, there are a scattering of
11 nonconforming uses in -- in there. So, we have a
12 dentist's office, we have a doctor's office,
13 another doctor's office, a lawyer's office, and
14 we also have a municipally owned park, Jose Marti
15 Park, and a big municipal paid parking lot, a
16 metered parking lot.

17 On the other side, on the extreme end, on
18 the east end of the -- of the -- of our block is
19 Bergenline Avenue. And that's in a completely
20 different zone and it's primarily commercial.

21 So, the overall existing character and the
22 site, as I mentioned, is a -- is typically urban
23 in setting. So, just like in Union City and
24 other cities in Hudson County, it is a mix of
25 preexisting uses that serve the community and gel

1 the neighborhood. That's just the way it is.
2 These are our -- this is our urban -- urban
3 fabric.

4 So, I want to talk about the positive
5 criteria for a D variance.

6 We are taking a more site specific approach
7 with our request. We are considering the
8 relationship of our property, our project and the
9 community where it's located.

10 The site is peculiar as -- as Santo had
11 alluded earlier.

12 I'm just going to show -- I'm going to
13 refer to the site plan. So, back to A -- A-103.

14 It's peculiar in that it's an amalgamation
15 of four parcels. You -- (indiscernible). The
16 highly trafficked county road and that of a
17 smaller local street.

18 This unique configuration is unusually
19 large for the block, but yet small enough for the
20 office to -- for -- for Dr. Polack to be more
21 directly engaged with the community, more so than
22 where she is now, at 3196 Kennedy Boulevard.

23 This site offers a walkability feature.
24 It's siting within an established block for an
25 easier way for people to get to her, without

1 | having to traverse a sea of parking lot, an
2 | escalator, elevator, to get to the -- to be seen.

3 | And even though it's in a residential --
4 | residential zone, it's really more about the
5 | property. It's in an R residential zone. The
6 | site is particularly suitable for the proposed
7 | use of a medical office. In particular, that of
8 | a pediatrician.

9 | It's beneficial to the community, and it's
10 | one that inherently serves the public good.

11 | As a contrast at the current site of a
12 | funeral parlor, we believe that a doctor's office
13 | is far more desirable in a residential
14 | neighborhood, because not only for the
15 | convenience that it affords Union City families
16 | to -- to be seen, but it's also is we establish
17 | the fundamental consideration that taking care of
18 | our children's health furthers the general
19 | welfare.

20 | A healthy population, especially now, is a
21 | benefit to everybody as a whole.

22 | We're asking for the Board, in this
23 | particular case, to consider that special reasons
24 | in the granting of a use variance to allow Dr.
25 | Polack to relocate her practice, that's already

1 in Union City, and continue to remain an
2 indispensable medical service provider in the
3 town.

4 Negative criteria for a D variance.

5 The proposed medical facility is not
6 incompatible with the neighboring land uses of
7 the site. Introducing this nonconforming use in
8 an area already characterized by a variety of
9 uses, not purely as zoning intended, will not
10 adversely affect the positive character of the
11 neighborhood, or its property values.

12 What we are proposing are substantial
13 improvements to the property. It doesn't cause a
14 substantial detriment to the intent or purpose of
15 the Zoning Ordinance, and in the Master -- the
16 City's Master Plan in furthering its goals.

17 With regard to the C variances for the bulk
18 requirements, and that is for parking, setback
19 requirements for the rear and side yards.

20 The project proposed is to retain and
21 rehabilitate and renovate existing structure.
22 We're asking for a change of use of two of the
23 adjoining construction, but only on the first
24 floor.

25 As I said, there's not going to be any

1 changes to the footprint, to the massing and the
2 volume, so by reason of it's being an existing
3 structure, the physical feature is already built
4 on the site, satisfying those bulk requirements
5 and the strict application of the zoning
6 regulations, as they pertain to the same, will
7 pose an undue hardship on Dr. Polack.
8 Essentially, to satisfy the setback requirements,
9 we'd have to remove walls that are already there
10 and we believe that that's infeasible, from a
11 practical and reasonableness perspective.

12 Similarly, by the -- by the exceptional
13 narrowness, shallowness and shape of the combined
14 properties, it's infeasible for us to provide
15 additional parking beyond the ten that we are
16 already proposing.

17 I described the reason why we were
18 compelled to reconfigure the lot, which is a
19 drastic improvement to what is there now.

