

HOBOKEN ZONING BOARD OF ADJUSTMENT  
CITY OF HOBOKEN

----- X  
SPECIAL MEETING OF THE ZONING : SPECIAL MEETING  
BOARD OF ADJUSTMENT :November 30, 2015  
----- X Monday, 7 pm

Held At: 94 Washington Street  
Hoboken, New Jersey

B E F O R E:

- Chairman James Aibel
- Commissioner Philip Cohen
- Commissioner Michael DeFusco
- Commissioner Antonio Grana
- Commissioner Carol Marsh
- Commissioner Diane Fitzmyer Murphy
- Commissioner John Branciforte
- Commissioner Tiffanie Fisher
- Commissioner Owen McAnuff
- Commissioner Frank DeGrim

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

- Kristin Russell, Planning Consultant
- Paul Winters, PE, PP  
Acting Board Engineer
- Patricia Carcone, Board Secretary

PHYLLIS T. LEWIS  
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5                   (732) 364-3011  
6                   Attorney for the Board.

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PAGE

BOARD BUSINESS 1 & 86 & 232

HEARINGS

1420 Willow Avenue 10

26 Willow Terrace 98

710 Hudson Street 148

1                   CHAIRMAN AIBEL: Good evening.

2                   MR. GALVIN: Good evening.

3                   Thank you.

4                   CHAIRMAN AIBEL: That is why our  
5 attorneys get a lot of money.

6                   (Laughter)

7                   I would like to advise all of those  
8 present that notice of the meeting has been provided  
9 to the public in accordance with the provisions of  
10 the Open Public Meetings Act, and that notice was  
11 published in The Jersey Journal and city website.  
12 Copies were provided in The Star-Ledger, The Record,  
13 and also placed on the bulletin board in the lobby  
14 of City Hall.

15                  Please join me in saluting the flag.

16                  (Pledge of Allegiance recited)

17                  CHAIRMAN AIBEL: Okay. Are we at a  
18 Special Meeting, Pat?

19                  MS. CARCONE: Yes. It is a Special  
20 Meeting.

21                  CHAIRMAN AIBEL: Good evening,  
22 everyone.

23                  We will take a roll call, Pat.

24                  MS. CARCONE: Commissioner Aibel?

25                  CHAIRMAN AIBEL: Here.

1 MS. CARCONE: Commissioner Greene is  
2 absent.

3 Commissioner Cohen?

4 COMMISSIONER COHEN: Here.

5 MS. CARCONE: Commissioner DeFusco?

6 COMMISSIONER DE FUSCO: Here.

7 MS. CARCONE: Commissioner Grana?

8 COMMISSIONER GRANA: Here.

9 MS. CARCONE: Commissioner Marsh?

10 COMMISSIONER MARSH: Here.

11 MS. CARCONE: Commissioner Murphy?

12 COMMISSIONER MURPHY: Here.

13 MS. CARCONE: Commissioner Branciforte?

14 COMMISSIONER BRANCIFORTE: Here.

15 MS. CARCONE: Commissioner Fisher?

16 COMMISSIONER FISHER: Here.

17 MS. CARCONE: Commissioner Mc Anuff?

18 COMMISSIONER MC ANUFF: Here.

19 MS. CARCONE: Commissioner DeGrim?

20 COMMISSIONER DE GRIM: Here.

21 CHAIRMAN AIBEL: Great. Thanks.

22 Let me welcome everybody. We are at a  
23 Special Meeting of the Hoboken Zoning Board of  
24 Adjustment, November 30th.

25 If you are here for the Planning Board

1 or something else, you are in the wrong place.

2 Let me suggest that if you are up for  
3 it, to try to find places to sit, I can tell you  
4 that you are going to be uncomfortable.

5 MR. GALVIN: We are not going to be  
6 very long.

7 Go ahead.

8 CHAIRMAN AIBEL: Counsel says we won't  
9 be too long.

10 So we are going to do a few  
11 administrative matters first. We have one  
12 application, 302 Garden Street.

13 Is that Mr. Matule's?

14 MS. CARCONE: Yes.

15 MR. GALVIN: Do you have the  
16 resolution?

17 MS. CARCONE: No. We're not doing  
18 resolutions. We are just carrying it.

19 MR. GALVIN: Oh, we are going to carry  
20 302 Garden Street to December 15th.

21 Is anybody here on that case?

22 Mr. Matule, is that yours?

23 MR. MATULE: That's mine.

24 MR. GALVIN: All right.

25 CHAIRMAN AIBEL: Carried to December

1 15th.

2 MR. MATULE: No further public notice?

3 CHAIRMAN AIBEL: No further public  
4 notice.

5 MR. GALVIN: Do we have a motion to  
6 carry that?

7 COMMISSIONER GRANA: Motion to carry  
8 302 Garden to December 15th with no further public  
9 notice.

10 MR. GALVIN: Is there a second?

11 COMMISSIONER COHEN: Second.

12 MR. GALVIN: All in favor?

13 (All Board members answered in the  
14 affirmative)

15 MR. GALVIN: Anyone opposed?

16 December 15th on that matter.

17 CHAIRMAN AIBEL: Is anyone here for the  
18 resolution of approval of 901 Bloomfield?

19 MR. GALVIN: Anybody here for the  
20 resolution of 901 Bloomfield?

21 CHAIRMAN AIBEL: Okay. Seeing none, we  
22 are moving that to consideration on December 15th.

23 MR. GALVIN: All right.

24 The other thing I would say to the  
25 Board members is I provided all of you copies of the

1 conditions, and nobody has made any comment one way  
2 or another.

3           There is a dispute -- well, I don't  
4 remember getting anything from the Board members. I  
5 have gotten some from Mr. Matule. I have gotten  
6 some from Kristin, and I have made adjustments to  
7 the conditions, which I thought that I had already  
8 sent to you again, and what I would say to you is I  
9 know that Mr. Matule disagrees with some of the  
10 conditions we have, so there will have to be a  
11 discussion of that. I thought tonight would be  
12 inappropriate, so I held it to the 15th.

13           Resolution of approval for 506  
14 Jefferson. It's a resolution of approval. Mr.  
15 Grana, Ms. Murphy, Mr. McAnuff, Mr. DeGrim and  
16 Chairman Aibel.

17           Do I have a motion?

18           COMMISSIONER MURPHY: Motion to accept.

19           MR. GALVIN: Thank you, Ms. Murphy.

20           Do I have a second?

21           COMMISSIONER MC ANUFF: Second.

22           MR. GALVIN: Second by Mr. McAnuff.

23           MR. GALVIN: Mr. Grana?

24           COMMISSIONER GRANA: Yes.

25           MR. GALVIN: Ms. Murphy?

1 COMMISSIONER MURPHY: Yes.

2 MR. GALVIN: Mr. McAnuff?

3 COMMISSIONER MC ANUFF: Yes.

4 MR. GALVIN: Mr. DeGrim?

5 COMMISSIONER DE GRIM: Yes.

6 MR. GALVIN: Chairman Aibel?

7 CHAIRMAN AIBEL: Yes.

8 MR. GALVIN: All right.

9 (Continue on next page)

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HOBOKEN ZONING BOARD OF ADJUSTMENT  
CITY OF HOBOKEN  
CASE: HOZ-15-17

- - - - - X  
RE: 1420 Willow Avenue : SPECIAL MEETING  
APPLICANT: 1420 Willow Hoboken, LLC : November 30, 2015  
Preliminary & Final Site Plan Review : Monday 7:15 p.m.  
C & D Variances :  
(Continued from 10-27-15) :  
- - - - - X

Held At: 94 Washington Street  
Hoboken, New Jersey

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9                   Iselin, New Jersey 08830  
10                   (732) 476-2770  
11                   BY: MERYL A.G. GONCHAR, ESQ.,  
12                   Attorney for the Applicant.

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1                   CHAIRMAN AIBEL: All right. So we're  
2 going to get started. Tonight I think probably most  
3 everybody is here for 26 Willow Terrace.

4                   MS. CARCONE: No. 1420 Willow.

5                   (Laughter)

6                   CHAIRMAN AIBEL: So we are going to  
7 start with 1420 Willow. We are going to hear  
8 closing argument from counsel for the applicant, and  
9 then we are going to move to deliberations.

10                   We are then going to move on, and we  
11 have a very heavy calendar this evening, 26 Willow,  
12 followed by 710 Hudson, followed by 75-77 Madison  
13 Street, followed by 618 Adams Street, and 703  
14 Bloomfield Street, if everybody is awake at two in  
15 the morning.

16                   So with that, Ms. Gonchar.

17                   MS. GONCHAR: Good evening.

18                   Thank you.

19                   This is the summation obviously for  
20 closing arguments on 1420 Willow Hoboken, LLC's  
21 application.

22                   This is an application for preliminary  
23 and final site plan approvals with D-1 variances and  
24 a number of C variances, some of which are subsumed  
25 within the D, and a C variance for parking.

1           The property is identified as Lots 7  
2 through 12 and 14 in Block 123, and it's also  
3 identified as 1420 Willow Avenue and 1427 Clinton  
4 Street, and there's also frontage on 15th Street.

5           As the Board has heard, there is an  
6 existing building that actually appears as two  
7 buildings, partially a one-story, partially two.

8           The building is vacant, and it has  
9 little to recommend it in terms of esthetics or  
10 street level interest, or frankly, in connection  
11 with surrounding uses.

12           1420 Willow Hoboken, LLC, the  
13 applicant, is a Bijou entity. The applicant seeks  
14 approvals to maintain the existing industrial  
15 strength slab foundation and the party walls and to  
16 redevelop the building into a mixed-use retail  
17 commercial and commercial recreation use.

18           As the testimony established, these  
19 uses will fit in with the surrounding uses and  
20 contribute to the character of the emerging  
21 neighborhood, which compromises new residential  
22 development, including along Clinton Street. Retail  
23 uses along Willow, in particular a restaurant next  
24 door on Willow with residential uses above, which is  
25 another Bijou project.

1                   We find the site as it exists today  
2                   surrounded by residential, retail, restaurant and  
3                   some undeveloped properties and remaining  
4                   transportation uses.

5                   The building will be reconfigured, if  
6                   approved, and expand into a three-story portion  
7                   fronting Willow Avenue with the West Elm Home Goods  
8                   store at the first level with its back office or  
9                   back of store operations behind the store coming out  
10                  to Clinton Street, where an existing loading area  
11                  will be maintained and operated, and two stories  
12                  above, which we seek a variance to allow commercial  
13                  uses, such as artists, yoga or dance studio type of  
14                  uses, or to be used for office space, which does not  
15                  require a D variance as it is a permitted use.

16                  We have also proposed to put decking on  
17                  the roof of that portion of the building in  
18                  accordance with the recently enacted ordinance to  
19                  provide open space to be utilized as collaborative  
20                  space for breaks, lunch, small gatherings during  
21                  such hours as the Board may determine or limit.

22                  The balance of the building along the  
23                  Clinton Street frontage and the 15th Street frontage  
24                  will be utilized for a Gravity Vault Rock Climbing  
25                  Gym.

1                   Who is developing the project?

2                   Perhaps this is not a question that is  
3                   ordinarily considered in evaluating a project or a D  
4                   variance, but in this instance it is relevant.

5                   I have sat through a few hearings at  
6                   this point -- of this Board at this point to  
7                   understand that this Board is very concerned with  
8                   seeing developers build what they represent will be  
9                   built. This is not an issue with projects developed  
10                  under the Bijou brand --

11                  MR. GALVIN: I just want to tell you  
12                  that I am objecting on behalf of my Board.

13                  We don't decide these cases on who the  
14                  developer is. We decide them on the facts as  
15                  presented in the case --

16                  MS. GONCHAR: Absolutely.

17                  MR. GALVIN: -- and if my Board is  
18                  deciding that case this way, I am instructing them  
19                  that that is incorrect. Okay?

20                  MS. GONCHAR: It's summation, not  
21                  testimony.

22                  MR. GALVIN: You may proceed. I know,  
23                  but I think you are taking some liberties that, you  
24                  know, and I am stopping you.

25                  MS. GONCHAR: The Board is aware of

1 this, and Mr. Evers, a member of the public,  
2 commented on this at the last hearing.

3 Further, the Board knows that this will  
4 be a quality project. It means that the project  
5 will incorporate sustainable elements, which will be  
6 built to LEED standards here, core and shell  
7 standards, which is a different type of standard  
8 that you may be used to seeing in connection with  
9 other residential construction.

10 Not because LEED certification is  
11 required by any regulation or ordinance or because  
12 it is trendy, but because it is something that's  
13 central to the mission of the company and integral  
14 to every project that this company develops.

15 And because this is a development  
16 company that is a member of the community in the  
17 best sense of the concept, Larry Bijou and various  
18 experts who testified in support of the application  
19 have mentioned other projects developed in the city  
20 by Larry Bijou and his team, and what characterizes  
21 each is the public element. The Mews, a cooking  
22 school, a charter school a community theater, all  
23 elements that serve the need of the community, not  
24 just the people who will live in the homes he builds  
25 or the tenants who will occupy this commercial

1 space.

2 This is a little different type of  
3 project, but it's equally appropriate for the  
4 community, and you have heard the community come out  
5 and tell you so. Bijou has again found uses that  
6 the community needs. Here, recreation.

7 As Dean Marchetto and Ed Kolling have  
8 indicated, that is our architect and planning  
9 consultants, the city's master plan identifies the  
10 need for and encourages parks, open space and  
11 recreational facilities.

12 The Gravity Vault, an established  
13 highly regarded company that owns and franchises  
14 rock climbing gyms, would provide a facility  
15 available to residents to all ages and fitness  
16 levels. And I look around the room and see people  
17 wearing shirts in support of that entity, and you  
18 have heard testimony from people who have indicated  
19 that they would like to take part and partake of  
20 this facility.

21 You have heard adults, teens and  
22 millenials speak in favor of the gym and identify  
23 needs that the gym will fill, if approved, and the  
24 public benefit will be served.

25 Mr. Kovalcik, a principal of Gravity

1 Vault, spoke of their intention to work with the  
2 students at Stevens Institute and to help them  
3 develop the CCS Collegiate Climbing Series as they  
4 have done with other schools, such as Ramapo College  
5 and through work with West Point at their other  
6 locations, and to work towards getting climbing into  
7 the Olympics.

8                   You have also heard from high school  
9 aged students, who spoke of the need for activities  
10 for their age cohort and the lack of available  
11 activities for kids who cannot travel to suburban  
12 New Jersey for existing facilities, or for whom  
13 parks and playgrounds don't cut it and aren't  
14 appropriate year round. This use, one that will  
15 require a D-1 variance, will serve the public  
16 welfare in the truest sense of the term.

17                   The retail first floor furniture home  
18 goods use, excuse me, is also appropriate for the  
19 location and in the mix proposed.

20                   As both the architect and the planner  
21 testified, this type of use with an approximately  
22 7,000 square foot footprint is larger than the  
23 typical retail space found in the existing  
24 commercial centers or corridors such as along  
25 Washington Street. It is appropriate as to size and

1 use for this emerging retail area.

2 There is another furniture store next  
3 to what we propose for the West Elm store, and a  
4 Hertz rental next to that, and a soon to open  
5 restaurant at the other side of the proposed West  
6 Elm store. Additional retail uses were identified  
7 by Ed Kolling in his planning testimony.

8 It was also noted that factory outlet  
9 stores are a permitted conditional use in the zone.  
10 They are undefined as to the limitation on what can  
11 be sold or the size of the building, but clearly  
12 they are a retail use permitted here.

13 There is an opportunity to convert a  
14 nondescript warehouse with some office, which  
15 contributes nothing to the life of the street or the  
16 street scape to a state-of-the-art retail facility,  
17 which will blend in with the adjoining and  
18 surrounding uses.

19 As Ed noted in discussing the proofs  
20 for the C variance, which may be subsumed in the D  
21 variances, the fact that this building comes out to  
22 the sidewalk without a setback matches the pattern  
23 of development along various frontages, and the  
24 setbacks are being maintained except where there is  
25 a current encroachment onto the public sidewalk,

1 where the replacement of the facade will cure that  
2 existing condition.

3 A third D-1 variance, if you will, is  
4 for the two stories above the retail fronting on  
5 Willow. These stores of approximately 7,000 square  
6 foot each may well be used for office in which event  
7 no D-1 variance will be required.

8 But since we don't know that yet, we  
9 have therefore requested a variance to permit a  
10 broader scope of commercial uses. Among those we  
11 anticipate could be a yoga or pilates studio, an art  
12 studio, a spin center, a dance studio. All of these  
13 types of uses will serve the community by providing  
14 cultural or recreation or arts facilities for  
15 residents who live in the city or those who come  
16 here to work.

17 There is an advantage to allowing these  
18 types of uses in proximity to the growing  
19 residential uses in this northern part of the city.

20 The standard that we must meet, the  
21 proposed use promotes the general welfare because  
22 the proposed site is particularly suitable for the  
23 use. The Supreme Court in Price versus Himeji  
24 stated that detailed factual findings distinguishing  
25 the property from surrounding sites, considering the

1 relationship between the property and the community,  
2 and demonstrating a need for the use all may help  
3 establish whether the application meets the  
4 particularly suitable standard. There is no need to  
5 find that the site is the only suitable site.

6 Mr. Kolling testified that numerous  
7 purposes of zoning set forth in NJSA 40:55D-2 would  
8 be furthered by the grant of the variances  
9 requested, including advancing the general welfare,  
10 providing sufficient space in appropriate locations  
11 for a variety of recreational, commercial and open  
12 space uses both public and private.

13 This is also furthered by the green  
14 roof proposed over the gym building -- portion of  
15 the building and the deck areas that provides usable  
16 open space above the office or commercial space  
17 fronting Willow, and he also identified Subsection  
18 (I) to promote a desirable visual environment  
19 through creative development techniques.

20 There was also testimony establishing  
21 the so-called negative criteria. Clearly, there  
22 will be no substantial detriment to the public good.  
23 The testimony, both ours and from the public, is to  
24 the contrary, and there will be no nuisance type  
25 impacts in terms of light or noise.

1           The concerns in terms of light spillage  
2           from the large window proposed or the roof deck have  
3           been dealt with by tilting the windows, downward  
4           facing the lights, and a willingness to be limited  
5           in the hours of operation of the deck.

6           As to the second prong of the negative  
7           criteria, that the grant of the variance will not  
8           substantially impair the intent and purpose of the  
9           zone plan and zoning ordinance, Mr. Kolling's  
10          testimony in this regard established that there was  
11          not a clear statement of intent regarding this area  
12          since we are approaching the third year since the  
13          redevelopment analysis was undertaken.

14          It seems clear that since the existing  
15          building and use was found to be in need of  
16          redevelopment, it is unlikely that industrial uses  
17          will be recommended. More likely the type of uses  
18          that we are proposing will be recommended in  
19          recognition of the existing uses and the development  
20          trends that are emerging in this part of the city.  
21          We are not proposing to overdevelop.

22          The testimony established that  
23          industrial or office use could be built to 80 feet  
24          or four stories and could yield more than 65,000  
25          square feet, but we are proposing far less than that

1 in terms of square footage and intensity, and we are  
2 furthering other goals of the master plan, including  
3 the provision of recreational space, commercial  
4 development, which has a beneficial economic impact,  
5 and an appropriate distribution of these various  
6 types of uses.

7 Parking and traffic were dealt with by  
8 Mr. Dean, who made clear his professional opinion,  
9 that the proposed uses will create no more and  
10 likely less traffic impacts than the permitted uses,  
11 and that the peak hours of the proposed uses will  
12 compliment those of the surrounding roads rather  
13 than adding large amounts of peak hours.

14 Further, he and Ed Kolling testified  
15 that the parking variance was appropriately granted  
16 since use of the existing building for permitted  
17 uses would not yield any parking on site either, and  
18 that the mix of uses proposed would spread the  
19 demand over ours when available parking on street  
20 and in existing and new parking facilities would not  
21 be in as high demand.

22 Mr. Dean identified approximately 1100  
23 parking spaces in close proximity to the site, as  
24 well as available public transportation that he  
25 believed would be used for the gym and the retail

1 space along with pedestrians from the neighborhood  
2 and bicyclists for whom provision would be made  
3 through bike racks proposed both inside and out, and  
4 bicycle sharing facilities in close proximity.

5 Given that, we believe we have met the  
6 standards to entitle us to both preliminary and  
7 final site plan approval, the D variances for the  
8 various uses that we have requested, and the C  
9 variances for parking and any that the Board feels  
10 are not subsumed in the D, we believe that we have  
11 demonstrated entitlement to the requested relief,  
12 and that this will, in fact, be a tremendous benefit  
13 to the community and the neighborhood.

14 Thank you.

15 CHAIRMAN AIBEL: Thanks, Ms. Gonchar.

16 Okay, Board. Anybody care to kick off?

17 COMMISSIONER BRANCIFORTE: I will start  
18 I guess, Jim.

19 I just wanted to let everybody know  
20 that I did read the transcript and --

21 MR. GALVIN: Oh, can we do that?

22 Who signed -- who read the transcripts  
23 and who signed the certs?

24 Thank you.

25 MS. CARCONE: Hum, okay. So there

1 was -- we had the -- there was two meetings. There  
2 was August 18th and October 27th.

3 August 18th, I have gotten  
4 certifications from Chairman Aibel, Commissioners  
5 Cohen, DeFusco and McAnuff.

6 And on October 27th, I have  
7 certifications from Commissioners Cohen, DeFusco  
8 Marsh, Branciforte and Fisher.

9 MR. GALVIN: So everybody is eligible?

10 MS. CARCONE: Everybody has read the  
11 transcript and --

12 MR. GALVIN: Or appeared.

13 COMMISSIONER DE GRIM: Or attended.

14 MS. CARCONE: -- or appeared, yes.

15 MR. GALVIN: Good. Very good.

16 Please proceed.

17 Sorry, John.

18 COMMISSIONER BRANCIFORTE: That's all  
19 right.

20 Elliot Greene, Mr. Greene, brought up a  
21 point that I was discussing earlier, and you just  
22 spoke about it in your summation, which was that  
23 this roof deck thing is still -- I think it is too  
24 big. I still think it is too big, and we are  
25 talking about small gatherings, but we are talking

1       about a roof deck that has a capacity for a hundred  
2       people, and I don't know why you need a capacity of  
3       a hundred people, if it's just a small gathering.

4                   And you may have dealt with the  
5       lighting issue there, but if you have a hundred  
6       people there, it is a noise issue, and I don't  
7       see -- I can see the reason why you want the deck,  
8       so people can go out there for breaks, but I just  
9       don't see any reason why it should cover that much  
10      space.

11                   Now, whether or not it is even up for  
12      debate or not, because it may or may not be part of  
13      something we vote on anyway, given the new deck roof  
14      coverage lot -- I don't know what to do about it.  
15      I am not convinced that it is a good thing for the  
16      neighborhood to have a hundred people on a deck,  
17      possibly have a hundred people on a deck.

18                   You know, they said they want to take  
19      in the view to the east, but the irony is that I  
20      don't think there is any view to the east left  
21      between Mr. Bijou's apartment building across the  
22      street and the Toll Brothers' buildings, I don't  
23      think there is any view to the east anyway any more,  
24      so I don't see why we have to have such a big roof  
25      deck.

1                   I don't see it being essential to the  
2 climbing wall or to West Elm, so I am up in the air,  
3 and I'm curious if anybody else is that concerned  
4 about it.

5                   I would like to see the roof deck cut  
6 in half, but that is my opinion. I wonder if  
7 anybody else has anything to say about it.

8                   Thanks, Jim.

9                   CHAIRMAN AIBEL: Anybody else?

10                   Are we going to bring it to a vote  
11 or --

12                   COMMISSIONER MARSH: I have a  
13 clarifying question.

14                   CHAIRMAN AIBEL: Sure.

15                   COMMISSIONER MARSH: If this is  
16 approved, and the rock climbing tenant moved out,  
17 the shell is left, what exactly is in place then, a  
18 variance for commercial recreation, nothing?

19                   MR. GALVIN: Do you have anything for  
20 me on that?

21                   What do you got?

22                   MS. GONCHAR: I think one of the things  
23 that we had indicated is that because it has through  
24 floors, that it could be converted to something by  
25 putting in, I think Matt called it interstitial

1 floors, to change it from being the configuration it  
2 is currently.

3 COMMISSIONER MARSH: And what about the  
4 use?

5 COMMISSIONER FISHER: I think you are  
6 asking a legal question right now.

7 MS. GONCHAR: Right. That's up to the  
8 Board.

9 COMMISSIONER MARSH: Yes.

10 MR. GALVIN: Yes. But I am asking the  
11 attorney for the applicant to tell me what she  
12 thinks, so why did we stop her?

13 COMMISSIONER FISHER: She is not  
14 answering the question.

15 COMMISSIONER MARSH: Right.

16 MS. GONCHAR: I thought she was asking  
17 that --

18 COMMISSIONER FISHER: She's answering a  
19 different question.

20 MS. GONCHAR: -- we understand that we  
21 would have to come back for authorization to use it  
22 for other than what we have put our proofs in for.  
23 We have put our proofs in for the use that is  
24 proposed, so further approvals would be required to  
25 use it for something else.

1                   COMMISSIONER MARSH: In the square  
2                   footage?

3                   MR. GALVIN: It could be multiple  
4                   things. They could change. It could become  
5                   something else.

6                   COMMISSIONER MARSH: No. I'm saying  
7                   part of this is commercial recreation and part of it  
8                   is office, right?

9                   So does the commercial recreation cover  
10                  the whole thing?

11                  Does it -- and what is commercial  
12                  recreation --

13                  MS. GONCHAR: Well --

14                  COMMISSIONER MARSH: -- like if we put  
15                  in a million Chuck E. Cheese's, you know, that has  
16                  restaurants. That doesn't work. Hum --

17                  MR. GALVIN: I don't know. I don't.  
18                  You have to tell me. The Board has to tell me what  
19                  they think. I mean, that's what you --

20                  COMMISSIONER FISHER: A bowling alley.

21                  MS. GONCHAR: Well, we are willing to  
22                  have a condition that says other than the use that  
23                  we have put in our proofs in regard to, we  
24                  understand that we would be required to come for  
25                  further authorization from the Board because it

1           could have different impacts.

2                       COMMISSIONER DE GRIM:   That use being  
3           the rock climbing use?

4                       MS. GONCHAR:   Right.

5                       COMMISSIONER DE GRIM:   That's it.

6                       COMMISSIONER MARSH:   So this is a  
7           specific -- it couldn't even be like, I don't know,  
8           a go-cart place or a volley ball place.

9                       COMMISSIONER COHEN:   I think it should  
10          be for a rock climbing -- I mean, I think --

11                      COMMISSIONER MARSH:   I'm fine.  I just  
12          want to make sure I --

13                      COMMISSIONER COHEN:   -- let me just say  
14          why.

15                      We had similar applications, where it  
16          has been a theater, and it was explained to be a  
17          theater or a school, and it was explained to be a  
18          school, and that was an integral part of the  
19          approval, and I think that this concept is a rock  
20          climbing concept, and I think that is integral to  
21          the approval.

22                      I don't think that -- so I think it  
23          would be logical to make that conditional, and if it  
24          weren't to be that, they should come back and tell  
25          us what it is going to be, if not, what they are

1 proposing.

2 COMMISSIONER FISHER: Does it continue  
3 that -- so four years from now, let's say, the  
4 tenant has difficulties or whatever and closes.  
5 What is the -- what would trigger -- and somebody --  
6 and they sell the building, so somebody else owns  
7 it. The rock climbing goes out. For them to  
8 re-lease it, is there something -- is there like a  
9 deed restriction?

10 Is there something that would --

11 MR. GALVIN: Could be.

12 COMMISSIONER FISHER: -- specifically  
13 say that if that tenant were to leave, the only  
14 thing they can put in is that tenant or office,  
15 whatever is in the zone at the time --

16 MR. GALVIN: I mean, it could be a deed  
17 restriction, so that you put the new owner -- like  
18 the current owner is there, and the rock climbing  
19 gym comes out, we could have a condition that says  
20 he comes back with whatever new idea they have.  
21 Maybe there will be something new. Okay?

22 COMMISSIONER COHEN: But there was  
23 testimony that they had a ten-year lease with the  
24 opportunity to extend for 20 years --

25 MS. GONCHAR: Correct.

1 COMMISSIONER FISHER: Yeah.

2 COMMISSIONER COHEN: -- so I would  
3 think the lease would run with the property, even if  
4 the property had a new owner, that you have a  
5 ten-year lease that would be enforceable.

6 MR. GALVIN: You know --

7 COMMISSIONER FISHER: Yeah. I'm just  
8 saying if there is a bankruptcy, and something goes  
9 wrong with it, I'm saying the tenant, you know --

10 MR. GALVIN: The only way --

11 COMMISSIONER FISHER: -- can't sustain  
12 its business any more, and it has to get out of its  
13 lease somehow. That was more my question.

