

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

REGULAR MEETING : TRANSCRIPT OF
: :
: :
-----: PROCEEDINGS

Union City High School
Media Center
2500 Kennedy Boulevard
Union City, New Jersey

Thursday, March 9, 2023
Commencing at 6:15 p.m.

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

MARGARITA GUTIERREZ, Vice Chairperson
MIGUEL ORTIZ
VIVIAN O'DELL
GERALDINE PEREZ
MINDRY WATLEY
ALTAGRACIA SAN MARTINO

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

VICTOR GRULLON, Chairperson
ROSIO PENA
RAYMOND CETINICH

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

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Board Counsel

CARLOS VALLEJO, Board Secretary

DAVID SPATZ, PP, Consulting City Planner

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BIANCA PEREIRAS, ESQ.
Attorney for Applicant, Jorge & Zaida
Turbay

BIANCA PEREIRAS, ESQ.
Attorney for Applicant, MI 412 4th Street

ADOLFO LOPEZ, ESQ.
Attorney for Applicant, 509-513
Bergenline Avenue, LLC

BIANCA PEREIRAS, ESQ.
Attorney for Applicant, Immanuel United
Methodist Church

BIANCA PEREIRAS, ESQ.
Attorney for Applicant, Apnaghar
Property Management, LLC

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

J. ALVARO ALONSO, ESQ.
Attorney for Applicant, Merwin Richard

BIANCA PEREIRAS, ESQ.
Attorney for Applicant, 2705 Bergenline,
LLC

I N D E X

	<u>PAGE</u>
CALL TO ORDER	8
SALUTE TO FLAG	8
ROLL CALL	9
ADOPTION OF MINUTES	11
HEARINGS	
509-513 Bergenline Ave, LLC	12
2705 Bergenline Avenue, LLC	16
Hung Fat, Inc.	20
1512 Palisade Avenue	23
4531 Harrison Place, LLC	27
Merwin Richard	34
Jorge & Zaida Turbay	55
MI 412 4th Street, LLC	58
Immanuel United Methodist Church	65
Apnaghar Property Management, LLC	88
ADOPTION OF RESOLUTIONS	102
ADJOURNMENT	105

I N D E X

MERWIN RICHARD
3100 Central Avenue

WITNESSPAGE

CAROLA ROSAS

35

ALEXANDER DOUGHERTY

42

E X H I B I T SNO.DOCUMENTPAGE

NO

EXHIBITS

MARKED

I N D E X

MI 412 4TH STREET, LLC
412 4th Street

WITNESSPAGE

MANUEL PEREIRAS

59

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NO

EXHIBITS

MARKED

I N D E X

IMMANUEL UNITED METHODIST CHURCH
3301 New York Avenue

WITNESSPAGE

MANUEL PEREIRAS

66

ALEXANDER DOUGHERTY

71

E X H I B I T SNO.DOCUMENTPAGE

A-1

planning document

72

I N D E X

APNAGHAR PROPERTY MANAGEMENT, LLC
1909 New York Avenue

WITNESSPAGE

MANUEL PEREIRAS

90

ALEXANDER DOUGHERTY

93

E X H I B I T SNO.DOCUMENTPAGE

A-1

planning document

93

1 MR. VALLEJO: May I have your attention
2 please?

3 Please take notice that on Thursday,
4 March 9, 2023, at 6:00 p.m., a regular meeting is
5 scheduled for the City of Union City Zoning Board
6 of Adjustment, to be held in Union City High
7 School, located at 2500 John F. Kennedy Boulevard,
8 Union City, New Jersey.

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

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

18 Before we do roll call for tonight's
19 meeting, can everybody kindly rise to salute the
20 flag, please?

21

22 (Whereupon the Pledge of Allegiance was
23 recited.)

24

25 MR. VALLEJO: Thank you.

ROLL CALL:

MR. VALLEJO: Thank you. Before we do roll call, we want to welcome the two new Board Members. Mr. Paneque, please.

MR. PANEQUE: Thank you, Mr. Vallejo. It is with great pleasure that I introduce the following two individuals who are the newly appointed Board Members. We're going to start with Ms. Vivian O'Dell.

MS. O'DELL: Hi.

MR. PANEQUE: And Ms. Altagracia San Martino.

MR. VALLEJO: Thank you, Mr. Paneque. Roll call for tonight's meeting. Mr. Grullon is absent.

Ms. O'Dell.

MS. O'DELL: Present.

MR. VALLEJO: Ms. Gutierrez.

VICE CHAIRPERSON GUTIERREZ: Present.

MR. VALLEJO: Mr. Ortiz is absent.

Ms. Pena is absent.

Ms. Perez.

MS. PEREZ: Here.

MR. VALLEJO: Ms. Watley.

1 MS. WATLEY: Here.

2 MR. VALLEJO: Ms. San Martino.

3 MS. SAN MARTINO: Here.

4 MR. VALLEJO: Mr. Cetinich is absent.

5 Let the record indicate there are five
6 present. We have a quorum for tonight's meeting.

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ADOPTION OF MINUTES:

MR. VALLEJO: Approval of previous meeting minutes from February 9, 2023. Can I have a motion?

VICE CHAIRPERSON GUTIERREZ: Motion.

MR. VALLEJO: You were absent at the previous meeting.

VICE CHAIRPERSON GUTIERREZ: Oh, yeah.

MS. PEREZ: Motion.

MR. VALLEJO: Motion by Ms. Perez.

MS. WATLEY: Second.

MR. VALLEJO: Second by Ms. Watley.

Roll call on the motion.

Ms. Perez.

MS. PEREZ: Yes.

MR. VALLEJO: Ms. Watley.

MS. WATLEY: Yes.

MR. VALLEJO: Two in favor, motion carries.

* * * *

1 **509-513 BERGENLINE AVENUE, LLC -**

2 **509-513 BERGENLINE AVENUE:**

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4 MR. PANEQUE: Mr. Vallejo, we're going
5 to go off order from the calendar in order to
6 address the fact that we only have five members.
7 I've had the opportunity to speak to some of the
8 applicants for the matters that are being
9 presented to the Board tonight and they do require
10 a use variance.

11 The first one is number 9, the matter of
12 509-513 Bergenline Avenue. Mr. Lopez.

13 MR. LOPEZ: I've submitted the
14 jurisdictional documents.

15 MR. PANEQUE: Thank you.

16 MR. LOPEZ: Good evening, Members of the
17 Board.

18 MR. PANEQUE: If I could put those on
19 the record. Let the record reflect as follows:

20 I've been provided by Mr. Lopez with an
21 affidavit of service indicating that notice of
22 tonight's hearing at this location, the Union City
23 High School, with respect to the property at
24 509-513 Bergenline Avenue was provided to all
25 property owners within the 200 foot radius of said

1 property.

2 I've also been provided by Mr. Lopez
3 with an affidavit of publication from The Jersey
4 Journal indicating that notice of tonight's
5 hearing with respect to the property in question
6 was published in the The Jersey Journal on
7 February 15, 2023.

8 I've also been provided with a copy of
9 the notice indicating that the hearing will take
10 place at this location with respect to the
11 property 509-513 Bergenline Avenue, as well as the
12 certified tax list from the Union City tax
13 assessor's office with a date of December 19,
14 2022, listing the property owners within the 200
15 foot range of 509-513 Bergenline Avenue; as well
16 as the certified mail receipt sending out the
17 notices to all the property owners with a postmark
18 date of February 23, 2023.

19 Based on the documentation that has been
20 provided, this Board has jurisdiction to proceed
21 and hear this matter.

22 Mr. Lopez, as I indicated in my opening,
23 we only have five members tonight. I understand
24 that your application does require a use variance
25 and that you would need a super majority vote.

1 Based on the fact that we only have five members
2 here tonight, I will leave the choice up to you
3 whether you want to proceed or carry the matter?

4 MR. LOPEZ: I would ask the Board to
5 grant us an adjournment. Certainly no disrespect
6 intended to all these lovely ladies on the Board,
7 but, yes, I would ask that my client have some
8 additional members present, given the type of
9 relief we seek.

10 MR. PANEQUE: Okay. And, Mr. Board,
11 does your client waive the statutory period for?

12 MR. LOPEZ: He does, absolutely.

13 MR. PANEQUE: Thank you.

14 Madam Chairperson.

15 VICE CHAIRPERSON GUTIERREZ: I make a
16 motion to adjourn the application.

17 MR. VALLEJO: To April 13, 2023, 6:00
18 p.m., same place, no new notice required. Motion
19 by Ms. Gutierrez.

20 MS. PEREZ: Second.

21 MR. VALLEJO: Seconded by Ms. Perez.

22 Roll call on the motion.

23 Ms. O'Dell.

24 MS. O'DELL: Yes.

25 MR. VALLEJO: Ms. Gutierrez.

1 VICE CHAIRPERSON GUTIERREZ: Yes.

2 MR. VALLEJO: Ms. Perez.

3 MS. PEREZ: Yes.

4 MR. VALLEJO: Ms. Watley.

5 MS. WATLEY: Yes.

6 MR. VALLEJO: Ms. San Martino.

7 MS. SAN MARTINO: Yes.

8 MR. VALLEJO: Five in favor, motion
9 carries.

10 MR. LOPEZ: Thank you.

11 VICE CHAIRPERSON GUTIERREZ: Thank you,
12 Mr. Lopez.

13 MR. VALLEJO: Next meeting, April 13th.

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1 **2705 BERGENLINE, LLC -**

2 **2705 BERGENLINE AVENUE:**

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4 MR. PANEQUE: Mr. Lopez, stay on the
5 podium. We're going to go now off the number --
6 to the application which is number 14. This is
7 the matter of 2705 Bergenline Avenue. This
8 application came before the Board at the
9 February 9th meeting, I was not present due to a
10 personal commitment. And the matter because of
11 Mr. Lopez's not being here, the case was dismissed
12 without prejudice.

13 As the Board Attorney, it's my opinion
14 that the matter should not have been dismissed.
15 Mr. Lopez should have been given the opportunity
16 to present his case, at the minimum, and he did
17 request that the matter be carried and that's why
18 he was not here.

19 MR. LOPEZ: So, I'm sorry, just some
20 additional information for the Board, substitute
21 counsel really decided that the Board --
22 recommended to the Board that it be a dismissal
23 for the wrong reasons. And he did it out of an
24 abundance of caution and I'm not questioning him
25 at all. There was -- he saw nothing in the record

1 anywhere about a jurisdictional waiver and the
2 application has been pending for quite awhile.
3 His view, I believe, is incorrect because if the
4 adjournments were requested by me, then I can't
5 turn around and say, well, the Board didn't decide
6 it within the statutory period, I requested all
7 the adjournments.

8 But be that as it may, he wasn't -- he
9 was substitute counsel, he wasn't aware of all the
10 particulars. And he did put on the record because
11 he told me and Mr. Paneque since that time he was
12 able to verify with the transcript, it was done
13 without prejudice. He didn't know and he just
14 wanted an explanation.

15 So, yes, we would ask respectfully, Mr.
16 Paneque, Madam Chairwoman, that the matter be
17 reinstated, just to get a hearing on the matter.

18 MR. PANEQUE: Okay. And will you also
19 be asking that this matter be carried to the next
20 meeting --

21 MR. LOPEZ: To the next meeting if
22 possible, yes.

23 MR. PANEQUE: -- with a fuller
24 complement of the Board?

25 MR. LOPEZ: Please.

1 MR. VALLEJO: Mr. Paneque, new notice
2 required?

3 MR. PANEQUE: No, no notice is required.

4 VICE CHAIRPERSON GUTIERREZ: I make a
5 motion to adjourn to the next meeting.

6 MR. VALLEJO: Motion by Ms. Gutierrez to
7 adjourn this application.

8 MS. WATLEY: Second.

9 MR. VALLEJO: And reinstate. Seconded
10 by Ms. Watley.

11 MR. PANEQUE: If anybody is here on the
12 application both for 2705 Bergenline Avenue, as
13 well as the application for 509-513 Bergenline
14 Avenue, both of those matters have been carried at
15 the request of counsel for the applicants to the
16 April 13th meeting. You will not receive any
17 further notice. This is the only notice that you
18 will get. So if you want to be heard on those
19 applications, kindly be here at the April 13th
20 meeting, 6:00 p.m., Union City High School. Thank
21 you.

