

HOBOKEN ZONING BOARD OF ADJUSTMENT
CITY OF HOBOKEN

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REGULAR MEETING OF THE HOBOKEN : December 15, 2015
ZONING BOARD OF ADJUSTMENT : 7 pm
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Held At: 94 Washington Street
Hoboken, New Jersey

B E F O R E:

- Chairman James Aibel
- Vice Chair Elliot H. Greene
- Commissioner Philip Cohen
- Commissioner Carol Marsh
- Commissioner Diane Fitzmyer Murphy
- Commissioner John Branciforte
- Commissioner Owen McAnuff
- Commissioner Frank DeGrim

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

- Eileen Banyra, Planning Consultant
- Jeffrey Marsden, PE, PP
Board Engineer
- Patricia Carcone, Board Secretary

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

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

DENNIS M. GALVIN, ESQUIRE
730 Brewers Bridge Road
Jackson, New Jersey 08527
(732) 364-3011
Attorney for the Board.

ROBERT C. MATULE, ESQUIRE
89 Hudson Street
Hoboken, New Jersey 07030
(201) 659-0403
Attorney for the Applicant.

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Board Business

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HEARINGS:

100-108 Paterson Street

9

302 Garden Street

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1 CHAIRMAN AIBEL: Good evening,
2 everybody.

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

11 Please join me in saluting the flag.

12 (Pledge of Allegiance recited)

13 CHAIRMAN AIBEL: Good evening,
14 everybody.

15 We are at a Regular Meeting of the
16 Zoning Board of Adjustment.

17 Why don't we get a roll call?

18 MS. CARCONE: Commisssoner Aibel?

19 COMMISSIONER AIBEL: Here.

20 MS. CARCONE: Commissioner Greene?

21 VICE CHAIR GREENE: Here.

22 MS. CARCONE: Commissioner Cohen?

23 COMMISSIONER COHEN: Here.

24 MS. CARCONE: Commissioner DeFusco, I
25 think is on his way. I got a text.

1 Commissioner Grana is absent.

2 Commissioner Marsh?

3 COMMISSIONER MARSH: Here.

4 MS. CARCONE: Commissioner Murphy?

5 COMMISSIONER MURPHY: Here.

6 MS. CARCONE: Commissioner Branciforte?

7 COMMISSIONER BRANCIFORTE: Here.

8 MS. CARCONE: Commissioner Fisher is
9 absent.

10 Commissioner McAnuff?

11 COMMISSIONER MC ANUFF: Here.

12 MS. CARCONE: Commissioner DeGrim?

13 COMMISSIONER DE GRIM: Here.

14 CHAIRMAN AIBEL: Great.

15 We have a couple of administrative
16 matters. I guess the first is that we were going to
17 review the resolution of approval for 901 Bloomfield
18 Street, but we are going to do that next Tuesday,
19 December 22nd.

20 Thank you.

21 All right. Do we need a motion or --

22 MR. GALVIN: No, nothing. I mean,
23 normally memorialized resolutions, we just
24 memorialize the resolutions. We are going to hold
25 on to it for one more week. You know, we have a

1 couple of more comments, and we will look a little
2 closer at it, but I think we have it pretty close to
3 the final version.

4 Then what we are going to do is on a
5 couple of conditions that Mr. Matule has an
6 objection to, the Board can discuss it and decide if
7 they want to make changes, and if not, then we vote.
8 It is pretty close to the conditions that I read
9 when we voted in favor of this matter.

10 The other thing I need administrative
11 assistance of, as I had mentioned to the Board
12 previously, we are involved with the -- the City has
13 filed an action in the artisan case to enforce our
14 decision. That was the live-work units, and they
15 are supposed to create artisan area.

16 As I previously explained to you, I
17 think it might be a good idea for me to ride shotgun
18 and just to be around in court, so I can express my
19 recollections of what happened at the time of the
20 hearing. In order to do that, we are not a party,
21 and I need to file a notice of appearance, so I need
22 a motion to be able to do that.

23 CHAIRMAN AIBEL: Okay. I will move to
24 approve the notice of appearance for Mr. Galvin.

25 COMMISSIONER COHEN: Second.

1 CHAIRMAN AIBEL: Do you want to do a
2 vote or all in favor?

3 MR. GALVIN: Why don't you do a roll
4 call?

5 MS. CARCONE: Okay.

6 Commissioner Greene?

7 VICE CHAIR GREENE: Yes.

8 MS. CARCONE: Commissioner Cohen?

9 COMMISSIONER COHEN: Yes.

10 MS. CARCONE: Commissioner Marsh?

11 COMMISSIONER MARSH: Yes.

12 MS. CARCONE: Commissioner Murphy?

13 COMMISSIONER MURPHY: Yes.

14 MS. CARCONE: Commissioner Branciforte?

15 COMMISSIONER BRANCIFORTE: Yes.

16 MS. CARCONE: Commissioner McAnuff?

17 COMMISSIONER MC ANUFF: Yes.

18 MS. CARCONE: Commissioner Aibel?

19 CHAIRMAN AIBEL: Yes.

20 MR. GALVIN: Thanks.

21 Now I got my authorization, and I will
22 take care of that tomorrow.

23 CHAIRMAN AIBEL: So tonight we have
24 three matters on: 100-108 Paterson, then we are
25 going to do 302 Garden Street, and finally 75-77

1 Madison Street, assuming we are good and efficient.

2 But before we get started, I am going
3 to use my Chairman's prerogative, very infrequently
4 used, to say a few words of thanks for my colleague
5 Elliot Greene, who is serving his last evening
6 tonight, so this is Elliot's last act.