14 MR. GALVIN: -- right -- the only way  
15 to bind future owners to this restriction is to put  
16 a deed restriction, is to put something in the deed,  
17 so when they acquire the property, they will be on  
18 notice. There is actually case law on this.

19 COMMISSIONER COHEN: Okay.

20 MR. GALVIN: Okay?

21 I usually think that in some situations  
22 just having the condition is sufficient, but yes,  
23 there is always a possibility that these properties  
24 could be sold and then changed -- in fact, we are  
25 working on one right now that was 1450 Park, where

1       you were promised 11 live-work units, a display area  
2       for art and a display box, and none of that got  
3       built in the project, and the city is undertaking an  
4       action to enforce that.

5                I may have the wrong developer. It is  
6       one of four developers.

7                Did I get it wrong?

8                Yeah, it's one of them. There were  
9       four that we had that were affordable housing cases,  
10       and now the city is taking the next step. The point  
11       being --

12               MS. GONCHAR: That is not one of ours.

13               MR. GALVIN: -- I am not suggesting in  
14       any way that it is. But what I'm saying is that  
15       people -- you said it in your thing, that when Mr.  
16       Bijou has come through in the past, everything he  
17       has promised, he's delivered. But other developers  
18       then turn around and sell a project after they have  
19       been here and told us certain things, and then when  
20       the project got built, somehow things didn't get  
21       done, and they were trying to find -- the Board is  
22       considering that, I guess, and saying what happens  
23       if the project was sold.

24                So they are asking us what happens if  
25       the climbing gym goes out of business I think, and

1 my advice to you would be to impose a deed  
2 restriction that says if the climbing gym is no  
3 longer functional, that the applicant, unless he --  
4 even if they were to put compliant space, I think it  
5 should have to come back in and be reviewed by the  
6 Board because the space is going to be -- is  
7 probably going to have to change.

8 COMMISSIONER MARSH: Well, especially  
9 since the answer to my question was they were  
10 reserving the right to reconfigure the internal  
11 space. That's not the same --

12 MR. GALVIN: Because that could affect  
13 other things.

14 In another town, if you changed the  
15 space area, you probably changed the parking  
16 requirements, or you know, the kind of use might  
17 change the parking requirements.

18 COMMISSIONER MARSH: You could build 50  
19 little tiny rock climbs and teach little kids -- I  
20 don't know -- right --

21 MR. GALVIN: No. I think that might  
22 still be under the use. I think that they could  
23 change hands. It doesn't have to be this particular  
24 company. It could be another company. They could  
25 probably do all kinds of things within the climbing

1 wall -- world within a range of this. But if they  
2 wanted to turn around and make it a bowling alley,  
3 they would have to come back and present a new plan.

4 COMMISSIONER FISHER: Also, I think  
5 what she was saying was if they did go out of  
6 business, you could convert it to office. Like it's  
7 an open space that you could put walls and floors  
8 and stuff back in, which they mentioned --

9 COMMISSIONER MARSH: Because office is.  
10 Approved --

11 MS. GONCHAR: Permitted use.

12 COMMISSIONER MARSH: -- a permitted use

13 COMMISSIONER FISHER: That is what you  
14 are saying, right?

15 MS. GONCHAR: Right.

16 I thought that was what she was asking,  
17 like what would you do with the building, if you  
18 weren't using it for that purpose.

19 COMMISSIONER MARSH: Fair enough.

20 COMMISSIONER MURPHY: I have a  
21 question.

22 I think I missed one night that we  
23 approved the rock climbing wall somewhere else in  
24 the upper --

25 COMMISSIONER DE GRIM: Yes.

1                   MR. GALVIN: But, again, that wouldn't  
2 matter. Climbing is not an inherently beneficial  
3 use. It is nothing -- it's not like -- you know,  
4 you have to decide this case on the Medici standard,  
5 and whether or not, you know -- you are arguing  
6 Himeji, that the site is particularly suited for  
7 this use.

8                   MS. GONCHAR: I think just also when  
9 you put a -- to your conditions, when you do a deed  
10 restriction requirement, provide that it can be --  
11 that it comes back to the Board, you know what it's  
12 like to get a deed restriction lifted --

13                   MR. GALVIN: You know, you are going to  
14 draft it. I am going to review it and -- but if  
15 it's going to be --

16                   MS. GONCHAR: But you need a quiet  
17 title action under some case law to relieve a  
18 condition --

19                   MR. GALVIN: No. You should be able to  
20 come back to the Board and ask for the relief from  
21 the Board. That would be my thinking.

22                   MS. GONCHAR: Okay. That's great.

23                   MR. GALVIN: We just want to put the  
24 future property owners on notice.

25                   MS. GONCHAR: I hear you.

1                   CHAIRMAN AIBEL: Board members?

2                   COMMISSIONER MURPHY: So I can start.

3                   I think this is a fantastic project. I  
4 think the rock wall works well with the master plan  
5 asking for more recreational outlets for our town.  
6 I think that the area is suited for it.

7                   I am still really concerned with the  
8 fact that we have probably a -- well, we are in the  
9 midst of putting together a redevelopment project  
10 for that area, and this is one part of a block that  
11 has already been developed to a certain point or is  
12 being developed to a certain point, but it is still  
13 part of the whole, so I am anxious to hear what  
14 other people say.

15                  COMMISSIONER MARSH: May I ask another  
16 question?

17                  This has actually been designated as an  
18 area in need of rehab, not redevelopment. It's  
19 rehab.

20                  COMMISSIONER FISHER: Uh-huh.

21                  MR. GALVIN: Again, one thing --

22                  COMMISSIONER FISHER: No, it is --

23                  MR. GALVIN: -- one thing that has to  
24 be clear. I think that you have to -- your job is  
25 to look at the zoning ordinance and to grant

1 variances from the zoning ordinance.

2 Unless the zoning is preempted, which  
3 it is not, you apply the zoning, and if the  
4 applicant wanted to take part in the rehabilitation  
5 plan, they could make that application.

6 I know that there is some talk about a  
7 pending plan. You are not supposed to consider  
8 pending --

9 COMMISSIONER MARSH: I'm not asking --  
10 I'm not asking about a pending plan. I am asking  
11 about a designation.

12 If the plan would come after a  
13 designation.

14 MS. RUSSELL: I think that actually was  
15 designated a long time ago, but --

16 MR. GALVIN: Again, it wouldn't matter  
17 to me that they designated something. Only the  
18 existing zoning matters to me.

19 COMMISSIONER FISHER: It's definitely  
20 not redevelopment.

21 COMMISSIONER MARSH: Thank you.

22 MR. GALVIN: But I am saying even if it  
23 was, then you are going based on the zoning, you  
24 either grant it or you don't grant it.

25 COMMISSIONER MARSH: Fair enough.

1                   CHAIRMAN AIBEL:   Okay.

2                   Mr. Grana?

3                   COMMISSIONER GRANA:   I have a few  
4                   comments.

5                   Mr. Chair, thank you.

6                   I looked at this application about -- I  
7                   guess I looked at it about three different ways.

8                   For the benefit of everybody who is  
9                   here, we are evaluating this for a use variance,  
10                  which requires the highest level of legal proofs,  
11                  which is why I think you are seeing this level of  
12                  debate.

13                  I saw it as kind of three things.  
14                  There is some mention of the potential office space  
15                  that would be allowed in the zone, so that is kind  
16                  of a -- I will just say that is a non event.

17                  I looked at this as really talking  
18                  about the Willow Street side and Clinton Street  
19                  side. The planner spent a lot of time talking about  
20                  those things.

21                  When I look at the Willow Street versus  
22                  the Clinton Street, I mean, this is a use variance.  
23                  To me, this is a balancing act.

24                  This particular block already has five  
25                  uses that are no longer in compliance with the zone,

1       okay, so it's already been -- there has been  
2       development and redevelopment that is not in  
3       compliance with the zone.

4                 This use for the West Elm piece, I will  
5       call it, is the same use as what is directly next  
6       door.

7                 There is an ask for 100 percent lot  
8       coverage, which I think would be as assumed in  
9       asking for a D variance approval, but I think, as  
10      Ms. Gonchar has stated, the intent is to reuse the  
11      foundation and some of the party walls, but I don't  
12      see a particular benefit on the Willow Street side,  
13      but I also don't see a negative impact.

14                There is no donut on this block. There  
15      is already a mix of uses. There is mixed use next  
16      door. There's mixed use down the block. There's  
17      other similar uses in the block. I don't see a  
18      negative impact.

19                What I do see is on the Clinton side,  
20      you know, I think we spent a lot of time trying to  
21      sort out the 2004 plan versus the 2010  
22      Reexamination, but in either one we say recreational  
23      activities are desired.

24                I am not saying this has an inherently  
25      beneficial use. But we do have play structures in

1 place -- in public parks for children. The city, I  
2 believe back in 2007, approved and funded a  
3 boathouse and a kayak facility for people to use for  
4 recreational use. I think it was a recognition that  
5 these uses are desired. One way to get that is  
6 through a private investment, and I think that's  
7 what this application has in front of us.

8 So I actually think that that is very  
9 beneficial to the community. We have seen this  
10 application before. We approved a very similar use  
11 in the same zone. Granted that was an adaptive  
12 reuse, and this is not a full adaptive use, but  
13 similar uses in the same zone, so I have a question  
14 mark on the Willow Street part of this, but I think  
15 that the Clinton Street side of this is something  
16 that is absolutely beneficial to the community, so I  
17 weigh in favor.

18 My vote is going to be yes.

19 CHAIRMAN AIBEL: Anybody else, Board  
20 members?

21 COMMISSIONER COHEN: So with respect to  
22 the fact that this is a potential zone, which was  
23 raised by the Chairman at the last meeting, that  
24 could be considered by the City Council at some  
25 point, I look at the height of this building, and we

1        have spent a lot of time worrying about uses that  
2        are residential uses that are much taller than  
3        everything in the neighborhood. The heights really  
4        are comparable.

5                    You look at the fact that you have a  
6        furniture store next door to what will be a  
7        furniture store here.

8                    You have a Hertz dealership on the  
9        block. You have commercial use that already exists  
10      here on this block. I don't think that even if this  
11      was considered at a future time, that anyone would  
12      look at this application and say that this doesn't  
13      belong in this space. I think that this space is  
14      well suited to it.

15                   It is a particularly wide street. It's  
16      a particularly commercial district, and right now it  
17      is occupied by a warehouse that is essentially  
18      derelict, and it's being replaced by what is more of  
19      a funky loft space, which is really in keeping with  
20      the neighborhood that's going up around it.

21                   So I think that not only do you have a  
22      beautiful structure, which is significant and  
23      consistent with what is going up around it, you have  
24      a similar height and you have similar commercial  
25      uses. So the biggest concern, which is the

1 commercial use, I think is not really a concern with  
2 this site. It could be in other parts of the zone,  
3 but not here. I think this is consistent. When you  
4 drive down Willow Street, I don't think you can  
5 confuse that with a non commercial district. I  
6 think that is what is there.

7 I mean, there used to be a thing on  
8 that block, there was a flat tire repair shop and  
9 the like there. I mean, that is not a place where  
10 people typically have residential dwellings, and  
11 here we have a builder that I think has done  
12 something that is consistent with what is there.

13 I think that -- and we have talked  
14 about concept -- we talked about tenants that are  
15 important, and having a design that is done with a  
16 vision towards something that is of benefit to the  
17 community. I think that this Gravity Vault tenant  
18 is a quality tenant. They have a ten-year lease.  
19 They're looking for a 20-year commitment.

20 The other locations they opened in New  
21 Jersey have been successful. We have testimony from  
22 the public that people are willing to travel to  
23 Brooklyn and other locations to have this.

24 One of the things in the master plan we  
25 talked about is Stevens, and we spent a lot of time

1 dealing with Stevens. This is something that they  
2 want to do in conjunction with Stevens climbing,  
3 collegiate climbing service.

4           Again, these are just ways that they  
5 are thinking actively about working with the  
6 community and creating an amenity. I realize it is  
7 a private amenity. It's not a public park, so I  
8 mean, it is not an inherently beneficial use. But I  
9 think we may have seen in other places like in this  
10 neighborhood, where you have a place like the  
11 Pilsner House, where we put something that was in  
12 the neighborhood, that hadn't been like that before,  
13 where you have uses where the community enjoys it,  
14 where they use it. And, yes, it's private, and yes,  
15 you have to pay to use it, and there is a benefit to  
16 the tenant in that situation, but there is also a  
17 real benefit to the neighborhood, and I see that  
18 here.

19           So I think on balance, this does  
20 promote the general welfare. The benefits to this  
21 application far exceed the negative impacts, and I  
22 think that it is not speculative to think that this  
23 fits in the vision of what we would like to have  
24 here in the city in the future, so I am strongly in  
25 favor of this application.

1                   CHAIRMAN AIBEL:  Anyone else, Board  
2           members?

3                   COMMISSIONER MARSH:  Hum, I find myself  
4           in the awkward position of agreeing with  
5           Commissioners Grana and Cohen --

6                   (Laughter)

7                   -- at least on the big parts.  But I  
8           want to make some minor comments about, I guess,  
9           some of the things they said.

10                  First off, I don't -- I don't ever  
11           think we should approve something based on the fact  
12           that now it is an empty lot.  That implies that, you  
13           know, we are happy with whatever you throw at us  
14           because somehow we are not all that desirable, which  
15           everybody knows is crazy.

16                  As far as the benefit to the community,  
17           I think that is more -- I mean, I have no idea -- I  
18           am sure this is a very wonderful tenant, but there  
19           are so many factors in whether a tenant lasts or a  
20           business lasts or anything else lasts, that I don't  
21           think we should base any variance on the quality of  
22           the tenant.  You don't.

23                  They could build another tunnel in  
24           another town, and suddenly, you know, I don't know,  
25           North Bergen becomes the place where everybody moves

1 to and that's where suddenly the rock climbing  
2 community goes to. I don't know. I have no idea,  
3 so I don't think that is really a valid reason to  
4 approve it.

5 I don't find the D variance to be such  
6 a stretch. If it was a D variance that was asking  
7 for residential in a commercial area, I would find  
8 that to be a problem.

9 If it was a D variance asking -- what  
10 else could we be asking for here that we're not  
11 already?

12 This is a zone that allows commercial  
13 and has residential, and commercial recreation seems  
14 like a reasonable D variance for the area.

15 I also don't see anything about this  
16 particular project that precludes it being part of a  
17 rehabilitation plan, so I still --

18 MR. GALVIN: I don't think you have to  
19 reach for that. I think because whether --

20 COMMISSIONER MARSH: That's fine.

21 MR. GALVIN: -- what I'm trying to  
22 teach you is whether it does or it doesn't, you have  
23 to just deal with the zoning as it is.

24 And if the governing body wanted to  
25 redevelop this property, it should do it. You know,

1           then they -- it would take it away.

2                       COMMISSIONER MARSH: Fair enough.

3                       I still have an open mind, so people,  
4           you know, that is my two cents right now.

5                       COMMISSIONER BRANCIFORTE: So -- I'm  
6           sorry. Go ahead.

7                       COMMISSIONER FISHER: So I live in this  
8           neighborhood. I live in the Hudson Tea building,

9                       And I guess the concerns that I would  
10          have, I don't disagree with a number of things that  
11          it is an interesting use, and you know, interesting  
12          for the area.

13                      I guess some of the comments that I  
14          have concerns about is that this would be  
15          complimentary to a neighborhood.

16                      Well, the neighborhood and all of the  
17          residential north of 14th Street, I am guessing, has  
18          been approved by variance, and it is trying to fit  
19          the next application into an area that has evolved  
20          based on individual applications getting variances,  
21          to me, is a slippery slope, and at some point it  
22          doesn't make sense.

23                      My bigger concerns about this project  
24          have to do with, you know, coming into Hoboken, the  
25          uses on that block, the fact that there is no

1 incremental parking.

2 I can tell you the Tea Building is at  
3 capacity, the parking, so whoever said there is 300  
4 extras, that is not even true.

5 The building at 14th and Willow was  
6 approved, and the number of parking spots were  
7 approved for use of the building. So even though it  
8 is not open and approved -- and fully occupied yet,  
9 you have to think that it was originally approved,  
10 and all of the number -- or the number of spots in  
11 that were for that use.

12 Park and Park, Larry has mentioned that  
13 it is not fully occupied yet. My guess is that  
14 would be full, and we now on this block have a  
15 restaurant that is going --

16 MR. BIJOU: It's 383 --

17 COMMISSIONER FISHER: -- what did you  
18 say, sorry?

19 MR. BIJOU: -- it is 383 --

20 COMMISSIONER FISHER: Sorry. 383.

21 MR. BIJOU: -- and we only have 200  
22 units, so --

23 MS. GONCHAR: I think that's in the  
24 testimony.

25 COMMISSIONER FISHER: Yeah. Again, but

1       when it was approved, the 383 were approved based on  
2       the requirements for that building.

3               So what has been approved out of the  
4       Zoning Board is a restaurant in the area with no --  
5       and they received a variance for no parking, and  
6       they were going to -- I don't remember the number --  
7       but have 200 people or 500 people or something for  
8       dinner on Friday and Saturday nights, so this is  
9       another use in that area that doesn't have dedicated  
10      parking that potentially has lots of cars coming and  
11      going.

12              I know that the traffic expert  
13      indicated that it would rely a lot on public use,  
14      and I'm imaging, given a lot of the youth here that  
15      don't have cars, that you will see a lot of people  
16      relying on public transportation. But we are  
17      getting more and more development in this area that  
18      is taxing our roads and taxing our infrastructure  
19      without contributions to both, whether in the form  
20      of parking or into the infrastructure.

21              So I just think that is an important  
22      part. Every time you look at these applications,  
23      and that is just the next application, so I think  
24      there's some positives and some challenges, and it's  
25      not as much of a slam-dunk to me, so...

1                   COMMISSIONER DE FUSCO: Yeah. I'll  
2 add, and I agree with Tiffanie in the fact that, you  
3 know, the redevelopment by variance is not the right  
4 way to do things, but that is the current status  
5 quo, and we shouldn't be evaluating this application  
6 on what the City Council should have done or should  
7 be doing, and I have great confidence in the City  
8 Council in this year that this --

9                   (Laughter)

10                  COMMISSIONER FISHER: I do, too.

11                  COMMISSIONER DE FUSCO: -- aside from  
12 that, I believe that this -- listen, I think this  
13 could have been a lot of things. This could have  
14 been a residential structure. This could have been  
15 taller. This could have had less lot coverage. It  
16 could have been a lot of things.

17                  But I think that when you look at what  
18 is on offer here, and you look at what it is going  
19 to bring -- proposed to bring to the community,  
20 which is recreation space and high end retail, both  
21 of those require square footage, and this is an  
22 ideal location for large format square footage that  
23 quite frankly doesn't exist in many other places in  
24 town.

25                  I look at the West Elm and the Flatiron

1 in the Chelsea area of Manhattan, it's many square  
2 feet. You don't see people walking out of there  
3 with couches. You just don't. You see them walking  
4 out with pillows and artisan candles. And when they  
5 order a couch, it is delivered to their house.

6 Rock climbing gyms, listen, I would  
7 like to think people are not going to be getting  
8 dropped off in cars. I'm sure there's going to be  
9 exceptions to the rule, but you know, people that  
10 are climbing on walls are likely going to get there,  
11 you know, on their own two feet. I don't want to  
12 make generalizations, but it's just my belief on the  
13 matter.

14 I believe that there is an opportunity  
15 here to move this forward in a sensible way, and I  
16 think the applicant has demonstrated that with other  
17 applications, but in this particular application, I  
18 believe that what is on offer is positive based on  
19 what is currently there.

20 I don't think anybody that lives in  
21 luxury condos or, you know, a high end restaurant  
22 next door wants to see, you know, a cement company  
23 open up there.

24 I think that would be a terrible  
25 negative to the community, so I believe we need to

1 look at what the current state is. We have to look  
2 to the future in terms of what can be there, but on  
3 this application, we have to take what is on offer,  
4 and I believe it is good.

5 John, I agree with you on the roof  
6 deck, but, you know, I am just thinking about, you  
7 know, these similar uses. Equinox in Greenwich  
8 Village, they have a roof deck there. It is not  
9 used for parties. It's not used for coffee -- it's  
10 not a coffee shop. People really go up there after  
11 their workouts, and they appreciate open air. They  
12 appreciate the light, and they appreciate the  
13 environment.

14 I just think, you know, that we need to  
15 push for outdoor space whenever possible.

16 I think that we need to look at, if  
17 this was a residential complex, maybe that perhaps  
18 is a large roof deck that could have grills and  
19 parties, but this is commercial space. It's office  
20 space. You know, it is connected to the recreation  
21 space, so I believe the outdoor space is going to be  
22 an annex of that, and we should at least consider  
23 that. But I do hear where you are coming from, and  
24 if it was a residential structure, I probably would  
25 be more inclined to size it back, but certainly

1 everything is up for conversation. But I think it's  
2 a good project, and I hope --

3 MR. GALVIN: You know, I just wanted to  
4 add also, in our conditions, we have conditions  
5 about the time of operation, so I have four or five  
6 conditions on that.

7 COMMISSIONER BRANCIFORTE: Yeah. You  
8 know, I'm sorry, if you are done, Mike.

9 COMMISSIONER DE FUSCO: I am done.

10 Thank you guys for listening.

11 COMMISSIONER BRANCIFORTE: Well, if I  
12 could just get back on that.

13 You know, again, they are talking about  
14 small gatherings on the roof. Yet, the capacity is  
15 a hundred people, and there was testimony given by  
16 Mr. Bijou, don't worry, nothing is going to happen,  
17 it's going to be fine.

18 But, you know, eventually Mr. Bijou is  
19 going to move to Florida. He's going to move to  
20 Boca and sell everything and go fishing for the rest  
21 of his life, and the next owner of the building may  
22 not be as responsible.

23 (Laughter)

24 I don't see why they need a roof deck  
25 for a hundred people, if it is just for small

1 gathering. But I agree, it's great. It is very  
2 cool to have the outdoor space, and I have no  
3 problem with that, and I know that we are going to  
4 have restrictions on the use.

5 The reason I've always been -- not  
6 opposed to them, but leery of them, is by speaking  
7 to policemen, you know, talking about these roof  
8 parties, what a pain in the butt they are, that is  
9 the reason I've always been leery of these things,  
10 you know, and that is the one thing that I -- I am  
11 for the roof deck. I'm not for a hundred-person  
12 roof deck, that's my problem, and I don't see a  
13 reason why it should be a hundred-person capacity.

14 COMMISSIONER DE FUSCO: In your mind,  
15 what would be a more palatable size?

16 COMMISSIONER BRANCIFORTE: You know, I  
17 will leave that up to the Board to discuss, but a  
18 hundred, you know, technically you could have a  
19 hundred people up there at any one time, and that's  
20 just a little crazy for me.

21 COMMISSIONER DE FUSCO: We got like a  
22 hundred people in the room now. It's not such a big  
23 space --

24 (Laughter)

25 COMMISSIONER BRANCIFORTE: What's that?

1 Well, you heard how loud it was before  
2 we started the meeting, so there you go.

3 COMMISSIONER DE FUSCO: I agree.

4 (Laughter)

5 COMMISSIONER COHEN: Just one comment  
6 in response to Commissioner Fisher.

7 You know, my understanding is they have  
8 got 24 bike racks set up on 15th Street, and on  
9 Clinton Street they have another 12 bike capacity.

10 And just to follow up on Commissioner  
11 DeFusco, I think a lot of people are going to be  
12 riding to this location, and there is going to be a  
13 lot of bike rack locations here, and I think that  
14 while typically we do want to have parking, I think  
15 having additional curb cuts and cars going in and  
16 out of this location would not necessarily be ideal.

17 So maybe, I mean, people think there  
18 should be off-site parking available or something  
19 like that, but at least as far as this location is  
20 concerned, I don't think it is problematic that they  
21 don't have parking on the site.

22 CHAIRMAN AIBEL: Go ahead.

23 COMMISSIONER GRANA: I was just going  
24 to actually agree with Commissioner Cohen and with  
25 Commissioner Fisher.

1           I actually think that the parking issue  
2           is reasonable to raise. I just think it is a good  
3           use, and I think the testimony from the traffic  
4           engineer was, you know, the net impact was basically  
5           zero, and part of the calculation there is if  
6           somebody came in and built what was allowed in the  
7           zone, that there was the comparison.

8           So if somebody comes in, they have 80  
9           feet, four stories, build an office building, that  
10          actually will have a much more significant traffic  
11          impact than an athletic oriented rock climbing gym,  
12          so that is more to why I think it is a good use.

13          COMMISSIONER BRANCIFORTE: You know, my  
14          problem, though, for parking isn't so much the rock  
15          climbing, it's the West Elm, because people live in  
16          Weehawken. They live in Union City, wherever. They  
17          are either going to do two things: Drive to  
18          Paramus, which I just looked up is the closest, or  
19          go into the city or drive to Hoboken.

20          So on weekends, you are going to have  
21          people driving in to go to West Elm, and that is  
22          going to be a problem.

23          COMMISSIONER MARSH: May I also point  
24          out that it's all very nice and good to talk about  
25          athletics and how we are going to ride our bikes



1           it carry a parking requirement with it?

2                       It does, right?

3           MR. GALVIN:    It does, right.

4           MS. RUSSELL:  Right, yeah.

5                       I am trying to look up what the  
6           standard is.

7                       Office space does require parking.  It  
8           is on a square foot basis.

9           MR. GALVIN:  The other thing, though,  
10          is office space is usually in and out, and it is  
11          over an eight-hour, nine-hour period.

12                      Retail, other uses have, you know, trip  
13          generation a lot higher.  You know, people are  
14          coming and going.  It depends on what kind of a use  
15          it is.

16                      COMMISSIONER MC ANUFF:  Doesn't this  
17          raise the question now, and it goes back to what we  
18          were talking about earlier, if the facility changes  
19          use and it now becomes offices, and it requires  
20          parking, is that going to be able to --

21                      MR. GALVIN:  It's going to come back to  
22          us, and then they are going to have to find a way to  
23          provide that parking in order to change it back to  
24          office or something, or you are going to grant a  
25          variance on it, you know.

1                   Or if they want to make a two-level  
2                   bowling alley, and they come back with a new plan  
3                   for the bowling alley, you'll review it, and if you  
4                   find the same positives that you find now, then you  
5                   will approve it.

6                   If not, they would be forced to try to  
7                   make it a conforming use, or it may be something  
8                   else in the future. There might be changes in the  
9                   zoning.

10                  COMMISSIONER FISHER: Is there --  
11                  there's a parking variance now on this, right? They  
12                  are requesting not to provide parking?

13                  How many spots?

14                  I don't have it in front of me.

15                  COMMISSIONER MC ANUFF: 79.

16                  COMMISSIONER BRANCIFORTE: So we are  
17                  granting a variance for 79 spaces.

18                  COMMISSIONER FISHER: 79, in addition  
19                  to -- remember, the restaurant next door I think had  
20                  like a 200-spot variance, where they didn't have to.  
21                  So I mean, this is like a cumulative thing down in  
22                  this corner that -- I don't disagree with the use,  
23                  but at the end of the day, a really nice shinny use  
24                  in a corner still has to be able to fit into the  
25                  transportation, you know, concerns and parking

1 concerns in the area, and at some point you can't --  
2 it is a cumulative impact.

3 We turned our head on the restaurant.  
4 They have not made any safety improvements on  
5 Willow, I can tell you, on Willow and 15th, which  
6 was part of the reason why I was so concerned with  
7 the original restaurant, and now so we went from 200  
8 to another 79, so it's just cumulative, and it's  
9 just something to think about, you know, whether it  
10 is this application or the next application, at some  
11 point you can't say, oh, you know, it doesn't matter  
12 any more because it is cumulative.

13 CHAIRMAN AIBEL: Well, I think  
14 everybody else has had a few words, so let me just,  
15 you know, jump off that point, because I am, as  
16 usual, the voice of doom and gloom for people --

17 (Laughter)

18 -- who are in blue tee shirts.

19 You know, the law prefers zoning to  
20 variances. That is sort of a legal principle that  
21 we have to apply as a Zoning Board. And I think  
22 what Ms. Fisher is alluding to is when we take  
23 the -- I don't want to say take the baby -- when we  
24 choose to do planning in an ad hoc manner,  
25 unintended consequences can occur.

1           So, for example, following on the  
2           comments about parking, it is great. This might be  
3           justifiable as having a no parking requirement and  
4           being entitled to a 79 spot parking variance, but  
5           the next project that comes along will either ask  
6           for the same or maybe it will be in different  
7           circumstances, and somebody will say, parking should  
8           be granted there.

9           This is part of a 30-acre, very large  
10          jewel of Hoboken, that, you know, the north end of  
11          Hoboken, Ms. Gonchar alluded to the north end  
12          redevelopment's analysis that was done in 2013.