22 MR. VALLEJO: Motion on the table to
23 adjourn this application by Ms. Gutierrez,
24 seconded by Ms. Watley.

25 Roll call on the motion.

1 Ms. O'Dell.

2 MS. O'DELL: Yes.

3 MR. VALLEJO: Ms. Gutierrez.

4 VICE CHAIRPERSON GUTIERREZ: Yes.

5 MR. VALLEJO: Ms. Perez.

6 MS. PEREZ: Yes.

7 MR. VALLEJO: Ms. Watley.

8 MS. WATLEY: Yes.

9 MR. VALLEJO: Ms. San Martino.

10 MS. SAN MARTINO: Yes.

11 MR. VALLEJO: Five in favor, motion

12 carries.

13 MR. LOPEZ: Thank you all so much.

14 VICE CHAIRPERSON GUTIERREZ: Thank you,

15 have a good night.

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1 **HUNG FAT, INC. -**

2 **1212-1216 SUMMIT AVENUE:**

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4 MR. PANEQUE: Mr. Vallejo, we're still
5 going to stay off the calendar order and I'm going
6 to call Ms. Pereiras.

7 MR. VALLEJO: All right. Next
8 application on tonight's agenda is --

9 MR. PANEQUE: Ms. Pereiras, you also
10 were looking for an adjournment based on the fact
11 we do not have a full complement of the Board?

12 MS. PEREIRAS: That's right, Counsel.

13 MR. PANEQUE: And this is for 1212-16
14 Summit Avenue?

15 MS. PEREIRAS: Yes, Counsel.

16 MR. PANEQUE: Okay. Let the record
17 reflect as follows, I've ben provided by Ms.
18 Pereiras with a certification as to publication
19 and service indicating that notice of tonight's
20 hearing with respect to 1212-16 Summit Avenue was
21 provided to all property owners within the 200
22 foot radius.

23 I've also been provided with a tax list
24 from the tax assessor's office with a date of
25 February 27, 2023, listing all property owners

1 within a 200 foot radius of 1212-16 Summit Avenue,
2 as well as an affidavit of publication from The
3 Jersey Journal indicating that notice of tonight's
4 hearing with respect to the property at 1212-16
5 Summit Avenue appeared in the The Jersey Journal
6 on February 27, 2023, as well as the certified
7 mail receipts with a postmark date of February 24,
8 2023.

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

12 Now, Ms. Pereiras, what is your petition
13 to the Board?

14 MS. PEREIRAS: With all due respect to
15 the Board we would like to afford the applicant an
16 opportunity to present to a full board. So we are
17 asking that this matter be adjourned until next
18 month without any need for new notices or
19 publication.

20 MR. PANEQUE: Do you waive the statutory
21 period for this Board to hear --

22 MS. PEREIRAS: Of course we do.

23 MR. PANEQUE: Thank you.

24 MR. VALLEJO: Can I have a motion to
25 adjourn to April 13?

1 VICE CHAIRPERSON GUTIERREZ: Motion.
2 MR. VALLEJO: Motion by Ms. Gutierrez.
3 MS. WATLEY: Second.
4 MR. VALLEJO: Seconded by Ms. Watley.
5 Roll call on the motion.
6 Ms. O'Dell.
7 MS. O'DELL: Yes.
8 MR. VALLEJO: Ms. Gutierrez.
9 VICE CHAIRPERSON GUTIERREZ: Yes.
10 MR. VALLEJO: Ms. Perez.
11 MS. PEREZ: Yes.
12 MR. VALLEJO: Ms. Watley.
13 MS. WATLEY: Yes.
14 MR. VALLEJO: Ms. San Martino.
15 MS. SAN MARTINO: Yes.
16 MR. VALLEJO: Five in favor, motion
17 carries. No new notice.
18 MS. PEREIRAS: Thank you.

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1 **1512 PALISADE AVENUE -**

2 **1512 PALISADE AVENUE:**

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4 MR. PANEQUE: If there are any other
5 applicants which have a use variance and would
6 like to carry the matter, please step forward.
7 Mr. Arturi?

8 MR. ARTURI: Yes, for 1512 Palisade
9 Avenue.

10 MR. PANEQUE: Mr. Arturi's case is
11 number 2 on the calendar and this was adjourned at
12 the last meeting?

13 MR. ARTURI: That's correct. We
14 established jurisdiction, but I did not have the
15 professional witnesses, so it was adjourned at the
16 last meeting because of that. Today, we only have
17 five members, I'm in the same situation as the
18 other applications. And I do think my application
19 needs to be presented to the full Board.

20 MR. PANEQUE: Okay, understood. And you
21 will waive the statutory time period for the Board
22 to hear your application?

23 MR. ARTURI: Yes.

24 MR. PANEQUE: Just to reiterate, Mr.
25 Arturi, your request is to carry this matter to

1 the next meeting, April 13th?

2 MR. ARTURI: Correct. Because we only
3 have five members and I need all five.

4 MR. PANEQUE: Understood. Is there a
5 motion?

6 VICE CHAIRPERSON GUTIERREZ: I make a
7 motion to adjourn to April 13th.

8 MS. WATLEY: Second.

9 MR. VALLEJO: Motion on the table to
10 adjourn this application to April 13th by Ms.
11 Gutierrez, seconded by Ms. Watley. Roll call on
12 the motion.

13 Ms. O'Dell.

14 MS. O'DELL: Yes.

15 MR. VALLEJO: Ms. Gutierrez.

16 VICE CHAIRPERSON GUTIERREZ: Yes.

17 MR. VALLEJO: Ms. Perez.

18 MS. PEREZ: Yes.

19 MR. VALLEJO: Ms. Watley.

20 MS. WATLEY: Yes.

21 MR. VALLEJO: Ms. San Martino.

22 MS. SAN MARTINO: Yes.

23 MR. VALLEJO: Five in favor, motion
24 carries.

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

1 For those members in the public who are
2 here on the application for 1512 Palisade Avenue,
3 the applicant's attorney has requested that the
4 matter be carried to April 13th because this Board
5 is composed only of five members today, we don't
6 have a full complement of the Board. Without a
7 full complement, the applicant is at a
8 disadvantage because they need a super majority
9 vote, which consists of no less than five votes.
10 So in order for them to present their application,
11 they're asking that the Board be a complete Board.

12 Now, I did see, ma'am, you raising your
13 hand. I cannot entertain any questions regarding
14 this application because the applicant has to
15 present the applications first before you're
16 allowed to question or make any comment. What I
17 would ask -- and Mr. Arturi, there is a member of
18 the public here, this young lady sitting here with
19 the scarf, maybe you could meet with her?

20 MR. ARTURI: We met at the last meeting.

21 MR. PANEQUE: If you have any concerns,
22 bring them up with Mr. Arturi and be present for
23 the next Board meeting on April 13th to express
24 any concerns that you may have. It's not that we
25 don't want to hear, it's that we cannot without

1 the applicant presenting their case first. Okay?

2 MR. ARTURI: Thank you.

3 MR. PANEQUE: And there will be no
4 further notices on this application.

5 MR. ARTURI: Thank you.

6 AUDIENCE MEMBER: Are we going to keep
7 postponing this over and over?

8 MR. PANEQUE: I can't answer that
9 question, ma'am. Because on April 13th, I don't
10 know whether we're going to, you know, have any
11 thing that would cause this Board to agree to
12 another adjournment. But hopefully we'll have the
13 full Board at that time and Mr. Arturi will be
14 able to present and you'll have an opportunity to
15 be heard.

16 VICE CHAIRPERSON GUTIERREZ: Thank you.

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1 **4531 HARRISON PLACE, LLC -**

2 **4535 HARRISON PLACE:**

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4 MR. PANEQUE: We're going to start now
5 with number one. Mr. Alonso.

6 MR. VALLEJO: 4531 Harrison Place. Mr.
7 Alonso, please.

8 MR. ALONSO: My witness just walked out
9 of the room.

10 Good evening, Madam Chair, members the
11 Board. For the record, Alvaro Alonso on behalf of
12 the applicant. Welcome to the two new Board
13 Members, looking forward to working with you.

14 MR. PANEQUE: Mr. Alonso, this matter
15 was carried from the February 9th meeting,
16 correct?

17 MR. ALONSO: Correct.

18 MR. PANEQUE: Did you start presenting
19 evidence at that meeting or no?

20 MR. ALONSO: No, no. Testimony was
21 presented just the notices.

22 MR. PANEQUE: Okay. So jurisdiction was
23 established by the Board. You're going to start
24 presenting your case de novo now?

25 MR. ALONSO: That's correct. I just

1 want to alert the Board that my planner, I don't
2 see my planner yet. They did confirm via email
3 that he would be here. So I have two witnesses,
4 Mr. Pereiras and my planner. So once we get done
5 with Mr. Pereiras, hopefully, our planner will
6 walk in.

7 MR. PANEQUE: Understood. Give us one
8 second to hand out the packet.

9 Mr. Alonso, the floor is yours.

10 MR. ALONSO: Thank you very much, Mr.
11 Paneque.

12 Members of the Board, this is a very
13 particular property at the end of Harrison Place
14 and it's pretty unique in Union City. It's at the
15 end of a dead end street, has ample parking, has
16 two separate structures. And there are two
17 illegal units in one of the structures. We're
18 here this evening to legalize hopefully, with the
19 Board's blessing, those two units for a total of
20 four units on the property.

21 With that said, I'm going to call Mr.
22 Pereiras, the architect.

23

24 M A N U E L P E R E I R A S , after having been
25 duly sworn or affirmed, did testify as follows:

1

2

MR. PEREIRAS: Manny Pereira,

3

P-E-R-E-I-R-A-S, with Pereira Architect

4

Ubiquitous, 1116 Summit Avenue here in Union City.

5

VICE CHAIRPERSON GUTIERREZ: We accept

6

him.

7

MR. PANEQUE: Before we proceed, I'm

8

sorry to interrupt, Madam Vice Chairperson.

9

Mr. Alonso, I'm looking at a memo from

10

the building department with a date of January 4,

11

2023. Did you get that memo?

12

MR. ALONSO: I don't believe I receive

13

that memorandum, I receive the other one. Not

14

this one.

15

MR. PANEQUE: The memo --

16

MR. VALLEJO: Let me give you.

17

MR. PANEQUE: Mr. Martinetti indicates

18

that this property is recognized as a detached

19

garage. Now, you indicated you're going from two

20

to four?

21

MR. ALONSO: Correct.

22

MR. PANEQUE: But Mr. Martinetti's

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office is not even recognizing the two units. Do

24

you have anything to show that we're going from

25

two to four instead of from, I guess, a garage to

1 four?

2 MR. ALONSO: Right. I have some
3 documents and I have the planner has testimony.

4 MR. PANEQUE: Okay. But when did it go
5 from a garage to two? You want to take a minute
6 and look --

7 MR. ALONSO: Let me go through my file
8 and see what I can find here.

9 MR. PANEQUE: Just so that we're on the
10 same page here, the building department has asked
11 the Board to make sure that any approval that we
12 do, as what your petition is, from a two to four,
13 that the base, which is the two, is recognized by
14 them. So that we can jump from two to four. In
15 this case, we're being told the building
16 department does not even recognize two.

17 MR. ALONSO: Understood. So then in
18 that case, I would have to ask for all --

19 MR. PANEQUE: You would have to ask from
20 a garage to a four.

21 MR. ALONSO: Let me go to the file
22 because I wasn't expecting that question.

23 MR. PANEQUE: Sorry for the curve ball.

24 MR. ALONSO: I do have the DCA
25 registration for four units -- I understand.

1 MR. PANEQUE: I'm shaking my head no.
2 As you know, DCA registration has no validity with
3 respect to what is recognized by the building
4 department.

5 MR. ALONSO: Let me go through my file,
6 give me two minutes.

7 MR. PANEQUE: Okay.

8
9 (Whereupon a short recess was taken.)

10
11 MR. PANEQUE: Mr. Alonso.