20 It's existing. The parking lot is existing
21 and it's afforded by the open, undeveloped space.
22 We're retaining that amenity for our clients and
23 we're providing better circulation for -- for
24 people to park their cars within the right amount
25 of space. And also, to -- to go in and out of

1 the sites.

2 We believe that providing this far
3 outweighs the -- the detriment of having less
4 than the required minimum for the site.

5 And clearly, satisfying the number of
6 minimum parking spaces will pose an undue
7 hardship on the -- on Dr. Polack.

8 We're also asking for the Board to consider
9 the availability of metered on-street parking.
10 It's a residential zone, and there are two hours
11 that you're allowed. Plus the immediacy of the
12 parking lot, the surface parking lot that's
13 afforded by the municipality. But also, we have
14 to consider that not all of Dr. Polack's clients
15 are driving to see her. There is a public
16 transportation that's available on Kennedy
17 Boulevard, just two doors down from -- from our
18 building. It's a New Jersey Transit bus stop.
19 And with also taxis and ride sharing services.

20 Now, like Uber and Lyft, people can easily
21 go. I mean, I prefer to travel that way. People
22 can easily go door-to-door.

23 So, the site, with our proposed industry --
24 (indiscernible) -- offer a friendlier welcome to
25 all of our clients, because this walk ability

1 feature is something that we -- we would like to
2 take advantage of. As I said, it's not something
3 that we have at the Sears building. It takes a
4 long time to get to her building. This is a
5 better way of engaging her practice with the
6 people that she serves.

7 So, overall, we believe that the granting
8 of the variances will not substantially impair
9 the intent and purpose of the zone plan and
10 Zoning Ordinance. The benefits to the community
11 that Dr. Polack's medical office will provide,
12 will substantially outweigh the relief from the
13 regulations we're hereby requesting from the
14 Board.

15 And we appreciate your consideration.

16 MR. ALAMPI: Ms. Villanueva, I just have a
17 --

18 VICE CHAIRMAN GRULLON: Thank you.

19 MR. ALAMPI: -- a couple of questions.

20 MS. VILLANUEVA: Um hum.

21 MR. ALAMPI: So, before we get into some
22 planning questions, I want --

23 MS. VILLANUEVA: Yes.

24 MR. ALAMPI: -- you to put up the interior
25 layout of the building. And I just wanted to --

1 MS. VILLANUEVA: The proposed one or the
2 existing?

3 MR. ALAMPI: The proposed.

4 MS. VILLANUEVA: Yes.

5 MR. ALAMPI: So, on that layout, you
6 testified that there is a hallway from Kennedy
7 Boulevard through the building --

8 MS. VILLANUEVA: Um hum.

9 MR. ALAMPI: -- into the lobby area.

10 MS. VILLANUEVA: Yes.

11 MR. ALAMPI: Is that a secure hallway and
12 separated from the examination rooms?

13 MS. VILLANUEVA: Yes, that is. This is a
14 public entrance. And the public could use it,
15 will use it to get to the front desk.

16 MR. ALAMPI: And when you were designing
17 the interior layout specifically, recognizing
18 that this was a pediatrician office, did you
19 spend considerable time with Dr. Polack going
20 over how to secure the facility, and how to make
21 sure that there was a secure facility for both
22 patients, as well as medical staff?

23 MS. VILLANUEVA: Yes.

24 MR. ALAMPI: And that was one of the things
25 that was done, was to make sure that people

1 | didn't have access to exam rooms and things of
2 | that nature.

3 | MS. VILLANUEVA: Exactly.

4 | MR. ALAMPI: Correct?

5 | MS. VILLANUEVA: It would be -- there will
6 | be access control, and people will be escorted
7 | into the exam rooms.

8 | MR. ALAMPI: Ms. Villanueva, when you were
9 | testifying and giving planning testimony, you
10 | talked about the special reasons, and
11 | specifically, purposes of zoning. You mentioned
12 | the Medici case.

13 | MS. VILLANUEVA: Um hum.

14 | MR. ALAMPI: You went through the general
15 | area. Is it fair to say that our site is either
16 | the last site in the residential zone, or the
17 | first site in the residential zone, depending on
18 | how you interpret that?

19 | MS. VILLANUEVA: Yes. Because it is on the
20 | extreme -- the northern most boundary of the --
21 | the Union City residential zone. So, yes, I
22 | agree.

23 | MR. ALAMPI: And you would also then agree
24 | that obviously zones have to be drawn, and
25 | there's the heart of the zone somewhere, but we

1 are not in the heart of the residential zone.