13          The city planners at the time said:  
14          Private interests have proceeded with redevelopment  
15          proposals in the study area related to individual  
16          properties in an ad hoc manner through the Zoning  
17          Board of Adjustment. However, these are piecemeal  
18          and unreliable in their outcome, lacking in any  
19          comprehensive planning that could balance the need  
20          to address the deleterious conditions with private  
21          property rights and overall civic interest.

22          My view on this is that the proofs  
23          haven't been made, and it is a very strict standard  
24          that we as a Zoning Board are supposed to apply, and  
25          that is, to find out if a property is particularly

1       suitable for a particular use when a use change is  
2       being requested. And part of the analysis is, you  
3       know, generally, is an industrial use obsolete, can  
4       nothing else be placed on this property.

5               Well, in this case, there is a 22,000  
6       square foot piece of property in this area that will  
7       be basically demolished and a new property, a new  
8       building, a new use, a new structure will be  
9       installed. And I think at that point no one  
10      legitimately can ask the question as a Zoning Board  
11      member, can a conforming use be put in.

12             Maybe the city will think that an  
13      office use with retail on the ground floor, with  
14      some residents up top might be a great use.

15             Maybe part of this property will, as it  
16      goes over to the Clinton area and upward, north of  
17      15th Street be part of an overall plan.

18             But my concern, and Ms. Fisher got  
19      there first, is that when you do this one at a time,  
20      and you know, I respect everybody for coming out  
21      tonight and showing the flag, but on another night  
22      maybe it's people who like bowling or some other  
23      night, it's somebody who has some other particular  
24      use that they find interesting.

25             This is not an inherently beneficial

1 use, notwithstanding the benefits, I'm sure all of  
2 you feel after rock climbing, but it is not  
3 necessarily a benefit for the community as a whole.  
4 In context, it very well may be, and I would love to  
5 see the City Council, which is the planning  
6 authority for the city continue its pursuit of a  
7 comprehensive study and a plan for this large area  
8 of town and do it in a way where infrastructure is  
9 considered, transportation is considered, safety is  
10 considered, and I don't think we as a Zoning Board  
11 of Adjustment, and I emphasize "adjustment," can  
12 consider this an adjustment to the zone.

13 The City Council has to determine what  
14 the best use of this property is. Unfortunately, at  
15 this point it is considered an industrial use with,  
16 you know, the qualification that industrial use  
17 means office buildings, research labs, warehouses,  
18 and public services, so, you know, we are not  
19 talking about putting in a smoke stack industry  
20 here. Nobody is.

21 If I had my preference and druthers, I  
22 would like to see the city actively pursue an  
23 overall plan that took into account the value of  
24 this property, which is right in the middle of a  
25 very central block, the one coming off the bridge,

1 coming into Hoboken. It's going to be next to a  
2 very nice building that Mr. Bijou is constructing  
3 for the Pino Restaurant.

4 Where we granted the variance, and as  
5 Ms. Fisher said, we granted an extensive parking  
6 variance, but we did it in the context of a  
7 preexisting mixed-use building with residential,  
8 some retail, and it was found that the type of use  
9 at the ground floor would be agreeable to a  
10 restaurant in that location.

11 Here, we are talking about a building  
12 that is going to cover 200 foot by 150 foot, again,  
13 a 22,000 square foot footprint right in the middle  
14 of that particular block, and I would love to see it  
15 developed. Mr. Bijou, I'm sure is a great  
16 developer, and would be a great person and partner  
17 to work with with the city to develop that and the  
18 properties next to it, but I think as a Zoning Board  
19 we have to be consistent and we have to make sure  
20 that if we give this property this treatment and  
21 call an open 22,000 square foot lot across from  
22 other open 22,000 square foot lots, particularly  
23 suitable for this particular use, I think, you know,  
24 we're usurping a planning function from the City  
25 Council and we're risking the piecemeal development

1 that was criticized by the city planners in 2013.

2 I wish we were six months forward,  
3 because I think a lot of these would be academic  
4 questions. We would have Mr. Bijou having a very,  
5 very good dialog with the City Council and the  
6 planners and the Planning Board, and we would have,  
7 again, a great developer developing an important  
8 jewel of Hoboken.

9 We have other people who want to  
10 develop in this area. This Board rejected a nearby  
11 residence request in the I-1. It was 5,000 square  
12 feet, and I think part of the rationale there was,  
13 well, an office building could be built in that  
14 space. That's 5,000 square feet.

15 Here we have 20,000 square feet, and to  
16 me, you know, we do have to sort of look at things  
17 consistently. And if we're going to grant these  
18 variances tonight, then everybody needs to realize  
19 that the next person who comes in and says, I want  
20 to build a 20,000 square foot footprint building  
21 across the street, we will have to figure out some  
22 other way of addressing it, and I know Ms. Gonchar  
23 is agreeing with everything I am saying.

24 MS. GONCHAR: Almost nothing actually.

25 (Laughter)

1                   It is a misstatement of the law and  
2                   inappropriate to rely on the redevelopment plan.

3                   CHAIRMAN AIBEL: No. You raised it, so  
4                   I think I've said my peace.

5                   MR. GALVIN: Okay.

6                   CHAIRMAN AIBEL: So do you want to run  
7                   the conditions through?

8                   MR. GALVIN: Sure.

9                   COMMISSIONER MARSH: Well --

10                  CHAIRMAN AIBEL: I will open it up for  
11                  conversation, if you want, but --

12                  COMMISSIONER BRANCIFORTE: Jim, I agree  
13                  with you that this could very well be zoning by  
14                  variance.

15                  MR. GALVIN: Well, no, you don't want  
16                  to go --

17                  COMMISSIONER BRANCIFORTE: Don't go  
18                  there?

19                  MR. GALVIN: -- don't go that far,  
20                  because, you know, you got to protect the record  
21                  both ways, okay, and we got to respect everybody's  
22                  opinion.

23                  It is okay to have -- we can look at  
24                  the same glass and see the level differently.

25                  Remember, that we take every zoning

1 case on its own, so because we denied one case  
2 doesn't mean that that has anything to do with this  
3 case.

4 And if we approve this case, it doesn't  
5 mean that the next case that comes in we have to  
6 approve. We absolutely don't. But you got to be  
7 intellectually -- what Jim is suggesting is there  
8 has to be some intellectual consistency with how we  
9 decide it, and we have to decide the case based on  
10 the facts, not on individuals.

11 CHAIRMAN AIBEL: I think you should  
12 read the conditions.

13 MR. GALVIN: Wait. John has something.

14 COMMISSIONER BRANCIFORTE: Well, I  
15 mean, I agree that we are in the territory that  
16 perhaps we shouldn't be in, but, you know, Jim  
17 mentioned, you know, the next person comes along and  
18 wants, you know, a variance on parking, you know, we  
19 talked about that --

20 MR. GALVIN: You will have to consider  
21 the circumstances at that point.

22 Hey, listen, if there's a big  
23 deficiency --

24 COMMISSIONER BRANCIFORTE: -- the thing  
25 is we already --

1 THE REPORTER: Wait. You can't talk at  
2 the same time.

3 COMMISSIONER BRANCIFORTE: -- I'm  
4 sorry, Phyllis.

5 MR. GALVIN: -- I'm sorry.

6 COMMISSIONER BRANCIFORTE: We have  
7 already approved at least I think certain things in  
8 that neighborhood that may have already had parking  
9 variances or maybe causing parking problems --

10 MR. GALVIN: But let me just stop you.  
11 Let me just stop you for a second --

12 COMMISSIONER BRANCIFORTE: -- this is  
13 the --

14 MR. GALVIN: -- there was an excellent  
15 rationale for why you did it, and I remember what  
16 that rationale is because I drafted the resolution.

17 Okay. There was a belief that people  
18 would come to that restaurant from around the city,  
19 so it wasn't going to be like people aren't going to  
20 drive there from Jackson to go to the restaurant.  
21 It's going to be people that are in the  
22 neighborhoods that are going to come there, so --

23 COMMISSIONER BRANCIFORTE: Well, you  
24 are kind of proving what I was about to say.

25 West Elm is not a local destination.

1 It's a destination that's going to draw people in  
2 from surrounding towns, and it goes back to my point  
3 before. It's wake up with your girlfriend on a  
4 Saturday morning in Weehawken. "Honey, we can take  
5 a bus into the city, we can drive to Paramus, or we  
6 take our car into Hoboken. Which is it going to  
7 be?"

8 COMMISSIONER FISHER: But also, Dennis,  
9 you just said it was approved, but there were people  
10 that dissented for the other side --

11 MR. GALVIN: Correct.

12 COMMISSIONER FISHER: -- of that, so  
13 the conditions existed.

14 So like when I was speaking, I was  
15 speaking more about my concerns about why it  
16 shouldn't have been approved at the time.

17 So to me, it is just a cumulative  
18 situation, where you are taking a view on either  
19 side, but there is a cumulative carry forward.

20 Every time you don't -- every time  
21 there is a parking variance, there is a cumulative  
22 impact based on all of the other buildings that have  
23 been approved, whether you have overlooked it for  
24 whatever conditions or approved it because of what  
25 you just suggested or not, it is still a cumulative

1       that I think you can bring to bear in today's  
2       discussion --

3                   MR. GALVIN:  Listen, all of your  
4       opinions matter to me.  But we are trying to go  
5       through the way that you decide the case.

6                   If you find that the parking is  
7       inadequate for this project, then that is an  
8       important fact and you have to bring that out.

9                   When you're talking -- I know why  
10      you're talking about other projects or future  
11      projects, because you are trying to understand this  
12      in a context.  But all you have in front of you is  
13      if everything dissolved, you have this proposal in  
14      front of you, if you decide if a parking variance is  
15      appropriate for this location, and you can bring  
16      it --

17                   COMMISSIONER FISHER:  But --

18                   MR. GALVIN:  -- just let me finish,  
19      okay --

20                   COMMISSIONER FISHER:  -- okay.

21                   MR. GALVIN:  -- and I also want to be  
22      clear that I don't have a position.  I am neither  
23      for or against anything --

24                   COMMISSIONER FISHER:  Yeah, of course.

25                   MR. GALVIN:  -- I'm just trying to

1 advance the conversation and try to bring this to an  
2 end.

3           You just have to -- if you feel that  
4 the parking is inadequate, and you can't grant a  
5 variance for the parking, then that is a problem  
6 with this application.

7           If you feel that you have been  
8 satisfied that this won't have a negative impact on  
9 the neighborhood because you believe people are  
10 going to take bikes and come by mass transit and  
11 other ways, in a city that is known for being mass  
12 transit with a lot of public transportation, you  
13 have -- other Board members might say yes, they are  
14 okay with that. But that's a rationale.

15           So it's up to you guys. You have to  
16 tell me how you feel. But I'm saying don't try to  
17 use the past cases or future cases, because we are  
18 going to take each case on its own merits.

19           COMMISSIONER DE FUSCO: John, let's  
20 talk about two things. The deck, I kind of agree  
21 with you on.

22           But in terms of the parking, there's  
23 been Battaglia's there since 2007 I think, since  
24 they moved from Washington Street, and I think that  
25 is the exact kind of use that we are talking about,

1 and I don't think that that furniture -- you know,  
2 home goods retail space has done anything  
3 detrimental for --

4 COMMISSIONER MC ANUFF: They have  
5 parking --

6 COMMISSIONER BRANCIFORTE: Well,  
7 there's things, though. They have parking in the  
8 back. I think maybe three, four or five spaces --

9 COMMISSIONER MARSH: Ten.

10 COMMISSIONER BRANCIFORTE: Ten spaces?

11 COMMISSIONER MC ANUFF: Yes, it's  
12 pretty big.

13 COMMISSIONER MARSH: Twenty maybe.

14 COMMISSIONER BRANCIFORTE: I always  
15 walk there, so I don't know.

16 (Laughter)

17 COMMISSIONER DE FUSCO: Well, I was  
18 in --

19 (Commissioners talking at once)

20 (Laughter)

21 COMMISSIONER BRANCIFORTE: But anyway,  
22 the other thing, too, is: Right now there is not a  
23 lot of retail or a lot of uses for people to drive  
24 there. Battaglia's is really the only thing. He's  
25 got the entire block of metered parking to himself,

1 not that I would know because I always walk there.

2 COMMISSIONER DE FUSCO: Yeah. It's on  
3 a bus line, though. I mean, --

4 COMMISSIONER BRANCIFORTE: Yeah, I  
5 understand that.

6 COMMISSIONER DE FUSCO: -- there is  
7 options for people to go there, and I think that,  
8 you know, in terms of -- there are a couple of other  
9 uses that I think would be, you know, that would  
10 really dictate the parking, you know, if it were,  
11 you know, if it were a movie theater, or if there  
12 was -- you know, office spaces would even dictate  
13 the parking --

14 COMMISSIONER COHEN: The movie theater  
15 has no parking.

16 COMMISSIONER DE FUSCO: And the movie  
17 theater doesn't have parking, but we're not  
18 talking --

19 COMMISSIONER BRANCIFORTE: Again, I  
20 wouldn't know because I always walk there.

21 COMMISSIONER DE FUSCO: -- but in terms  
22 of the deck space, I do think that the ask is a tad  
23 over the top, and I would support sizing back the  
24 deck space, if the applicant were open to it.

25 COMMISSIONER BRANCIFORTE: Yeah, and

1       you know, if you did size back that space, that roof  
2       deck space, that would go a long way with me, too.

3                   COMMISSIONER DE FUSCO:  So, you know,  
4       would you like to proffer cutting it by a quarter?

5                   COMMISSIONER BRANCIFORTE:  You know,  
6       even a half is fine.  50 people up there is better  
7       than a hundred people.  That is up to the applicant.  
8       if he wants to do it or not.

9                   COMMISSIONER DE FUSCO:  Right.  I mean,  
10      I would certainly offer it up to the applicant as,  
11      you know, to see this project move forward.

12                  COMMISSIONER MARSH:  I would just like  
13      to put a small spin on what people are saying about  
14      variances, and that is:  This Board of all of the  
15      Boards that are involved in land use has the fewest  
16      resources for considering the picture as a whole.

17                  And so when you are talking about a  
18      variance, you do have to draw a pretty strict line,  
19      because there is a tipping point at which a block  
20      becomes residential or a block becomes commercial or  
21      a block becomes a place for cement trucks.

22                  I mean, there is.  And because we can  
23      only look at it on a block-by-block -- you know, on  
24      a lot-by-lot basis really, it does sort of put the  
25      onus on us to not -- I mean, if we are saying there

1 is enough parking, you know, there is places for  
2 people to drop off, how are -- like, I don't know  
3 how we are coming to the conclusion that this isn't  
4 going to necessitate parking.

5 And anybody that thinks that this is a  
6 mass transit community, I mean, it is true there is  
7 a lot of mass transit, but there is also an awful  
8 lot of people and an awful lot of them drive an  
9 awful lot of cars, and since I am not being faced --  
10 I don't have an alternative here.

11 You know, my alternative is office  
12 space, which comes with a certain amount of parking,  
13 and there is no other standards. There is no  
14 standards for the size of the roof deck, so I think  
15 we need to draw the lines pretty strictly. I am  
16 considering very seriously what Commissioner Fisher  
17 and Commissioner Aibel said.

18 MS. GONCHAR: Can we say that we do  
19 meet the standards for the deck, and we meet them,  
20 but we are more than happy to cut it back to half?  
21 I mean, they just implemented standards for the  
22 deck.

23 COMMISSIONER BRANCIFORTE: Yeah. But  
24 do those standards apply when you are asking for a D  
25 variance?

1 MS. RUSSELL: Those standards don't  
2 apply to a zone or a use.

3 COMMISSIONER BRANCIFORTE: So because  
4 they're asking for a D variance, those things go out  
5 the window?

6 MS. RUSSELL: It applies -- no, it  
7 doesn't go out the window. It applies to anything  
8 no matter what. So whether or not their use  
9 complies or it is a use only permitted elsewhere  
10 within the city, the roof deck standards apply  
11 across the board.

12 MS. GONCHAR: But that having been  
13 said, we are willing to cut it in half. That's not  
14 the --

15 COMMISSIONER COHEN: And for the half  
16 that is not going to be deck, would that be an  
17 expanded green roof that you would put there?

18 (Counsel confers with applicant)

19 MR. BIJOU: Sure.

20 MS. GONCHAR: Sure.

21 (Laughter)

22 CHAIRMAN AIBEL: Are you ready to hear  
23 the conditions?

24 COMMISSIONER BRANCIFORTE: Yeah.

25 CHAIRMAN AIBEL: Okay.

1 MR. GALVIN: Here we go.

2 1: The building is to be LEED  
3 certified.

4 2: The plan is to be revised to  
5 include additional bike racks, and the applicant  
6 will obtain City Council approval, if necessary.

7 3: The plan is to be revised to show  
8 the installation of green screens around the  
9 bulkheads.

10 4: All deliveries are to be  
11 exclusively along Clinton Street.

12 5: The applicant is to comply with the  
13 comments of the City Flood Plain Manager.

14 6: The applicant will comply with the  
15 Board's Engineer's and Planner's letters.

16 7. The applicant is to obtain a letter  
17 from the North Hudson Sewer Authority confirming  
18 that the sewer requirements have been made.

19 8: Spot grades are to be added to the  
20 utility plan.

21 9: Any required changes are to be  
22 reviewed and approved by the Board's Engineer and  
23 Planner prior to the engineer's signoff on the  
24 plans.

25 10: This is -- Meryl, you need to kind

1 of listen carefully on this one.

2 MS. GONCHAR: I am.

3 MR. GALVIN: Yeah, I know.

4 The Board granted this application in  
5 reliance on this building being used as explained to  
6 the Board.

7 In particular, the Board found in favor  
8 with the rock climbing facility. So should the rock  
9 climbing facility close, and a new or different  
10 facility need to fill this space, or should, if any  
11 of the other approved nonconforming uses need to be  
12 altered, the applicant must return to the Zoning  
13 Board for their review and approval.

14 In addition, this deed restriction will  
15 include the following:

16 The non roof deck is to be planted with  
17 sedum, which is to look as shown on Exhibit A-1 when  
18 at full maturity.

19 B: The roof deck is to be  
20 collaborative space for access to the outdoors.

21 C: There will be no smoking permitted  
22 on the roof deck.

23 D: The deck is 2500 square feet -- I  
24 just switched it from 5,000 -- and has limited  
25 lighting, but it's only to be used during daylight

1 hours including dust. Under no circumstances will  
2 the deck area be utilized after ten p.m. in the  
3 evening.

4 And then finally: This deed  
5 restriction is to be reviewed and approved by the  
6 Board's attorney and recorded prior to the issuance  
7 of a building permit.

8 COMMISSIONER BRANCIFORTE: Can I  
9 suggest --

10 MR. GALVIN: Wait. Go ahead.

11 MS. GONCHAR: And any changes -- having  
12 to come with any changes --

13 MR. GALVIN: You and I will take care  
14 of that --

15 MS. GONCHAR: -- or elimination, we  
16 will come back to the Board --

17 MR. GALVIN: Yeah. We will do that in  
18 a deed itself, okay?

19 MS. GONCHAR: Okay.

20 COMMISSIONER BRANCIFORTE: I know that  
21 Mr. Bijou said there is no smoking permitted in any  
22 of his buildings, but can we just add on the roof  
23 deck no smoking and no cooking?

24 COMMISSIONER COHEN: It says no  
25 smoking. It doesn't say no cooking.

1                   COMMISSIONER BRANCIFORTE: Does it say  
2 no smoking?

3                   MR. GALVIN: No cooking.

4                   Is that okay, no cooking?

5                   MR. BIJOU: There is no bathroom there.

6 There's no cooking --

7                   MS. GONCHAR: There's No bathroom.

8                   MR. GALVIN: Look, if something is  
9 going to change, you come back to the Board. That's  
10 what happens.

11                   COMMISSIONER MARSH: May I?

12                   The part about complying with the  
13 recommendations of the professionals, can we put  
14 something about and obtaining a signoff to that  
15 effect, like --

16                   MR. GALVIN: I did. I don't normally,  
17 but I did.

18                   COMMISSIONER MARSH: You did?

19                   MR. GALVIN: Yeah.

20                   I have engineer's signoff before -- any  
21 required changes are to be reviewed and approved by  
22 the Board's Engineer and Planner prior to the  
23 engineer's signoff on the plans.

24                   COMMISSIONER MARSH: What about the  
25 planner's signoff on the plans?

1                   MR. GALVIN: The planner doesn't. The  
2 engineer does.

3                   COMMISSIONER MARSH: What about the  
4 conditions, though?

5                   I mean, who's saying --

6                   MR. GALVIN: No, no, no. We are doing  
7 what you're -- I thought we did what you are asking.  
8 I just want to make sure we're not having a  
9 disconnect --

10                  COMMISSIONER MARSH: I know, but --

11                  MR. GALVIN: -- the way the procedure  
12 works is that the engineer -- we work as a team even  
13 after the fact. Like I may not be checking things,  
14 but Eileen and Jeff are. And there is a point where  
15 before the plan is released to Ms. Holtzman for the  
16 next step, Jeff and Eileen review it to make sure  
17 everything has been accomplished.

18                  I never have a condition like this, so  
19 somebody suggested it to me at a prior hearing, and  
20 that is why it is here, because this is just  
21 reflective of what we were already doing.

22                  COMMISSIONER MARSH: This is what I'm  
23 concerned about: I've heard over and over again,  
24 that the resolution -- you know, I know it is the  
25 testimony, right, that people are supposed to comply

1 with. But the only person who heard the whole  
2 testimony is us, and so it seems to me that  
3 before -- I don't know what stage is it, the  
4 certificate of occupancy, whatever, I think that the  
5 only people that can really inspect the building and  
6 see that all of the conditions were complied with  
7 are the engineer and the planner -- the engineer and  
8 the planner --

9 MR. GALVIN: Engineer and the planner.

10 COMMISSIONER MARSH: -- right.

11 So I want to make sure they both  
12 inspected it and both signed off on it.

13 MR. GALVIN: All right. I modified it.  
14 Okay?

15 That it must be signed off by the  
16 planner and engineer before the plans advance to the  
17 building department.

18 COMMISSIONER MARSH: And what about the  
19 certificate of occupancy? Because not everything --  
20 or does that just become --

21 COMMISSIONER FISHER: That's just --

22 MR. GALVIN: Then that becomes the  
23 zoning officer's job once they get the resolution  
24 and the plans.

25 What sometimes happens is that some of

1 the plans that are submitted aren't exactly the same  
2 plans that our professionals have, and that is a  
3 different problem.

4 COMMISSIONER MARSH: Okay.

5 CHAIRMAN AIBEL: Okay. Is everybody  
6 okay?

7 Ready for a motion?

8 COMMISSIONER BRANCIFORTE: I will make  
9 a motion to approve --

10 COMMISSIONER COHEN: Second.

11 COMMISSIONER BRANCIFORTE: -- based on  
12 the --

13 MR. GALVIN: Wait a minute. Hold on.

14 Who is voting?

15 Give me the official vote.

16 MS. CARCONE: Phil Cohen, Mike DeFusco,  
17 Antonio Grana, Carol Marsh, Diane Murphy, John  
18 Branciforte and Commissioner Aibel.

19 MR. GALVIN: Okay.

20 COMMISSIONER BRANCIFORTE: Can I make  
21 the motion then?

22 MR. GALVIN: Yes, no problem.

23 COMMISSIONER BRANCIFORTE: I'll make  
24 the motion to approve with the conditions that you  
25 just read.

1 MR. GALVIN: Thanks, John.

2 COMMISSIONER COHEN: Second.

3 MS. CARCONE: Commissioner Cohen?

4 COMMISSIONER COHEN: Yes.

5 MS. CARCONE: Commissioner DeFusco?

6 COMMISSIONER DE FUSCO: Yes.

7 MS. CARCONE: Commissioner Grana?

8 COMMISSIONER GRANA: Yes.

9 MS. CARCONE: Commissioner Marsh?

10 COMMISSIONER MARSH: No.

11 MS. CARCONE: Commissioner Murphy?

12 COMMISSIONER MURPHY: Yes.

13 MS. CARCONE: Commissioner Branciforte?

14 COMMISSIONER BRANCIFORTE: Yes.

15 MS. CARCONE: Commissioner Aibel?

16 CHAIRMAN AIBEL: No.

17 MS. CARCONE: I have five yeses and two

18 nos. It's approved.

19 CHAIRMAN AIBEL: Okay. Thank you.

20 (Applause and cheering)

21 (The matter concluded at 8:25 p.m.)

22 (Recess taken)

23

24

25

C E R T I F I C A T E

I, PHYLLIS T. LEWIS, a Certified Court Reporter, Certified Realtime Court Reporter, and Notary Public of the State of New Jersey, do hereby certify that the foregoing is a true and accurate transcript of the proceedings as taken stenographically by and before me at the time, place and date hereinbefore set forth.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel to any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.

s/Phyllis T. Lewis, CCR, CRCR

- - - - -

PHYLLIS T. LEWIS, C.C.R. XI01333 C.R.C.R. 30XR15300  
Notary Public of the State of New Jersey  
My commission expires 11/5/2020.  
Dated: 12/2/15  
This transcript was prepared in accordance with  
NJAC 13:43-5.9.

HOBOKEN ZONING BOARD OF ADJUSTMENT  
CITY OF HOBOKEN

----- X  
SPECIAL MEETING OF THE ZONING : SPECIAL MEETING  
BOARD OF ADJUSTMENT :November 30, 2015  
----- X Monday, 8:45 pm

Held At: 94 Washington Street  
Hoboken, New Jersey

B E F O R E:

- Chairman James Aibel
- Commissioner Philip Cohen
- Commissioner Michael DeFusco
- Commissioner Antonio Grana
- Commissioner Carol Marsh
- Commissioner Diane Fitzmyer Murphy
- Commissioner John Branciforte
- Commissioner Tiffanie Fisher
- Commissioner Owen McAnuff
- Commissioner Frank DeGrim

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

- Kristin Russell, Planning Consultant
- Paul Winters, PE, PP  
Acting Board Engineer
- Patricia Carcone, Board Secretary

PHYLLIS T. LEWIS  
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1           A P P E A R A N C E S:

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1                   CHAIRMAN AIBEL: Good evening. Good  
2 evening, everyone.

3                   Mr. Matule, I think you are up on 26  
4 Willow.

5                   Is Mr. Matule around?

6                   Oh, there he is.

7                   MR. MATULE: Yes.

8                   MR. GALVIN: Come on up.

9                   MR. MATULE: Calendar business comes  
10 first.

11                  MR. GALVIN: The reason for saying this  
12 is that there is like three pages of this, so we are  
13 not going to really get more than -- which case do  
14 you have?

15                  MR. CHERAMI: 703 Bloomfield.

16                  MS. CARCONE: The last case for  
17 tonight.

18                  MR. CHERAMI: Nicholas Cherami  
19 appearing for the applicant. We are just seeking to  
20 be carried to the next available meeting.

21                  MR. GALVIN: Okay. Then here is where  
22 we are at, kids.

23                  We got December 15th and December 22nd.  
24 Most of the Boards in the state want to like cancel  
25 that meeting in that week just before the holiday,

1 but if you are willing to meet, I am available. I  
2 can come.

3 COMMISSIONER MARSH: I don't think I  
4 can come.

5 COMMISSIONER GRANA: I am available.

6 COMMISSIONER FISHER: I'm available.

7 COMMISSIONER MURPHY: I'm available

8 COMMISSIONER COHEN: What date?

9 COMMISSIONER DE FUSCO: Do it.

10 MS. CARCONE: So we could have two more  
11 meetings, the 15th and the 22nd.

12 COMMISSIONER MARSH: I am available on  
13 the 15th.

14 COMMISSIONER DE GRIM: Isn't the 25th a  
15 Friday?

16 MR. GALVIN: Yeah. It's a few days  
17 before. The 22nd.

18 COMMISSIONER DE GRIM: Oh, the 22nd. I  
19 heard 27th.

20 COMMISSIONER MURPHY: The 25th is  
21 Christmas.

22 COMMISSIONER DE GRIM: Yeah, yeah. The  
23 27th would be Sunday.

24 MR. GALVIN: The 22nd.

25 MS. CARCONE: Can you tell me if you

1 are not available for the 15th or 22nd?

2 MR. GALVIN: Let's do the 15th first.

3 Who is not available on the 15th?

4 All right. Everybody is available on  
5 the 15th.

6 Who is not available on the 22nd?

7 COMMISSIONER MARSH: Me.

8 MR. GALVIN: Phil is not available.

9 Carol is not available.

10 Anybody else?

11 All right. So we're going to go on the  
12 22nd.

13 Now, the other thing is we know that we  
14 are getting about three cases done a night.

15 Do we want to move these last two cases  
16 to the 22nd, rather than moving them to the 15th and  
17 then carrying them again to the 22nd?

18 In other words, tonight if we are  
19 really good, we are going to get 26 Willow done and  
20 710 Hudson, and we might in a dream get to 75  
21 Madison. So that means on the 15th, we already  
22 moved 302 Garden, so --

23 CHAIRMAN AIBEL: Do we have anything  
24 else?

25 MR. GALVIN: I suspect what is going to

1       happen is, Dennis predicts: 302 Garden, 75 Madison  
2       and 16 Adams will be heard on the 15th.