12 MR. ALONSO: I reviewed this with my
13 client and, unfortunately, we don't have that
14 documentation in the file. So I'm going to ask
15 that the matter be carried to the April hearing.
16 And then I'll go to the building department myself
17 and some other departments in the City and see
18 what documentation they have.

19 MR. PANEQUE: Okay.

20 VICE CHAIRPERSON GUTIERREZ: Make a
21 motion.

22 MR. VALLEJO: Time limits?

23 MR. ALONSO: I'll extend the time limit
24 for the Board to act, thank you.

25 MR. PANEQUE: The statutory time period

1 for this Board to hear the application is waived
2 by your client?

3 MR. ALONSO: Yes.

4 MR. PANEQUE: April 13th?

5 MR. ALONSO: Yes.

6 VICE CHAIRPERSON GUTIERREZ: I'll make
7 the motion.

8 MR. VALLEJO: Motion to carry this
9 application for April 13 by Ms. Gutierrez.

10 MS. WATLEY: Second.

11 MR. VALLEJO: Seconded by Ms. Watley.

12 Roll call on the motion.

13 Ms. Gutierrez.

14 VICE CHAIRPERSON GUTIERREZ: Yes.

15 MR. VALLEJO: Ms. Perez.

16 MS. PEREZ: Yes.

17 MR. VALLEJO: Ms. Watley.

18 MS. WATLEY: Yes.

19 MR. VALLEJO: Ms. San Martino.

20 MS. SAN MARTINO: Yes.

21 MR. VALLEJO: Ms. O'Dell.

22 MS. O'DELL: Yes.

23 MR. VALLEJO: Five in favor, motion
24 carries. No new notice required.

25 * * * *

1 **MERWIN RICHARD -**

2 **3100 CENTRAL AVENUE:**

3
4 MR. PANEQUE: We're going to number 13.

5 MR. VALLEJO: Let the record indicate
6 that Mr. Ortiz joined the meeting at 6:47.

7 MR. PANEQUE: Let the record reflect as
8 follows:

9 I've been provided by Mr. Alonso with
10 the affidavit that notices were provided to all
11 property owners within the 200 foot radius of 3100
12 Central Avenue. The affidavit has a date of
13 March 1st, 2023, and it's signed by Mr. Affidavit,
14 notarized by Monica Cardonas, notary public.

15 I've also been provided with a copy of
16 the notice that went out to all property owners
17 within the 200 foot radius of 3100 Central Avenue,
18 giving notice of tonight's hearing at this
19 location, the Union City High School.

20 I've also been provided with an
21 affidavit of publication from The Jersey Journal
22 with a publication date of February 25, 2023,
23 giving notice of the application at this location.

24 I've also been provided with a tax list
25 from the tax assessor's office with a date of

1 February 16, 2023, listing all property owners
2 within the 200 foot radius of 3100 Central Avenue.

3 And, finally, I have been provided with
4 the certified mail receipts with a postmark date
5 of February 25, 2023.

6 Based on the documentation that has been
7 provided, this Board has jurisdiction to proceed
8 and hear this matter. Mr. Alonso.

9 MR. ALONSO: Yes, very good. For the
10 record, Alvaro Alonso on behalf of the applicant.

11 The Board may be familiar with this
12 property, it's been vacant for approximately
13 ten years. My client has owned it, it's never had
14 any tenants in it. And we're looking to do an
15 expansion to add some units to the building. I
16 did receive a copy of the memo from the building
17 department today, Mr. Vallejo was kind enough to
18 send it to my office via email. It does indicate
19 that there was -- it says originally five
20 residential units.

21 Currently, if you walk to the property,
22 it appears to be 10 units and a commercial unit.
23 So we will concede to whatever the building
24 department says there is. And then ask the Board
25 to legalize the application that's being presented

1 this evening.

2 MR. PANEQUE: I think he's handing out
3 the letter from the building department. This the
4 one you got to see before we did.

5 MR. ALONSO: Yes.

6 MR. PANEQUE: So according to the letter
7 from the office, the building department
8 recognizes this property originally as a five unit
9 residential. And your application is to go from
10 five to ten?

11 MR. ALONSO: Yes, plus a mixed use
12 commercial unit. This is the commercial
13 neighborhood zone.

14 MR. PANEQUE: Okay. So you're asking to
15 go from five to ten plus a commercial unit on the
16 ground floor?

17 MR. ALONSO: Yes.

18 MR. PANEQUE: Okay. Thank you, Mr.
19 Alonso, call your first witness.

20 MR. ALONSO: I call my architect as my
21 first witness.

22

23 C A R O L A R O S A S, after having been duly
24 sworn or affirmed, did testify as follows:

25

1 MS. ROSAS: My name is Carola Rosas,
2 C-A-R-O-L-A, last name is R-O-S-A-S.

3 MR. PANEQUE: Ms. Rosas has appeared
4 numerous times before this Board. She's been
5 previously recognized as an expert witness and we
6 recognize and welcome her again.

7 MS. ROSAS: Thank you.

8 MR. ALONSO: Thank you. Carola, I want
9 to ask you first to identify the building, the
10 structure in its current condition. And then
11 explain to the Board how it is that we want to
12 develop the site?

13 MS. ROSAS: Okay. So first, I want to
14 describe the site and talk about what's there. So
15 let's refer to the plot plan here, on the upper
16 left hand corner. It's basically the lot is a
17 corner lot and this measurement of the lot size is
18 25 by 118.5 feet, that's a total of 2,962 square
19 feet. The existing zoning district is CN
20 neighborhood commercial zone. What we have there
21 is basically commercial and residential uses. So
22 what's there presently right now is a two and a
23 half story masonry building that we want to
24 demolish because it's in very bad condition. And
25 we would like to propose a mixed use building of

1 four stories plus mezzanine level, so five levels,
2 and ten dwelling units, plus one commercial space
3 and eight parking spaces.

4 So as the building setback, we have .30
5 feet, the side yard zero and zero, the rear yard
6 .16 feet. So the building is on zero lot line, so
7 there's no setback to the building.

8 I'll take you through the plans, the
9 diagrams that I have here. Diagram five is the
10 north elevation which is facing Central Avenue,
11 that is the front facade. And south elevation
12 faces the rear facade and we have west elevation
13 facing 31st Street. So basically, as far as the
14 elevation is concerned, the materials here,
15 masonry of two different types of texture to
16 create a kind of layering effect. And also on the
17 mezzanine level, on the top, we want to introduce
18 vertical panels. So here created a texture of
19 horizontal and vertical and also the layering
20 effect as opposed to having one entire horizontal
21 building, kind of breaking down the scale so it's
22 more contextually designed and create a curb
23 appeal.

24 I'll take you -- so the first floor plan
25 is the middle diagram. Now, in the corner here

1 faces Central Avenue. So the first space is a
2 commercial space, it's a small space, 160 square
3 feet. Behind that is a one bedroom unit. The one
4 bedroom unit is handicapped accessible.

5 And then we have two sets of stairs,
6 actually feed on to every floor. So basically
7 this building is a walkup, there's no elevator to
8 the building. We will fulfill the handicapped
9 requirement unit on the first level, the unit on
10 the first floor.

11 In addition to that, we have eight
12 parking spaces. The parking spaces measure 9 feet
13 by 18 feet and we're also proposing a curb cut in
14 front of it, like about 80 feet length of curb cut
15 in front of the parking.

16 Now, the stairway goes down to the lower
17 level. In the lower level, we have a utility room
18 and we also have a laundry area for the tenants.
19 And there's going to be some windows there for
20 light and ventilation to come in. And that would
21 be within an alleyway which is not shown here, but
22 within the lot we have an alleyway.

23 And the diagram above that is the second
24 floor plan. On the second floor plan, we have
25 three two-bedroom units. Now, the first unit in

1 the corner, this is unit number 2, basically all
2 these units are designed in a similar way. The
3 kitchen, dining and living area and two bedrooms,
4 a full bathroom, closets. The first unit is
5 720 square feet. The middle unit, which is also
6 two bedrooms is 680 square feet. And the last
7 unit is 686 square feet, which is also similar,
8 two bedrooms.

9 Although these two bedrooms are under
10 the required 750 square feet, it is -- the
11 circulation is very efficient, the room sizes are
12 very spacious. The bedrooms, we go beyond what's
13 required in terms of primary bedroom and secondary
14 bedrooms. So the three units, now the way these
15 units work with the hallway, we have two sets of
16 stairs on opposite ends. If there's a fire at one
17 end of the stair, people can run to the other end
18 of the stair and leave to the exterior of the
19 building.

20 The third floor, the diagram at the
21 bottom, the third floor plan is identical to the
22 second floor. We have three two-bedrooms units on
23 the third floor. And, again, unit number 5, the
24 corner unit, 720 square feet, the middle unit is
25 680 square feet, and the rental at the rear is

1 686 square feet. And that is the third level.

2 So the fourth level, the fourth level
3 walkup is basically we're proposing three
4 three-bedroom units. These three three-bedroom
5 units, they work as a duplex. This is the lower
6 level of the unit. On the lower level, we have
7 two bedrooms, a full bathroom and kitchen living
8 dining area with a circular stair that goes up to
9 a mezzanine level. So a portion of it -- so this
10 square footage for unit number 8 in the corner is
11 961 square feet. The center unit, three bedroom
12 also is 927 square feet and the unit at the rear
13 is 927 square feet.

14 On this page here, on the top, mezzanine
15 floor. This is the upper level of the
16 three-bedroom units. So basically it's open
17 below, only to the kitchen, living, dining area.
18 A circular, a second full bathroom with a shower
19 and a master bedroom. This mezzanine level is
20 basically under 30 percent of the floor level
21 below. So just a portion of it, up to 30 percent.
22 And so we have one unit, two unit, three units.
23 So three three-bedroom units duplex from the floor
24 to the mezzanine.

25 Here, you can see a section through the

1 building. You can see the areas, the one
2 three-bedroom, you can see the double high ceiling
3 over the kitchen, living, dining room area. And
4 we also have the bedroom there. And basically the
5 three units on the very top. And, again, the
6 second and third floor is three two-bedroom units,
7 they're identical layout on each floor. And the
8 first floor, this is where we have the small
9 commercial space, the one bedroom unit, which is
10 handicapped accessible, the bathroom would be
11 handicapped. And the stairway that goes all the
12 way down to the partial basement level, which
13 would be used for utility and for laundry area.
14 And then you could see the parking spaces all
15 across the first floor.

16 So in terms of the variance, we are
17 requesting a few variances. Now, for the rear
18 yard, 20 feet is required, and we propose
19 .16 feet. So that's basically a zero lot line.
20 The second item is the building coverage,
21 80 percent is required for building coverage and
22 we're proposing 92.5 percent. And lastly is
23 parking, 20 parking spaces are required and we're
24 proposing eight parking spaces. And also with the
25 height, we have a maximum height of let's say

1 49 feet maximum height for the mezzanine level.
2 So keep in mind that although we have the -- we
3 don't have the setback requirement, but keep in
4 mind that this building will be masonry. It's
5 going to be masonry construction, it abuts the
6 adjacent properties, going to be a solid masonry
7 wall, all the way up. And also it's going to be
8 fully sprinklered and we're going to provide
9 two-hour fire rating construction between units,
10 floors and walls. So if you have any questions.

11 MR. PANEQUE: Thank you. Mr. Alonso, do
12 you have any other witnesses?

13 MR. ALONSO: I do. As Mr. Vallejo is
14 passing around the photographs, I want the Board
15 to take a look at them. It's a really bad state
16 of repairs. My client purchased the property in
17 that condition and is seeking to obviously improve
18 it. With that said, I have our planner, Alex.

19
20 A L E X A N D E R D O U G H E R T Y, after
21 having been duly sworn or affirmed, did testify as
22 follows:

23
24 MR. DOUGHERTY: Alexander Dougherty,
25 last name is D-O-U-G-H-E-R-T-Y. I'm here on

1 behalf of John McDonough of McDonough Associates
2 at 101 Gibraltar Avenue, suite 1A, Morris Plains.