2 MS. VILLANUEVA: Exactly.

3 MR. ALAMPI: We're on the fringe.

4 MS. VILLANUEVA: Exactly.

5 And the diagram, Exhibit A, visually
6 illustrates that. The yellows are the
7 residential uses. And you see the more colorful
8 mixture on the extreme edges.

9 MR. ALAMPI: And you would also agree that
10 our site is oversized, as far as the requirement
11 within the zone; we're almost 10,000 square feet.

12 MS. VILLANUEVA: Yes.

13 MR. ALAMPI: And the minimum lot size, I
14 believe, is 2500.

15 MS. VILLANUEVA: Twenty-five by -- by a
16 hundred.

17 MR. ALAMPI: And in addition, our lot is
18 very unique, in the sense that it is not a
19 square, it is not a rectangle. I'd venture to
20 say it's not even a trapezoid.

21 MS. VILLANUEVA: No. It's a --

22 MR. ALAMPI: It's a T.

23 MS. VILLANUEVA: It's a T, with a very
24 heavy part of the T sideways.

25 MR. ALAMPI: And that T is an existing

1 building built lot line to lot line.

2 MS. VILLANUEVA: Exactly.

3 MR. ALAMPI: And when you --

4 MS. VILLANUEVA: Our approach is a more
5 sustainable approach of keeping what's there.

6 MR. ALAMPI: Now, you had testified that
7 there was an auto use directly next to us.

8 MS. VILLANUEVA: Right.

9 MR. ALAMPI: That auto use is actually
10 mechanical in nature. They're servicing and
11 fixing automobiles --

12 MS. VILLANUEVA: Yes.

13 And I believe --

14 MR. ALAMPI: -- it looks like to me.

15 MS. VILLANUEVA: -- they also sell cars,
16 because this storefront has cars in there.

17 MR. ALAMPI: And our building actually
18 surrounds it on two sides.

19 MS. VILLANUEVA: Yes.

20 MR. ALAMPI: Is that correct?

21 MS. VILLANUEVA: Um hum.

22 MR. ALAMPI: So, our building is almost
23 like a key piece, or a puzzle piece around that
24 particular site.

25 MS. VILLANUEVA: Yes.

1 MR. ALAMPI: So, when we talk about
2 purposes of zoning, and the general welfare, do
3 we take into consideration the entire area and
4 neighborhood, and not just the zone?

5 MS. VILLANUEVA: Exactly. And that was the
6 compelling reason why I felt -- felt the need to
7 illustrate it and to show it to the Board.

8 MR. ALAMPI: Now another purpose of zoning
9 is to provide adequate light, air, and open
10 space?

11 Is that correct?

12 MS. VILLANUEVA: Yes, that is one of them.

13 MR. ALAMPI: And obviously, by maintaining
14 the property configuration, by maintaining the
15 building and not trying to develop into the
16 parking lot, is it fair to say that we are
17 maintaining the light, air, and open space that
18 exists today?

19 MS. VILLANUEVA: Yes, not only for us, but
20 also for the neighboring adjacent properties.

21 MR. ALAMPI: Now another purpose of zoning
22 is to promote the desirable visual effect of
23 property.

24 Is that --

25 MS. VILLANUEVA: Yes.

1 MR. ALAMPI: Is that true?

2 MS. VILLANUEVA: Um hum.

3 MR. ALAMPI: And what we are doing, does it
4 promote a desirable visual environment, by taking
5 something old and upgrading it, and making it
6 something new and more --

7 MS. VILLANUEVA: Yes. Definitely.

8 And we took that approach, we're respectful
9 of the existing façade on the street. And where
10 we have a little bit more leeway, we modernized
11 it. And essentially, the -- the strategy is to
12 come up with a very pleasing aesthetic, because
13 we want to get children's attention, too, not
14 just their caretakers.

15 We -- one of the -- the things that we
16 wanted to do is for children to say, hey, I'm
17 going to that building. The one with the trees,
18 the one with -- you know, the world, the ones
19 with the different colors, all that stuff.

20 When I mean colors, the façade will have
21 the different treatments. So, this is going to
22 be wood warm, and inviting from the closest to
23 the street. This is -- we're envisioning this to
24 be white, or like a very, very light gray. And
25 this will be something that's a little bit more

1 vibrant, like a red, like a primary color, for --
2 for children to identify with.