3                   Then 703 Bloomfield and 536 Bloomfield  
4       on the 22nd, and we will get out early.

5                   CHAIRMAN AIBEL: Fine.

6                   MR. GALVIN: But, Pat, you are going to  
7       tell me we have other things coming in that have to  
8       go on the agenda?

9                   MS. CARCONE: I think we have one other  
10      project scheduled for the 15th, so --

11                  MR. GALVIN: So 618 Adams might have to  
12      go on to the 22nd, but we will bring them to the  
13      15th and see how it goes.

14                  MS. CARCONE: Yeah, we can do that, and  
15      just --

16                  MR. GALVIN: So 703 Bloomfield, we will  
17      put you on the 22nd. All right?

18                  MS. CARCONE: Does that work?

19                  MR. CHERAMI: That's great.

20                  MR. GALVIN: And we're going to move  
21      536 Bloomfield to the 22nd, if you still need relief  
22      at that point.

23                  MR. BURKE: Yes.

24                  MR. GALVIN: So is there a motion and a  
25      second to carry 703 Bloomfield and 536 Bloomfield,

1 the last two cases on our agenda, to December 22nd  
2 without further notice?

3 COMMISSIONER COHEN: Motion.

4 MR. GALVIN: Is there a second?

5 COMMISSIONER GRANA: Second.

6 MR. GALVIN: Is everybody in favor?

7 (All Board members answered in the  
8 affirmative.)

9 MR. GALVIN: Anyone opposed?

10 (No response)

11 All right. Those two matters are  
12 carried to the 22nd.

13 MR. MATULE: Thank you. Do you want  
14 to --

15 MR. BURKE: While we are here, my  
16 client for 618 Adams, one of my clients is becoming  
17 very impatient and is about to cry, so it is  
18 doubtful we will get to that one anyway, so I would  
19 agree to move that to the 22nd as well.

20 MR. GALVIN: Well, I was going to move  
21 it to the 15th.

22 MR. BURKE: Oh, well, then --

23 MR. GALVIN: Hold on a second.

24 Right now she is saying, one, two --

25 you know what? You are probably better off going to

1 the 22nd, but then you will be before 703  
2 Bloomfield.

3 MR. BURKE: That's fine. I know he is  
4 fast.

5 MR. GALVIN: So let's move 618 Adams to  
6 December 22nd also.

7 MS. CARCONE: Okay.

8 COMMISSIONER GRANA: So moved.

9 MR. GALVIN: Is there a second?

10 COMMISSIONER COHEN: Second.

11 COMMISSIONER MURPHY: No getting out  
12 early on that night.

13 MR. GALVIN: No, we just blew it.

14 MR. MATULE: Do you want --

15 MR. GALVIN: Wait a minute. Wait a  
16 minute.

17 Do you waive the time -- state your  
18 full name for the record.

19 MR. CHERAMI: It's Nicholas Cherami  
20 appearing for 703 Bloomfield.

21 MR. GALVIN: Do you waive the time in  
22 which the Board has to act in your case?

23 MR. CHERAMI: Yes.

24 MR. GALVIN: Mr. Burke, do you waive  
25 the time in which the Board has to act on your case?

1 MR. BURKE: I will extend it to the  
2 22nd.

3 MR. GALVIN: That's just so generous of  
4 you.

5 (Laughter)

6 MR. MATULE: 75-77, we didn't talk  
7 about that.

8 MR. GALVIN: We didn't do that yet.  
9 So we have a motion and a second to  
10 carry --

11 MS. CARCONE: We have Grana. Who was  
12 the second?

13 COMMISSIONER COHEN: Cohen.

14 MS. CARCONE: Cohen.

15 MR. GALVIN: All in favor?

16 (All Board members answered in the  
17 affirmative)

18 MR. GALVIN: Anybody opposed?

19 Okay. That's good.

20 MS. CARCONE: Did Mr. Burke waive the  
21 time for 618 Adams?

22 I don't know if I heard that one.

23 MR. GALVIN: Yes, for both matters he  
24 waived it to the 22nd, correct?

25 MR. BURKE: Correct.

1 MR. GALVIN: He said "correct" on the  
2 record.

3 MS. CARCONE: Okay.

4 MR. GALVIN: 75 Madison, we will just  
5 wait and see what happens.

6 And what about 302 Garden?

7 MR. MATULE: 302 Garden is on the 15th.

8 MR. GALVIN: We moved that already.

9 MS. CARCONE: Yes.

10 MR. MATULE: We made an announcement at  
11 the beginning of the hearing.

12 MR. GALVIN: Did you waive the time for  
13 that also?

14 MR. MATULE: I did, but I will reaffirm  
15 my waiver.

16 MR. GALVIN: You're the best.

17 COMMISSIONER MARSH: Can we just have a  
18 list of what's on the 15th?

19 MR. GALVIN: We don't know yet.

20 Pat, who do you have on the 15th?

21 (Everyone talking at once)

22 COMMISSIONER MARSH: Didn't you just  
23 move a bunch of stuff to the 15th?

24 MS. CARCONE: No. We moved a bunch of  
25 stuff to the 22nd.

1                   MR. GALVIN: She had one I don't know  
2 about. We moved --

3                   MS. CARCONE: Yeah. There's like  
4 108-110 Paterson. There's one of those 108  
5 projects.

6                   MR. GALVIN: Guys, easy does it.  
7 108 what?

8                   MS. CARCONE: Another one of your  
9 projects on the 15th. 108 Paterson, 110 Paterson.

10                  MR. MATULE: Oh, 100-108 Paterson is on  
11 the 15th.

12                  MS. CARCONE: Yeah. That we have  
13 scheduled for the 15th.

14                  MR. MATULE: That's on the 15th.  
15 302 is on the 15th.

16                  MS. CARCONE: I think that is about it.

17                  MR. GALVIN: So right now we have two  
18 matters on the 15th, but if we don't reach 75  
19 Madison, they will get carried to the 15th.

20                  MS. CARCONE: Okay. Let's go.

21                  MR. GALVIN: Do we get it?

22                               Anything else?

23                  MR. MATULE: No. Perhaps after we do  
24 26, we can revisit 75-77 and see where we are at on  
25 the clock.

1 MR. GALVIN: Sure. Fire away.

2 MR. MATULE: Because I have my experts

3 here, and --

4 MR. GALVIN: Okay.

5 (Continue on next page)

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HOBOKEN ZONING BOARD OF ADJUSTMENT  
CITY OF HOBOKEN  
ZBA-15-20

- - - - - X  
RE: 26 WILLOW TERRACE : SPECIAL MEETING  
Block 158.1, Lot 4 : November 30, 2015  
Applicants: Martin Vernon and : Monday, 8:50 pm  
Ruth O'Leary :  
C Variances :  
- - - - - X

Held At: 94 Washington Street  
Hoboken, New Jersey

B E F O R E:

- Chairman James Aibel
- Commissioner Philip Cohen
- Commissioner Michael DeFusco
- Commissioner Antonio Grana
- Commissioner Carol Marsh
- Commissioner Diane Fitzmyer Murphy
- Commissioner John Branciforte
- Commissioner Tiffanie Fisher
- Commissioner Owen McAnuff
- Commissioner Frank DeGrim

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

- Kristin Russell, Planning Consultant
  
- Paul Winters, PE, PP  
Acting Board Engineer
  
- Patricia Carcone, Board Secretary

PHYLLIS T. LEWIS  
CERTIFIED COURT REPORTER  
CERTIFIED REALTIME COURT REPORTER  
Phone: (732) 735-4522

## 1           A P P E A R A N C E S:

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4                   Jackson, New Jersey 08527  
5                   (732) 364-3011  
6                   Attorney for the Board.

7                   ROBERT C. MATULE, ESQUIRE  
8                   89 Hudson Street  
9                   Hoboken, New Jersey 07030  
10                  Attorney for the Applicant.

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## I N D E X

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WITNESS

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5

JENSEN VASIL

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6

7

KENNETH OCHAB

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9

## E X H I B I T S

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11

EXHIBIT NO.

PAGE

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A-1

Four Aerial Photos

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A-2

Photo Board

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1                   CHAIRMAN AIBEL: Let's go ahead.

2                   MR. MATULE: Do you want to do 26  
3 Willow?

4                   CHAIRMAN AIBEL: Yes.

5                   MR. MATULE: Good evening, Mr.  
6 Chairman, and Board members.

7                   Robert Matule appearing on behalf of  
8 the applicant.

9                   This is an application for 26 Willow  
10 Court. We are requesting variances to add  
11 approximately a 124 square foot second floor rear  
12 addition above an existing ground floor extension.

13                   We need variances for the expansion of  
14 a nonconforming structure on a nonconforming lot,  
15 lot coverage on the second floor, and rear yard deck  
16 on the second floor.

17                   Our architect is Mr. Vasil, and Mr.  
18 Ochab is our planner.

19                   I already submitted my jurisdictional  
20 proofs. Actually this was carried a couple of  
21 times.

22                   So if we could have Mr. Vail come up  
23 and have him sworn.

24                   MR. GALVIN: Sure.

25                   Raise your right hand.

1                   Do you swear to tell the truth, the  
2 whole truth, and nothing but the truth, so help you  
3 God?

4                   MR. VASIL: I do.

5 J E N S E N V A S I L, having been duly sworn,  
6 testified as follows:

7                   MR. GALVIN: State your full name for  
8 the record and spell your last name.

9                   THE WITNESS: Jensen Vasil. The last  
10 name is V, as in Victor, a-s-i-l.

11                   MR. GALVIN: Okay. Mr. Chairman, do we  
12 accept Mr. Vasil's credentials?

13                   CHAIRMAN AIBEL: We do.

14                   MR. MATULE: Okay.

15                   Mr. Vasil, if you would, and if you are  
16 going to refer to anything other than the plans that  
17 were submitted, we need to mark them for the record.

18                   So could you describe the existing site  
19 and the surrounding area for the Board members?

20                   THE WITNESS: Sure.

21                   On the first sheet, Z-100, it's an  
22 existing survey. It is an undersized lot. There is  
23 a three-story brick building on the premises.

24                   The first story is 80 percent lot  
25 coverage, and the upper two stories are set back to

1 be about 55 percent -- I'm sorry -- 60 percent lot  
2 coverage.

3 We are requesting to have a one-story  
4 addition over the existing one-story extension,  
5 which would be a second story of 80 percent lot  
6 coverage.

7 The building to our west is a  
8 three-story building, and it has a two-story  
9 extension, which is further than the 80 percent.  
10 It's actually about 90 percent,

11 The building to the east is also  
12 aligned with the main back of our building.

13 So there is just this one-story  
14 extension being shown over the existing extension.  
15 No further increase of building area or lot  
16 coverage.

17 And if you turn to Sheet A-100, you  
18 will see that it just creates a new bedroom at the  
19 rear of the residence.

20 You see D-100, there is an existing  
21 rear room, but only six foot three deep, which is  
22 not really enough to have any sort of real bedroom,  
23 so the extension would give them a real usable  
24 bedroom on the second floor.

25 MR. MATULE: With respect to the second

1 floor extension, there are no plans to have any kind  
2 of a roof deck on top of that off the third floor?

3 THE WITNESS: No, there isn't.

4 MR. MATULE: Any renovation to be done  
5 on the front of the building?

6 THE WITNESS: No. The only work is at  
7 the back of that one-story extension.

8 MR. MATULE: And what is the -- just  
9 for the record, what is the lot coverage going to be  
10 for the second floor addition?

11 THE WITNESS: 80 percent, so it will  
12 match the first floor existing --

13 MR. MATULE: And the rear yard will  
14 remain the same depth?

15 THE WITNESS: That is correct.

16 (Board members confer)

17 MR. MATULE: Do you have any  
18 photographs of the site?

19 THE WITNESS: I do.

20 So I have a few aerials showing the  
21 building and its surroundings, so it is probably  
22 better off if you want to pass them around.

23 MR. MATULE: Are they all the same?

24 THE WITNESS: No. There are four  
25 different views.

1 MR. MATULE: Can we mark them as a set?

2 MR. GALVIN: Why don't you mark them as  
3 a set.

4 MR. MATULE: So we will mark them A-1  
5 as a set of four.

6 (Exhibit A-1 marked.)

7 Why don't you describe -- you got these  
8 off the internet?

9 THE WITNESS: I did. So they are off  
10 Google Earth.

11 This is looking towards the south.  
12 This is our building. You can see the two-story  
13 extension to the west of it, which is beyond our  
14 building.

15 You can see the building to the east of  
16 us, where its one-story extension is aligned with  
17 our upper portion.

18 This is a view looking east showing our  
19 building, and then there is a context showing other  
20 extensions that are also on the same block frontage  
21 of Willow Court South.

22 The third photo is looking west,  
23 showing our extension and the neighboring properties  
24 or showing our building and the neighboring  
25 properties, and the last one is looking north. It

1 is really just to show the properties that are  
2 directly behind it, also with small extensions all  
3 along the frontage.

4 MR. MATULE: Why don't you submit them  
5 to the Board?

6 And I know this was kicking around a  
7 while, but you received the H2M letter with  
8 comments, dated July 27th, 2015?

9 THE WITNESS: I did.

10 MR. MATULE: And there is no issue  
11 addressing any of the comments raised by Mr.  
12 Marsden?

13 THE WITNESS: None.

14 MR. MATULE: Okay. Short and sweet.

15 CHAIRMAN AIBEL: Just to help me out,  
16 Mr. Vasil, can you look at Z-005 in your package,  
17 and just try to walk us through the rear elevations?

18 THE WITNESS: Sure.

19 So this is our -- I'm sorry -- the  
20 white vinyl siding structure with a two-story  
21 setback, and then the 80 percent at the lower end,  
22 there is two French doors at the bottom.

23 To the left, which is the east, you can  
24 see a one-story extension that is actually further  
25 set back, and then they have two stories on top of

1 that.

2 And then if you look to the right on  
3 this photo, you can really see the two-story  
4 extension that juts out past our rear extension now,  
5 so that is the 90 percent lot coverage.

6 And if you look -- the bottom three  
7 photos are looking from the second floor, the  
8 existing second floor down into the rear yard, so  
9 you can see really how tight quarters it is.

10 CHAIRMAN AIBEL: So on the building to  
11 the east, how far set back is it from the point of  
12 the rear of your existing building?

13 THE WITNESS: Hum, it is set back nine  
14 foot ten and a half inches, aligned with the back.  
15 Our existing second --

16 COMMISSIONER FISHER: Is the bottom  
17 floor of that east building, the first floor, does  
18 that come out?

19 THE WITNESS: Yes. The existing first  
20 floor comes out to 80 percent.

21 COMMISSIONER FISHER: No, no, no. On  
22 the east. To the east?

23 THE WITNESS: The buildings to the  
24 east, it does come out.

25 COMMISSIONER FISHER: It does come out

1 a little bit?

2 THE WITNESS: That's correct.

3 COMMISSIONER FISHER: So there's like a  
4 ledge or something?

5 THE WITNESS: Yeah. You can see there  
6 used to be an old door there in the middle, and then  
7 there is a one-story extension that comes out and  
8 then after that sets back.

9 COMMISSIONER FISHER: How deep is that,  
10 do you know?

11 THE WITNESS: Hum --

12 COMMISSIONER FISHER: And on the second  
13 floor, that is flush with your building?

14 THE WITNESS: That is correct.

15 COMMISSIONER FISHER: Okay.

16 THE WITNESS: It looks like it is about  
17 seven or eight feet. I couldn't measure to the next  
18 door, but it looks like it is approximately that  
19 deep.

20 CHAIRMAN AIBEL: So the proposal is to  
21 build a one-story addition on the ground floor, a  
22 vinyl covered roof, and I guess go to the lot line  
23 to the building to the east --

24 THE WITNESS: Correct.

25 CHAIRMAN AIBEL: -- which will

1 create --

2 COMMISSIONER FISHER: The same as this  
3 thing --

4 CHAIRMAN AIBEL: -- create a large wall  
5 on that side of the building?

6 THE WITNESS: Similar -- I mean, you  
7 can see the conditions of our neighbor to the west,  
8 it's the same conditions.

9 COMMISSIONER FISHER: Are the two  
10 floors the same, the first floor of the two  
11 buildings the same height, or is the one on the east  
12 like the first floor lower?

13 Like the roof of the first floor of  
14 that building versus -- yeah --

15 THE WITNESS: These are the same height  
16 I think, but one is set back.

17 COMMISSIONER FISHER: Okay.

18 (Board members confer)

19 CHAIRMAN AIBEL: So how deep is the  
20 existing extension, the first floor extension?

21 THE WITNESS: The existing extension,  
22 overall depth for --

23 CHAIRMAN AIBEL: Yes. The depth of the  
24 extension.

25 THE WITNESS: The overall building is

1 40 feet one and a half inches, which is 80 percent.

2 MR. MATULE: The existing extension --  
3 the proposed extension is going to be the same depth  
4 as the existing extension.

5 THE WITNESS: That's correct. So the  
6 total new extension depth would nine foot ten and a  
7 half inches.

8 CHAIRMAN AIBEL: Nine-ten, okay.

9 And the width of the property is 12 and  
10 a half feet, is that what I --

11 THE WITNESS: That is correct.

12 COMMISSIONER DE GRIM: And the roof  
13 extension would be composed of what?

14 THE WITNESS: It would be EPM roofing  
15 membrane.

16 COMMISSIONER BRANCIFORTE: Dennis, if  
17 they ever put a roof deck on that extension, they  
18 would have to come back to the Zoning Board for it,  
19 or could we put a condition on that they would have  
20 to?

21 MR. GALVIN: You know, under the new  
22 zoning ordinance, would they be allowed?

23 Have you guys considered that at all?  
24 Are you allowed to put a roof deck on based on the  
25 ordinance?

1                   MR. MATULE: I am not sure, because  
2 this would be considered a lower roof, and I think  
3 it might be 30 percent on the lower roof --

4                   THE WITNESS: Yeah. 50 percent, if you  
5 did a green roof.

6                   MR. MATULE: For the record, we have no  
7 objections, if the Board is so disposed to approve  
8 this, if there is a condition in there that says  
9 they cannot have a roof deck on that roof above the  
10 new extension without coming back to the Board and  
11 asking for permission, because my clients have  
12 advised me they have no intention of putting a roof  
13 deck out there.

14                   MR. GALVIN: Right. It would be my  
15 opinion that they couldn't without having to come  
16 back to the Board, but stranger things happen in the  
17 city.

18                   So, you know, someone can say, oh, it  
19 is permitted under the ordinance, it is there, so do  
20 it, you know.

21                   So there is to be no roof deck on the  
22 proposed extension without --

23                   MR. MATULE: Further approval of the  
24 Board.

25                   MR. GALVIN: -- further approval of the

1 Board, right, because we might want some kind of  
2 screening or decking or, you know.

3 THE WITNESS: Sure.

4 COMMISSIONER FISHER: Can I -- I am  
5 looking at one of the Googles, the aerials --

6 THE WITNESS: Yes.

7 COMMISSIONER FISHER: -- and I don't  
8 know which one it is, but just to clarify.

9 In this, it looks like the east  
10 building is lower by a couple -- the ceiling of the  
11 east building is lower by a couple feet versus the  
12 ceiling of the current one-story, and it also looks  
13 like it is set back versus -- the second floor --  
14 versus being flush with the 26 Willow Terrace?

15 And I know this is kind of warped --  
16 these pictures get warped at some level, but it  
17 looks like it's lower and pushed back.

18 THE WITNESS: I don't know when they  
19 did this one-story extension. It could be that the  
20 ceiling height is higher, but the floor levels are  
21 the same. If you look at the front elevation --

22 COMMISSIONER FISHER: But the  
23 ceiling -- but the first floor -- the ceiling of the  
24 first floor may be higher in 26 Willow Terrace  
25 versus the --

1           THE WITNESS: Well, when we put the  
2 addition on, you know, we would make sure they are  
3 the same level, otherwise we would have a split -- a  
4 chopped up room. We wouldn't have two different  
5 elevations. We would bring that ceiling down to the  
6 first -- the second floor level, so it would be the  
7 same height.

8           MR. MATULE: Jensen, how about maybe to  
9 give more clarity on Sheet-003, where you have the  
10 cross-sections, is that better?

11          THE WITNESS: You know, when we get  
12 there, we will align both floors just to make it, so  
13 that -- otherwise we will chop up the room, which  
14 makes no sense.

15          CHAIRMAN AIBEL: And would the proposed  
16 extension be taller than the building to the west?

17                 How would it align with the building to  
18 the west?

19          THE WITNESS: No. The floor to ceiling  
20 heights are pretty consistent on the block, so we  
21 would maintain that same height.

22          MR. MATULE: Just on this photo, maybe  
23 you could show the Board --

24          THE WITNESS: Correct.

25          MR. MATULE: -- so would our roof be

1 approximately like that --

2 THE WITNESS: We would, correct.

3 CHAIRMAN AIBEL: Are there other  
4 two-story additions at 80 percent lot coverage on  
5 that, on Willow south?

6 THE WITNESS: Yes. There is many.  
7 There is some more than 80 percent, even the  
8 buildings to the west are more than 80 percent.

9 COMMISSIONER BRANCIFORTE: Well, could  
10 you repeat that?

11 I didn't hear it. "Even the"?

12 THE WITNESS: Even the building to the  
13 west is more than 80 percent lot coverage. It is  
14 deeper than we will ever be, and it is full width,  
15 90 percent.

16 COMMISSIONER DE FUSCO: Jensen, on the  
17 third floor in the rear, are you proposing balconies  
18 by the doors or just the current windows --

19 THE WITNESS: Yeah, it's just pretty  
20 straightforward, just two windows. In fact, the  
21 same two windows.

22 COMMISSIONER COHEN: And there is no  
23 side windows?

24 THE WITNESS: Correct. No lot line  
25 windows.

1                   COMMISSIONER COHEN: The only windows  
2 are on the back end of the property?

3                   THE WITNESS: That is correct.

4                   COMMISSIONER BRANCIFORTE: So what are  
5 we looking for here variance wise exactly? I am a  
6 little lost on this.

7                   MR. MATULE: Expansion of a  
8 nonconforming structure on a nonconforming lot.

9                   The lot coverage on the second floor of  
10 80 percent to match the lot coverage on the ground  
11 floor, and the rear yard depth on the second floor  
12 to match the rear yard depth on the first floor.

13                  MR. GALVIN: 9.9 feet, where 15 feet is  
14 required.

15                  MR. MATULE: Mr. Ochab can clarify  
16 those, if there is any question.

17                  CHAIRMAN AIBEL: Board members,  
18 anything else?

19                  MR. GALVIN: Yeah. The variances are  
20 strictly on the second floor.

21                  THE WITNESS: Right.

22                  CHAIRMAN AIBEL: While there's an  
23 interlude, Professionals, anything for Mr. Vasil?

24                  MR. WINTERS: Yes, very brief.

25                  Two points from our letter, which just

1 alludes to some testimony. Item 7 from our letter,  
2 I just wanted to confirm there is no proposed  
3 changes to the rear yard of the property,

4 Okay. Very good.

5 And any testimony about any easements  
6 or boundary overlaps from the property, there's  
7 none?

8 THE WITNESS: Right.

9 MR. GALVIN: Yeah. You were shaking  
10 your head. You have to say it out loud.

11 THE WITNESS: I'm sorry. Yes, there  
12 were none.

13 MR. WINTERS: Okay. Thank you for that  
14 confirmation.

15 MS. RUSSELL: I have nothing.

16 I can just point out that the proposed  
17 addition is matching the footprint of that, which is  
18 beneath it, so the setbacks really only would  
19 potentially affect light and air issues, and that is  
20 what the Board needs to consider.

21 MR. GALVIN: Okay.

22 All right. Thank you.

23 MR. MATULE: Public?

24 CHAIRMAN AIBEL: Open it up to the  
25 public. Anybody have questions for the architect?

1                   Seeing none.

2                   COMMISSIONER GRANA: Motion to close  
3 public portion.

4                   COMMISSIONER COHEN: Second.

5                   CHAIRMAN AIBEL: All in favor?

6                   (All Board members voted in the  
7 affirmative.)

8                   MR. MATULE: Mr. Ochab?

9                   MR. GALVIN: Raise your right hand.

10                  Do you swear to tell the truth, the  
11 whole truth, and nothing but the truth, so help you  
12 God?

13                  MR. OCHAB: I do.

14                  K E N N E T H   O C H A B, having been duly sworn,  
15 testified as follows:

16                  MR. GALVIN: State your fall name for  
17 the record and spell your last name.

18                  THE WITNESS: Ken Ochab, O-c-h-a-b.

19                  MR. GALVIN: Mr. Chairman, do we accept  
20 Mr. Ochab as a planner?

21                  CHAIRMAN AIBEL: We do.

22                  MR. GALVIN: All right.

23                  And who took the pictures?

24                  THE WITNESS: I did.

25                  MR. GALVIN: And when did you take



1 also in the Willow Court area, which as you know, it  
2 is very unique, a very unusual area. The lot sizes  
3 are extremely small. They are all basically 12 and  
4 a half by 50, and there is multiple, multiple lots.

5 As a result of that, a large degree of  
6 the neighborhood does have coverage issues as well  
7 as rear yard issues, and I have done a few myself,  
8 particularly on the North Court, where the coverage  
9 was up around 90 percent, and rear yards are  
10 typically five to six feet.

11 So what we have here is an existing  
12 condition, where we were proposing an addition on to  
13 the second floor. And because we are in the R-1  
14 zone, we have multiple nonconforming conditions with  
15 respect to lot size and lot width and lot depth, and  
16 on top of that then we need to apply the R-1 zoning  
17 standards to this very unique and unusual area.

18 So as a result, we have, as you would  
19 expect, a lot coverage issue where we are measuring  
20 the coverage actually over the second floor at 80  
21 percent.

22 We have the rear yard issue at that  
23 second floor. We have 9.9 feet, where actually 15  
24 feet is required, the 30 percent of the lot depth,  
25 so a little bit of an issue there.

1                   And, of course, we have the ever  
2 present expansion of a nonconforming structure on a  
3 nonconforming lot, which is obvious.

4                   I took the photographs myself, and to  
5 be honest with you, they were difficult to take  
6 because you don't have any leverage back there. The  
7 lots are so small that I can't lean back any further  
8 than I'm leaning, and I can't trespass on other  
9 people's properties, so it is tough.

10                  In any case, I think I got what is  
11 happening here, which is on A-2, the upper left  
12 photograph, which is a photograph of the existing  
13 building,

14                  The lower part of that building is the  
15 first floor, which has two doors, and then a step  
16 out to the back.

17                  And the upper section is the section  
18 that will be expanded out. You can't really see it  
19 because it is kind of beyond the roof of this area,  
20 and then the third floor, which is here.

21                  The upper right photograph, though,  
22 shows a better picture of where the expansion would  
23 be, and that is in this area here, just above the  
24 first and below the third, and the peak of the new  
25 addition -- the roof of the new addition would be

1 even with the bottom of this deck, which is to the  
2 west of the property.

3 So this building extends out to about,  
4 I would say, about 65 feet to the rear yard. There  
5 is about a five feet rear yard setback, and we are  
6 coming out again adjacent to that rear wall and  
7 actually matching up against it.

8 This is a view from the second story  
9 location of the addition to the rear, and so this is  
10 pretty much what is evident here.

11 You have three-story structures. You  
12 have multiple additions. I am just missing a  
13 three-story and a deck on the extreme left.

14 So the properties have been built up  
15 and expanded because of the need to expand them.  
16 The units are small. It is a really small house  
17 living, and if you have been inside of these units,  
18 they need to be very efficiently designed,  
19 particularly if there are children, families and  
20 children involved, so that is what we have.

21 The neighborhood is dense. And as I  
22 said, I keep repeating that the coverage issues here  
23 are pretty much standard in respect to looking at  
24 each of the lots.

25 The lower right photograph is a

1 photograph looking east, so what you see is again  
2 our first floor here and then an expansion of the  
3 adjacent -- this is two doors away -- the adjacent  
4 building to the east, and that extends completely  
5 out to the rear lot line.

6 MR. GALVIN: Mr. Ochab, I'm so sorry.

7 THE WITNESS: It's okay.

8 MR. GALVIN: Can you just talk about  
9 the impact to light and air?

10 Can we, you know, maybe go a little on  
11 the light side on this one?

12 THE WITNESS: Okay.

13 (Laughter)

14 MR. GALVIN: Thanks.

15 I am helping you. Let's not waste a  
16 lot of time thinking about it, though.

17 THE WITNESS: This would help, too  
18 (indicating).

19 MR. GALVIN: Yeah, but you weren't  
20 looking at me.

21 (Laughter)

22 THE WITNESS: So we have three  
23 variances. They are all Cs. There's certainly a  
24 hardship condition here with respect to property  
25 size, width, length, depth, so you can use that as a

1 basis for a variance discussion, or you can use the  
2 C-2 variance, which is expansion of a nonconforming  
3 condition, makes it more suitable for family living,  
4 improvement of the property, shows investment in the  
5 neighborhood, which are all good things relative to  
6 the retention of this unique and quite wonderful  
7 neighborhood.