3 MR. ALONSO: Mr. Paneque, Mr. Dougherty
4 has been before this Board in the past, so we ask
5 his qualifications be accepted and the Board hear
6 him tonight.

7 MR. PANEQUE: Thank you, Mr. Alonso,
8 yes.

9 VICE CHAIRPERSON GUTIERREZ: We accept
10 his qualifications.

11 MR. DOUGHERTY: Thank you.

12 VICE CHAIRPERSON GUTIERREZ: Thank you
13 for coming.

14 MR. ALONSO: With that said, Mr.
15 Dougherty, I'm going to ask you to review your
16 planning analysis with the Board.

17 MR. DOUGHERTY: Certainly. I think we
18 have a unique opportunity here to take a really
19 battered and, you know, eye sore of a structure
20 and, you know, provide for brand new
21 state-of-the-art residential mixed use development
22 here, which would be built to modern applicable
23 building codes, fire regulations, and so forth.

24 With that said, we are here for some
25 variance relief, particularly for the (d) (1), as

1 you know we are in the CN zone here and mixed use
2 is permitted. However, we do have a residential
3 unit on the ground floor for that (d) (1) use
4 variance. And with that build out, you know, we
5 do have some interrelated (c) relief, but we'll
6 kind of go through that now.

7 When we look at the property itself, the
8 lot area of 2,500 square feet is required, we have
9 more, we're just shy of 3,000 square feet for the
10 lot area. So we do have a good sized lot area.
11 When we look at some of the (c) relief here, we're
12 going to talk about in just a moment, but kind of
13 interrelated to the general project. We don't
14 have a minimum rear yard, which we need 20 feet
15 for. And we have a maximum building coverage of
16 92 and a half where 80 percent is required for the
17 zone.

18 And with that being said, we do have a
19 height relief. As we just heard, it's really
20 related to the upper portion, ore of a decorative
21 feature here. The zone requires your height to be
22 four stories at 45 feet, we're a tad bit over with
23 the design features, we're at 48.7, call it 49.
24 And we do have some relief related to density
25 here, as the units are a little bit smaller.

1 With that being said, the (d) (1) use
2 relief here really is site suitability. Again, we
3 are in your downtown, it does call for mixed use,
4 residential and commercial downstairs. With that
5 being said, we're not too far off from what the
6 zone calls for. Mixed uses are permitted. We
7 just have the one apartment on the ground floor.

8 With that being said, we talk about the
9 site itself. Again, I think it's kind of hooked
10 into it virtually by the mixed use building being
11 permitted.

12 And with that being said, having that
13 residential unit on the ground floor gives us a
14 little more of leeway for housing options and
15 housing choices and accessibility with that. We
16 do have mass transit relatively nearby, and on the
17 corridor here.

18 With that being said, we do have a
19 parking variance where we're providing eight
20 versus the 20. I don't think when we look at the
21 parking variance here we're taking away from the
22 great application. Again, brand new structure.
23 When I look at the (d) (5) density relief, when I
24 look at this part of the test, kind of look what
25 we have with the (d) (4) for FAR, but for the

1 (d) (5) as your density, it's what we call the
2 Grubbs test and essentially can the added density
3 or the added FAR, can the site accommodate that
4 additional growth. And as we saw the plans here,
5 I think we can. I think we have a great
6 application in front of you as far as zero
7 detriment with the quality of life, the quality of
8 the neighborhood. You know, with the eight
9 parking, we have adequate circulation on-site, we
10 have the commercial retail downstairs. I believe
11 the application does come with a lot of positives.
12 I believe purpose A, purpose I, desirable visual
13 environment, purpose G, and purpose M. Purpose A
14 is to provide encourage municipal action to guide
15 appropriate use in development of land in a manner
16 which promotes the public health, safety, morales
17 and general welfare. We have purpose G, to
18 provide for sufficient space in appropriate
19 locations for a variety of uses with respect to
20 the environmental requirement and meeting the
21 needs of all New Jersey citizens. Purpose I,
22 desirable visual environment. You can see the
23 building is a brand new state-of-the-art
24 contemporary design, getting rid of the real
25 tattered structure and we're replacing that. And

1 purpose M, we have -- to encourage coordination of
2 various public and private procedures with a view
3 of less costs for development.

4 With that being said, when I look at
5 some of the interrelated C relief, I don't believe
6 there's a substantial detriment to the public that
7 takes away from the overall good of this project.
8 We do have the (d) (1) use relief, that's really
9 what we're here for. Again, I don't believe we're
10 too far off of what that zone requires with that
11 mixed use. We have the residential apartment on
12 the ground floor.

13 With that being said, with that (d) (5),
14 again, I think the site can accommodate the
15 density here. Some of the units are a little
16 undersized, I believe that gives us a range of
17 options. And I don't think we're having -- by the
18 size of some of the units here, I know your zone
19 calls for -- we have minimum unit size of 500,
20 that ground floor unit is 396, so we're a little
21 bit under. But I don't think it's going to take
22 away from the quality of life. It's not a
23 three-bedroom apartment. I think it's
24 appropriately spaced and gives kind of that
25 affordable range, if you will, versus the 500,

1 700, we're just about shy of 400.

2 So with that, I'll conclude for any
3 questions. But I think we have a great
4 application here and I believe the approval would
5 be warranted.

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

7 MR. ALONSO: Mr. Paneque, I have no
8 further witnesses.

9 MR. PANEQUE: No further witnesses,
10 okay. May I, Madam Chair?

11 VICE CHAIRPERSON GUTIERREZ: Yes.

12 MR. PANEQUE: Mr. Dougherty, did you
13 have an opportunity to review the memo from Mr.
14 Spatz?

15 MR. DOUGHERTY: I have it in front of
16 me.

17 MR. PANEQUE: In your testimony, you
18 you're indicating we're not too far off from what
19 the zone requires. Now, Mr. Spatz, in his memo,
20 indicates that the CN zone permits commercial and
21 three units?

22 MR. DOUGHERTY: Yes.

23 MR. PANEQUE: You're proposing
24 commercial and ten?

25 MR. DOUGHERTY: Yes.

1 MR. PANEQUE: Explain how we're not far
2 off?

3 MR. DOUGHERTY: Well, the unit count
4 would be more related to the density, but CN zone
5 here is for mixed use. And part of that mixed use
6 is residential not being on the ground floor, so
7 that's really what the (d) (1) relates to and the
8 (d) (5) would be the density unit count.

9 MR. PANEQUE: Thank you.

10 Mr. Spatz, can you please elaborate on
11 Mr. Dougherty's testimony, whether you agree with
12 it?

13 MR. SPATZ: Well, our ordinance treats
14 density in terms of unit size. And if the units
15 are undersized, that is treated as density. The
16 zone does permit a maximum of three units,
17 traditionally more units than that would be
18 density, but here, it's part of the use
19 definition.

20 MR. PANEQUE: Okay.

21 MR. SPATZ: So I think that that's part
22 of the (d) (1) use variance is more units than is
23 permitted within the zone.

24 MR. PANEQUE: And what is permitted is
25 three above?

1 MR. SPATZ: Three -- right. Commercial
2 on the ground floor and three units above.

3 MR. PANEQUE: And what's being proposed
4 is in excess of three times the amount?

5 MR. SPATZ: Correct.

6 MR. ALONSO: Right. Again, but it's not
7 a density variance the way that your zone defines
8 density. And the only reason we need a (d) (1) use
9 variance, Mr. Spatz correctly states that when you
10 look at the density in the overall (d) (1), we need
11 the (d) (1) use variance because we're required to
12 have a residential unit on the ground floor
13 because the building requires an elevator. But
14 because of the age of the building, it's difficult
15 to retrofit an elevator into that building.

16 So in order to comply with the codes,
17 we're required to include a residential unit on
18 the ground floor, which triggers the (d) (1) and
19 then that's the only reason really why the
20 ten units becomes an issue, but it's not a density
21 variance.

22 MR. SPATZ: I think the testimony was
23 that the building is being demolished, so it's not
24 a matter of retrofitting it.

25 MS. ROSAS: Building will be demolished.

1 MR. SPATZ: Then you could theoretically
2 put the elevator in.

3 MR. DOUGHERTY: When I look at overall
4 the project from 10,000 feet up, it's main
5 corridor, we're putting people in your commercial
6 downtown neighborhood zone, an extra kick in
7 density, you know walkable community and amenities
8 relatively available at your feet. I think it's a
9 very attractive looking building, I think it's
10 going to be desired from a visual massing in the
11 public realm. And, you know, to limit that
12 structure to three units, you know, I think having
13 a couple extra to provide for that range of
14 housing. And, you know, again, it's a brand new
15 state-of-the-art building on your main avenue. I
16 don't think an increase in unit counts is
17 inherently detrimental to the overall
18 neighborhood. I think, if anything, we would want
19 to encourage more density on your main avenue for
20 that walkability because it's contemplated in the
21 zone to have the mixed use there. And a little
22 extra kick in density here is beneficial to
23 everybody, the business owners, and so forth, and
24 just your overall community. And, again, you
25 know, desirable place to live, brand new

1 construction, state-of-the-art. I don't think an
2 extra kick in density or unit count, if you will,
3 is going to be inherently beneficial that takes
4 away from the entire application.

5 MR. SPATZ: If I can just comment on
6 that? Typically, I would agree with you. In
7 Union City, the reason the three unit cap was put
8 on is because of the difficulty of parking. The
9 more units, more parking. What I will suggest is,
10 it's up to the Board, is that since seven of the
11 ten units are undersized, perhaps combining some
12 of those units, which would reduce the overall
13 unit count, but also then create conforming
14 apartments and maybe you'll get rid of that
15 density variance and you'll bring the unit count
16 down. I'm not sure what it would come to, maybe
17 six units, but you would have six conforming
18 units. And, you know, you would be reducing both
19 the number of units as well as getting the density
20 down.

21 MR. ALONSO: It also addresses the
22 impact on the parking.

23 MR. SPATZ: That's correct, exactly.
24 That might be a way to look at it. You could get
25 rid of or reduce a number of variances.

1 MR. ALONSO: Understood. If I could
2 have two minutes to talk with my client? If we
3 need more than that, then I'll ask the matter be
4 carried.

5 MR. VALLEJO: Off the record.

6
7 (Whereupon a short recess was taken.)

8
9 MR. VALLEJO: Back on the record.

10 MR. ALONSO: Members of the Board, we
11 did have a lengthy discussion, put it that way,
12 and there are a number of options.

13 Obviously, we're not going to reach a
14 consensus today as to what's the best way to
15 present it. I'm going to ask that this matter be
16 carried. The architect and my client are going to
17 work on it, based on the guidance that we received
18 this evening. And then we'll file revised plans.

19 MR. PANEQUE: Okay. The request is to
20 adjourn the matter to the next meeting, Mr. Alonso?

21 MR. ALONSO: Yes. And I'll extend the
22 time for the Board to act.

23 MR. PANEQUE: Thank you.

24 VICE CHAIRPERSON GUTIERREZ: I make a
25 motion to adjourn.

1 MR. VALLEJO: Motion on the table to
2 adjourn by Ms. Gutierrez.

3 MS. WATLEY: Second.

4 MR. VALLEJO: Seconded by Ms. Watley.
5 Roll call on the motion to adjourn this
6 application for April 13, 2023, same place.

7 Ms. O'Dell.

8 MS. O'DELL: Yes.

9 MR. VALLEJO: Ms. Gutierrez.

10 VICE CHAIRPERSON GUTIERREZ: Yes.

11 MR. VALLEJO: Mr. Ortiz.

12 MR. ORTIZ: Yes.

13 MR. VALLEJO: Ms. Perez.

14 MS. PEREZ: Yes.

15 MR. VALLEJO: Ms. Watley.

16 MS. WATLEY: Yes.

17 MR. VALLEJO: Ms. San Martino.

18 MS. SAN MARTINO: Yes.

19 MR. VALLEJO: Six in favor, motion
20 carries. No new notice required.

21 MR. ALONSO: Thank you. Have a good
22 evening.

23 MR. PANEQUE: Thank you.

24 VICE CHAIRPERSON GUTIERREZ: Thank you.

25 * * * *

1 **JORGE & ZAIDA TURBAY -**
2 **731-733 30TH STREET:**

3
4 MR. PANEQUE: For the record, I've been
5 provided by Ms. Pereiras with the following
6 documentation.