3 MR. ALAMPI: And when we talk about
4 particular suitability, from a planning
5 standpoint, we are talking about unique
6 characteristics of this particular property. And
7 that would be that shape, that T shape. Is --

8 MS. VILLANUEVA: Yes, it is.

9 MR. ALAMPI: Is that --

10 MS. VILLANUEVA: And having two frontages.

11 MR. ALAMPI: Now, you had testified that
12 Kennedy Boulevard is a County road.

13 Correct?

14 MS. VILLANUEVA: Yes.

15 MR. ALAMPI: And we actually went to the
16 County and secured the necessary approval from
17 the County.

18 Between Kennedy and Bergenline, along 42nd
19 Street, did you note that there were other
20 commercial uses, doctor's offices? I believe
21 there was a dentist, a lawyer, --

22 MS. VILLANUEVA: Yes.

23 MR. ALAMPI: -- a municipal parking lot.

24 MS. VILLANUEVA: That's right. There is --
25 the doctor's office is not a pediatrician's

1 office. It's a -- I believe it's an internist,
2 it's a lawyer's.

3 MR. ALAMPI: As a matter of fact, on the
4 corner, is another medical group right on the
5 corner of 42nd and Bergenline.

6 MS. VILLANUEVA: That's right. Yes.
7 That's outside of the 200 foot radius, but it is
8 a doctor's office. Also not a pediatrician.

9 MR. ALAMPI: And again, that's not the same
10 zone. Right? That's -- that's a different zone.
11 That's neighborhood commercial.

12 MS. VILLANUEVA: That's right.

13 MR. ALAMPI: Along Bergenline.

14 MS. VILLANUEVA: Um hum.

15 MR. ALAMPI: We all recognize that. But
16 Kennedy Boulevard, at least in Union City, that
17 is a residential zone.

18 MS. VILLANUEVA: It is a residential zone.

19 MR. ALAMPI: But does not look too
20 residential.

21 Right?

22 MS. VILLANUEVA: No. Especially not on our
23 stretch of the neighborhood.

24 MR. ALAMPI: So, between Bergenline and
25 Kennedy, while we're in a residential zone, we're

1 on the fringe, but there's a pretty good mix of
2 use --

3 MS. VILLANUEVA: Yes.

4 MR. ALAMPI: -- between Kennedy and -- and
5 --

6 MS. VILLANUEVA: Yes.

7 MR. ALAMPI: -- Bergenline.

8 MS. VILLANUEVA: It's a pretty dynamic mix
9 of use as you'd see in a lot of cities, where
10 everything is like readily available to -- to
11 residents.

12 MR. ALAMPI: Now, existing at the site is a
13 funeral home, with a residential unit.

14 Is that correct?

15 MS. VILLANUEVA: That is correct. It's
16 existing.

17 MR. ALAMPI: And that's an operating
18 funeral home. It's got a morgue, it's got an
19 embalming room.

20 MS. VILLANUEVA: Casket showroom.

21 MR. ALAMPI: It's a funeral home.

22 Right?

23 MS. VILLANUEVA: Yes.

24 MR. ALAMPI: And while we don't know how
25 long it's been there, it's safe to assume that

1 | it's -- it's been there for quite some time.

2 | MS. VILLANUEVA: Um hum.

3 | MR. ALAMPI: And one of the negative
4 | criteria goes to the substantial detriment of the
5 | nearby properties.

6 | Is it your opinion that there is no
7 | substantial detriment, based in part because
8 | we're converting from this funeral home use to a
9 | pediatrician's office?

10 | Is that -- is that part of the analysis
11 | that --

12 | MS. VILLANUEVA: Yes.

13 | MR. ALAMPI: -- you did?

14 | MS. VILLANUEVA: Yes. It is.

15 | MR. ALAMPI: And is it fair to say that
16 | this is actually a substantial improvement, both
17 | to the existing site, as well as the surrounding
18 | properties by what is being proposed?

19 | MS. VILLANUEVA: Yes.

20 | MR. ALAMPI: I have no further questions,
21 | Mr. Chairman.

22 | VICE CHAIRMAN GRULLON: Do you have any
23 | other witness?