8 With respect to negative criteria,  
9 again, to the west there is no effect whatsoever  
10 because we are actually up against this wall.

11 To the east, in my view, there will be  
12 a minimal effect because, again, we have just  
13 buildings coming out extending towards the rear, so  
14 it would be a very minor impact in terms of light  
15 and air.

16 The sun comes up from the east and  
17 comes around, so the building is to the west of the  
18 eastern property line. So, again, if there were  
19 going to be any effect, it would be on this western  
20 wall here, which again, has no windows.

21 So that is the story in a nutshell, and  
22 thank you for speeding me along.

23 (Laughter)

24 MR. GALVIN: Thank you for speeding up.

25 COMMISSIONER MARSH: I need to slow

1 down. Sorry.

2 When you say there is no effect on  
3 the --

4 THE WITNESS: East side.

5 COMMISSIONER MARSH: -- east side  
6 because buildings are coming out, I don't know what  
7 that means.

8 THE WITNESS: I am saying if you look  
9 at the existing buildings here, they are already  
10 extended out.

11 COMMISSIONER MARSH: To where?

12 It looks to me like they are not  
13 extended at all.

14 THE WITNESS: It is just the angle of  
15 the photograph.

16 COMMISSIONER MARSH: So the building  
17 just to the next of it, what is the lot depth of  
18 that?

19 THE WITNESS: The lot depth of here?

20 COMMISSIONER MARSH: No. The one right  
21 next to it.

22 THE WITNESS: Right next to it?

23 Well, the one right next to it is a  
24 little set back, not quite as far as the existing  
25 building on the site, so --

1 COMMISSIONER MARSH: How far is it?

2 THE WITNESS: -- it's got about a ten  
3 foot rear yard, where we have basically a five or  
4 six foot rear yard to our first floor. We have six  
5 feet at the first floor level, so it is set back,  
6 but --

7 COMMISSIONER MARSH: It is not set  
8 back. The setback is in the front.

9 THE WITNESS: Maybe I am using the  
10 wrong language --

11 MR. GALVIN: No, no, no. Rear setback.

12 COMMISSIONER MARSH: A setback is from  
13 what?

14 MR. GALVIN: It could be on any side.  
15 You have to talk about it in context.

16 COMMISSIONER MARSH: Okay. So then  
17 tell me from the lot line.

18 THE WITNESS: Let me put it a different  
19 way.

20 COMMISSIONER MARSH: Okay.

21 MR. GALVIN: By the way, the proposed  
22 rear yard setback of 9.9 where 15 foot is required,  
23 so on the second floor it would -- if it comes out  
24 to the existing first floor, it is 9.9. It's the  
25 distance from the rear yard to the structure.

1                   COMMISSIONER MARSH:  And I am asking  
2                   about the building next door.

3                   MR. GALVIN:  Correct.

4                   THE WITNESS:  The building next door is  
5                   further recessed towards the front of the property,  
6                   so it doesn't come out as far as this building or  
7                   the building to the east of that.

8                   MR. GALVIN:  So if it was 15 feet or  
9                   more, it would be compliant.

10                  COMMISSIONER FISHER:  I think Carol is  
11                  touching on something --

12                  COMMISSIONER MARSH:  I'm talking about  
13                  the impact on the building to the east.

14                  COMMISSIONER FISHER:  She is saying Mr.  
15                  Ochab said there is no impact on the building on the  
16                  east, and it doesn't seem like that's the case, if  
17                  they're coming out, right?

18                  That's what you are trying to say?

19                  COMMISSIONER MARSH:  Right.

20                  COMMISSIONER FISHER:  That's an  
21                  incorrect statement.

22                  COMMISSIONER MARSH:  And the  
23                  building -- the next one, which I have not gotten to  
24                  yet, is only one-story, so I am trying to assess  
25                  what the impact is.

1 Thank you.

2 THE WITNESS: Right.

3 So the immediate building here, which  
4 is a one-story and then it is recessed further in,  
5 and then goes up another two stories, that building  
6 is basically about a 15 foot rear yard setback, so  
7 it is recessed in between our building and the  
8 building to its east, okay?

9 So you have two buildings coming out  
10 and then one building that's in.

11 I.E., it hasn't been redeveloped yet.  
12 It hasn't been rehabbed yet, so --

13 COMMISSIONER MARSH: But it is  
14 conforming, right?

15 Is it a conforming building, I mean,  
16 except for the lot size, is it 60 percent lot  
17 coverage or --

18 THE WITNESS: You know what, I didn't  
19 measure it from that context, so I don't want to say  
20 it is or it isn't.

21 It is smaller than the two on either  
22 side of it for sure. But typically the impact would  
23 be from the east because that is where the sun is,  
24 the east coming around to the south, and our  
25 addition is to the west of all of that. So my view

1 on that is that we wouldn't be directly impeding  
2 access to sun or light and air because we are west  
3 of that particular site.

4 COMMISSIONER MARSH: That argument  
5 works for north and south. I don't know about east  
6 and west, because the sun comes up in the east and  
7 it goes down in the west, so 50 percent of the time  
8 it's over here.

9 THE WITNESS: Well, it's southeast,  
10 southwest, so whatever is here, the existing  
11 building that is here is whatever impact is there,  
12 it is already there. So it is not going to be an  
13 additional impact by adding a ten foot by 12 foot  
14 addition to the second floor.

15 COMMISSIONER FISHER: See that gray  
16 building? It is already impacting the light from  
17 the west, and he is saying by constructing this, it  
18 is not any additional impact because that gray  
19 building is already there impacting --

20 COMMISSIONER MARSH: I heard what he  
21 said. I live in that building -- I don't live in  
22 that exact building, but I live in a building very  
23 much like that, and I can you when they put another  
24 story on it, it definitely impacts your light and  
25 air, no question about it.

1                   THE WITNESS: Typically that is true,  
2                   except here we have a third story on top of the  
3                   second story, not only on this building, but on the  
4                   adjacent one to the west. Those --

5                   COMMISSIONER MARSH: That's a  
6                   three-story extension?

7                   THE WITNESS: -- those two buildings  
8                   certainly have whatever impact there is to light and  
9                   air, and that is where the impact is, not on the  
10                  story below it, and that is where our addition is.

11                  COMMISSIONER MARSH: I would understand  
12                  this better if you could answer my question.

13                  THE WITNESS: Which is?

14                  COMMISSIONER MARSH: The building to  
15                  the west is three stories?

16                  THE WITNESS: Yes.

17                  COMMISSIONER MARSH: Okay. That  
18                  extension is three stories up?

19                  THE WITNESS: Yes.

20                  COMMISSIONER MARSH: Thank you.

21                  COMMISSIONER DE GRIM: So the extension  
22                  that you are proposing is only going to go halfway  
23                  up that gray building in the -- that gray wall on  
24                  the upper right-hand corner, that photo?

25                  THE WITNESS: Right.

1                   So our building's roof is going to  
2 match the roof of the building to the west.

3                   COMMISSIONER DE GRIM: But only come  
4 out as far as --

5                   THE WITNESS: As far as here, correct.

6                   COMMISSIONER DE GRIM: Right. Thank  
7 you.

8                   COMMISSIONER BRANCIFORTE: And where  
9 you are pointing right now, the upper right-hand,  
10 that gray wall, you are telling us that that gray  
11 wall is three stories high?

12                  THE WITNESS: No. The gray wall is two  
13 stories high, but there is another part of this  
14 building in the front, where it has a room and  
15 access to a deck.

16                  COMMISSIONER MARSH: Right. But that  
17 doesn't -- hum --

18                  COMMISSIONER BRANCIFORTE: Still for  
19 me, it is a matter of light and air.

20                  So your argument is the impact on the  
21 light is going to be minimal. But what about the  
22 air? I mean, how do you --

23                  THE WITNESS: I don't try to separate  
24 the two. It is access to sunlight and openness,

25                  But I think what you are doing is you

1 are measuring the positive aspects of what is  
2 happening here in terms of continuing to improve  
3 this area, and the homes here allow families to live  
4 here against whatever impact there is to the light  
5 and air.

6 COMMISSIONER BRANCIFORTE: One quick  
7 question.

8 On that rooftop there, on the existing  
9 rooftop, you show a chimney coming out.

10 Is that for the cooking stove?

11 THE WITNESS: That is an umbrella.

12 (Laughter)

13 COMMISSIONER BRANCIFORTE: No. On the  
14 right-hand side -- upper right-hand -- left-hand  
15 photo?

16 THE WITNESS: I see. Here?

17 COMMISSIONER BRANCIFORTE: Yeah, that  
18 metal chimney, exhaust?

19 THE WITNESS: I don't know what that is  
20 for. You have to ask Jensen.

21 MR. MATULE: Jensen, if we could call  
22 you back.

23 MR. VASIL: Sure.

24 MR. MATULE: On the existing addition,  
25 there seems to be a chimney here.

1                   MR. VASIL:  There is a boiler  
2                   underneath that, so we have to extend that all the  
3                   way up through the addition.

4                   COMMISSIONER BRANCIFORTE:  Okay.

5                   MR. OCHAB:  That's all I have.

6                   Thank you.

7                   CHAIRMAN AIBEL:  Board members?

8                   Okay.  Thanks.

9                   I guess we will open it up to the  
10                  public.

11                  Anybody have questions for Mr. Ochab?

12                  Seeing none.

13                  COMMISSIONER GRANA:  Motion to close  
14                  public portion.

15                  COMMISSIONER COHEN:  Second.

16                  CHAIRMAN AIBEL:  All in favor?

17                  (All Board members answered in the  
18                  affirmative.)

19                  MR. MATULE:  The only other comment I  
20                  would make just to get a sense, I know Mr. Ochab  
21                  said this lower left picture is looking across from  
22                  where we are at the back of the houses across from  
23                  us, but it would be similar to this situation here,  
24                  where they have the second floor addition on here,  
25                  the third floor has no addition, but there is a deck

1 next door.

2 It would pretty much be the same thing.  
3 I mean, it is just that 9-by-12 room on the second  
4 floor, and we are already in, if you will, the  
5 shadow of that big stucco wall there, which will not  
6 stick out as far, and we won't be any higher than  
7 the edge of the roof.

8 So certainly any addition is going to  
9 have some impact on light or air. I think the  
10 standard is whether it is going to have a  
11 substantial impact, and I think it is pretty clear  
12 that it would not, so it is pretty straightforward.

13 COMMISSIONER FISHER: Can I ask a  
14 question?

15 CHAIRMAN AIBEL: Sure.

16 COMMISSIONER FISHER: Is there -- have  
17 they talked to the next door neighbor at all?

18 Has the next door neighbor given any  
19 view?

20 MR. MATULE: I don't want to speak for  
21 them. I know they have spoken with the neighbors.  
22 We have noticed the neighbors. Unfortunately, they  
23 were away for Thanksgiving, and they couldn't be  
24 here tonight, and we actually didn't think we were  
25 going to get reached tonight, because originally we

1 carried it tonight just for calendar purposes.

2 But I know -- and no disrespect to Mr.  
3 Branciforte, but there is nobody from the public  
4 here either for or against it, and I think you are  
5 all pretty familiar with the scenario down there.  
6 It is sort of like "The house that Jack built"  
7 throughout the whole neighborhood.

8 COMMISSIONER BRANCIFORTE: Well, it  
9 sounds like you are getting into summation here.

10 Are we ready for --

11 COMMISSIONER COHEN: I think we are  
12 there.

13 MR. MATULE: I have no witnesses.

14 (Laughter)

15 MR. GALVIN: Is there anybody from the  
16 public that wants to be heard on this case?

17 (Board members confer)

18 COMMISSIONER MARSH: Well, wait a  
19 minute. But if the person who owns the house  
20 thought that this was only being carried for  
21 calendar purposes, is that what they also told the  
22 next door neighbor?

23 MR. MATULE: No. It was carried --  
24 from the last meeting, it was carried to tonight's  
25 meeting, and then with the understanding that we

1 would see where we're at tonight.

2 MR. GALVIN: But there was nobody here  
3 for or against the application last time either. I  
4 always check, otherwise that would be unfair, and I  
5 wouldn't do that.

6 COMMISSIONER MARSH: Okay. I'm just  
7 checking.

8 MR. GALVIN: Okay. Seriously, I am  
9 sorry.

10 COMMISSIONER MARSH: No, no. But you  
11 understand my question right?

12 MR. GALVIN: I did. My mistake, yeah,  
13 and I will explain to you later where I went wrong,  
14 a minimal mistake.

15 COMMISSIONER BRANCIFORTE: Should we  
16 open it up to the public?

17 CHAIRMAN AIBEL: I think we have opened  
18 and closed it to the public comment.

19 Okay. Mr. Matule, I think you are  
20 finished.

21 MR. MATULE: I think I am finished.

22 CHAIRMAN AIBEL: So let me open it up  
23 for deliberations.

24 Anybody want to kick off?

25 COMMISSIONER MURPHY: Well, my biggest

1 concern would be -- I'm sorry, I should ask if I  
2 can.

3 CHAIRMAN AIBEL: Go ahead.

4 COMMISSIONER MURPHY: That it becomes  
5 like a little cavernous for the next door neighbor  
6 being set back so much with the height up. And, you  
7 know, I don't know. I can't imagine that not  
8 affecting light and air.

9 In the next breath, I do understand how  
10 these yards are and how tight the whole living  
11 quarter is, so I guess I would be anxious to see  
12 what anybody else has to say.

13 CHAIRMAN AIBEL: Don't everybody speak  
14 at once.

15 (Laughter)

16 Antonio, do you have any comments?

17 COMMISSIONER GRANA: There is an impact  
18 to openness to that building that's directly next  
19 door. There is an impact, but I don't know if it is  
20 a significant impact because if you look directly to  
21 the structures that are to both the east and west,  
22 light and air are already blocked, and they may not  
23 be blocked directly by the proposed structure, but  
24 they are blocked by the structure that will be  
25 directly next door to that structure, if my language

1 makes sense.

2 So I think that while the light -- I  
3 think the light and air is a concern, but I think  
4 that the light is more air. The light is already --  
5 I think the light is already taken, if you will.

6 Whether or not the applicant has a  
7 hardship, I guess, I would say I think everybody who  
8 lives in this neighborhood has a bit of a hardship,  
9 and trying to squeeze, you know, an extra ten feet  
10 here or five feet there, so I think the hardship  
11 case is established.

12 COMMISSIONER DE GRIM: I think if you  
13 look at Exhibit A-1, the sun is, you know, coming  
14 from the direction of the building to the other side  
15 of the next door neighbor, and there is clearly  
16 already a shadow cast by that building, so it is not  
17 simply going to be from this new building, that they  
18 are going to have a shadow. They already have a  
19 shadow.

20 COMMISSIONER GRANA: I agree.

21 COMMISSIONER MURPHY: But they have  
22 less air --

23 COMMISSIONER MARSH: They have a shadow  
24 at this time of day, but --

25 COMMISSIONER GRANA: There will be some

1 impact --

2 COMMISSIONER MC ANUFF: Just minimal.

3 COMMISSIONER GRANA: -- yeah, probably  
4 this next door --

5 CHAIRMAN AIBEL: Let me just add  
6 quickly, I guess my comment is I guess that the  
7 second floor extension will have its greatest impact  
8 on the second floor of the building to the east,  
9 which doesn't have windows, and have a closed up  
10 door for the most part, and the light and air will  
11 continue to get into the top and the ground floors,  
12 but...

13 COMMISSIONER COHEN: Well, I mean, I  
14 think looking at the applicant, I mean, they are  
15 living next to a wall.

16 You know, the entire side of their  
17 building is basically a large wall, and they are  
18 basically squaring up to that wall, and they are not  
19 squaring up to that wall with windows. They are not  
20 squaring up to that wall with anything, other than  
21 matching it, and they are matching it to the  
22 extension that they already have.

23 So while I think it is a situation,  
24 where it is definitely going to have an impact on  
25 the next door neighbor, I kind of think it is fair

1 to the applicant to allow them to match what they  
2 are living with next door, and I think the  
3 situation, where if the other neighbor came in and  
4 said that they wanted to be matched out as well, I  
5 think they should.

6 I mean, I think this is a situation  
7 where we say, you know, what about the impact on the  
8 block, but I think this is a block that's been  
9 largely built out to this extent on both sides, and  
10 the anomaly is really the neighbor that's next to  
11 them and not them.

12 So I mean, on a 12 and a half foot wide  
13 property, where you are basically talking about  
14 adding a bedroom to the back on top of an already  
15 existing bump-out, you know, I am sympathetic to the  
16 applicant. But I understand why people would want  
17 to be protective of the neighbor who is not here,  
18 you know, and frankly I wish they were.

19 You know, I would like to hear what  
20 that neighbor has to say, but you know, in the  
21 absence of that, you know, I mean, I think it is a  
22 close call, but I am inclined to permit this one.

23 COMMISSIONER DE FUSCO: Yeah. You  
24 know, if this project were trying to emulate the  
25 neighbor to the west with a significant footprint

1 and roof deck, I think that is far reaching.

2 I think what is being asked is  
3 reasonable. There is a hardship for the entire area  
4 around there. You know, although people do move in  
5 knowing that, and you know, I think that becoming  
6 more family-friendly is always our intent, and I  
7 think an extra bedroom would certainly permit more  
8 livable space, you know, for a family without  
9 significantly impacting the neighbor.

10 Again, if the ask was to extend the  
11 footprint as the neighbor to the west had done, I  
12 wouldn't be for this application.

13 CHAIRMAN AIBEL: Anybody else?

14 COMMISSIONER MARSH: Yeah.

15 CHAIRMAN AIBEL: Go ahead.

16 COMMISSIONER MARSH: I mean, I guess I  
17 don't have a huge objection to this because the  
18 neighbor isn't here objecting, I have less of it.  
19 But I would like to point out that they bought a  
20 house next to a wall. The people on the other side  
21 did not, so now we are saying, okay, because you  
22 bought next to a wall, you get to build a two-story,  
23 so we are imposing a wall on the people next to  
24 them. We are, yeah, because the people to the -- I  
25 can't tell east from west. I lived on two different

1       coasts. The ocean is always in the wrong direction,  
2       right?

3                   COMMISSIONER COHEN: I see what you are  
4       saying --

5                   COMMISSIONER MARSH: Hum, I mean,  
6       granted it's -- I mean, hum, I don't know. I -- I  
7       feel like -- I find it difficult to believe that  
8       that picture could not be taken, so I could see both  
9       buildings. I find that -- I mean, you could stand  
10      in the other corner of the back yard and take a  
11      picture in the other direction, so I could see the  
12      other -- I mean --

13                  COMMISSIONER MURPHY: They kind of did  
14      in the lower picture.

15                  COMMISSIONER MARSH: Kind of.

16                  But anyway, I agree. It is not as big  
17      as the building next door. It's relatively modest,  
18      but to say that it doesn't have an impact or --

19                  COMMISSIONER COHEN: I think it does.

20                  COMMISSIONER MARSH: -- but it only  
21      appears that they have a wall --

22                  MR. GALVIN: The question is: Does it  
23      have a substantial -- I think they were right when  
24      they said does it have a substantial negative  
25      impact.

1                   COMMISSIONER MARSH:  -- and the back of  
2           the building faces south, which means that the sun  
3           is --

4                   COMMISSIONER MURPHY:  No.  The back of  
5           the building faces north.

6                   COMMISSIONER BRANCIFORTE:  The front of  
7           the building faces south.

8                   COMMISSIONER MARSH:  -- I'm sorry.  Let  
9           me think about that, so scratch what I was about to  
10          say.

11                   Somebody else go.

12                   (Laughter)

13                   COMMISSIONER BRANCIFORTE:  Well, look  
14          at it this way.  There's a parking lot.  This is  
15          north.  This is south.

16                   Is it substantial?

17                   I thought it would be until Chairman  
18          Aibel pointed out the fact that the second floor has  
19          no windows, so now I am starting to wonder.  They  
20          are not getting any light anyway on that second  
21          floor as it is, or air on the second floor.  That is  
22          what I was worried about, but it has been pointed  
23          out that it's just a door sitting there now.

24                   I do kind of agree with the fact that,  
25          you know, we are kind of imposing on those people,

1        though, in saying that, hey, everybody else in the  
2        neighborhood is built out. Now it is your turn to  
3        build out, if you want light and air, and that is  
4        not fair to the people next door. However, I have  
5        no major objections to this, so I am ready to vote  
6        on this.

7                   CHAIRMAN AIBEL: Everybody had their  
8        say.

9                   Mr. Vasil --

10                  MR. MATULE: Jensen.

11                  CHAIRMAN AIBEL: -- what is the side of  
12        the building going to finished in?

13                  MR. VASIL: It will be the same siding  
14        to match.

15                  CHAIRMAN AIBEL: You know, we always  
16        ask for green walls.

17                  What happened to the green wall?

18                  But that is okay.

19                  Thank you.

20                  MR. VASIL: You're welcome.

21                  CHAIRMAN AIBEL: All right.

22                  COMMISSIONER GRANA: Do we have any  
23        conditions?

24                  MR. GALVIN: I do.

25                  1: The applicant agreed to comply with

1 the review letters of both the Board Engineer and  
2 Planner.

3 2: The Board was concerned about the  
4 negative impact on the surrounding property owners.  
5 Notwithstanding the ordinance, there is to be no  
6 roof deck on the proposed extension without further  
7 approval of the Board.

8 The Board found this condition to be  
9 significant.

10 3: The siding is to match the existing  
11 siding.

12 That is all I got.

13 CHAIRMAN AIBEL: Anything else?

14 COMMISSIONER COHEN: No roof deck.

15 MR. GALVIN: Correct.

16 CHAIRMAN AIBEL: Ready for a motion?

17 COMMISSIONER GRANA: Motion to approve  
18 26 Willow Court South with conditions.

19 COMMISSIONER COHEN: Second.

20 COMMISSIONER BRANCIFORTE: Second.

21 MS. CARCONE: So who's --

22 COMMISSIONER BRANCIFORTE: Phil.

23 MS. CARCONE: Phil. Okay.

24 Commissioner Cohen?

25 COMMISSIONER COHEN: Yes.

1 MS. CARCONE: Commissioner DeFusco?  
2 COMMISSIONER DE FUSCO: Yes.  
3 MS. CARCONE: Commissioner Grana?  
4 COMMISSIONER GRANA: Yes.  
5 MS. CARCONE: Commissioner Marsh?  
6 COMMISSIONER MARSH: Yes.  
7 MS. CARCONE: Commissioner Murphy?  
8 COMMISSIONER MURPHY: Yes.  
9 MS. CARCONE: Commissioner Branciforte?  
10 COMMISSIONER BRANCIFORTE: Yes.  
11 MS. CARCONE: Commissioner Aibel?  
12 CHAIRMAN AIBEL: Yes.  
13 MR. MATULE: Thank you very much.  
14 COMMISSIONER DE FUSCO: Mr. Chairman, I  
15 need to excuse myself.  
16 CHAIRMAN AIBEL: Thank you.  
17 COMMISSIONER DE FUSCO: Have a good  
18 night, everybody.  
19 MR. GALVIN: What do you think, Bob?  
20 Do you want to stay for a little? It's  
21 9:33.  
22 MR. MATULE: Yeah. I mean, we can hang  
23 around for half an hour and maybe revisit it at ten  
24 o'clock.  
25 MR. GALVIN: Okay. Just raise your

1 hand at any time you think it doesn't look good.

2 MR. MATULE: Thank you.

3 (The matter concluded.)

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C E R T I F I C A T E

I, PHYLLIS T. LEWIS, a Certified Court Reporter, Certified Realtime Court Reporter, and Notary Public of the State of New Jersey, do hereby certify that the foregoing is a true and accurate transcript of the proceedings as taken stenographically by and before me at the time, place and date hereinbefore set forth.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel to any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.

s/Phyllis T. Lewis, CCR, CRCR

PHYLLIS T. LEWIS, C.C.R. XI01333 C.R.C.R. 30XR15300  
Notary Public of the State of New Jersey  
My commission expires 11/5/2020.  
Dated: 12/2/15  
This transcript was prepared in accordance with  
NJAC 13:43-5.9.

HOBOKEN ZONING BOARD OF ADJUSTMENT  
CITY OF HOBOKEN  
ZBA-15-23

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RE: 710 HUDSON STREET : SPECIAL MEETING  
Block 218.1, Lot 21 : November 30, 2015  
Applicant: John Khadem : Monday, 9:15 pm  
C Variances :  
- - - - - X

Held At: 94 Washington Street  
Hoboken, New Jersey

B E F O R E:

- Chairman James Aibel
- Commissioner Philip Cohen
- Commissioner Antonio Grana
- Commissioner Carol Marsh
- Commissioner Diane Fitzmyer Murphy
- Commissioner John Branciforte
- Commissioner Tiffanie Fisher
- Commissioner Owen McAnuff
- Commissioner Frank DeGrim

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

- Kristin Russell, Planning Consultant
- Paul Winters, PE, PP  
Acting Board Engineer
- Patricia Carcone, Board Secretary

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## I N D E X

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1 CHAIRMAN AIBEL: 710 Hudson.

2 Mr. Burke, I'm sorry, before we get  
3 started, do you have any photos, other than the ones  
4 that are attached to the application?

5 MR. BURKE: Photographs, yes, I have  
6 one, two, three, four, five.

7 (Photographs marked Exhibits A-1  
8 through A-5)

9 CHAIRMAN AIBEL: Showing the conditions  
10 in the rear yard?

11 MR. BURKE: Yes.

12 CHAIRMAN AIBEL: Okay.

13 MS. CARCONE: I also have revised plans  
14 that were submitted late last week that I didn't get  
15 a chance to mail out --

16 CHAIRMAN AIBEL: Okay.

17 MS. CARCONE: -- dated 11/16, that I  
18 don't think anybody has.

19 COMMISSIONER BRANCIFORTE: What  
20 application is this?

21 MS. CARCONE: 710 Hudson. They just  
22 came in so late, that there was no opportunity to  
23 get them out.

24 (Board members confer.)

25 MS. CARCONE: My understanding is the



1 in this building with his wife and three children.  
2 They are growing. He has teenage daughters, and  
3 these would provide additional bedrooms for his  
4 daughters.

5 The application is similar again to the  
6 last one in that it is an expansion of a  
7 nonconforming structure, and in that there are a  
8 number of C variances involved.

9 The foundation will not be increased at  
10 all. The building pad will remain the same.

11 I am going to hand out one picture, and  
12 then we will have the architect testify and we'll  
13 qualify these, but I am just going to pass this one  
14 around.

15 This shows the existing condition, and  
16 right now that condition is that there are four  
17 stories, but the fourth story on this building is  
18 not fully built out, so that picture that I just  
19 handed out, which can be passed around, and again,  
20 Mr. Jensen will qualify that, and we will admit it  
21 later, shows the existing condition of the site very  
22 well.

23 A bit of housekeeping: There was a  
24 question about whether there was a D variance  
25 involved in this. For two reasons, we argued there

1 was not -- or one we argued there was not, and there  
2 was actually a second reason which came to bear.

3 The first is that under the ordinance,  
4 I'm citing 196-14(6)(2): If a building is  
5 sandwiched between two larger or higher buildings,  
6 then you are allowed to build a structure, which is  
7 equal to the lower of the two adjacent buildings,  
8 and that is what this would be doing.

9 But the second point, which just came  
10 to light earlier, and when I bring Mr. Jensen up and  
11 he testifies as an architect, we had put on the  
12 zoning chart that the height was 46 and a half feet  
13 from grade, and it turns out it is actually 43.10  
14 and a half feet. That being the case, since the  
15 zone allows 40 feet, at most, it would be a C  
16 variance, not a D variance.

17 Yes?

18 COMMISSIONER COHEN: Can I interrupt  
19 with a question?

20 I am looking at this A-2, and it  
21 appears that the property in the center is not lower  
22 than the two neighbors, but lower than one neighbor  
23 and slightly higher than the other.

24 Am I misreading that picture?

25 MR. VASIL: I can clarify.

1 COMMISSIONER COHEN: Okay.

2 MR. VASIL: The building heights from  
3 the front, because the parapet in the front is  
4 taller and that slopes back to that gutter, so  
5 actually the building height is measured from the  
6 front of the building, and that is the back of the  
7 building.

8 COMMISSIONER COHEN: But isn't the  
9 addition that you're talking about building on the  
10 back of the building?

11 MR. VASIL: But it wouldn't be higher  
12 than the front parapet, so that the overall building  
13 height from the front parapet would be taller --  
14 would be -- is where the height is coming from.

15 COMMISSIONER COHEN: So when you are  
16 saying it is lower than the two neighbors, you are  
17 measuring from the front?