7 I have a certification as to publication
8 and service indicating that notice of tonight's
9 hearing at this location, the Union City High
10 School, with respect to the property at 731-33
11 30th Street was given to all property owners
12 within the 200 foot radius.

13 I've also been provided with a copy of
14 the affidavit of publication from The Jersey
15 Journal for this property, noting that the meeting
16 will take place tonight at this location, that
17 notice was published on February 27, 2023.

18 I've also been provided with a list from
19 the tax assessor's office with a date of
20 February 23rd listing all property owners within
21 the 200 foot radius of 731 30th Street.

22 And, lastly, I have the certified mail
23 receipts with a date of February 24th -- all of
24 them you can't see --

25 MS. PEREIRAS: Really?

1 MR. PANEQUE: But I did find one you can
2 see. I'll show it to the Vice Chairperson.

3 VICE CHAIRPERSON GUTIERREZ: That one.

4 MR. PANEQUE: February 24th.

5 MS. PEREIRAS: Thank you.

6 MR. PANEQUE: So we have jurisdiction to
7 proceed and hear this matter. Thank you, Ms.
8 Pereiras.

9 MS. PEREIRAS: Thank you, Counsel.

10 Good evening, Board Members, may it
11 please the Board, Bianca Pereiras on the
12 applicant. Unfortunately, we needed to provide
13 the Board with revised drawings and those were
14 just submitted. So I understand that the Board
15 has not even had an opportunity to review those
16 drawings. So respectfully, we are requesting that
17 this matter be carried to next month, that way the
18 Board has an opportunity to review that and we can
19 present testimony at that meeting.

20 MR. PANEQUE: And, Ms. Pereiras, you
21 waive the statutory time period?

22 MS. PEREIRAS: Of course, Counsel.

23 MR. PANEQUE: Thank you.

24 VICE CHAIRPERSON GUTIERREZ: I make a
25 motion to adjourn for April 13th.

1 MR. VALLEJO: Motion on the table to
2 adjourn this application for April 13th by Ms.
3 Gutierrez. Any second?

4 MR. ORTIZ: Second.

5 MR. VALLEJO: Seconded by Mr. Ortiz.

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

8 Ms. O'Dell.

9 MS. O'DELL: Yes.

10 MR. VALLEJO: Ms. Gutierrez.

11 VICE CHAIRPERSON GUTIERREZ: Yes.

12 MR. VALLEJO: Mr. Ortiz.

13 MR. ORTIZ: Yes.

14 MR. VALLEJO: Ms. Perez.

15 MS. PEREZ: Yes.

16 MR. VALLEJO: Ms. Watley.

17 MS. WATLEY: Yes.

18 MR. VALLEJO: Ms. San Martino.

19 MS. SAN MARTINO: Yes.

20 MR. VALLEJO: Six in favor, motion
21 carries. No new notice required.

22 MS. PEREIRAS: Thank you all very much.

23 * * * *

24

25

1 **MI 412 4TH STREET, LLC -**
2 **412 4TH STREET:**

3
4 MR. VALLEJO: Now, we're moving to
5 MI 412 4th Street. Ms. Pereiras, please.

6 MR. PANEQUE: For the record, we have a
7 situation where one of our Board Members, Ms.
8 Geraldine Perez was -- received communication from
9 someone. And based on that, Ms. Perez feels that
10 she should recuse herself. We don't want to have
11 a tainted Member of the Board.

12 Ms. Perez, when did you receive this
13 communication and how did you receive this
14 communication?

15 MS. PEREZ: I received a text message
16 from somebody I know who was here at the last
17 meeting who had concerns, but couldn't make it
18 this evening and wasn't sure of the protocol.
19 And, you know, I don't feel comfortable --

20 MR. PANEQUE: This person had your cell
21 number?

22 MS. PEREZ: Yes, this is somebody that
23 my son is friends with his son.

24 MR. PANEQUE: Okay. As an abundance of
25 caution, you're asking that you be recused?

1 MS. PEREZ: Yes.

2 MR. PANEQUE: Ms. Pereiras, we're down
3 to five members now.

4 MS. PEREIRAS: I understand, Counsel.

5 MR. PANEQUE: Thank you.

6 MS. PEREIRAS: Again, good evening,
7 Bianca Pereiras on behalf of the applicant.

8 We actually presented testimony at the
9 last meeting, our jurisdictional submissions were
10 submitted at that time. We did present testimony.
11 However, I know we have two new Board Members, so
12 we will describe the project again through our
13 expert. This is a six unit multifamily. We're
14 looking to legalize two units. We'll have our
15 expert architect testify, Mr. Pereiras.

16

17 M A N U E L P E R E I R A S , after having
18 been duly sworn or affirmed, did testify as
19 follows:

20

21 MR. PEREIRAS: Manny Pereiras,
22 P-E-R-E-I-R-A-S, with Pereiras Architects
23 Ubiquitous, 1116 Summit Avenue, Union City.

24

25 MS. PEREIRAS: And Mr. Pereiras has

1 testified before this Board in the past --

2 VICE CHAIRPERSON GUTIERREZ: Yes, I
3 accept his qualifications.

4 MR. PANEQUE: Before we proceed, we're
5 doing 412 4th Street, right?

6 MS. PEREIRAS: That's correct.

7 MR. PANEQUE: Okay. Please proceed.

8 MS. PEREIRAS: Mr. Pereiras, are you
9 familiar with the property at 412 4th Street?

10 MR. PEREIRAS: I am.

11 MS. PEREIRAS: Did you prepare the
12 drawings that are before the Board this evening?

13 MR. PEREIRAS: I have.

14 MS. PEREIRAS: And would you kindly
15 describe the project for the Board?

16 MR. PEREIRAS: I'd be very happy to.
17 It's actually very simple. We have a preexisting
18 building that we're not looking to grow in any way
19 whatsoever. The size is 25 by 100, so conforming.
20 There's an existing rear yard of 27 feet, we're
21 not looking to expand back in any way. And there
22 are existing nonconformities for side yard and
23 front yard.

24 This building is a typical Union City
25 building where each floor, the apartments are

1 split with a stair in the middle and the
2 apartments were split, left, right, left, right,
3 on the three floors above.

4 There's an existing basement. That
5 basement apartment was also split, left, right,
6 two apartments. There was water damage, the
7 apartments were in bad repair. The City came in
8 and recognized these as illegal units. We are
9 reconstructing these and making them more
10 conforming to our code as they were before. By
11 that I mean that there were multiple rooms before
12 and now we're making them so that they fit the
13 density requirements of our City, so that the
14 studio apartment is 420 square feet and the one
15 bedroom apartment is 515 square feet.

16 If you notice there's an entrance from
17 4th Street, three steps down into a common foyer
18 where you can access both units. Unit number 8
19 we're calling it, you enter into a dining area,
20 there's a handicapped bathroom, kitchen, and then
21 the studio living area. And then the apartment
22 number 7, you enter, a small bathroom, kitchen
23 area and living space. And then finally the
24 bedroom along the back. Those windows along the
25 back are enlarged, we created a retaining wall

1 beyond the back of the house so that those windows
2 are full size, nice large windows, so a lot of
3 light comes into the apartment.

4 And then of course we're addressing the
5 life and safety of these units. This is a great
6 opportunity to bring these up to code. First and
7 foremost, we're meeting all new building codes for
8 the units. There's going to be a fire separation
9 between this unit and the apartments above, that's
10 a two hour fire separation. In addition to that,
11 there's going to be a sprinkler system into those
12 units. In addition to that, the entire building
13 will be serviced with a low voltage alarm system.
14 We currently have it, we will upgrade that as
15 well. As well as alarm systems within each of the
16 units which are hard wired in both those
17 apartments.

18 So the conditions are significantly
19 improved, not only for the future residents of
20 these two units, but the residents above. And
21 because we're dealing with life and fire safety,
22 it's the entire neighborhood that gets improved by
23 means this application and the approval of this
24 application.

25 So I don't want to bore you, if you have

1 anymore questions, I'm very open to respond to
2 them.

3 MR. PANEQUE: Thank you, Mr. Pereiras.

4 Ms. Pereiras, any other witnesses?

5 MS. PEREIRAS: With do not have any
6 witnesses this evening.

7 VICE CHAIRPERSON GUTIERREZ: Anybody on
8 the Board want to ask a question? Open to the
9 public? Seeing none, I'll make my motion to
10 approve the application. And thanks to the owner
11 to come and legalize those two apartments. Thank
12 you.

13 MR. VALLEJO: Motion on the table to
14 approve this application --

15 MS. WATLEY: Second.

16 MR. VALLEJO: -- by Ms. Gutierrez,
17 second by Ms. Watley. Roll call on the motion.

18 Ms. O'Dell.

19 MS. O'DELL: Yes.

20 MR. VALLEJO: Ms. Gutierrez.

21 VICE CHAIRPERSON GUTIERREZ: Yes.

22 MR. VALLEJO: Mr. Ortiz.

23 MR. ORTIZ: Yes.

24 MR. VALLEJO: Ms. Perez is abstaining.

25 Ms. Watley.

1 MS. WATLEY: Yes.

2 MR. VALLEJO: Ms. San Martino.

3 MS. SAN MARTINO: Yes.

4 MR. VALLEJO: Five in favor, motion
5 carries.

6 MS. PEREIRAS: Thank you all very much.

7 VICE CHAIRPERSON GUTIERREZ: You're
8 welcome.

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1 **IMMANUEL UNITED METHODIST CHURCH -**
2 **3301 NEW YORK AVENUE:**

3
4 MR. VALLEJO: Next application on
5 tonight's agenda, Immanuel United Methodist
6 Church. Ms. Pereiras, please.

7 MR. PANEQUE: Let the record reflect as
8 follows:

9 I've been provided by Ms. Pereiras with
10 a certification as to publication and service,
11 giving notice to all property owners within the
12 200 foot radius of 3301 New York Avenue. The
13 notice indicates the meeting will take place
14 tonight at this location, the Union City High
15 School.

16 I've also been provided with an
17 affidavit of publication from The Jersey Journal
18 indicating that notice of this application was
19 published in The Journal on February 27, 2023.

20 I've also been provided with a copy of
21 the tax list from the tax assessor's office with
22 date of February 27, 2023, listing all property
23 owners within the 200 foot radius of 3301 New York
24 Avenue.

25 And lastly, I've been provided with the

1 certified mail receipts with a postmark date of
2 February 27, 2023.

3 Based on the documentation that has been
4 provided, this Board has jurisdiction to proceed
5 and hear this matter.

6 MS. PEREIRAS: Thank you, Counsel.

7 MR. PANEQUE: Thank you, Ms. Pereiras.

8 MS. PEREIRAS: Bianca Pereiras on behalf
9 of the applicant, the Immanuel United Methodist
10 Church, for property located at 3301 New York
11 Avenue, always known as Lot 1 in Block 198.

12 This is an existing church located in
13 the R low density zone. The application before
14 the Board this evening is to allow the church to
15 operate a day care center out of the ground floor
16 of this building. We have two experts to testify.
17 I'd like to begin the presentation with our
18 architect, Mr. Manuel Pereiras.

19
20 M A N U E L P E R E I R A S, previously sworn:

21
22 MR. PEREIRAS: Manny Pereiras, I
23 recognize I am still under oath.

24 MS. PEREIRAS: Mr. Pereiras, are you
25 familiar with the property at 3301 New York

1 Avenue?

2 MR. PEREIRAS: I am.

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

5 MR. PEREIRAS: I have.

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

8 MR. PEREIRAS: I'd be happy to. For the
9 record, the drawings to my right are on the easel,
10 they are the same drawings that were submitted to
11 the Board.

12 Let me give you a little bit of history.
13 If you pass by this building in the past year and
14 a half, you'll notice some drastic changes. The
15 new pastor, we have completely renovated the
16 exterior of this building, we brick pointed it, we
17 removed a lot of the old stucco that was falling
18 apart. We painted it, we fixed a lot of things.
19 I hope it's actually been a nice project of mine.
20 I hope you appreciate as much as I do, it really
21 changes that New York Avenue, coming through right
22 across from the park, with a beautiful entrance.
23 And we've also done a lot of things to bring it to
24 life safety standpoint, elevate that as well.