24 | MR. ALAMPI: I do have another witness, so
25 | we can open this witness up to --

1 VICE CHAIRMAN GRULLON: We usually leave
2 question for the last -- for last.

3 Do you want to bring your next witness?

4 MR. ALAMPI: Okay.

5 VICE CHAIRMAN GRULLON: And then, if we
6 have question for your architect and planner, we
7 will have it at the end.

8 MR. ALAMPI: Very good.

9 MS. VILLANUEVA: Okay. All right.

10 MS. DILLON: Right in front of this
11 microphone, Doctor.

12 DR. POLACK: Hello.

13 MS. DILLON: Please raise your right hand.

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

16 DR. POLACK: I do.

17 MS. DILLON: Please state your name and
18 spell it for the record.

19 DR. POLACK: Dr. Noha Polack, N-O-H-A,
20 P-O-L-A-C-K.

21 MS. DILLON: Thank you.

22 DR. POLACK: So, I've been looking for a
23 building for about three years. And I was hoping
24 to find one. I saw several. None of them had
25 nice parking lots, and none of them were close

1 | enough to my current location. I'm right now in
2 | the Sears building on the third floor. I've
3 | rented space in that building for 20 years. So,
4 | I've been a pediatrician for 20 years up on the
5 | third floor.

6 | And that -- the waiting room is one big
7 | waiting room for all the doctor's offices up
8 | there. I'm not sure if you've ever been up
9 | there. And there's really no way to seclude sick
10 | from well. And my patients have been asking for
11 | years to have a separation. And I've been
12 | looking for years.

13 | And so, this location would be ideal, so I
14 | can have my own space to separate sick people
15 | from well people, and to have them seen in a
16 | timely manner.

17 | So, again, I've been in -- in Union City
18 | for 20 years, practicing pediatrics. I have an
19 | established patient base. And now, I'm seeing my
20 | patient's children as patients. So, that's
21 | pretty nice.

22 | I don't want to leave Union City. This is
23 | where I prefer to stay. And that's why I'm
24 | asking for this variance.

25 | In terms of my staff, the great majority of

1 | them come from Union City. One comes from Jersey
2 | City and most of them walk to work. So that --
3 | you know, alleviates some of the parking issues,
4 | anyhow. And a lot of our patients come with a
5 | stroller from home, some come by bus and some
6 | drive.

7 | So right now, they're using the location
8 | where I am with that parking lot. But it gets
9 | really hectic, especially on sale days, with the
10 | stores downstairs.

11 | So, I've gotten many complaints about that.
12 | So, this is another reason I wanted to stay
13 | nearby. And it's such a close location. It's
14 | only -- not even a half mile away, I think.

15 | So, it's a really close walk. So, it's the
16 | same patient base I could still continue to serve
17 | -- you know, my clientele.

18 | MR. ALAMPI: So, Dr. Polack, I just a
19 | couple of quick questions.

20 | First, I think you've testified to it, but
21 | is it fair to say that your patients are
22 | residents of Union City and the surrounding
23 | areas, but your practice is established here in
24 | Union City?

25 | DR. POLACK: Yeah.

1 MR. ALAMPI: Correct?

2 DR. POLACK: And it's been that way for 20
3 years. That's right.

4 MR. ALAMPI: So, we've prepared the
5 application and one of the things that -- that we
6 did with Ms. Villanueva was, we went through the
7 parking lot. And we laid out the parking lot,
8 understanding that we were going from 17 existing
9 spots, to the ten spots that we came up with.

10 Could you just talk a little bit about how
11 your patients are scheduled throughout the day,
12 and why you feel that ten parking spaces is
13 sufficient for your business and practice?

14 DR. POLACK: So, we're open seven days a
15 week, including Saturdays and Sundays.

16 Three days of the week we're open from nine
17 a.m. to seven p.m. And other three days, we
18 close at five.

19 On Saturdays and Sundays, we're just open
20 half a day. And we do know when our well kids
21 are coming in, versus our sick kids. We try to
22 see about four to five patients per hour. So,
23 that's the number that's there at a time.

24 And in terms of staffing, like I mentioned,
25 lots of them just walk to work.

1 So, besides the fact that a lot of people
2 take the bus and there's a parking lot half a
3 block away, with metered parking, I think it will
4 be sufficient.

5 MR. ALAMPI: And Dr. Polack, is it fair to
6 say that you would not make the investment --
7 you're a contract purchaser. You don't own the
8 property, as we stand here today.

9 DR. POLACK: No, I do not own the property.

10 MR. ALAMPI: And is it fair to say that you
11 would not invest in such a property that does not
12 meet the needs of your business?