18 MR. VASIL: That's correct. In this  
19 case, if you add -- and I have a picture here --

20 MR. GALVIN: Let's mark that as A-3.

21 MR. BURKE: I am going to mark -- I  
22 have a series here of A-1 through A-6.

23 MR. GALVIN: Well, we already have an  
24 A-2.

25 MS. CARCONE: What happened to A-1?

1                   MR. BURKE: Well, there was a series of  
2 photos, and I marked them A-1 through A-6 already --

3                   MR. GALVIN: So we have the A-2 photo  
4 already.

5                   MR. BURKE: -- so I will mark this as  
6 A-7.

7                   MR. GALVIN: Okay.

8                   Who took the photos?

9                   Jensen, did you take the photos?

10                  MR. VASIL: Yes, I did.

11                  MR. GALVIN: When did you take them?

12                  MR. VASIL: I want to say March.

13                  MR. GALVIN: Ballpark.

14                  MR. VASIL: March.

15                  MS. CARCONE: That's the answer for  
16 tonight.

17                  MR. GALVIN: Same thing. The last case  
18 was March also.

19                  (Laughter)

20                  Yeah, yeah, March. That's the ticket.

21                  MR. VASIL: There was still snow on the  
22 ground, so it was a while ago.

23                  MR. GALVIN: I am pretty much going to  
24 always ask that question.

25                  MR. BURKE: I think we have five

1 photos, so that's A-6. That's being marked A-6.

2 (Exhibit A-6 marked.)

3 (Board members confer.)

4 MR. GALVIN: Mr. Jensen, raise your  
5 right hand.

6 Do you swear to tell the truth, the  
7 whole truth, and nothing but the truth, so help you  
8 God?

9 MR. VASIL: I do.

10 J E N S E N V A S I L, having been duly sworn,  
11 testified as follows:

12 MR. GALVIN: State your full name for  
13 the record and spell your last name.

14 THE WITNESS: Jensen, last name Vasil,  
15 V, as in Victor, a-s-i-l.

16 MR. GALVIN: I'm sorry. I am messing  
17 up your first and your second name. Sorry about  
18 that.

19 THE WITNESS: That is okay.

20 MR. GALVIN: Now, Mr. Chairman, do we  
21 accept Mister --

22 CHAIRMAN AIBEL: Yes.

23 MR. GALVIN: -- okay. Good.

24 Mr. Vasil, we accept your credentials  
25 as a licensed architect.

1                   Mr. Burke, we interrupted your opening,  
2                   but what you were basically telling us is that you  
3                   had 43 feet ten inches in height.

4                   THE WITNESS: Ten and a half inches.

5                   MR. GALVIN: Ten and a half inches.

6                   So you don't require a D variance then.  
7                   You only require a C variance.

8                   MR. BURKE: At the most.

9                   MR. GALVIN: Did you measure from --  
10                  what about flood, there's no flood issues here?

11                  THE WITNESS: We are on Hudson Street,  
12                  so we're --

13                  MR. GALVIN: Okay.

14                  MR. BURKE: It's not in a flood zone.

15                  MR. GALVIN: So we don't have a D-6  
16                  variance.

17                  Now, why don't we have a D-5 variance?  
18                  What is the number of units?

19                  MR. BURKE: There are four units. It's  
20                  a legal four. It's being used as a three-family.

21                  MR. GALVIN: So it's only being used as  
22                  a three-family residence, even though it has got  
23                  four floors, correct?

24                  MR. BURKE: Correct, correct.

25                  MR. GALVIN: So it is allowed to have

1 three. Everybody agrees?

2 MS. RUSSELL: Yes.

3 MR. GALVIN: So no D-5. So all we need  
4 is a C-1 or a C-2 case here, right? But you do need  
5 a bunch of variances despite that.

6 You need number of stories. There is  
7 four, where three is permitted --

8 MR. BURKE: Well, no. The number of  
9 stories changed. The ordinance changed, so we don't  
10 need that for the record.

11 MR. GALVIN: So we don't need that,  
12 okay. But we need to correct this all because -- so  
13 we need a height of 43 feet 10.5 inches, where 40 is  
14 the max, so I don't know about the balancing of the  
15 buildings, though. For a density variance, we don't  
16 need that. We have a density for three units, where  
17 2.94 units are the maximum permitted.

18 MS. RUSSELL: It says 2.9 for the  
19 maximum permitted, but existing is three, and as  
20 they are not changing that number of units --

21 COMMISSIONER BRANCIFORTE: You know,  
22 but it says "existing as a two-family" on Z-1.

23 THE WITNESS: It is at grade. It's an  
24 existing three-family --

25 COMMISSIONER BRANCIFORTE: What is

1 that?

2 THE WITNESS: -- it is an existing  
3 three-family.

4 COMMISSIONER BRANCIFORTE: Yeah. You  
5 know what, I am going to have to take a second here.  
6 I am lost because on Z-1, your zoning calculations  
7 don't seem to match up with what is in your  
8 planner's report. It says "existing two-family,  
9 proposed two-family."

10 The density max is 2.94, but you are  
11 proposing three, and you don't need a variance.

12 THE WITNESS: It is an existing three.

13 MR. GALVIN: What he's basically saying  
14 is if it is an existing three, it's already been  
15 granted. It is a preexisting condition, but --

16 COMMISSIONER BRANCIFORTE: How could it  
17 be a two-family and a three-unit at the same time?

18 THE WITNESS: No. It's my mistake on  
19 the zoning table. It's a three-family, an existing  
20 three-family.

21 COMMISSIONER BRANCIFORTE: Okay. Then  
22 that clears that up, one way to clear it up.

23 Okay, thank you.

24 COMMISSIONER GRANA: So I just want to  
25 add to Commissioner Branciforte, it's an existing

1 three, and it's proposed to be a three. Is that  
2 right?

3 COMMISSIONER BRANCIFORTE: Is that  
4 right?

5 THE WITNESS: That is correct.

6 COMMISSIONER GRANA: Thank you.

7 MR. GALVIN: So I am going to move that  
8 to a preexisting condition.

9 So we need a rear yard setback of 14  
10 feet three inches for the new rear addition, whereas  
11 30 percent or 30 feet, whichever is less, is  
12 required.

13 Do you have 30 -- is it -- which one of  
14 the criteria --

15 THE WITNESS: Hum, we need neither, so  
16 it would be 14, three and a half --

17 MR. GALVIN: Okay. Got it.

18 And for roof coverage of 12.5 where 10  
19 percent is the maximum permitted.

20 THE WITNESS: That's correct.

21 MR. GALVIN: And then I have one, two,  
22 three, four, five conditions that are preexisting.  
23 A preexisting lot coverage of 73.4 percent, where 60  
24 is the max, a preexisting front yard setback of zero  
25 feet.

1                   Isn't that permitted now?

2                   MS. RUSSELL: For existing what?

3                   MR. GALVIN: Front yard setback of zero  
4 feet, where 5 to 10 feet is required. Doesn't the  
5 new ordinance provide for zero?

6                   MR. BURKE: That's correct.

7                   MS. RUSSELL: Yes, yes.

8                   MR. BURKE: It's prevailing.

9                   MR. GALVIN: So I'm going to delete  
10 that. Okay.

11                   For a preexisting lot depth of 92.5  
12 feet, where a hundred feet is required, and for a  
13 preexisting lot area of 1,937 square feet, where  
14 2000 feet is required. I think we have it all out  
15 in the open now.

16                   So basically, if we agree with you that  
17 there are three units before and three units now,  
18 you don't need a density variance because you  
19 previously had it.

20                   THE WITNESS: Right.

21                   MR. GALVIN: And you don't need the  
22 D-6, because you are at 43, 10.5 inches. If you go  
23 over 44 at some point for any little reason, you'll  
24 need a D-6, but you don't at the moment. You just  
25 need a bulk variance --

1                   COMMISSIONER GRANA:  Because that's the  
2    ten percent --

3                   MR. GALVIN:  -- and we've eliminated  
4    the story variance based on -- we have eliminated a  
5    couple of variances based on the ordinance change.

6                   MR. BURKE:  Correct.

7                   MR. GALVIN:  So you want to use the new  
8    ordinance in this case.

9                   MR. BURKE:  Yes, we are.

10                  MR. GALVIN:  And you sent us a letter  
11   to that effect, right?

12                  MR. BURKE:  I believe so, yes.

13                  MR. GALVIN:  We got them on some cases.  
14   I don't know if we got them on this one.

15                  Is everybody okay now?

16                  Do you know what we're asking?

17                  COMMISSIONER FISHER:  Yeah.  The only  
18   thing because he confused me, when you mentioned  
19   that you could build as high as the lower of the two  
20   buildings on either side, how does that factor into  
21   this discussion?

22                  MR. GALVIN:  I don't think it does.  I  
23   think we are just confusing ourselves.

24                  What's the height?

25                  The maximum height in the zone is 40

1 feet, right?

2 THE WITNESS: That's correct.

3 MR. GALVIN: So it doesn't matter.

4 If they were going to go higher, then  
5 you would look higher or --

6 MS. RUSSELL: Well, it does matter.  
7 The maximum height is 40, and they are asking for  
8 46.

9 MR. GALVIN: No, no, no. They are not  
10 asking for 46. They corrected it and said they are  
11 looking for 43, 10.5 --

12 MS. RUSSELL: Oh.

13 MR. GALVIN: -- the question that's  
14 being asked is the adjacency rule.

15 MS. RUSSELL: Right.

16 MR. GALVIN: Have you read the  
17 adjacency rule?

18 MS. RUSSELL: Yes, yes, yes.

19 MR. GALVIN: Does the adjacency rule  
20 apply in this case?

21 MS. RUSSELL: If in fact -- the lower  
22 of the two buildings is a little bit hard to judge.  
23 If the architect is testifying to the fact that it  
24 is taller than the permitted 40 feet, then it  
25 applies.

1 UNIDENTIFIED VOICE: Is the public  
2 going to be able to speak on this?

3 MR. GALVIN: Yes. At some point, but  
4 not now.

5 COMMISSIONER MURPHY: Yeah. Like,  
6 well, they say it is measured from the front of the  
7 building, but many buildings in Hoboken are on a  
8 slope, so the back is no longer 40 feet.

9 MS. RUSSELL: Does anybody have the  
10 definitions?

11 MR. GALVIN: Eileen has them.

12 MS. RUSSELL: Yeah.

13 COMMISSIONER FISHER: I guess that was  
14 the question I think, Phil, you were asking was:  
15 What is the -- how is that measured because they are  
16 interpreting it as the front of the building, but it  
17 really looks like the comparison should be the back  
18 of the building.

19 COMMISSIONER COHEN: Right.

20 MR. BURKE: Well, for purposes of the  
21 variances, though, we are stipulating that we will  
22 accept the C variance for that.

23 THE WITNESS: And they're lower than  
24 the front of the building.

25 MR. GALVIN: We are going to double

1 check the ordinance on adjacency, so we know what  
2 we're doing.

3 MR. BURKE: For adjacency, though, we  
4 would be asking for no variance. We would be saying  
5 that it would be matching the lower of the two  
6 adjacent buildings --

7 COMMISSIONER FISHER: On the front,  
8 though, even though it's the back of the building.

9 MR. BURKE: -- right.

10 But I'm saying we would say we don't  
11 need a variance, but in this case we are stipulating  
12 that we will seek a C variance for this.

13 COMMISSIONER COHEN: So it is  
14 irrelevant.

15 COMMISSIONER GRANA: So it is  
16 irrelevant. They're seeking a C variance.

17 COMMISSIONER COHEN: Because he is  
18 saying that's an exception to seeking a variance,  
19 and he's not going to seek it.

20 COMMISSIONER FISHER: Got it. Okay.

21 COMMISSIONER GRANA: Asking for 43 feet  
22 10.5 inches.

23 MR. GALVIN: We will be double checking  
24 it as we proceed.

25 MR. BURKE: Okay.

1 Proceed?

2 CHAIRMAN AIBEL: Please.

3 MR. BURKE: Okay.

4 Jensen, we have not done this. Why  
5 don't you just take a look at these photographs, and  
6 I know you stated that you had taken these  
7 approximately when?

8 THE WITNESS: It's actually March,  
9 early March.

10 MR. BURKE: All right. So these were  
11 one of five photos that you had taken. One was  
12 already handed to the Board, correct?

13 THE WITNESS: Correct.

14 A-1 shows the back of the building.  
15 Our existing building is here, and this is the  
16 building to our north, which would be the one most  
17 impacted by our addition.

18 This is the existing roof showing --  
19 you could see it is an irregular -- it is not full  
20 lot width, and it's actually set back from the south  
21 lot line, and it's got this sort of octagonal shape  
22 in the back. It's got bay windows.

23 This is showing the building to -- this  
24 is our building in the foreground, and this is the  
25 building to the south set back.

1                   This is a photo from the roof looking  
2                   at the rear yard, so you can see the existing  
3                   pavers, and they got very -- it is an irregular lot,  
4                   so they got just a tiny little walkway kind of  
5                   around the pavers.

6                   MR. BURKE: Mr. Chair, I asked that  
7                   these be accepted in evidence as marked.

8                   CHAIRMAN AIBEL: That's fine.

9                   (Exhibits A-1 through A-6 received in  
10                  evidence.)

11                  (Board members confer.)

12                  MR. GALVIN: Okay.

13                  MS. RUSSELL: I did have a chance to  
14                  look at the definition of height, which is what Mr.  
15                  Burke would refer to when determining if the height  
16                  of the adjacent buildings enables this property to  
17                  be developed higher than the 40 feet.

18                  The definition of height is the mean  
19                  grade to the highest point of the roof. So if the  
20                  highest point of the roof is in the front, the  
21                  height of the building is whatever that is, 43 feet,  
22                  let's say, regardless of the fact that the rear  
23                  might be 39 feet. So matching the height of the  
24                  adjacent buildings, that word "height" is to the  
25                  highest point.

1                   So he is correct in that you don't  
2                   match just what is next to your building just  
3                   because you are building in the back, it does not  
4                   say that you need to match to the back. You match  
5                   to the highest point of the adjacent building.

6                   COMMISSIONER GRANA: So does that mean  
7                   we still need a variance for height?

8                   MS. RUSSELL: Is the adjacent building  
9                   43-10?

10                  THE WITNESS: Yes.

11                  MS. RUSSELL: It means -- I believe  
12                  that that means that they do not need a height  
13                  variance.

14                  COMMISSIONER BRANCIFORTE: Mr. Burke,  
15                  did you that say you needed a C variance when you  
16                  lowered it from 46 to 43?

17                  MR. BURKE: We did not avail ourselves  
18                  of the section of the ordinance that Kristin was  
19                  referring to. It would be a C variance.

20                  If we avail ourselves of that section,  
21                  then no variance would be required.

22                  But since we have a number of C  
23                  variances anyway, you know, it is really one  
24                  additional C to a number.

25                  COMMISSIONER BRANCIFORTE: Well, maybe

1 your planner wants to talk about it later, I guess.

2 CHAIRMAN AIBEL: Are you okay to keep  
3 going?

4 MR. GALVIN: Yes, please go.

5 CHAIRMAN AIBEL: Keep going.

6 MR. BURKE: So, Jensen, please just  
7 walk through the architectural plans and describe  
8 what the project is.

9 THE WITNESS: Sure.

10 So the project entails a one-story  
11 addition over the existing three-story rear  
12 addition, so there is the main building, which is  
13 aligned with most of the other buildings on the  
14 block, and then there is an existing three-story  
15 addition, which I showed as an irregular shape, so  
16 it is set back from the property line at some point,  
17 so we would just be filling in that floor.

18 If you turn to A-100, you can see the  
19 existing and proposed conditions. So the one on the  
20 left is the existing condition. There is an  
21 existing roof. There is one bedroom on the back  
22 with a bathroom and a walk-in closet.

23 What we would be proposing would be to  
24 create two additional bedrooms in the back, and we  
25 would relocate the bathroom slightly inside of the

1 original structure, which has nothing to do with the  
2 new addition -- with the addition.

3 So the addition is just the rear here.  
4 It's composed of two bedrooms, a closet. Each have  
5 a closet, a small desk nook, and then there is  
6 windows on the south side, which is set back from  
7 the property line and also at the rear in the bay  
8 window portion.

9 CHAIRMAN AIBEL: So you are maintaining  
10 the footprint?

11 THE WITNESS: That's correct.

12 CHAIRMAN AIBEL: No change in the  
13 footprint?

14 THE WITNESS: That's correct. No  
15 increase in lot coverage.

16 THE WITNESS: Okay. Now, on top of  
17 that we would do a small, a very small solar array  
18 and some new AC units, which would service the  
19 addition.

20 On the outside to distinguish it from  
21 the original building, the original masonry and  
22 stucco building, we are proposing Viroc, which is a  
23 cement board --

24 MR. BURKE: To be clear, though, this  
25 is the exterior --

1 THE WITNESS: Correct. The rear  
2 exterior.

3 MR. BURKE: The front of the building  
4 is not changing?

5 THE WITNESS: That's correct. The  
6 front of the building does not change.  
7 Everything -- there is no other alterations except  
8 for this addition.

9 COMMISSIONER FISHER: Sorry.

10 Is there an A-2?

11 MR. BURKE: I think I passed it up  
12 earlier.

13 COMMISSIONER FISHER: I only have four.

14 COMMISSIONER BRANCIFORTE: Oh, here you  
15 go. I have it.

16 COMMISSIONER FISHER: Sorry. Go ahead.

17 CHAIRMAN AIBEL: I'm sorry.

18 Go ahead.

19 THE WITNESS: So the original -- the  
20 addition would be demarcated by a Hardie Board  
21 fascia, and then above that would be a Viroc, which  
22 is a cement board panel for the exterior cladding,  
23 both to reduce weight on the existing foundation,  
24 and it is also easier to construct from the outside.

25 And the last page, A-201, you can see

1       that the roof slopes from the front to the back, and  
2       you can see our addition and how it plays into it,  
3       so there is that 43, 10 and a half building height,  
4       which is shown up front, and then you can see our  
5       addition that doesn't go above that height.

6                   MR. BURKE: Can you just talk a little  
7       about the context of the neighborhood?

8                   What is around the site?

9                   THE WITNESS: Sure.

10                   So directly behind us is the Hudson  
11       School and also All Saints. So All Saints Church is  
12       on the corner.

13                   There is the Hudson School. There is  
14       Grace -- there is Grace Church -- not Grace  
15       Church --

16                   MR. BURKE: All Saints.

17                   COMMISSIONER GRANA: All Saints.

18                   THE WITNESS: -- no, Baptist.

19                   Then on the block frontage of Hudson  
20       Street, it's all mostly single-family row houses.

21                   Next to us, there is an existing --  
22       this is a photo -- there is an existing -- the  
23       building to our north is actually taller than we are  
24       by one-story, so when we in-fill, we would match --  
25       not match -- but we would be closer to the height

1 and bulk of the buildings to the north.

2 MR. BURKE: Is that on the property  
3 line, the building to the north?

4 THE WITNESS: It is. So you can see  
5 it. You can catch it in the photos that you have as  
6 well when you look back to the existing building.

7 COMMISSIONER COHEN: Are you sure that  
8 is the Hudson School that's behind you?

9 THE WITNESS: All Saints and then --

10 COMMISSIONER FISHER: Hoboken Charter.

11 COMMISSIONER MURPHY: Hoboken Charter.

12 COMMISSIONER COHEN: Hoboken Charter.

13 THE WITNESS: Oh, I'm sorry. My kids  
14 are not there yet. I don't know the schools.

15 (Laughter)

16 Correct.

17 So it is actually pretty densely filled  
18 in.

19 There is an aerial. It's not as clear,  
20 but you can see how far All Saints goes back.

21 Also, the school, you can see our small  
22 addition fairly clearly here, and you can see also  
23 the Baptist Church.

24 MR. BURKE: Across the street is  
25 Stevens?

1 THE WITNESS: That's correct. Across  
2 the street is Stevens. I think it is a laboratory.

3 MR. BURKE: Okay.

4 Any questions from the Board?

5 COMMISSIONER GRANA: I have a question.

6 CHAIRMAN AIBEL: Go ahead.

7 COMMISSIONER GRANA: Thank you, Chair.

8 So I am looking at Z-004.

9 THE WITNESS: Yes.

10 COMMISSIONER GRANA: I just want to  
11 confirm something.

12 When I look at photo one, looking  
13 straight down, I see -- I guess it is not fair -- I  
14 will say the existing three-story structure, it's  
15 already got the back of this building --

16 THE WITNESS: That's correct.

17 COMMISSIONER GRANA: -- then there is  
18 the building that's directly to the north --

19 THE WITNESS: That's correct.

20 COMMISSIONER GRANA: -- whose  
21 actually -- whose coverage is not exactly the same,  
22 but the rear lot -- the rear end of the developed  
23 part of the lot looks like it pretty much aligns --

24 THE WITNESS: Correct.

25 COMMISSIONER GRANA: So if I look at

1 photo two then, right, where we're now seeing this  
2 close up, the building to the north, there is this  
3 wall, and there are no windows there?

4 THE WITNESS: No.

5 COMMISSIONER GRANA: Okay. So, okay.

6 And the lot, I guess, the built-out  
7 portion of the lot both to this building and the  
8 building to the -- directly to the north, and then  
9 the building to the north of that also similarly  
10 built out, so that is one more up.

11 THE WITNESS: Yes.

12 COMMISSIONER GRANA: Do we know how  
13 many stories that is?

14 THE WITNESS: Both of these are four.

15 COMMISSIONER GRANA: They are both  
16 four?

17 THE WITNESS: Yeah.

18 COMMISSIONER GRANA: Okay.

19 And do you think that that condition  
20 would exist at the very southern most end of the  
21 lot --

22 MR. BURKE: Of the block you mean?

23 COMMISSIONER GRANA: -- of the block --  
24 I'm sorry -- south of the block -- the very southern  
25 most part of the block, is that a similar condition

1           there?

2                         THE WITNESS:  Yes.  Where they are  
3           built out --

4                         COMMISSIONER GRANA:  -- they are built  
5           out, and do you know if they are four stories or  
6           not?

7                         THE WITNESS:  They are.  The whole  
8           block is.

9                         COMMISSIONER GRANA:  At four stories.  
10           Okay.  Thank you, Mr. Vasil, not Mr.  
11           Jensen.

12                         (Laughter)

13                         CHAIRMAN AIBEL:  Any other questions  
14           for Mr. Vasil?

15                         COMMISSIONER DE GRIM:  I have a couple  
16           of questions.

17                         So on top of this extension or the new  
18           bedroom, which is already over an existing  
19           structure, is it just going to be a solar array?  
20           There is not going to be a deck up there, correct?

21                         THE WITNESS:  No.  Just a solar array,  
22           correct.

23                         COMMISSIONER DE GRIM:  And why is it  
24           that the slope is going from the rear to -- I guess  
25           to the rear of the existing fourth story?

1                   THE WITNESS: We are going to put a  
2 roof drain in the middle here.

3                   If we continued that same slope from  
4 the front all the way to the back, there would be  
5 very little ceiling height by the time we got to the  
6 end of this extension, so it is easier to pitch it  
7 in.

8                   COMMISSIONER DE GRIM: Okay. And then  
9 that way, the roof drain, where is that going to  
10 send the water?

11                  THE WITNESS: It would be down a pipe  
12 into the storm sewer. It connects now to the storm  
13 sewer, so it would be the same, reconfigured.

14                  COMMISSIONER DE GRIM: Okay. So it  
15 won't drain on to the neighbor's premises?

16                  THE WITNESS: No. I should clarify  
17 that. We don't really have a storm sewer. A  
18 combined sewer, it could go into the combined sewer.

19                  COMMISSIONER DE GRIM: Thank you.

20                  COMMISSIONER COHEN: So this unit that  
21 we are extending here, is this the owner's unit?

22                  THE WITNESS: It is.

23                  COMMISSIONER COHEN: They have two  
24 other families or two other tenants in the building,  
25 and this is the owner who resides there?

1 THE WITNESS: That's correct.

2 The section -- so you enter in from  
3 Hudson Street, and then just the front area, which  
4 is Unit 3, and there is another stair that goes  
5 directly up, so they have these two top floors, and  
6 then they've got entry access at the first floor,  
7 and then there is a basement, and in the back of  
8 that first floor level is a rental unit, and then  
9 the basement below that is a rental unit.

10 COMMISSIONER COHEN: So currently, just  
11 looking at the picture, is it sort of like a deck  
12 for them right now in that extension area?

13 I don't know if there was a covered  
14 grill up there or something, but is that now open  
15 space right now?

16 THE WITNESS: Yes.

17 COMMISSIONER COHEN: And they are going  
18 to lose that open space with this addition, there's  
19 not going to be any more backyard space?

20 THE WITNESS: That is correct. There  
21 would no longer be any open space back there.

22 COMMISSIONER COHEN: Okay. Thanks.

23 CHAIRMAN AIBEL: John, anything else?

24 COMMISSIONER BRANCIFORTE: I think  
25 really the only question I have is on this

1 addition --

2 THE WITNESS: Yes.

3 COMMISSIONER BRANCIFORTE: -- on 201,  
4 the proposed site elevation --

5 THE WITNESS: Yes.

6 COMMISSIONER BRANCIFORTE: -- down at  
7 the bottom left-hand corner, you show windows that  
8 you are putting in?

9 THE WITNESS: Correct.

10 COMMISSIONER BRANCIFORTE: I'm just --  
11 they are not on the property line. They're set in.  
12 They're recessed from the property line?

13 THE WITNESS: That's correct.

14 COMMISSIONER BRANCIFORTE: I am  
15 wondering how close those windows are to your  
16 neighbors, but I don't think that is a big deal.  
17 I don't know if it's a big deal or not. I don't  
18 think it is --

19 THE WITNESS: Approximately five feet  
20 from the south property line --

21 COMMISSIONER BRANCIFORTE: No, no.  
22 That's fine.

23 THE WITNESS: -- and in order to have a  
24 habitable bedroom, you need to have an operable  
25 window.

1                   COMMISSIONER BRANCIFORTE: Yeah, I am  
2 fine.

3                   Mr. Chair, thanks for now. Thanks.

4                   MS. RUSSELL: I have a few  
5 clarifications.

6                   With regard to the zoning table, in  
7 addition to obviously we already discussed height,  
8 just a little clarification note. Roof coverage,  
9 the maximum permitted is ten percent with the  
10 exception that you noted. But in my calculations,  
11 you are only actually covering about 2.4 percent, so  
12 do yourself a favor and lower it.

13                  THE WITNESS: You are probably right.  
14 We got caught in between the two -- before they  
15 changed the zoning code --

16                  MS. RUSSELL: Yeah. Okay. Yeah. I  
17 just don't --

18                  THE WITNESS: -- so we counted the  
19 solar panels as roof coverage, but now it's  
20 excluded.

21                  MS. RUSSELL: Just lower it. Make it  
22 look even better.

23                  THE WITNESS: Okay.

24                  MS. RUSSELL: Also, in the left-hand  
25 column, where you list the categories, what are the

1 notations like next to lot coverage, you have a one.

2 Next to building height, you have three.

3 What are those referring to?

4 THE WITNESS: In the zoning code, when  
5 you go to 196-14, there is Section A, B, C, and it  
6 is referring to the section.

7 MS. RUSSELL: No. That is in the  
8 zoning ordinance section, though --

9 COMMISSIONER FISHER: Yeah. Under  
10 zoning --

11 MS. RUSSELL: -- in the left-hand  
12 column.

13 THE WITNESS: Correct. Where there is  
14 parentheses around them?

15 MR. BURKE: Here.

16 THE WITNESS: Oh, I'm sorry --

17 COMMISSIONER FISHER: Looks like they  
18 are footnotes, but you don't have any --

19 COMMISSIONER MARSH: They're footnotes,  
20 yeah --

21 COMMISSIONER BRANCIFORTE: He only  
22 shows note number one. He doesn't show --

23 THE WITNESS: -- they're actually --  
24 there used to be footnotes -- there used to be  
25 footnotes at the bottom --

1 MS. RUSSELL: Okay. So you are going  
2 to take them out?

3 THE WITNESS: Correct.

4 MS. RUSSELL: And then one -- one last  
5 thing, on Sheet Z-002--

6 THE WITNESS: Yes.

7 MS. RUSSELL: -- under proposed site  
8 plan, I think you copied the hatched pattern for  
9 ground cover from the existing site plan to the  
10 left, because I don't suppose you are proposing an  
11 overgrown lawn as your new ground cover.

12 THE WITNESS: No. We're not doing  
13 anything down there, correct.

14 MS. RUSSELL: So just correct that to  
15 show seeded lawn or whatever it is.

16 THE WITNESS: Okay.

17 COMMISSIONER BRANCIFORTE: Where are  
18 your HVAC units right now, your condensers, your  
19 compressors, whatever you call them?

20 THE WITNESS: On the roof --

21 COMMISSIONER BRANCIFORTE: On the --

22 THE WITNESS: -- on the main roof of  
23 the principal structure.

24 COMMISSIONER COHEN: Look on A-101.

25 COMMISSIONER BRANCIFORTE: Oh, I see

1           them, okay. Thanks.