25 The sanctuary was old, it was built

1 150 years ago, so it didn't have two means of
2 egress. We created a second means of egress for
3 the sanctuary, we built a stair along the back.
4 And we're working with the building department
5 just to bring things up to code that don't even
6 necessarily have to be, from a code standpoint,
7 but they wanted it to be because they wanted a
8 safe building.

9 That said, all these things cost money.
10 The churches are -- it's hard to function a church
11 today. So they looked at their neighbors on 23rd
12 and New York Avenue, which is another Methodist
13 church that we saw before this Board a few years
14 ago. And what we did is we created a day care in
15 that church and that has supplemented the income
16 and allowed the church to function really well.
17 And it's a beautiful marriage of two uses. Day
18 cares function during the day, church is busy on
19 the weekends. It really works really well and the
20 income works well and the flow. That's exactly
21 what we want to do here. We have a perfect
22 building to do it with. And we did a lot of the
23 leg work already.

24 So from a life safety standpoint, it's
25 prepared and ready to be a church. This church

1 basically has two floors. One is elevated and
2 that's the sanctuary, that's the second means of
3 egress that we created that I just mentioned. But
4 if you go in through the main entrance, and you
5 take three steps down, there's this entire space
6 that was a multipurpose room, that's going to be
7 the new day care.

8 It's going to be a large open space.
9 It's going to be divided by furniture so that the
10 different classrooms will be divided by book
11 shelves and different activities. We have a full
12 facility in the back, meaning we have a kitchen so
13 that they can cook lunches, it's a nice commercial
14 kitchen there. We have ADA bathrooms, one for
15 each sex, one dedicated to adults, plus additional
16 bathrooms for the students in the day care to meet
17 the licensing requirements.

18 And that's pretty much the extent of our
19 application is converting that area into a day
20 care facility. That changes a lot of things from
21 a life safety standpoint. From a code standpoint,
22 this is becoming an I4 use, which means it's going
23 to take sprinkler system, it's going to basically
24 be upgraded significantly so it's safe for the
25 kids. There's a door along the side, we're

1 building a ramp so that if there's smaller
2 children, like infants, they can be put on a crib
3 and they can be rolled out in the event of a fire.
4 So that's the construction that we're doing here
5 to bring them out to grade.

6 So this facility is actually -- I feel
7 like it's almost made for it, ideal in its
8 location off of New York Avenue. And our planner
9 is going to talk more about that, but from an
10 architectural standpoint, this is really an ideal
11 building to house such a use. And it's very
12 complimentary, not only to the use of the
13 building, but also the use of the neighborhood.

14 And just to talk a little bit more about
15 our variances, we have a series of preexisting
16 nonconformities. We have a lot size of
17 5,679 square feet, so we're oversized for this
18 district. We have a lot depth of 73.8 and it
19 varies because the lot is wider as it's reaching
20 New York Avenue and shorter as it goes towards the
21 west. On the west side, it's only 73.8 feet.

22 We have an existing nonconformity for
23 front yard, we're at .4 feet, rear yard, basically
24 there is no rear yard, we're about six inches
25 away. And side yards we are -- we have an

1 existing nonconformity as well. Building height,
2 we're conforming. And building coverage, we're
3 just past that by a little bit. And, of course,
4 parking, there's no parking available on the site.
5 The church has been operating for many years, a
6 day care is a drop off scenario and our planner is
7 going to talk more about that. But, yet again,
8 these are all existing nonconformities and that
9 concludes my testimony for now.

10 MS. PEREIRAS: Any questions for the
11 architect or should I call up our --

12 MR. PANEQUE: If you have another
13 witness, please call him up now. We'll save the
14 questions until the end.

15 Go ahead, Ms. Pereira.

16 MS. PEREIRAS: Our planner, Mr.
17 Dougherty.

18

19 A L E X A N D E R D O U G H E R T Y, previously
20 sworn:

21

22 MR. DOUGHERTY: I recognize I'm still
23 under oath.

24 MS. PEREIRAS: Mr. Dougherty, are you
25 familiar with the property in question?

1 MR. DOUGHERTY: I am.

2 MS. PEREIRAS: Did you have an
3 opportunity to review the drawings as well as
4 visit the site?

5 MR. DOUGHERTY: Yes. In fact, I
6 prepared a quick packet, nine slides, photos of
7 the site itself surrounding context, as well as
8 some maps. If it pleases the Board, I'll pass
9 them out.

10 MR. PANEQUE: Thank you. Those are
11 marked as A-1.

12 MR. DOUGHERTY: The first slide is
13 really a chopped up representation, if you will,
14 of the City's ordinance -- I'm sorry, up on the
15 top, you see a little red arrow, red circle.
16 That's where we are in relation to the zone. As
17 we can see, we're right on the cusp, if you will
18 of the CN and the RL low density there. Right
19 across the street starts the CN neighborhood
20 commercial.

21 If you look at the next page, you see
22 the site. This is a tax map and outlined in red
23 is the church. Fairly large, as you can see, and
24 then you just keep flipping through. What's
25 important to note as we look here and the next

1 couple slides, red again is the site outlined.
2 But what's important to know is right across the
3 street, as you see just up to the left, we do have
4 a shopping center. And if you look 33rd Street
5 kind of dead ends into a park back there, we'll
6 kind of see there.

7 From a use standpoint, this works.
8 Church, you go there for religious services, the
9 community is familiar with it. As we heard the
10 architect describe the renovations, it's been here
11 for a significantly long amount of time. You have
12 a shopping center there, the community visits the
13 area for religious, for supermarkets. There's a
14 park right here, kids and families visit this.
15 There's also a mosque over there, at the end of
16 33rd on the corner. You'll see that in the
17 exhibits.

18 We also do have some higher density
19 apartments just to the north of the site. From a
20 day care standpoint, this is really suited for a
21 great day care. The next couple slides here on
22 page 4, I visited the site this past weekend and
23 took some shots and got familiar with the
24 neighborhood. As we see, the church is really
25 anchoring that corner, accentuating that. It's

1 been brought back to life so many times, as Manny
2 indicated, you see a lot of these churches and
3 other temples, they kind of fall by the way side,
4 it's hard to keep such a large structure running.
5 I'm sure as we all know, they run off of donations
6 and various things. So I think this day care
7 facility, we're starting to see that become more
8 and more common in religious centers.

9 To the rear, page 5 is the site here for
10 another rear entrance. Took the drone out, flew
11 it around. On page 6 you start to see some of the
12 high rise buildings to the north. Again, to the
13 left over here in red we have the supermarket. So
14 again families are already visiting this area.
15 Slide 7 shows more of the higher density apartment
16 complexes.

17 And then the last two slides here, I'm
18 really excited to show you because we do have this
19 beautiful water park here. I know it's City
20 owned, but I think there can be a great
21 opportunity to, you know, if the church, you know,
22 were to go down that avenue as outlined in the
23 planner's report, to hopefully one day, depending
24 on the size and scale and the success of the
25 church, you know, the kids could possibly play

1 here. I know it's not something on the table
2 today, but from a site suitability standpoint, the
3 site is really suited for a day care. I mean the
4 last slide here, page 9, this is a really great
5 community pocket with the park with the church.

6 So to kind of get right into it. I know
7 the planner outlined the (d) (1) use variance here
8 for the application, which I think we can satisfy
9 that (d) (1) use variance here. But from a
10 planning standpoint, this is what we call an
11 inherently beneficial use. And with that, it's a
12 little less of a harder bar, if you will, as the
13 Medici (d) (1). This is what we call the Sica
14 test. So back in 2000, the MLUL was amended to
15 give a definition for inherently beneficial uses.
16 And it states a use which is universally
17 considered of value to a community because it
18 fundamentally serves the public good and promotes
19 the general welfare. Such uses include, but are
20 not limited to a hospital, a school, a child care
21 center, group home, wind, solar or photovoltaic
22 facilities or structures. So the child care
23 center is essentially a day care, it's
24 educational.

25 So with that being said, the child care

1 center, educational uses, they're considered
2 inherently beneficial. So it kind of satisfies
3 that Sica test, if you will, which the Supreme
4 Court of '92, you have a couple prongs, four
5 prongs. Identify the public interests, right, so
6 we have a community as a whole, we have the
7 families, we have the children, we have the
8 church. And essentially the next prong here is to
9 identify any potential impacts, right. And as we
10 kind of heard with Manny with the upgrades, the
11 church went above and beyond to bring the older
12 structure into compliance. And as we heard about
13 the safety concern and getting kids out who might
14 be smaller in baskets and cribs. Obviously, the
15 safety of children is paramount to any community.

16 I think when we look at this opportunity
17 here, potential impacts here, for having a day
18 care, I don't think are substantial. Community is
19 already going to the site, whether it's for the
20 church, whether it's for the park, whether it's
21 for the shopping center. So this is just one more
22 stop. You come home from work, before you pick up
23 the kid, you want to get the groceries, the kid's
24 already there, you know, in that regards.

25 At the same time, we have prong three is

1 to identify and mitigate any measures for
2 potential impacts. And I don't think we have any
3 potential negative impacts here. With that being
4 said, certainly when we look at what could
5 possibly be an issue, the Board, for this prong,
6 can certainly put reasonable conditions on there,
7 whatever they may be. As a planner, I don't know
8 what conditions you could possibly put on the day
9 care. It's an existing structure, it's being
10 brought up to code, fire code with that regards.

11 And then the prong four is the balance
12 and benefits against any potential mitigated
13 issues. This application substantially on the
14 positive side from a planning standpoint. I don't
15 see what the negative side is. When I look at
16 some of the variances here, they're, as Manny
17 stated, they're preexisting conditions. I'll go
18 through them real briefly. Front yard setback, we
19 have 20 rear yard setback. We have a combined
20 side yard of four versus the five, which is need.
21 Lot coverage of 67 percent, we're at 65 percent.
22 Building height 40 for the zone, it's 38. Parking
23 and we have zero. That's really because the
24 church has been standing here for a great amount
25 of time. The church can certainly accommodate

1 services without the need for parking. I think
2 when you look at the fabric of that little
3 neighborhood pocket, you can see there's some on
4 street parking available. But what's nice is it's
5 kind of walkable little community pocket.

6 Potential impact would probably be
7 parking. But again as Manny stated, it's a drop
8 off. You know, you drop your kid off, you go to
9 work, you come back and you pick your kid up.

10 With that being said, I would conclude
11 that this is a positive application, inherently
12 beneficial to the community at large. I don't see
13 any detriment to this neighborhood. And with
14 that, I believe approval would be warranted.

15 MR. PANEQUE: Thank you, Mr. Dougherty.

16 VICE CHAIRPERSON GUTIERREZ: Thank you.

17 MR. PANEQUE: Ms. Pereiras, I don't know
18 if you want to have your architect or Mr.
19 Dougherty answer this, but is there a proposed
20 drop off pick up zone? Looking at photographs on
21 page 6 of 9 of the planner's testimony and there
22 seems to be a loading zone right in front of the
23 church.

24 MR. PEREIRAS: We plan on using the same
25 loading zone that's there, it's on 32nd Street.

1 The church uses it now, they'll continue using it.

2 MR. PANEQUE: Okay. That loading zone
3 for the church presently?

4 MR. PEREIRAS: The loading zone, it's
5 shared with the neighborhood. But there's no real
6 other commercial entity there, except for the
7 small office right across the street that they get
8 Amazon packages. So it would be almost
9 exclusively for the church, but almost.

10 MR. PANEQUE: Now, if you could -- on
11 your plans, the means of egress to the day care
12 where the children would be coming in and out, is
13 that in front of that loading zone?

14 MR. PEREIRAS: It's right in front of
15 the loading zone, it's extremely convenient. It's
16 located to where I'm pointing to here, which is
17 the corner. This is the entrance for the day care
18 right there. And then the emergency exit is
19 through the side yard. But where children will be
20 dropped off and coming out would be right here.
21 And the loading zone is literally this portion
22 right here.