13 DR. POLACK: And that's why I haven't
14 bought in the last few years. I've been waiting
15 and waiting. Yes.

16 MR. ALAMPI: The opportunity --

17 DR. POLACK: That's right.

18 MR. ALAMPI: -- has now presented itself.

19 DR. POLACK: That's right.

20 MR. ALAMPI: And checks all the boxes, as
21 best it can.

22 DR. POLACK: Fingers crossed.

23 MR. ALAMPI: Dr. Polack, the only other
24 question I have, and maybe some of the Board
25 members would want to know, in this day and age,

1 | can you -- can you tell us how medical waste gets
2 | removed from a site?

3 | DR. POLACK: Yes.

4 | So, we have a medical waste company. We
5 | have a license and that's -- that license is to
6 | -- you know, have medical waste. And we collect
7 | it in locked containers that remain locked until
8 | the medical waste company comes monthly and they
9 | collect it from a special room. And they usually
10 | come before office hours, not during office
11 | hours, to collect it.

12 | They're called Stericycle.

13 | MR. ALAMPI: Mr. Chairman, I really have no
14 | other questions for Dr. Polack, if -- if the
15 | Board has --

16 | VICE CHAIRMAN GRULLON: I just have one
17 | question, regarding the staff.

18 | How many staff members do you have?

19 | DR. POLACK: So, I have a total of five
20 | staff members. And so -- so, there's two
21 | receptionists, two medical assistants, and one
22 | that does both. And then, there's myself, the --
23 | that I work in Union City three days per week, my
24 | partner, Dr. Teraguchi, who works two days per
25 | week. And we have a nurse practitioner as well.

1 VICE CHAIRMAN GRULLON: And out of the ten
2 parking spaces, would you say that maybe half
3 would be used by the staff?

4 DR. POLACK: No. I think about two or
5 three at a time, because we don't all work at the
6 same time. We stagger.

7 MR. ALAMPI: And you rotate around, because
8 Union City is not the only practice.

9 DR. POLACK: That's right.

10 And to -- and -- and I'm the only person
11 who works full time. Everybody else works two or
12 three days a week. None of the other provider
13 works every day. So, we rotate. So, that's why
14 -- we're not usually there at the same time.

15 VICE CHAIRMAN GRULLON: And you stated on
16 the record that you usually see four or five
17 patients per hour?

18 DR. POLACK: At times. Yes.

19 MR. ALAMPI: Those numbers are up right
20 now.

21 VICE CHAIRMAN GRULLON: I don't have any
22 more question.

23 Do you have any question?

24 MR. MEDINA: I have a question.

25 On the parking, which was -- which street

1 parking, get into the parking, to the driveway?

2 DR. POLACK: Forty-second.

3 MR. MEDINA: Forty-second?

4 And the same way you are -- that you leave
5 the building, 42nd too? Or is it the one entrance
6 and exit?

7 MR. ALAMPI: Entrance and exit.

8 MS. VILLANUEVA: Yes.

9 DR. POLACK: I don't understand the
10 question.

11 MS. VILLANUEVA: Yeah. You would enter
12 here, and then it's the way out. There's -- it's
13 -- we don't have a through -- throughway --

14 MR. MEDINA: Okay.

15 MS. VILLANUEVA: -- condition. Unlike the
16 municipal parking lot has that, yeah.

17 MR. MEDINA: All right.

18 MR. ALAMPI: But we've made the drive aisle
19 now.

20 Right?

21 MS. VILLANUEVA: Yeah. Code compliant.

22 MR. ALAMPI: Of sufficient width.

23 MS. VILLANUEVA: Exactly. I mean --

24 MR. ALAMPI: So that you can --

25 MS. VILLANUEVA: -- you could compare it --

1 MR. ALAMPI: -- navigate that.

2 MS. VILLANUEVA: I lost my -- oh, it's
3 behind it.

4 So, you would -- you could compare that to
5 the existing layout that's there now. So,
6 there's the angled parking that essentially only
7 allows you to back out of the driveway, which is
8 -- you know, we could do that in our own
9 driveways. But for a facility that has more than
10 one car, it becomes a little bit risky.