2                       COMMISSIONER DE GRIM: Yeah, two  
3           existing and then one --

4                       CHAIRMAN AIBEL: Is there any way you  
5           could have designed the fourth floor extension or  
6           addition to be conforming on the lot coverage?

7                       THE WITNESS: Not with adding two  
8           bedrooms. You would only be able to get a bedroom  
9           out of it.

10                      CHAIRMAN AIBEL: It looks like you are  
11           extending probably four to five feet beyond the  
12           building on -- I'm lost with my orientation --

13                      THE WITNESS: To the north, correct.

14                      CHAIRMAN AIBEL: -- to the north. So  
15           if you had a nice balcony there and -- okay. Thank  
16           you.

17                      Anybody else?

18                      COMMISSIONER GRANA: No more questions  
19           from me.

20                      CHAIRMAN AIBEL: Okay. Let me open it  
21           up to the public. This is the time for questions,  
22           and then you will have a chance to give your  
23           opinion.

24                      MR. GALVIN: You can ask questions now,  
25           if there is something you need to ask.

1 MS. BRAVO: Nope.

2 MR. GALVIN: Okay. Hang in there.

3 MS. BRAVO: Thank you.

4 COMMISSIONER COHEN: Motion to close  
5 public portion for this witness.

6 COMMISSIONER BRANCIFORTE: Well, I  
7 actually have a question for --

8 MR. GALVIN: Why don't you close it to  
9 the public and then --

10 COMMISSIONER GRANA: I second that  
11 motion.

12 CHAIRMAN AIBEL: All in favor?  
13 (All members answered in the  
14 affirmative.)

15 MR. GALVIN: Go ahead, John.

16 COMMISSIONER BRANCIFORTE: You know,  
17 this question that Chairman Aibel just raised about  
18 extending beyond the building to the north, and you  
19 said there won't be enough space if you cut it down,  
20 but you have this little balcony here that is off  
21 the bedroom. On A-100 you show it.

22 THE WITNESS: To the south you mean,  
23 the closet?

24 COMMISSIONER BRANCIFORTE: On the  
25 fourth floor construction plan on Sheet A-100, you

1 show the new bedroom there to the rear.

2 THE WITNESS: Yes.

3 COMMISSIONER BRANCIFORTE: Is that --  
4 what is this over here? It says "New CL." New  
5 closet?

6 THE WITNESS: New closet, correct.

7 COMMISSIONER BRANCIFORTE: Okay. So  
8 that is your closet. That looked like a balcony the  
9 way it was -- okay.

10 Yeah. You know, it would be nice if  
11 you could not take away the light from the people  
12 next door by extending out so far.

13 I mean, that is kind of objectionable  
14 to me. I mean, you are going out pretty far  
15 already, and now you are going to cut off the light  
16 to the fourth floor, too, of the people next door.  
17 That's kind of --

18 THE WITNESS: I will say the one good  
19 thing is the windows for the building to the north  
20 are set over quite a bit. The photos will show it  
21 quite nicely.

22 COMMISSIONER BRANCIFORTE: Yeah. I  
23 don't know where those photos are, so --

24 COMMISSIONER MC ANUFF: Do they line up  
25 with the windows that are shown on photograph Z-004?

1 THE WITNESS: Yes. They are --

2 COMMISSIONER MC ANUFF: Yes, they're  
3 all in a line?

4 THE WITNESS: Yeah. You can see --  
5 yeah, you can see they're further -- they're further  
6 to the north from there than they are to the  
7 south --

8 COMMISSIONER BRANCIFORTE: I don't see  
9 anything.

10 THE WITNESS: -- so there is  
11 approximately ten foot just kind of solid wall  
12 before the windows are.

13 COMMISSIONER BRANCIFORTE: Okay. I  
14 see.

15 Are you talking about Exhibit A-1?

16 THE WITNESS: Yes.

17 (Commissioners talking amongst  
18 themselves.)

19 THE REPORTER: Is this on the record?

20 MR. GALVIN: It must be on the record.

21 THE REPORTER: I can't hear them.

22 COMMISSIONER BRANCIFORTE: So your  
23 point is there's really no window there to block --

24 COMMISSIONER MARSH: What's on the  
25 record?

1 MR. GALVIN: If they're talking --

2 COMMISSIONER BRANCIFORTE: -- there's  
3 no light to block, because there's no window there  
4 to allow light in anyway.

5 THE WITNESS: Correct.

6 COMMISSIONER BRANCIFORTE: -- because  
7 it's pushed out more towards --

8 MR. GALVIN: You have to share what you  
9 are doing with the public.

10 COMMISSIONER MURPHY: Well, I was about  
11 to say we need clarity on what this picture is.

12 COMMISSIONER DE GRIM: Being Exhibit  
13 A-1.

14 COMMISSIONER MURPHY: A-1.

15 MR. GALVIN: Okay. There you go.

16 Thanks, Frank.

17 COMMISSIONER DE GRIM: You are welcome.

18 MR. GALVIN: You have to identify the  
19 exhibit, so the record will know what we're talking  
20 about.

21 THE WITNESS: So on Exhibit A-1, this  
22 is the existing three-story addition, which is what  
23 we are building on top of.

24 MR. GALVIN: You're pointing to the  
25 building in the middle?

1 THE WITNESS: Yes, to the light beige  
2 building.

3 COMMISSIONER MC ANUFF: That is the  
4 site, correct?

5 THE WITNESS: Correct. That's the site  
6 in question.

7 Then to the right -- to the left of  
8 that is the building to the north, and this is a  
9 solid brick wall for the first ten feet, and then  
10 there's windows towards the north.

11 COMMISSIONER MURPHY: Can I see it?

12 THE WITNESS: Sure.

13 COMMISSIONER BRANCIFORTE: Is that a  
14 stairwell or something?

15 THE WITNESS: I mean it looks like it.

16 COMMISSIONER BRANCIFORTE: Okay.

17 COMMISSIONER FISHER: How many feet is  
18 this extending out beyond the end of that one?

19 THE WITNESS: Yeah, it is less than  
20 five feet.

21 COMMISSIONER MURPHY: Is there a  
22 picture of the other building?

23 COMMISSIONER FISHER: Yeah, right here.

24 And then this is all brick.

25 (Commissioners conferring.)

1 CHAIRMAN AIBEL: Okay. So where are we  
2 now?

3 THE WITNESS: It is four foot six  
4 exactly.

5 CHAIRMAN AIBEL: We closed the public  
6 portion.

7 MR. GALVIN: Of this witness.

8 CHAIRMAN AIBEL: For this witness,  
9 right?

10 MR. GALVIN: Does the Board have any  
11 other questions for Mr. Vasil?

12 COMMISSIONER MURPHY: Yes.

13 Can I just get clarity also -- I think  
14 it was hard because in the beginning he was showing  
15 it down there.

16 MR. GALVIN: Yeah, fire away.

17 COMMISSIONER MURPHY: So A-4, can you  
18 tell me which building this is and which building  
19 that is?

20 THE WITNESS: Sure.

21 Thank you.

22 This is our building, and that is like  
23 the bay window you can see towards the south.

24 COMMISSIONER DE GRIM: That's the light  
25 colored building?

1 THE WITNESS: The light colored,  
2 correct.

3 And then this is the building to the  
4 south.

5 MR. GALVIN: So left and right. The  
6 first one was left, and the second one was right.

7 CHAIRMAN AIBEL: Maybe you can get Mr.  
8 Matule up.

9 MR. GALVIN: Okay. We're taking a time  
10 out here.

11 Come on up, Mr. Matule.

12 CHAIRMAN AIBEL: Wasn't that  
13 interesting?

14 MR. MATULE: It's fascinating.

15 (Laughter)

16 MR. GALVIN: He didn't want to stay for  
17 the exciting conclusion.

18 (Laughter)

19 MR. MATULE: I get the sense that we  
20 won't be getting to 75-77 tonight, and I see there  
21 is a neighbor here also. So I would request that we  
22 carry it to the 15th with no further notice and  
23 consent to the time --

24 MR. GALVIN: Do you waive the time in  
25 which the Board has to act?

1                   MR. MATULE:  -- in which the Board has  
2                   to act to the 15th.

3                   MR. GALVIN:  Okay.

4                   COMMISSIONER BRANCIFORTE:  Motion to  
5                   carry 74-77 Madison Street with no further notice to  
6                   what date?

7                   COMMISSIONER COHEN:  December 15th.

8                   Second.

9                   MR. GALVIN:  All in favor?

10                  (All Board members answered in the  
11                  affirmative.)

12                  MR. GALVIN:  Anyone opposed?

13                  Do you oppose?

14                  MR. MATULE:  No.

15                  MR. GALVIN:  Okay.

16                  MR. MATULE:  Thank you very much.

17                  Sorry for interrupting.

18                  CHAIRMAN AIBEL:  Sorry, gentleman.  We  
19                  had good intentions.

20                  MR. GALVIN:  See you December 15th.  See  
21                  you.

22                  MS. CARCONE:  Two weeks.

23                  MR. GALVIN:  Are there any other  
24                  questions for Mr. Jensen -- I mean Mr. Vasil?  I'll  
25                  get it.  Stay on me.  I'll get it.

1 (Laughter)

2 CHAIRMAN AIBEL: No. I think we are  
3 okay.

4 MR. GALVIN: Next witness.

5 MR. BURKE: Do you want to swear the  
6 witness in?

7 MR. GALVIN: Yes.

8 Raise your right hand.

9 Do you swear to tell the truth, the  
10 whole truth, and nothing but the truth, so help you  
11 God?

12 MS. HARTMANN: Yes.

13 J I L L A. H A R T M A N N, PP, AICP, 23  
14 Sparrowbush Road, Mahwah, New Jersey, having been  
15 duly sworn, testified as follows:

16 MR. GALVIN: State your full name for  
17 the record and spell your last name.

18 THE WITNESS: Jill Hartmann,  
19 H-a-r-t-m-a-n-n.

20 MR. GALVIN: Mr. Chairman, Ms. Hartmann  
21 appeared before us recently, so I would ask that we  
22 accept her credentials as a planner.

23 CHAIRMAN AIBEL: We do.

24 MR. BURKE: Ms. Hartmann, you prepared  
25 a report and you're --

1 THE WITNESS: Yes, I did.

2 MR. BURKE: -- familiar with the site,  
3 and you're familiar with the Hoboken Zoning  
4 Ordinance and the master plan.

5 You also now watched, as this  
6 application was submitted, and has been subjected to  
7 some changes based on the ordinance changing and  
8 also based on some facts that were brought through  
9 tonight.

10 THE WITNESS: Correct.

11 MR. BURKE: So please give us the  
12 benefit of a summary of your report, and I think we  
13 also heard some concerns from the Board, so perhaps  
14 emphasize in your answers addressing some of their  
15 concerns.

16 THE WITNESS: As you can see from I  
17 guess my report, if you have it and the photos that  
18 I provided, the surrounding neighborhood is  
19 consistent with the residential property that we  
20 have directly adjacent to the north and south of the  
21 subject site along the western side of Hudson  
22 Street, which is an established older residential  
23 neighborhood, three to four stories of buildings,  
24 actually beautiful historic buildings.

25 Across the street to the north and

1 south along the eastern side of Hudson Street is  
2 Stevens Institute. With the exception of the  
3 adjacent property directly to the north, there is no  
4 off-street parking. It is all on street, and it's  
5 for resident parking only.

6 The application is proposing, as we  
7 said, to construct a fourth story addition to the  
8 existing residential building.

9 The interesting thing about this that  
10 we have is to the north is a building that is  
11 somewhat taller, as you can see from the pictures  
12 there, and then there is this building, which has an  
13 extension, if you will, beyond the residential  
14 properties to the south, and then at the corner of  
15 the southern intersecting street, I can't  
16 remember -- I know it's not Second. It's Sixth or  
17 Fifth --

18 COMMISSIONER FISHER: Seventh?

19 THE WITNESS: -- there is a tall  
20 building again.

21 To the west, as we discussed, there's  
22 the school. There's the church, and then diagonally  
23 northwest is -- I don't know exactly what the  
24 building is, but it is a very large white building.  
25 It's four stories, but it's somewhat imposing.

1           So what you have existing is what  
2           Hoboken is consistently concerned about, and I think  
3           notoriously protective of your donut, of the open  
4           space that's associated with the residences, and  
5           that occurs from this building all the way down to  
6           the corner building at Sixth. And it is only really  
7           on these properties because as you go to the  
8           properties to the west, they in fact are very close  
9           to the property line, much closer actually than the  
10          applicant's property.

11           So we are -- so as far as the variances  
12          are concerned, we have an existing condition for  
13          nonconforming minimum lot size, minimum lot depth.  
14          We are requesting a rear yard setback for the new  
15          addition only. You are required to have 30 percent  
16          or 30 feet. We have 14 feet and three inches  
17          existing. The proposed addition will have to retain  
18          that 14 foot three inches.

19           Maximum lot coverage is 60 percent. It  
20          exists right now at 73.4 percent.

21           The new addition will be over the  
22          existing, as we said, over the existing three  
23          stories, so the same lot coverage will exist. There  
24          will be no new lot coverage.

25           The maximum building height is 40 feet,

1 and we are proposing 43 feet ten and a half inches,  
2 so we are accepting that as a C variance with  
3 regards to that.

4 There will be no variance for the roof  
5 coverage because of the zone change for the green  
6 roof.

7 There is one other variance, and that  
8 is maximum permitted building length is permitted to  
9 be 70 feet, and it's existing at 78 feet. The  
10 proposed addition is not increasing that, but it is  
11 over that.

12 With regard to the C variances, I did  
13 in fact review your master plan and your zoning  
14 ordinance, and in looking at the Hoboken master  
15 plan, some of the purposes are to protect historic  
16 row house fabric and promote compatibility in scale,  
17 density, design and orientation between new and  
18 existing development, to encourage proper  
19 maintenance of and reinvestment in buildings and  
20 structures within the town.

21 This proposed development in fact will  
22 not change the front facade of the building. It  
23 really won't change much of the building at all. It  
24 is located in the back, and the rear addition will  
25 respect the design of what's already there.

1                   It is not increasing anything with  
2                   regard to -- significantly with regard to scale,  
3                   density or design. It maintains the orientation of  
4                   this building as it exists.

5                   The fourth addition will result in  
6                   significant interior renovations and rehabilitation  
7                   and will upgrade the existing residential building,  
8                   so there is a significant investment in the site.

9                   With regard to the Municipal Land Use  
10                  Law, the goals and objectives, one would be to  
11                  provide adequate light, air and open space.

12                  The interesting thing, and the good  
13                  thing I find for this particular project is that  
14                  Hudson Street is a north-south road. It is really a  
15                  true north-south road, and the buildings themselves  
16                  face the east. So as the sun rises and sets, so to  
17                  speak, the light and air of that donut that you want  
18                  to maintain really is not impacted because it is --  
19                  the shadow -- there is always going to be I think --  
20                  I don't know what you could build or what you could  
21                  do that wouldn't have some slight impact.

22                  But the fact is that as the sun rises  
23                  and sets, it goes over that donut area. It isn't  
24                  like a north -- like an east-west road with a house  
25                  facing north-south, where you have incredible and

1 significant shadow, and this won't occur.

2 The buildings that are located right in  
3 this corner are very close, so we have a 14 and a  
4 half foot setback.

5 The building to the north of us is  
6 maybe five or six feet closer or further away from  
7 the setback. But if you look at the photos that are  
8 in my report with regard to the church to the rear,  
9 the church to the rear is basically on its property  
10 line, and the building to the northwest is very  
11 close to the property line, so that specific small  
12 location with regard to impact on light and air is  
13 non existent. And as I said, with the orientation  
14 of the sun, I don't believe there is any impact on  
15 that open space donut that we are concerned about.

16 To promote a desirable visual  
17 environment through creative development techniques,  
18 the application is again proposing the rear addition  
19 to respect the existing nature of the buildings and  
20 continue its architectural design.

21 It is utilizing the same material. The  
22 window arrangement is provided to create a seamless  
23 addition to the building, so basically it is my  
24 opinion that the C variances related to the site's  
25 lot area, lot width, lot depth, front yard setback,

1 rear yard setback, and coverage can be granted  
2 without any detriment to the public good or impact  
3 to your zoning ordinance or your zone plan.

4 MR. BURKE: Just one question: All of  
5 the variances listed, those are all basically  
6 intensifications of preexisting conditions?

7 THE WITNESS: Right. Those variances  
8 relate to the actual addition and the height that's  
9 related to the fourth story.

10 MR. BURKE: So no new variances in a  
11 sense?

12 THE WITNESS: There's no new setback  
13 variances, no new density variances, no new -- the  
14 only one is a height variance is there, and that is  
15 it --

16 MR. BURKE: Uh-huh.

17 THE WITNESS: -- with regard to  
18 new-new. It's very new. It is not an existing  
19 condition. It's a new condition.

20 (Laughter)

21 MR. BURKE: Thank you.

22 Any questions?

23 CHAIRMAN AIBEL: I just need a quick  
24 clarification probably from the architect.

25 Are there side windows on the proposed

1 fourth floor addition?

2 MR. BURKE: There are, but he should  
3 testify to that.

4 MR. VASIL: That's correct. There are  
5 on the south side.

6 CHAIRMAN AIBEL: And how are they  
7 aligned to the building I guess to the south?

8 MR. VASIL: They are set back five feet  
9 from the property line, and they're also set towards  
10 the rear --

11 COMMISSIONER BRANCIFORTE: Excuse me.  
12 Can I ask you guys to step back, so that people in  
13 the audience can see?

14 Thanks.

15 MR. VASIL: About two and a half feet,  
16 so you can see --

17 MR. BURKE: Hang on.

18 Let's turn this around, so the people  
19 can see it as well.

20 MR. VASIL: So as you can see, this is  
21 the lot line. This is the -- our south wall, the  
22 existing south wall set back five feet from the lot  
23 line, and then there is two windows in that bedroom.  
24 It is not really a great other place to put them.  
25 You need to have them for natural light and

1 ventilation inside --

2 CHAIRMAN AIBEL: And how do they align  
3 with the window of the building to the south I guess  
4 it is?

5 MR. VASIL: Well, the window on the  
6 building to the south, the first one is here. There  
7 is similar punched openings, three punched openings  
8 that are next to each other. So, you know, it is a  
9 pretty acute angle, but I am sure if you crooked  
10 enough, you could probably see it.

11 CHAIRMAN AIBEL: Okay. I understand.

12 COMMISSIONER GRANA: So on the third  
13 floor, or I should say it should be the existing top  
14 floor in the rear yard --

15 MR. VASIL: Yes.

16 COMMISSIONER GRANA: -- are there  
17 windows -- the windows that Chairman Aibel referred  
18 to, are there windows in the same location on the  
19 third floor or the current top floor?

20 MR. VASIL: I would have to double  
21 check.

22 So there are -- I mean, this is the  
23 rear, where you can see there are windows in the  
24 back portion where that bay is. I don't think I  
25 have a side view of it.

1                   COMMISSIONER GRANA: So you do not know  
2 if there are, in fact, windows already in the  
3 existing structure -- I think the issue we are  
4 addressing is the visibility into the building next  
5 door, correct?

6                   MR. VASIL: The aerial may just show  
7 it.

8                   COMMISSIONER FISHER: Antonio, this  
9 picture shows it.

10                  COMMISSIONER GRANA: You have it?

11                  COMMISSIONER FISHER: Yeah.

12                  COMMISSIONER GRANA: But I am  
13 thinking --

14                  MR. GALVIN: Use the exhibit number.

15                  COMMISSIONER GRANA: -- so this is A-2,  
16 but I am thinking what is below here.

17                  CHAIRMAN AIBEL: Probably the same.

18                  MR. BURKE: The applicant, if we swear  
19 him in, can testify to that and clarify that point,  
20 if you wish.

21                  MR. GALVIN: We will see. If we do,  
22 we'll ask.

23                  COMMISSIONER GRANA: I think the line  
24 of questioning is to determine the visibility into  
25 the building next door.

1 MR. BURKE: Uh-huh.

2 COMMISSIONER GRANA: I'm trying to find  
3 out if that condition exists already or if we are  
4 creating that condition.

5 MR. BURKE: He is whispering to me that  
6 it does, but again, we could have the applicant  
7 sworn in --

8 COMMISSIONER GRANA: Okay. Can we  
9 swear him in?

10 MR. GALVIN: Yeah, sure.

11 Come on up.

12 Raise your right hand.

13 Do you swear or affirm that what you  
14 are about to say is the truth?

15 MR. KHADEM: I do.

16 J O H N K H A D E M, having been duly sworn,  
17 testified as follows:

18 MR. GALVIN: State your full name for  
19 the record and spell your last name.

20 THE WITNESS: John Khadem, K-h-a-d-e-m.

21 MR. GALVIN: All right.

22 Go ahead. Answer the question.

23 THE WITNESS: Thank you all for staying  
24 here so late.

25 Commissioner, there is a window

1        underneath that under every level. So as you go  
2        down, there is a kitchen window beneath that, and  
3        another kitchen window beneath that, and that is  
4        actually a vent that's coming up, that little black  
5        line that you see.

6                    COMMISSIONER GRANA: There's a vent.  
7        So existing underneath here, they're actually  
8        windows?

9                    THE WITNESS: Large windows.

10                   COMMISSIONER GRANA: Looking south?

11                   THE WITNESS: That's correct.

12                   Actually there is a layer -- there's a  
13        line of windows there, and then when you go further  
14        down the addition, the octagonal part of it is all  
15        windows on all levels.

16                   COMMISSIONER GRANA: All the way down?

17                   THE WITNESS: Correct.

18                   COMMISSIONER FISHER: Except the fourth  
19        floor won't have them.

20                   THE WITNESS: Pardon me?

21                   COMMISSIONER FISHER: Except the fourth  
22        floor won't have them because it's a closet.

23                   THE WITNESS: Just to be -- I am  
24        getting confused myself. The new proposed addition  
25        will not. It will only have, as the architect

1 testified.

2 COMMISSIONER FISHER: Right.

3 MR. VASIL: For two reasons: Number  
4 one, they wouldn't be allowed under the current  
5 building regulations because they would have to be  
6 fire rated, and also it's in a closet, so --

7 COMMISSIONER MC ANUFF: You can see  
8 what you're asking, you can see on A-200.

9 COMMISSIONER FISHER: A-201, too.

10 COMMISSIONER MC ANUFF: Those are the  
11 windows you're talking about.

12 COMMISSIONER GRANA: Yeah. I just  
13 wanted to know what is down in here.

14 COMMISSIONER BRANCIFORTE: Yeah, Z-4 --

15 COMMISSIONER FISHER: If you look at  
16 A-201 --

17 MR. GALVIN: All right. Time out, time  
18 out, time out, time out.

19 We are talking like normal. You got to  
20 remember you are on the record.

21 COMMISSIONER GRANA: My line of  
22 questioning is done, so --

23 MR. GALVIN: Thank you.

24 Other people, other Board members?

25 COMMISSIONER MURPHY: Yes.

1                   There seems to be a fire escape that  
2 will be in that area, and is there a fire escape  
3 presently?

4                   MR. VASIL: There is.

5                   COMMISSIONER MURPHY: Okay. And how  
6 far out does that stick from the wall because --

7                   MR. VASIL: Four feet from the back  
8 wall in this building. Currently the fire escape,  
9 you can see the ladder going up to the roof. The  
10 fire escape basket is directly underneath that. You  
11 can just barely make it out in photo two on Sheet  
12 Z-004. You can just make out the rail.

13                  MR. GALVIN: Mr. Grana?

14                  COMMISSIONER GRANA: If I could add to  
15 Commissioner Murphy's question, is the fire escape  
16 currently on the addition part or is it on the  
17 principal structure?

18                  MR. VASIL: It's on the principal  
19 structure serving this window, and we would have to  
20 extend it over to meet that, to get it to the new  
21 bedroom.

22                  COMMISSIONER GRANA: And it would still  
23 be on the existing structure?

24                  MR. VASIL: Yeah. From the side view,  
25 it would be extending out from the existing

1 structure to the first window, so you could get out  
2 that first window.

3 COMMISSIONER GRANA: Okay. It is still  
4 attached to the principal structure, and it extends  
5 out to meet the first window of the proposed  
6 addition?

7 MR. VASIL: Correct.

8 COMMISSIONER COHEN: This is a question  
9 I guess for the planner.

10 Maybe I am just confused a little about  
11 this application, but you have the opinion that  
12 there is not a substantial impact on light and air  
13 on the neighboring properties.

14 MS. HARTMANN: Yes.

15 COMMISSIONER COHEN: I am just  
16 wondering if you can just show me on one of the  
17 exhibits why you believe that is the case, because I  
18 mean, I get the sense that they are building up and  
19 extending --

20 MS. HARTMANN: Right. It is a 20 foot  
21 wide addition next to a building to the north that  
22 is maybe 12 feet up. But what I am saying more than  
23 anything is that Hudson Street is a north-south  
24 road, and all of these properties face east-west.

25 So that when the sun rises and goes

1 over these buildings and then sets, there is little  
2 or no shadow that is going to occur in the  
3 backyards, so that was my point as far as light and  
4 air is concerned, and this is already an existing  
5 structure that is going up ten more feet, so you are  
6 looking at basically a 425 square foot area of  
7 addition to a property that would have little or no  
8 impact. That was my --

9 COMMISSIONER COHEN: Okay. Thanks.

10 COMMISSIONER GRANA: Mr. Burke, can I  
11 see the exhibits again?

12 MR. BURKE: Any more questions?

13 CHAIRMAN AIBEL: Anybody else, Board  
14 members, or professionals?

15 Okay. Let me open it up to the public.  
16 Questions for the planner. We are still on  
17 questions for the planner.

18 MS. BRAVO: Oh, okay.

19 COMMISSIONER COHEN: Motion to close  
20 the public portion for this witness.

21 COMMISSIONER BRANCIFORTE: Second.

22 CHAIRMAN AIBEL: All in favor?

23 (All Board members answered in the  
24 affirmative.)

25 COMMISSIONER GRANA: Mr. Chair, would

1 it be possible, I ask one question of the architect?

2 CHAIRMAN AIBEL: Sure.

3 COMMISSIONER GRANA: Mr. Vasil, the  
4 material that's in the existing extension, that  
5 looks like stucco to me.

6 MR. VASIL: It's brick with cement  
7 stucco over it.

8 COMMISSIONER GRANA: What would be the  
9 proposed material used for the addition?

10 MR. VASIL: Viroc. It's a cement fiber  
11 board, fiber panel.

12 COMMISSIONER GRANA: So is it the  
13 purpose to match the coloration of the --

14 MR. VASIL: It's actually the opposite,  
15 to show the addition as a separate piece.

16 COMMISSIONER GRANA: As a separate  
17 piece.

18 Okay. Thank you.

19 I am done. Thank you.

20 CHAIRMAN AIBEL: Okay.

21 We'll open it up to the public.

22 MR. GALVIN: For comments, right?

23 We're all set.

24 CHAIRMAN AIBEL: Mr. Burke, are you  
25 finished with your witnesses?

1 MR. BURKE: Yes, I am.

2 MR. GALVIN: Okay.

3 CHAIRMAN AIBEL: So we're going to open  
4 it up to the public for comments.

5 MR. GALVIN: Anybody from the public  
6 that wants to be heard?

7 There you go. Thanks for your  
8 patience.

9 Raise your right hand.

10 Do you swear or affirm that what you're  
11 about to say is the truth?

12 MS. BRAVO: Yes.

13 MR. GALVIN: State your full name for  
14 the record and spell your last name.

15 MS. BRAVO: Barbara Bravo, B-r-a-v-o.

16 MR. GALVIN: And your street address?

17 MS. BRAVO: 708 Hudson Street.

18 MR. GALVIN: You may proceed.

19 MS. BRAVO: I do want to just -- I am  
20 really shocked by when you say there is little or no  
21 impact, because there is a lot of impact being in my  
22 backyard.

23 Light and air, with this nonconforming  
24 building that John has, you know, his extension by  
25 adding that on, you know, another story, and then

1 I'm butted up against All Saints, and I have another  
2 two-story addition at 705. No air really moves back  
3 there.

4 So when my neighbors at 704 want to  
5 have a bonfire in their pit, all of the smoke just  
6 comes and stays right in my yard. And if my windows  
7 are open, my entire house smells like smoke, and my  
8 kid who is asthmatic is on the inhaler and has to  
9 sit in the front until I can air the house out and  
10 call the fire department and the police.

11 By the size of this extension already,  
12 I think, you know, this nonconforming extension,  
13 puts me also at a greater risk for fire because it  
14 is right up against my house.

15 There is no privacy in my backyard with  
16 this addition that he already has. These windows  
17 are exactly on the property line. These windows are  
18 about four feet from the property line.