23 MS. PEREZ: That's the entrance.

24 MR. PEREIRAS: That's the entrance.

25 MR. PANEQUE: So it would be right in

1 front of the loading zone?

2 MR. PEREIRAS: Correct.

3 VICE CHAIRPERSON GUTIERREZ: Mr.

4 Pereiras, how many kids do you think are going to
5 be in the day care and what age?

6 MR. PEREIRAS: So I'm going to preface
7 this with saying that what your capacity is is
8 very different than the actual number. Sometimes
9 the capacity number scares Board Members because
10 it sounds like a lot. This building has a
11 capacity for 67 children. The reality is that
12 it's probably going to be about half of that,
13 okay, probably around 30 kids is what fits, works
14 well, comfortably.

15 But from a licensing standpoint, you're
16 allowed -- you're given the flexibility of up to
17 67 kids. That number greatly reduces when you
18 introduce infants. This facility is going to be
19 built in a way so that they can have infants.
20 Infants take up a lot more space because they have
21 a crib. So that number gets reduced from that
22 aspect as well.

23 And it really depends on the balance of
24 what age groups they're going to have. What's
25 most popular in Union City is infants up to three

1 years because we have an Abbott program and the
2 kids that are three years old are going to pre-K
3 system. So that's the bulk of the children that
4 are going to be there is going to be from infants
5 to three years old.

6 And then, of course, every day care that
7 is successful in Union City also has an after
8 school program. So you'll have school age
9 children come in after school and dropped off
10 there as well.

11 VICE CHAIRPERSON GUTIERREZ: Thank you.

12 MR. DOUGHERTY: For the Board as well, I
13 believe that count also is hooked to instructors.
14 So if you have one instructor, they're only liable
15 to watch X amount of students. So the instructors
16 in day care facilities and staff numbers kind
17 start to get lower.

18 MR. PEREIRAS: We have a Board that's
19 very well educated in the education of our
20 children.

21 MR. DOUGHERTY: Just putting it out
22 there.

23 MR. PEREIRAS: They probably know better
24 than you and I.

25 MR. PANEQUE: Any other Board Members

1 have questions?

2 MS. PEREZ: The hours are -- you would
3 expect it would close by 6 p.m.?

4 MR. PEREIRAS: Typical day care hours,
5 drop off between 7 and 9 and then pick up after
6 school is typically between 5 and 6:30, sometimes
7 it's extended to 7:00, but normal day care hours.

8 MS. O'DELL: Are there any windows in
9 the basement? I know you said there's an exit to
10 go out, but is there any light to come in?

11 MR. PEREIRAS: There are. There's a
12 little bit of natural light -- let me see if I can
13 show you from the plan view.

14 So if you look along New York Avenue,
15 all these spaces that I have drawn here, those are
16 all windows. And there's plenty of light coming
17 in through them. From the sidewalk standpoint,
18 they're low, but there's a good amount of light.
19 It's a nice space and the ceilings are very tall,
20 it's bright. It's a good space for day care.

21 MR. DOUGHERTY: Page 5 indicates the
22 windows.

23 MS. O'DELL: You said there's no
24 backyard --

25 MR. PEREIRAS: No, there is, there's a

1 lot of space -- let me --

2 We're required by code to have 350
3 square feet, we have a lot more. So I'm
4 indicating now on our site plan this entire pocket
5 back here is going to be used as a children's
6 playground. So it's well protected. We have the
7 pastor's house here, we have the church here. And
8 then in that corner in the back, it becomes a day
9 care facility. And we're going to provide a
10 privacy fence, which I'm very glad you mentioned
11 because technically it is a variance as well.
12 Union City only permits a four foot high fence,
13 we're proposing an eight foot high fence for
14 privacy along that back area. So I would like
15 that to be in the record as well.

16 MS. PEREZ: This is the pastor's house?

17 MR. PEREIRAS: Correct.

18 MS. O'DELL: Was there another exit?
19 God forbid there's a fire, is there another exit
20 besides the front and the backyard? Is there
21 another way --

22 MS. PEREZ: Into the church?

23 MR. PEREIRAS: So there's a primary exit
24 here, there's a secondary exit to the side,
25 there's no additional exits.

1 MS. O'DELL: Two exits.

2 MR. PEREIRAS: None are required. We
3 have two remote exits and that's what code
4 requires. And keep in mind, this is going to be a
5 sprinklered building. The number of deaths in a
6 sprinklered building -- I've said this in front of
7 this Board last time -- in the entire United
8 States in the history of sprinkler systems is
9 zero. People don't die by fires in sprinklered
10 buildings.

11 MS. PEREZ: Is there access -- can
12 people from the church get into the day care or
13 it's a completely separate --

14 MR. PEREIRAS: There's a vestibule that
15 connects. So this corner, you walk into a
16 vestibule. That vestibule, if you go straight,
17 you go into the day care. So you go through this
18 door and that door, two doors to get to the day
19 care after the front door. But the church is up
20 these stairs, going upstairs. So there's a door
21 separating the two. It can be locked, it can be
22 buzzered, so there's no mix --

23 MS. PEREZ: Secured.

24 MR. PEREIRAS: But there is a common
25 vestibule.

1 VICE CHAIRPERSON GUTIERREZ: Anybody
2 else? Open to the public? Seeing none. I'm
3 going to make my motion to approve the application
4 with all the conditions.

5 MR. VALLEJO: Motion on the table to
6 approve the application by Ms. Gutierrez.

7 MS. WATLEY: Second.

8 MR. VALLEJO: Seconded by Ms. Watley.

9 MR. PANEQUE: Just to clarify, before we
10 vote on the motion, Mr. Vallejo. Mr. Pereiras,
11 your plans provide for the six foot fence or they
12 do not?

13 MR. PEREIRAS: They do not mention the
14 six foot fence, as long as it's in the minutes of
15 the meeting or if it can be on the resolution,
16 that would be great.

17 MR. PANEQUE: You're amending your
18 request to provide for a six foot fence in the
19 rear yard where the playground will be?

20 MR. PEREIRAS: I prefer eight foot.

21 MR. PANEQUE: Mr. Spatz, difference
22 between six and eight?

23 MR. SPATZ: Two feet. I think given the
24 circumstances, I think a taller fence would be
25 appropriate. And what I would suggest is that

1 this be placed on the plan, which we will review
2 prior to the adoption of that resolution, that way
3 when it gets to the building department, it's on
4 both.

5 MR. PANEQUE: So the request is for an
6 eight foot fence that would be on the plans, thank
7 you.

8 MR. VALLEJO: Motion to grant this
9 application by Ms. Gutierrez, seconded by Ms.
10 Watley. Revised plans required at least ten days
11 before the next hearing date?

12 MR. PANEQUE: Yes.

13 MR. VALLEJO: Roll call on the motion.
14 Ms. O'Dell.

15 MS. O'DELL: Yes.

16 MR. VALLEJO: Ms. Gutierrez.

17 VICE CHAIRPERSON GUTIERREZ: Yes.

18 MR. VALLEJO: Mr. Ortiz.

19 MR. ORTIZ: Yes.

20 MR. VALLEJO: Ms. Perez.

21 MS. PEREZ: Yes.

22 MR. VALLEJO: Ms. Watley.

23 MS. WATLEY: Yes.

24 MR. VALLEJO: Ms. San Martino.

25 MS. SAN MARTINO: Yes.

1 MR. VALLEJO: Six in favor, motion
2 carries.

3 MS. PEREIRAS: Thank you very much.

4 MR. PEREIRAS: Thank you.

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1 **APNAGHAR PROPERTY MANAGEMENT, LLC -**
2 **1909 NEW YORK AVENUE:**

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4 MR. VALLEJO: Next application on
5 tonight's agenda, 1909 New York Avenue. Ms.
6 Pereiras, please.

7 MR. PANEQUE: Let the record reflect as
8 follows:

9 I've been provided by Ms. Pereiras with
10 a certification as to publication and service with
11 respect to the property at 1909 New York Avenue,
12 giving notice of tonight's application at this
13 location to all property owners the within 200
14 foot radius.

15 I've also been provided with an
16 affidavit of publication from The Jersey Journal
17 giving notice of tonight's application at this
18 location, said notice was published on
19 February 27, 2023.

20 I've also been provided with a tax list
21 from the tax assessor's office with date of
22 January 30, 2023, providing the names of all
23 property owners within the 200 foot radius of 1909
24 New York Avenue.

25 And I've been provided with the

1 certified mail receipts with a postmark date of
2 February 24th.

3 Based on the documentation that has been
4 provided, this Board has jurisdiction to proceed
5 and hear this matter.

6 MS. PEREIRAS: Thank you very much,
7 Counsel. Bianca Pereiras on behalf of the
8 applicant for property at 1909 New York Avenue,
9 also known as Lot 8 in Block 102.

10 The application technically is to
11 legalize one unit, to go from two units to three.
12 When we were researching this project with the
13 building department, many of the records I
14 received were very inconsistent, so we're playing
15 it as safe as we can and we are coming before this
16 Board to ensure that these three units that are
17 existing can be legalized. We have --

18 MR. PANEQUE: Ms. Pereiras? I just want
19 to bring to the Board's attention that the
20 building department memo from Mr. Martinetti's
21 office indicates that the building department
22 recognizes this property as a three unit
23 residential structure.

24 MS. PEREIRAS: Yes. And they did issue
25 a violation to my client about one of the units.

1 And hence we are here to make sure this problem
2 does not occur again.

3 MR. PANEQUE: So go ahead.

4 MS. PEREIRAS: Thank you. We have two
5 experts to testify before the Board this evening.
6 I'll begin our presentation with our architect,
7 Mr. Manuel Pereiras.

8

9 M A N U E L P E R E I R A S, previously sworn:

10

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

13 MS. PEREIRAS: Mr. Pereiras, are you
14 familiar with the property in question?

15 MR. PEREIRAS: I am.

16 MS. PEREIRAS: Did you prepare the
17 drawings that are before the Board this evening?

18 MR. PEREIRAS: I have.

19 MS. PEREIRAS: And would you kindly
20 describe the proposal for the Board?

21 MR. PEREIRAS: I'd be very happy to.
22 Again, pretty simple project. We have a typical
23 25 by 100 lot, so we're a conforming lot,
24 2,500 square feet. We have an existing building
25 on the lot. The existing building is on the front

1 yard property line, which is consistent with the
2 neighborhood, so it's a prevailing front yard
3 setback. And we have zero side yard setbacks.
4 That's a preexisting nonconformity that we have
5 here before the Board today. The only as well
6 as -- well, not the only, parking as well. We
7 have a 42 foot, 11 inch rear yard setback as well.

8 So, again, this is a modest building.
9 And we're not looking to change this building or
10 grow in any way. We're simply looking to legalize
11 the unit on the lower level. So this is a
12 three-story building, the first story, which is a
13 few steps down is a unit that we're looking to
14 legalize. That unit has its own independent
15 entrance from the front of the building. The
16 steps are located here along the left. And as you
17 can see, the existing condition of this unit is a
18 two-bedroom apartment. We cannot legalize that
19 two bedroom as is, so we're looking to do some
20 modifications to it. We're going to demolish the
21 two bedrooms and we're proposing a studio
22 apartment. And we're making a few other changes.
23 There's a mechanical room along the back, so we're
24 creating a vestibule to access the mechanical room
25 from the outside of the building. We're also

1 isolating the meters and putting that in a
2 separate room as well. And then the rest is open
3 so that we have -- we're demolishing the two
4 bedrooms that were there for a studio apartment.
5 And this is a nice, very large studio apartment,
6 it's 774 square feet of that.

7 And, again, similar to other
8 applications, we're taking this as an opportunity
9 to upgrade the building. This building is going
10 from what's called an R-5 two-family to an R-2
11 three-family, which means that we're going to now
12 separate that floor from the above floors with a
13 two hour fire separation. And there's going to be
14 a domestic line sprinkler system in that unit. So
15 that unit is going to be protected by a sprinkler
16 system, as well as upgrades to the entire
17 building. There will be a low voltage alarm
18 system there and a hard wired system on that
19 apartment unit.