11 And as I said -- you know, our clientele
12 are children. And I'm a mother of three. And as
13 much as I yell out, don't run in the parking lot,
14 they still do. So --

15 MR. ALAMPI: When does that stop?

16 DR. POLACK: Nineteen.

17 MR. ALAMPI: My kids are --

18 MS. VILLANUEVA: Let me ask my --

19 MR. ALAMPI: -- eight and nine and it
20 happens.

21 MS. VILLANUEVA: Let me ask my mother. So

22 --

23 MR. MEDINA: All right.

24 Thank you.

25 MR. PRESSEY: Thank you.

1 Thank you, Doctor.

2 VICE CHAIRMAN GRULLON: At this time, I
3 want to open it to the public.

4 Any member of the public has any questions?

5 Closed to the public.

6 Question?

7 The change of use is not being -- we're not
8 changing -- is going from a commercial with one
9 unit to a commercial with one unit. It's just
10 one unit. One -- one -- actually, one apartment
11 unit on the second floor?

12 MR. ALAMPI: So, the residential unit on
13 the second floor will continue. It's going to
14 continue in its same square footage, and general
15 shape. I think we're just changing a window out.

16 MS. VILLANUEVA: The window actually is not
17 even in the --

18 MS. DILLON: Just go to the --

19 MS. VILLANUEVA: Oh.

20 The window actually is not even -- the
21 window that we are changing is actually outside
22 of the unit. It's this one. And it's because
23 eventually -- you know, once Ms. -- once Dr.
24 Polack has the building, we anticipate other
25 improve -- internal improvements. And it would

1 make -- facilitate --changing this now would
2 facilitate that -- that.

3 MR. ALAMPI: It's fair to say that the
4 residential unit is going to stay in its current
5 configuration.

6 MS. VILLANUEVA: Yes. It's actually a --

7 VICE CHAIRMAN GRULLON: And it's occupied.

8 MS. VILLANUEVA: Yes.

9 MR. ALAMPI: It is occupied. It's intended
10 that that person is going to continue to stay
11 there.

12 MS. VILLANUEVA: Um hum.

13 MR. ALAMPI: And it's going to be -- and
14 remain in that condition.

15 VICE CHAIRMAN GRULLON: And your only
16 request is to -- the change of use from the
17 funeral home to the medical -- medical use.

18 And the actual medical use is also
19 commercial.

20 MR. ALAMPI: Yes. Absolutely.

21 VICE CHAIRMAN GRULLON: Yes.

22 MR. ALAMPI: It's one commercial use, it's
23 going to another commercial use, which is the
24 doctor's office. Those improvements, we're going
25 to make improvements to the parking lot layout --

1 VICE CHAIRMAN GRULLON: Sure.

2 MR. ALAMPI: -- and circulation and
3 landscaping and things of that nature.

4 VICE CHAIRMAN GRULLON: And I will say --

5 MR. ALAMPI: But yes.

6 VICE CHAIRMAN GRULLON: It will be
7 substantial demolition inside, just to -- to
8 build all the exam rooms and the --

9 MR. ALAMPI: Yes.

10 VICE CHAIRMAN GRULLON: But no demolition
11 on the exterior of the building. The footprint
12 of the building --

13 MR. ALAMPI: The footprint of the building
14 is not --

15 VICE CHAIRMAN GRULLON: -- remain the same.

16 MR. ALAMPI: -- changing at all.

17 VICE CHAIRMAN GRULLON: Okay.

18 With all those modifications, I see that
19 this application is more beneficial than having a
20 funeral home.

21 And it's going to serve the community and
22 -- and we have the opportunity to have a business
23 that has been serving the children for 20 years
24 stay in Union City, I will make a motion to grant
25 the application.

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

3 Seconded by Ms. Gutierrez.

4 Roll call on the motion to grant this
5 application.

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: Mr. Medina?

13 MR. MEDINA: Yes.

14 THE SECRETARY: Mr. Ortiz?

15 MR. ORTIZ: Yes.

16 THE SECRETARY: Ms. Perez?

17 MS. PEREZ: Yes.

18 THE SECRETARY: Mrs. Watley?

19 MS. WATLEY: Yes.

20 THE SECRETARY: Seven in favor.

21 Motion carries.

22 Thank you and have a good night.

23 MR. ALAMPI: Thank you, everybody.

24 VICE CHAIRMAN GRULLON: Thank you.

25 MR. ALAMPI: Have a good night.

1 DR. POLACK: Thank you.

2 VICE CHAIRMAN GRULLON: Thank you.

3 Thank you.

4 MS. GUTIERREZ: Good night.

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RESOLUTIONS:

(1) Ernesto Salgado & Guadalupe Marti Salgado, 611 11th Street, Block 46, Lot 13. Proposes three story two residential units building. **(Withdrawn)**

(2) 613 39th Street, LLC, 611 39th Street, Block 261, Lots 58, 54. Applicant proposes the construction of a new three family house.