19 MR. GALVIN: What's this?

20 No. We can't do it that way.

21 Mr. Burke, where are you at?

22 MR. BURKE: Right here.

23 MR. GALVIN: He has to look at the  
24 photos to see if he has an objection.

25 MS. BRAVO: My roof --

1 MR. GALVIN: No, no, no. Trust me on  
2 this. We got to follow the rules.

3 MS. BRAVO: All right. I follow rules.

4 MR. GALVIN: Let him look at all of the  
5 photos.

6 MS. BRAVO: This is the backyard, so  
7 you see part of the end of John's house, and I have  
8 All Saints, and I have another addition, so I'm  
9 really boxed in.

10 This shows our roof lines. Mine is  
11 actually a little lower.

12 MR. BURKE: No. It has to be stated on  
13 the record.

14 MS. BRAVO: Okay. And these are just  
15 pictures from the roof.

16 MR. BURKE: You made a statement about  
17 the windows being on the --

18 MS. BRAVO: Oh, yeah, oh, yeah.

19 This row of windows is on the property  
20 line.

21 MR. GALVIN: Wait a minute. Wait a  
22 minute.

23 Mr. Burke --

24 MR. BURKE: Yes.

25 MR. GALVIN: -- the first thing I want

1 to do is see if you have any objections to these  
2 photos.

3 MR. BURKE: No.

4 You took these?

5 MS. BRAVO: Yes.

6 MR. GALVIN: So when did you take the  
7 photos?

8 MS. BRAVO: My backyard.

9 MR. GALVIN: No. That was where.

10 When?

11 MS. BRAVO: Oh --

12 MR. GALVIN: I see a lot of green, so  
13 it was probably --

14 MS. BRAVO: Last week, Tuesday,

15 MR. GALVIN: Oh, okay. Might have  
16 been.

17 MS. BRAVO: Still leaves on the trees.

18 MR. GALVIN: Okay. So let's mark the  
19 photos you want to put into evidence, let's mark  
20 them as N exhibits.

21 Jim, do you want to help me with that?

22 MR. BURKE: Sure.

23 MS. BRAVO: These are from my roof  
24 looking at --

25 MR. GALVIN: Are you going to submit

1 those to the Board?

2 MS. BRAVO: Sure, you can have them.

3 MR. GALVIN: No, if you want to, you  
4 know --

5 MR. BURKE: So this will be N-1.

6 MS. CARCONE: They're all going to be  
7 N-1, right?

8 MR. GALVIN: No. They're going to be  
9 N-1, N-2, N-3,

10 MS. CARCONE: Oh, you're going to do it  
11 individually. Okay.

12 MR. BURKE: N-1, N-2.

13 MR. GALVIN: Are you trying to make the  
14 bus?

15 MS. CARCONE: The train.

16 (Laughter)

17 MR. BURKE: N-3.

18 MR. GALVIN: And that last thing, do  
19 you need that to go in also? That could be just one  
20 exhibit so that would be N-4.

21 (Exhibits marked N-1, N-2, N-3, N-4)

22 MR. GALVIN: All right.

23 Is there anything you want to tell us  
24 about those photos you haven't already told us?

25 MS. BRAVO: Yeah.

1                   This is my top floor rental, and they  
2 work from home and, you know, a recently married  
3 couple. I don't know how well they are going to  
4 like having all of this construction and loss of  
5 privacy, skylight, light, wind going on.

6                   I could actually lose a tenant, and  
7 then who is going to want to come rent an apartment  
8 when you have a year of construction going on  
9 outside of your bedroom window?

10                  MR. GALVIN: I have nothing for you  
11 there.

12                  COMMISSIONER BRANCIFORTE: Can you pass  
13 those pictures around?

14                  MS. BRAVO: Oh, sure.

15                  MR. GALVIN: There are certain things  
16 that the Board should consider, and the fact that  
17 there would be construction is probably not the best  
18 argument.

19                  The other arguments that you're making  
20 about blocking light and air and smoke, those are  
21 arguments that the Board can consider.

22                  MS. BRAVO: Well, I'm telling you. You  
23 know, the smoke is --

24                  MR. GALVIN: I mean, just everywhere in  
25 town, any construction --

1 MS. BRAVO: -- huge because this goes  
2 on every, you know, every night in the summer.

3 MR. GALVIN: Whatever, let's not --

4 COMMISSIONER COHEN: Can I ask a  
5 question?

6 MR. GALVIN: Well, I just want to make  
7 sure -- are you finished with what you wanted to  
8 tell us?

9 MS. BRAVO: And also Dr. Khadem lives  
10 there with his children, not with his wife and  
11 children. He just lives with his children.

12 MR. GALVIN: That is not a matter that  
13 the Board would consider.

14 MS. BRAVO: All right.

15 MR. GALVIN: It's a non zoning  
16 question.

17 MS. BRAVO: It's just that you were  
18 swearing him in, and you wanted the truth, and the  
19 architect said he lived there with his wife and  
20 children.

21 MR. GALVIN: But the architect doesn't  
22 live there with his wife and children.

23 (Laughter)

24 MS. BRAVO: That's probably why they  
25 need to build an addition.

1                   So I guess I am finished, but I am just  
2 really not happy with --

3                   MR. GALVIN: All right. You are under  
4 oath, and one of our Board members has a question.

5                   COMMISSIONER COHEN: Yeah.

6                   Ms. Bravo, I just wanted to -- I  
7 understand the current conditions that exist in your  
8 backyard with the smoke and your asthmatic son and  
9 the issues that you are dealing with exist now.

10                  Why do you think that if there is a --  
11 if the floor got built higher, that it would  
12 change -- let me just finish the question -- why it  
13 would change the current condition that already  
14 exists?

15                  And it sounds like the problem is there  
16 already, why do you think this would exacerbate  
17 that?

18                  MS. BRAVO: Well, you are raising the  
19 roof so to speak. And if you look at the height of  
20 All Saints School, and then you are raising the  
21 roof, it is really trapping it in between my  
22 building, fourth story, All Saints, John now, you  
23 know, from three stories to over a four-story  
24 because he is going up even higher.

25                  COMMISSIONER COHEN: Okay. Thanks.

1                   CHAIRMAN AIBEL: Thank you very much.

2                   MS. BRAVO: Thank you.

3                   CHAIRMAN AIBEL: Anybody else wish to  
4 comment?

5                   COMMISSIONER BRANCIFORTE: Motion to  
6 close public portion.

7                   CHAIRMAN AIBEL: Second?

8                   COMMISSIONER COHEN: Second.

9                   CHAIRMAN AIBEL: All in favor?

10                  (All Board members answered in the  
11 affirmative.)

12                  MR. BURKE: The Board has a balancing  
13 act. Dr. Khadem, you know, it's a fairly modest  
14 proposal. It's 400 feet in total square footage  
15 approximately.

16                  Many of the things the neighbor is  
17 concerned about are preexisting. The Board has to  
18 determine whether this additional 400 feet will  
19 exacerbate a condition, such as smoke from a  
20 fireplace or whatever, what other concerns might be  
21 there for her. But, again, it is a balancing act.

22                  There are three young children living  
23 in the space. This provides a couple of extra  
24 bedrooms, and that is simply it.

25                  To the north, you heard testimony that

1 the building extends further out. It is a blank  
2 wall. This is basically a fill-in, so it's fairly  
3 simple.

4 Thank you.

5 CHAIRMAN AIBEL: Thank you.

6 Board members, anybody want to start?

7 COMMISSIONER MC ANUFF: I am not  
8 voting --

9 CHAIRMAN AIBEL: We always value your  
10 opinion.

11 COMMISSIONER MC ANUFF: -- so I don't  
12 want to take up any more time.

13 CHAIRMAN AIBEL: Anybody want to start?

14 COMMISSIONER BRANCIFORTE: Well, I  
15 guess because my biggest worry was light was  
16 shining, you know, the sun being in the south, and  
17 this shining -- putting a -- casting a shadow to the  
18 north, I guess that has been sort of taken off the  
19 table since we have a blank wall to the north.

20 That was my big concern, which was  
21 light and the shadow cast, but I'm convinced that  
22 it's not really going to make that much of a  
23 difference to the building to the north anyway.

24 I don't really have any other comments  
25 to make.

1                   COMMISSIONER MARSH: This is already --  
2           I mean, this is on top of -- it's already at 73  
3           percent lot coverage. This is already on top of  
4           what would already be a variance, and I don't think  
5           that the argument that it is already crowded, that  
6           is like saying it's an "F" intersection, let's just  
7           make it an "F" plus.

8                   I mean, I think it closes somebody in.

9                   CHAIRMAN AIBEL: Anybody else wish to  
10          comment?

11                  MR. GALVIN: Or make a motion?

12                  CHAIRMAN AIBEL: I think it deserves a  
13          little more comment, and I will just say I'm  
14          struggling because the fourth floor additions do  
15          tend to increase mass and they interfere with light  
16          and air, and here I think Carol makes a very good  
17          point that we are building on already a fairly  
18          built-out lot.

19                  On the other hand, in the  
20          circumstances, I am not sure I find that there is a  
21          substantial detriment, so I am very much  
22          vacillating.

23                  (Laughter)

24                  (Everyone talking at once.)

25                  MR. GALVIN: We're taking that show on

1 the road.

2 CHAIRMAN AIBEL: Yeah, really.

3 COMMISSIONER MURPHY: I have to agree.

4 I mean, if it were -- it is on the  
5 north -- right -- it is -- the location of it has me  
6 more in favor of it, but normally I would feel like  
7 a fourth floor addition, it's the same way, because  
8 they just block in too much, but, yeah, I am  
9 vacillating as well.

10 CHAIRMAN AIBEL: Anybody else want to  
11 weigh in decisively?

12 COMMISSIONER GRANA: Decisively?

13 I share everybody's concern, and the  
14 concern of the neighbor.

15 I looked at the aerial. The conditions  
16 are, I am sure, fairly crowded, but I think that --  
17 well, I'll use the word "vacillate," too, but most  
18 of those conditions already exist because the  
19 properties directly to the west are creating that  
20 condition. The larger building to the south, which  
21 is about three lots down, creates that condition,  
22 and this structure creates that condition.

23 What I guess I am not clear on is  
24 whether or not the addition -- well, no, I am  
25 clear -- the fourth floor addition, I think those

1 conditions are real. I don't think the fourth floor  
2 addition significantly changes those conditions or  
3 negatively impacts those conditions. There will be  
4 an impact. There always is, but I am not sure that  
5 it negatively impacts that.

6 I think if you are on the third floor  
7 of the building to the south, you're very used to  
8 this.

9 If you are on the fourth floor, you are  
10 going to experience something new. That will be a  
11 change. But I think it's a modest addition that is  
12 tucked into the top of this building and the south  
13 wall of the building to the north.

14 I went back and forth, too, but I think  
15 I would make a motion in favor.

16 COMMISSIONER MARSH: It always  
17 interests me when somebody persuades me of the  
18 opposite of what they were saying.

19 If you are on the third floor of the  
20 building next door, and you have one avenue of  
21 seeing out, which is what we are considering  
22 blocking, right?

23 COMMISSIONER DE GRIM: But it is  
24 already blocked by the fourth floor.

25 COMMISSIONER GRANA: It's already

1 blocked on the third floor. The views to the third  
2 floor are already blocked.

3 COMMISSIONER DE GRIM: Yeah.

4 COMMISSIONER MARSH: This is an  
5 existing structure?

6 COMMISSIONER FISHER: Yeah.

7 COMMISSIONER DE GRIM: This is already  
8 four stories.

9 COMMISSIONER MARSH: What about here?

10 COMMISSIONER FISHER: But the sun comes  
11 from the south, so --

12 MR. GALVIN: Whoa, whoa, whoa. You  
13 can't be a chorus. One at a time.

14 COMMISSIONER MARSH: Okay. On -- let's  
15 see --

16 COMMISSIONER GRANA: A-4, Carol, if I  
17 may, A-4 is a pretty good descriptor, if you want to  
18 see it.

19 COMMISSIONER MARSH: No, it is not.

20 COMMISSIONER GRANA: Okay.

21 (Laughter)

22 COMMISSIONER DE GRIM: If you look at  
23 the survey --

24 COMMISSIONER BRANCIFORTE: If you look  
25 at this, maybe this will help you.

1                   May I jump in?

2                   The only thing that I would suggest  
3                   that would help me with this is if we look at A-201.

4                   On the extension there, Jensen, on the  
5                   bottom drawing, you have a double window there.

6                   MR. VASIL:    Yes.

7                   COMMISSIONER BRANCIFORTE:  Is there any  
8                   way you could just turn that into a single window,  
9                   and maybe that would help with privacy issues for  
10                  next door?

11                  MR. VASIL:    Sure.

12                  COMMISSIONER MURPHY:  What are you  
13                  talking about?

14                  COMMISSIONER BRANCIFORTE:  On the  
15                  fourth floor extension --

16                  COMMISSIONER GRANA:  On the fourth  
17                  floor, it's a double.

18                  COMMISSIONER BRANCIFORTE:  -- you have  
19                  a double window.  I am thinking maybe if you take  
20                  the window that's further out, that might help --

21                  MR. BURKE:  The applicant would agree.

22                  COMMISSIONER BRANCIFORTE:  -- with the  
23                  angle of seeing into your neighbor's kitchen, or  
24                  whatever it is.

25                  So you will remove that, right?

1 MR. BURKE: Yes, we are.

2 MR. GALVIN: What are we doing?

3 MR. BURKE: We're agreeing. Well, I'll  
4 let Jensen explain it.

5 MR. GALVIN: The plan is to be revised  
6 to?

7 COMMISSIONER MC ANUFF: Single window  
8 on the fourth floor.

9 MR. VASIL: Show a single window --

10 COMMISSIONER DE GRIM: Matching the  
11 three floors below it?

12 MR. VASIL: Correct.

13 COMMISSIONER MC ANUFF: Rather than a  
14 double window.

15 COMMISSIONER GRANA: The window that's  
16 adjacent to the fire escape.

17 MR. GALVIN: Okay.

18 COMMISSIONER FISHER: I mean, I'll --  
19 I'll add: I agree with Commissioner Grana. Hearing  
20 everything, it sounds like there is a circulation  
21 issue at the ground level that isn't necessarily  
22 going to be made worse by going up a floor, and so  
23 then it becomes light and air just at the top floor.

24 When you look at all of the pictures,  
25 and I agree with the planner when she was saying,

1       although I don't think she did it as clearly as we  
2       were looking for, but when the sun goes from east to  
3       west, it is tilted south, so there is a lot of  
4       light. That building is not being impacted with  
5       shadows, because generally it is south of this  
6       building, but it is going to have a little bit of an  
7       impact now on the fourth floor looking out, where  
8       they could look north, they are going to be blocked  
9       by a building 12 feet away, or however many feet  
10      away, 20 feet away I guess, now they're going to be  
11      blocked, so that to me is kind of an incremental  
12      impact there. And then I am certainly not an  
13      expert, but I am not sure the air circulation of  
14      smoke on a ground floor is negatively impacted by  
15      adding an extension of this building.

16                   COMMISSIONER MURPHY: Which building  
17      did she say had the two floor extension? The one  
18      right next to it, 706?

19                   COMMISSIONER BRANCIFORTE: 706.

20                   CHAIRMAN AIBEL: Well, I think we are  
21      about ready, but I will throw this into the hopper.

22                   I guess I went over the testimony about  
23      how the top floor was going to be clad, and I guess  
24      I certainly respect the architectural --  
25      architects's ability and right to make something

1       that is a nice design and something that looks  
2       separate and apart from the original building.

3                       On the other hand, it is also  
4       presumably going to be very visible to everybody  
5       else in the backyard, so I guess the concern that I  
6       would raise is whether it is going to look  
7       visually --

8                       COMMISSIONER FISHER:   Pleasing.

9                       CHAIRMAN AIBEL:   -- acceptable, and we  
10      are not going to build a space ship on top of an  
11      older building.

12                      MR. VASIL:   No.   The panel system is  
13      very similar to an aluminum panel system, so it will  
14      be much lighter in tone.   It will actually brighten  
15      it up.

16                      CHAIRMAN AIBEL:   Thank you.

17                      COMMISSIONER MC ANUFF:   I think in  
18      looking at the Viroc panel system, I think you are  
19      getting something better than what is going to be  
20      below it, if approved.   That stucco -- the Viroc is  
21      better than the stucco that exists now.

22                      COMMISSIONER DE GRIM:   Yeah, that's  
23      what I want --

24                      CHAIRMAN AIBEL:   Okay.   Owen is our  
25      expert on that, so he'll comfort it.

1                   Okay. Thanks.

2                   Anybody?

3                   I think we are ready for a motion.

4                   COMMISSIONER GRANA: Conditions.

5                   CHAIRMAN AIBEL: Conditions would be  
6                   good.

7                   MR. GALVIN: I have three.

8                   1: The applicant agreed to revise the  
9                   plan to correct the zoning table.

10                  2: The applicant is to submit a ground  
11                  cover plan to the Board's Planner for her review and  
12                  approval. It's going to be a very simple plan.

13                  3: The plan is to be revised to show a  
14                  single window on the fourth floor, which will match  
15                  the three floors below it.

16                  CHAIRMAN AIBEL: Okay. I guess we're  
17                  ready for a motion.

18                  COMMISSIONER GRANA: Motion to approve  
19                  with said conditions.

20                  MR. GALVIN: And remember, it is only a  
21                  C variance. It requires a four-three vote.

22                  Is there a second?

23                  COMMISSIONER FISHER: Second.

24                  MS. CARCONE: Commissioner Cohen?

25                  COMMISSIONER COHEN: No.

1 MS. CARCONE: Commissioner Grana?  
2 COMMISSIONER GRANA: Yes.  
3 MS. CARCONE: Commissioner Marsh?  
4 COMMISSIONER MARSH: No.  
5 MS. CARCONE: Commissioner Murphy?  
6 COMMISSIONER MURPHY: No.  
7 MS. CARCONE: Commissioner Branciforte?  
8 COMMISSIONER BRANCIFORTE: No.  
9 MS. CARCONE: Commissioner Fisher?  
10 COMMISSIONER FISHER: Yes.  
11 MS. CARCONE: And Commissioner Aibel?  
12 CHAIRMAN AIBEL: Yes.  
13 MR. GALVIN: So the matter is denied,  
14 four to three.  
15 Thank you.  
16 (The matter concluded.)  
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C E R T I F I C A T E

I, PHYLLIS T. LEWIS, a Certified Court Reporter, Certified Realtime Court Reporter, and Notary Public of the State of New Jersey, do hereby certify that the foregoing is a true and accurate transcript of the proceedings as taken stenographically by and before me at the time, place and date hereinbefore set forth.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel to any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.

s/Phyllis T. Lewis, CCR, CRCR

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PHYLLIS T. LEWIS, C.C.R. XI01333 C.R.C.R. 30XR15300  
 Notary Public of the State of New Jersey  
 My commission expires 11/5/2020.  
 Dated: 12/3/15  
 This transcript was prepared in accordance with  
 NJAC 13:43-5.9.

HOBOKEN ZONING BOARD OF ADJUSTMENT  
CITY OF HOBOKEN

----- X  
SPECIAL MEETING OF THE ZONING : SPECIAL MEETING  
BOARD OF ADJUSTMENT :November 30, 2015  
----- X Monday, 10:35 pm

Held At: 94 Washington Street  
Hoboken, New Jersey

B E F O R E:

- Chairman James Aibel
- Commissioner Philip Cohen
- Commissioner Antonio Grana
- Commissioner Carol Marsh
- Commissioner Diane Fitzmyer Murphy
- Commissioner John Branciforte
- Commissioner Tiffanie Fisher
- Commissioner Owen McAnuff
- Commissioner Frank DeGrim

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

- Kristin Russell, Planning Consultant
- Paul Winters, PE, PP  
Acting Board Engineer
- Patricia Carcone, Board Secretary

PHYLLIS T. LEWIS  
CERTIFIED COURT REPORTER  
CERTIFIED REALTIME COURT REPORTER  
Phone: (732) 735-4522

1           A P P E A R A N C E S:

2                   DENNIS M. GALVIN, ESQUIRE  
3                   730 Brewers Bridge Road  
4                   Jackson, New Jersey 08527  
5                   (732) 364-3011  
6                   Attorney for the Board.

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1                   CHAIRMAN AIBEL: Okay. I guess we have  
2 a motion to close.

3                   MR. GALVIN: No. Wait a minute. A  
4 couple of things.

5                   (Board members confer)

6                   MR. GALVIN: Can I talk? Are you  
7 ready, guys?

8                   COMMISSIONER FISHER: Yes.

9                   MR. GALVIN: All right.  
10                   901 Bloomfield, the church that is  
11 going to be the condos. I sent everybody the  
12 conditions. In the end I am waiting to hear from  
13 Allen Kratz. We have given him a copy of these  
14 also. We held it off tonight because I thought we  
15 were too busy.

16                   Mr. Matule had a problem with about  
17 half of these conditions. Like, I got letter after  
18 the fact.

19                   We had something similar like this at  
20 the Planning Board, and we went to court, and then  
21 we lost some conditions in court.

22                   It was a completely different kind of a  
23 matter --

24                   COMMISSIONER FISHER: 213?

25                   MR. GALVIN: -- yes -- and that

1 involved something that was completely conforming,  
2 and we asked for a lot of conditions beyond what we  
3 could have.

4 I believe that the conditions we have  
5 here are mostly defensible, and I am not saying if  
6 they are or they aren't, but I believe that they  
7 are.

8 So I think you should listen with an  
9 open mind when Mr. Matule makes his arguments as to  
10 the conditions, and we will discuss it at that time,  
11 okay? But I sent you all copies of these special  
12 conditions.

13 CHAIRMAN AIBEL: Can we see the letter  
14 from Matule?

15 MR. GALVIN: Yes. I thought I gave it  
16 to everybody.

17 COMMISSIONER MURPHY: Did that come  
18 late?

19 COMMISSIONER FISHER: I don't know.

20 COMMISSIONER DE GRIM: Did you send it  
21 by email?

22 MR. GALVIN: No. I'll go back  
23 tomorrow. I'll send you Mr. Matule's letter. I'll  
24 send you the conditions as they currently are  
25 drafted, and I'll send you a copy of the resolution.

1           If you think there is something that I  
2 overlooked, please try to get to me sooner rather  
3 than later.

4           The other thing that is going on,  
5 again, rather than going into executive session, I  
6 am going to do it in public.

7           There is a lawsuit pending, where the  
8 city is pursuing one or two -- we had four cases  
9 that went, that when we decided them, we were unsure  
10 if we had to apply the affordable housing ordinance.

11           I said, let's condition this that if  
12 they have to comply with the affordable housing  
13 ordinance, they do.

14           They went to court. The first judge  
15 said no. The Appellate Division said yes, so now  
16 they have to comply with the affordable housing  
17 ordinance.

18           In the meantime, one or two of these  
19 projects moved along and started to get built. On  
20 one or two of the projects, they didn't do  
21 everything they had told the Board, just like we  
22 have been talking about, where there were  
23 conditions. They promised us in the one case,  
24 live-work units. They promised us that they were  
25 going to do like -- there was going to be an art

1 space for displays, and then there was going to be a  
2 display box, so the city is now pursuing them as  
3 part of the lawsuit.

4 The reason why I am bringing it up for  
5 you is I am not so sure how much I should be  
6 involved with it. I mean, I am involved with the  
7 case as it relates to the affordable housing,  
8 because it is a condition of our approval, and they  
9 sued us to begin with. But I am waiting for Mr.  
10 Cucchiaro to tell me what he thinks the city feels  
11 that I should do.

12 If I'm on board, of course, I am going  
13 to agree with the enforcement of the conditions, but  
14 the city is already doing that, and I am not so sure  
15 that I should be --

16 CHAIRMAN AIBEL: Is the Zoning Board in  
17 the suit?

18 MR. GALVIN: We are in the first part  
19 of the suit. This is like a new addition on to the  
20 existing suite. I think if it was -- the city just  
21 went out and sued them to enforce the conditions, I  
22 don't think the Board would be involved.

23 COMMISSIONER FISHER: When you say "the  
24 city," what does that mean, like who --

25 MR. GALVIN: The zoning officer --

1                   COMMISSIONER FISHER: The zoning  
2 officer, okay.

3                   MR. GALVIN: -- and Mr. Cucchiaro is  
4 special counsel for the city, and they're  
5 pursuing -- they filed an order to show cause to get  
6 them to comply with original approval.

7                   COMMISSIONER MARSH: The city is only  
8 trying to get them to comply with the affordable  
9 housing?

10                  MR. GALVIN: No. That was the pending  
11 lawsuit, and now we are still not done because there  
12 is an appeal to the Supreme Court, and it is so  
13 complicated, guys. It's so much more to it, but I  
14 wanted you to be aware that there is a --

15                  COMMISSIONER MARSH: I'm sorry.

16                  MR. GALVIN: -- no, no, but there's  
17 this tangential -- and we are not in executive  
18 session, so everything that I am saying is public.

19                  Where I'm in a tangential role, while I  
20 am not sure what I got to do in the next week or  
21 two, so I just wanted you to be alerted to the fact  
22 that I am trying to figure it out, but I think the  
23 city is doing everything proper to enforce what the  
24 Board originally found.

25                  I am not sure what my role should be

1       yet, whether I should be answering and included,  
2       but, you know, I don't want to be doing legal work  
3       that I shouldn't be doing is what I really --

4                   COMMISSIONER GRANA:  So my questions  
5       kind of piggyback on Jim's.

6                   So there are two suits.  The first is  
7       related to the supplying the affordable housing --

8                   MR. GALVIN:  Against four developers,  
9       correct.

10                  COMMISSIONER GRANA:  -- right, and the  
11       Zoning Board is named in that suit.

12                  There is an a second suit, that has --  
13       where the city is the plaintiff, and that is to --

14                  MR. GALVIN:  Which they just filed.

15                  COMMISSIONER GRANA:  -- okay -- which  
16       they just filed to satisfy the conditions of the  
17       approval --

18                  MR. GALVIN:  And the spirit of the  
19       approvals.

20                  COMMISSIONER GRANA:  The spirit of the  
21       approvals.  Thank you.

22                  MR. GALVIN:  Which we totally want them  
23       to do, but it is normally not the Zoning Board's  
24       attorney's responsibility.

25                  COMMISSIONER MARSH:  But it is the

1 municipality who initiated the lawsuit?

2 MR. GALVIN: Correct, which is great  
3 that they're doing that because --

4 COMMISSIONER MARSH: Right, because we  
5 are not involved because --

6 MR. GALVIN: We are involved. I'm  
7 getting copies of everything because they are  
8 treating it like part of the other lawsuit.

9 COMMISSIONER MARSH: But we're not  
10 party to the -- is the Zoning Board a party in the  
11 suit?

12 MR. GALVIN: Not at the moment. That's  
13 what I'm trying to decide, where do I fit in, do I  
14 fit in.

15 COMMISSIONER MARSH: The municipality  
16 took the developer to court, and right now you are  
17 standing on the side lines watching.

18 MR. GALVIN: Right. I'm waiting to see  
19 what the city wants me to do, but my position is I  
20 am not sure I should be doing anything, okay?

21 COMMISSIONER MARSH: Okay.

22 MR. GALVIN: And I will come back to  
23 you, and we can talk about it in two weeks.

24 COMMISSIONER GRANA: How are you going  
25 to proceed with the 901 Bloomfield discussion, how

1 is that going to go?

2 Mr. Matule is going to come in --

3 MR. GALVIN: I am going to have the  
4 resolution of approval, and I would imagine that Mr.  
5 Matule wants to get up and argue why some of these  
6 conditions shouldn't be included, and you guys will  
7 decide it on a case-by-case basis or not.

8 COMMISSIONER GRANA: So we can motion  
9 to change it or not?

10 MR. GALVIN: Right.

11 COMMISSIONER BRANCIFORTE: Public  
12 record then you have in your hand for 901?

13 MR. GALVIN: Yeah. I wanted 11. I only  
14 got one.

15 CHAIRMAN AIBEL: John should definitely  
16 have the one then.

17 MR. GALVIN: And we've sent it to  
18 Allen, so he can take a look at it, and Mr. Matule  
19 objected that I sent it to Allen.

20 COMMISSIONER GRANA: Motion to close.

21 COMMISSIONER MURPHY: Second.

22 CHAIRMAN AIBEL: All in favor?

23 (All Board members answered in the  
24 affirmative)

25 CHAIRMAN AIBEL: Thanks, everybody.

(The meeting concluded at 10:55 p.m.)

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C E R T I F I C A T E

I, PHYLLIS T. LEWIS, a Certified Court Reporter, Certified Realtime Court Reporter, and Notary Public of the State of New Jersey, do hereby certify that the foregoing is a true and accurate transcript of the proceedings as taken stenographically by and before me at the time, place and date hereinbefore set forth.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel to any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.

s/Phyllis T. Lewis, CCR, CRCR

- - - - -

PHYLLIS T. LEWIS, C.C.R. XI01333 C.R.C.R. 30XR15300  
Notary Public of the State of New Jersey  
My commission expires 11/5/2020.  
Dated: 12/3/15  
This transcript was prepared in accordance with  
NJAC 13:43-5.9.

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