20 Beyond that, there's no other changes to
21 the structure. We're looking to simply legalize
22 what is already there in a code compliant way.

23 MS. PEREIRAS: We have one additional
24 witness to testify before the Board and we'll wrap
25 up our presentation with our planner, Mr.

1 Dougherty.

2

3 A L E X A N D E R D O U G H E R T Y, previously
4 sworn:

5

6 MR. DOUGHERTY: Alex Dougherty, I
7 recognize I'm still under oath.

8 MS. PEREIRAS: Mr. Dougherty, are you
9 familiar with the property in question?

10 MR. DOUGHERTY: I am.

11 MS. PEREIRAS: And do you have a set of
12 exhibits to share with the Board?

13 MR. DOUGHERTY: I do. Like all my
14 sites, I visit them and I walk around and I
15 document. So for the Board, I've prepared eight
16 slides exhibit, similar to what you saw before,
17 maps and photographs to document the site in the
18 context surrounding that site.

19 MR. PANEQUE: We'll have that marked as
20 A-1.

21 MR. DOUGHERTY: So slide one, sheet one,
22 again, similar to what we saw before. Kind of the
23 middle of the screen above 19th Street, you see a
24 red arrow and red circle indicating where we're at
25 within the City zone, yellow being the RL low

1 density residential.

2 Slide two, outlined in red is
3 highlighting the site from a tax lot perspective.
4 Again, we're at Block 102, Lot 18, 25 by 100.
5 What I like to point out on slide three is the
6 little blue square across the street is indicative
7 of a transit bus stop right across the street.

8 And from slide four to eight is more
9 photos that I took this past weekend on March 5th.
10 Right in the middle, right behind the orange
11 vehicle is the property in question. And as we
12 kind of flip through, we'll see unique features of
13 the property. Indicating the red arrows, we have
14 a door on the overhang, which is representative of
15 the basement apartment, previously discussed. And
16 on the right-hand side with the red arrow is
17 another separation, an entrance for the two
18 apartments above. So the building has some unique
19 features that existed here.

20 Slide six, we start taking out the
21 drone, flying around, getting a real feel for the
22 neighborhood. You see it's predominantly
23 residential. Top down perspective on page 7, as
24 you can see, we have a rear yard and some of the
25 properties unfortunately don't, which is I think

1 important to note as there's an egress coming out
2 of the back as well.

3 The last slide here because I know Union
4 City has a serious concern over parking. I know
5 this is not particularly in Union City, this is
6 one block over, this is the Weehawken reservoir.
7 What's unique about this neighborhood is this
8 reservoir and the three linear streets that are
9 uninterrupted for parking. So there's a
10 possibility given, I guess, time of day, when you
11 get off work that there will be ample parking just
12 one block over.

13 But with that said, as Counsel
14 indicated, we're here for a formal legalization of
15 that basement apartment. What's important to note
16 is it was once two bedrooms, recognizing the kind
17 of amended zone here, I think the applicant is
18 proposing a larger studio. So we're not from one
19 bedroom to essentially a larger studio. It's less
20 intensive of what has historically taken place
21 there.

22 Again, the three unit apartment is a
23 feature that the neighborhood has accommodated in
24 the past. So when we talk about parking, it's not
25 necessarily something I believe we're

1 intensifying. Again this use was existing to some
2 capacity for some time before this evening.

3 With that being said, we are here
4 formally for a (d) (1) use variance. Like the Sica
5 test, this also requires a four part, but it's a
6 little bit harder of a standard to meet. Part one
7 is site suitability. I believe the site is
8 particularly suited by virtue of the context and
9 it's position, and connection the neighborhood
10 land uses include residential uses and
11 structures --

12 COURT REPORTER: Alex, please.

13 MR. DOUGHERTY: -- various units from
14 single to a large robust apartment complex, which
15 there's one actually right across the street on
16 the corner. So with that condition wise, I
17 believe the site has excellent capacity to
18 accommodate the third unit.

19 Again, we have separate entrances,
20 unique features for the property. We do also have
21 a unique feature in the neighborhood with that
22 reservoir one block over. At the same time,
23 condition wise, I believe the three-family unit is
24 more suitable for what's across the street, a
25 robust apartment complex, a little bit higher in

1 the massing. And a two-family I think would be a
2 little bit more in it's shadow and little bit out
3 of place for what's happening on that street.

4 When I look at some special reasons,
5 what we call the positive criteria, I believe the
6 project promotes the general welfare with
7 increased housing stock for the growing
8 population. The project also provides housing
9 options for all New Jersey citizens. Three-family
10 dwellings are again complimentary and in a harmony
11 with the build out happening on the neighborhood.

12 The project promotes efficient land use
13 for a variety of land uses. All the above promote
14 purposes of the land use law, purpose A, E, G, I,
15 and M. I say I because we're not really changing
16 the structure. I don't think the structure is an
17 eyesore, I think it looks good. But purpose E is
18 to provide appropriate densities in appropriate
19 locations. I think this is an appropriate density
20 for this neighborhood. Again, it was two
21 bedrooms, now it's a larger studio.

22 When I look at the public impacts, the
23 negative criteria here. I believe the project
24 will have minimal impacts, if any. Like you've
25 heard, it's going up in ratings for two hour fire

1 safety between the floors above it. We have two
2 means of egress in the front as well as the back.
3 The building will be designed, the apartment
4 applicable to all the fire and building codes for
5 the renovation of the downstairs. All the work is
6 really happening internal to the property. And,
7 again, as far as the parking situation, that, as
8 you saw, I think it was slide three, that mass
9 transit bus stop is bus 84 and bus 89, directly
10 across the street. And, again, that unique
11 feature with the neighborhood with the reservoir.

12 I think we have an opportunity to
13 accommodate this additional unit with little to no
14 impact to the neighborhood.

15 We talk about -- the last part is your
16 zone plan impact and the relief I believe relates
17 to a distinct piece of property with a unique
18 history. We're here to legalize it. I think it
19 is important to note at some point, the RL zone
20 did allow for three-family. Unfortunately, it
21 does not today and that's kind of where this
22 discrepancy came about. So as we heard, we're
23 trying to put this on the record and formally
24 legalize that.

25 I don't believe the three additional

1 units or legalizing the downstairs would
2 constitute overcrowding. If you look at the
3 plans, the unit is very spacious downstairs.

4 We do have some existing (c) relief
5 interrelated here. We have side yard setback of
6 two for one and five for a combined. We have 2.9
7 on one side and zero on the other. It's an
8 existing condition, we're not moving the building.
9 Parking, we would be required to have six here and
10 zero exists, again it's an existing condition.
11 This unit has existed with two bedrooms, now it's
12 a studio.

13 What's important to note when we look at
14 this is we are under the height requirement. We
15 have a rear yard of 42 feet where 20 is required.
16 Impervious coverage, the 95, where we're at 71.
17 Building coverage is 65, we're at 49. So kind of
18 the back of the napkin, if you will, this is
19 10 pounds in a 5 pound bag, I don't believe that
20 would be the case adding the additional unit and
21 formally legalizing it. The variances we're
22 seeking, they're existing by virtue of the
23 building structure itself. And the lot, again,
24 accommodates with all the other bulk requirements
25 that I believe would be important as we look at

1 increased density and housing.

2 With that, I'll conclude that the
3 proposed application is a modest application
4 bringing with it a three-family dwelling, located
5 directly across the street from mass transit and
6 within walking distance from the unique feature of
7 surrounding that reservoir.

8 With that being said, the projet also
9 strikes a balance in transition from the newly
10 built larger housing stock across the street to
11 the more robust build out of the neighborhood for
12 a three-family. With that said, I believe the
13 statutory criteria have been met and approval
14 would be warranted.

15 MR. PANEQUE: Thank you.

16 VICE CHAIRPERSON GUTIERREZ: Thank you.

17 MR. DOUGHERTY: Open for questions.

18 VICE CHAIRPERSON GUTIERREZ: Any
19 questions from the Board Members? Open to the
20 public? Seeing none --

21 MR. PANEQUE: Ms. Pereiras, that
22 concludes?

23 MS. PEREIRAS: That concludes our
24 presentation this evening.

25 VICE CHAIRPERSON GUTIERREZ: I make my

1 motion to approve this application.

2 MR. VALLEJO: Motion on the table to
3 approve the application --

4 MS. WATLEY: Second.

5 MR. VALLEJO: -- by Ms. Gutierrez.
6 Seconded by Ms. Watley. Roll call on the motion.

7 Ms. O'Dell.

8 MS. O'DELL: Yes.

9 MR. VALLEJO: Ms. Gutierrez.

10 VICE CHAIRPERSON GUTIERREZ: Yes.

11 MR. VALLEJO: Mr. Ortiz.

12 MR. ORTIZ: Yes.

13 MR. VALLEJO: Ms. Perez.

14 MS. PEREZ: Yes.

15 MR. VALLEJO: Ms. Watley.

16 MS. WATLEY: Yes.

17 MR. VALLEJO: Ms. San Martino.

18 MS. SAN MARTINO: Yes.

19 MR. VALLEJO: Six in favor, motion
20 carries. Congratulations.

21 MS. PEREIRAS: Thank you all very much.

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ADOPTION OF RESOLUTIONS:

(1.) 720 8th Street Union City Renewal Associates, LP 720 8th Street Block: 42, Lot: 9. Proposes 6 story, 101-unit senior residential housing with retail and 2 levels of parking. The applicant is seeking for a 1-year extension. (Third extension request) The resolution was memorialized on September 13, 2018. **Approved**

(2.) 38 Realty, LLC 611 38th Street Block: 260, Lot 55. Legalization of two-family house which includes the partial demolition of the existing structure in front and rear. Includes additions, a new curb cut, and driveway for two cars. **Approved**

(3.) 1616 Kennedy Blvd., LLC. 1616 Kennedy Blvd. Block: 82, Lot: 12. Legalization of two residential units in an existing multi-family building for a total of five residential units **Approved**

(4.) Mohammed Abu Ali. 133 19th Street Block 2670, Lot: 55. Legalization of two residential unit in an existing mixed-use building **Approved**

MR. VALLEJO: Now, we're going to move to resolutions. Members present at the previous meeting was --

1 MS. PEREZ: I make --

2 MR. VALLEJO: We have four resolutions
3 on tonight's agenda. 720 8th Street, that was an
4 extension approved at the previous meeting. 611
5 38th Street, this was approved at the previous
6 meeting. 1616 Kennedy Boulevard, approved at the
7 previous meeting. And 133 19th Street, approved
8 at the previous meeting. Can I have a motion to
9 adopt these resolutions?

10 MS. PEREZ: Motion to adopt the
11 resolutions.

12 MR. VALLEJO: Motion by Ms. Perez.

13 MS. WATLEY: Second.

14 MR. VALLEJO: Seconded by Ms. Watley.
15 Roll call on the motion to memorialize these
16 resolutions.

17 Ms. Perez.

18 MS. PEREZ: Yes.

19 MR. VALLEJO: Ms. Watley.

20 MS. WATLEY: Yes.

21 MR. VALLEJO: Mr. Ortiz.

22 MR. ORTIZ: Yes.

23 MR. VALLEJO: Three in favor, motion
24 carries.

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1 **ADJOURNMENT :**

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3 MR. VALLEJO: There being no other
4 applications on tonight's agenda, can I have a
5 motion to close tonight's meeting?

6 VICE CHAIRPERSON GUTIERREZ: Motion.

7 MS. WATLEY: Second.

8 MR. VALLEJO: Motion by Ms. Gutierrez,
9 seconded by Ms. Watley. All in favor?

10
11 (Whereupon, all Board Members indicate
12 in the affirmative.)

13
14 MR. VALLEJO: The ayes have it. Thank
15 you and good night everyone. Let the record show
16 that the meeting has ended.

17
18 (Whereupon the meeting was adjourned at
19 8:17 p.m.)
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C E R T I F I C A T E

I HEREBY CERTIFY that the foregoing is a true and accurate transcript of the testimony and proceedings as taken stenographically by me at the time, place, and on the date hereinbefore set forth.

SUSAN BISCHOFF, CCR, RPR
LICENSE NO. 30XI00233700