Approved

(3) Edwin Narvaez, 1311 New York Avenue, Block 64, Lot 5. Applicants proposes a rear addition and deck on first floor level. **Approved**

(4) 538 36th Street, Block 218, Lot 13. The applicants propose a rear addition to an existing two-family house and interior renovation of the ground floor apartment and second floor.

Approved

(5) Ewald Pries, 512 9th Street, Block 40.02, Lot 24. Applicant proposes to legalize a studio basement apartment in an existing multi-family building. The number of residential units will increase from six to seven. **Approved**

(6) Ewald Pries, 510 9th Street, Block 40.02, Lot 25. Applicant proposes to legalize a studio basement apartment in an existing multi-family

1 building. The number of residential units will
2 increase from six to seven. **Approved**

3 (7) Ewald Pries, 514 9th Street, Block 40.02,
4 Lot 23. Applicant proposes to legalize a studio
5 basement apartment in an existing multi-family
6 building. The number of residential units will
7 increase from five to six. **Approved**

8

9 THE SECRETARY: All right.

10 We are going to move to adoption of
11 Resolutions.

12 We have seven Resolution on tonight's
13 agenda.

14 Resolution number 1.

15 Ernesto Salgado and Guadalupe Marti
16 Salgado, 611 11th Street.

17 Resolution number 2.

18 613 39th Street, LLC, 611 39th Street.

19 Resolution number 3.

20 Edwin Narvaez, 1311 New York Avenue.

21 Resolution number 4.

22 538 36th Street.

23 Resolution number 5.

24 Ewald Pries, 512 9th Street.

25 Resolution number 6.

1 Ewald Pries, 510 9th Street.

2 And Resolution number 7.

3 Ewald Pries, 914 (sic) 9th Street.

4 Can I have a motion to adopt these
5 Resolution?

6 Motion by Mr. -- motion -- no, one second.

7 Right, the -- the members present at the
8 previous meeting and can vote on the -- Mr. --
9 Ms. Gutierrez?

10 MS. GUTIERREZ: Yes.

11 THE SECRETARY: Mr. Medina?

12 MR. MEDINA: Yes.

13 THE SECRETARY: One second.

14 Mr. Ortiz?

15 MR. ORTIZ: Yes.

16 MS. DILLON: You don't have a motion.

17 THE SECRETARY: Ms. Perez, Mr. Cetinich,
18 Mr. Watley.

19 Can I have a motion --

20 MS. GUTIERREZ: I'll make a motion.

21 THE SECRETARY: -- to adopt these
22 Resolution?

23 Motion by Ms. Gutierrez.

24 Seconded by?

25 Mr. Medina?

1 MR. SPATZ: Yes.

2 MR. MEDINA: Yes.

3 THE SECRETARY: Roll call on the motion.

4 Mr. Grullon?

5 VICE CHAIRMAN GRULLON: Abstain.

6 THE SECRETARY: I'm sorry. I apologize.

7 You abstained.

8 Ms. Gutierrez?

9 MS. GUTIERREZ: Yes.

10 THE SECRETARY: Mr. Medina?

11 MR. MEDINA: Yes.

12 THE SECRETARY: Mr. Ortiz?

13 MR. ORTIZ: Yes.

14 THE SECRETARY: Ms. Perez?

15 MS. PEREZ: Yes.

16 THE SECRETARY: Ms. Watley?

17 MS. WATLEY: Yes.

18 THE SECRETARY: Five in favor, one

19 abstained.

20 Motion carries.

21 * * *

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1 **ADJOURNMENT:**

2

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

6 Motion by Mr. Pressey.

7 MS. GUTIERREZ: Second.

8 MR. PRESSEY: I second it.

9 THE SECRETARY: Seconded by Mr. Ortiz.

10 MR. PRESSEY: I second it.

11 THE SECRETARY: All in favor?

12

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

14

15 THE SECRETARY: The ayes have it.

16 Motion carries.

17 Let the record indicate that the meeting
18 has ended.

19 Thank you.

20 And good night, everyone.

21

22 (Whereupon, the proceedings were concluded
23 at 9:51 p.m.)

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, March 12, 2020 and
10 digitally recorded.

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25 Monitored and proofread by: Deborah Dillon