7 (Laughter)

8 But while there are still people in the
9 room, and it's not 12 o'clock, I did want to say he
10 has been a great colleague, I think a very great
11 Zoning Board member. He's always has given his
12 points of view, even though it frequently was
13 contrary to mine --

14 (Laughter)

15 -- but that is what made for good
16 debates all along. And I am sorry that we can't
17 enlist him for another four years, but he actually
18 has lots of other obligations. He is on many Boards
19 and is always sitting in theater seats. I think
20 that doesn't sound like an obligation, but that is a
21 different thing.

22 So, Elliot, thanks so much. It was
23 great to have you on.

24 VICE CHAIR GREENE: Thank you.

25 (Applause)

HOBOKEN ZONING BOARD OF ADJUSTMENT
CITY OF HOBOKEN
HOZ-15-2

- - - - - X
RE: 100-108 Paterson Street :
APPLICANT: Paterson Realty, LLC :December 15, 2015
Minor Site Plan Review and :Tuesday 7:15 p.m.
Variances :
- - - - - X

Held At: 94 Washington Street
Hoboken, New Jersey

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89 Hudson Street
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I N D E X

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WITNESS

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FRANK MINERVINI

13 & 80

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7

EDWARD KOLLING

60 & 81

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E X H I B I T S

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12

EXHIBIT NO.

DESCRIPTION

PAGE

13

14

A-1

Board with 3 renderings

14

15

A-2

Sheet Z-9

14

16

A-3

Sheet Z-10

15

17

A-4

Plans

24

18

N-1

Photographs

211

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1 CHAIRMAN AIBEL: Now we will start the
2 show.

3 (Laughter)

4 Mr. Matule?

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 the property
10 at 100-108 Paterson Avenue. It is at the corner of
11 Paterson Avenue and Harrison Street. Mr. Minervini
12 will go through most of the specific details, but
13 basically we are proposing to build a five-story
14 building, four over one, with eight residential
15 units and a small retail space down at grade.

16 Basically I have two witnesses tonight,
17 Mr. Minervini, our architect, and Mr. Kolling, our
18 planner.

19 We previously submitted our proof of
20 service. This matter has been carried several
21 times, so if we can have Mr. Minervini sworn, we can
22 start the questioning.

23 (Board members conferring)

24 CHAIRMAN AIBEL: I'm sorry. Are we
25 ready to swear in the witness?

1 MR. GALVIN: Oh, okay.

2 Raise your right hand.

3 Do you swear or affirm that the
4 testimony you are about to give in this matter is
5 the truth, the whole truth, and nothing but the
6 truth?

7 MR. MINERVINI: I do.

8 F R A N K M I N E R V I N I, having been duly
9 sworn, testified as follows:

10 MR. GALVIN: State your full name for
11 the record.

12 THE WITNESS: Frank Minervini,
13 M-i-n-e-r-v-i-n-i.

14 (Discussion held off the record)

15 CHAIRMAN AIBEL: Mr. Chairman, do you
16 accept Mr. Minervini's credentials?

17 CHAIRMAN AIBEL: We do.

18 MR. GALVIN: You may proceed.

19 MR. MATULE: Mr. Minervini, are you
20 going to have any exhibits other than the plans?

21 THE WITNESS: Yes.

22 MR. MATULE: I should premark those.

23 So that's a rendering?

24 THE WITNESS: Yes. It's one board with
25 three renderings.

1 MR. MATULE: I will call that A-1.

2 (Exhibit A-1 marked)

3 THE WITNESS: And, no, I think that is
4 it. Photographs -- well, these are colored
5 photographs, and the Board probably has black and
6 whites.

7 MR. MATULE: They are the same ones
8 that are in the plans, so do you want to mark them
9 or --

10 MR. GALVIN: Yes, mark them.

11 MR. MATULE: All right. So I'll mark
12 Sheets --

13 THE WITNESS: Z-9 and Z-10.

14 MR. MATULE: -- Z-9 and Z-10 Exhibit
15 A-2.

16 (Exhibit A-2 marked.)

17 MR. GALVIN: Who took the pictures and
18 when were they taken?

19 THE WITNESS: It's a combination of my
20 office and the internet --

21 MR. GALVIN: Goggle?

22 THE WITNESS: -- Goggle is one of them,
23 yes, and they were taken within the last six months.

24 MR. MATULE: I am going to mark Sheet
25 Z-10 as A-3, just so when they come off the board

1 and go to Pat, they will have separate exhibit
2 numbers.

3 (Exhibit A-3 marked.)

4 All right. Mr. Minervini, if you could
5 for the Board members and any members of the public
6 who might be here for this application, describe the
7 existing site and the surrounding area.

8 THE WITNESS: Okay. The existing site,
9 and I will use the photographs now, so I will start
10 with Sheet Z-9, which is a 6,125 square foot area
11 site at the intersection of Harrison and Paterson
12 Avenue.

13 So this is Harrison Street running
14 north-south. This is Paterson Avenue on a diagonal.
15 It is an irregularly shaped lot of just over 6100
16 square feet.

17 In terms of the adjacent buildings, we
18 have directly to our north a one-story structure,
19 which currently has a taxi company.

20 Behind us to the south -- pardon me --
21 to the west is the Triangle Car Wash. So on this
22 triangular block, there is our site, which is a
23 one-story masonry building with an HVAC contractor
24 currently, and a parking lot in front of it attached
25 to that contractor. The taxi cab company to our

1 north, and to our west, the car wash.

2 So this is within the R-3 zone, and it
3 is right on the cusp of the R-3 zone, so across the
4 street is an industrial building.

5 Across the street to our east is a
6 six-story residential building.

7 So I am looking at specifically the
8 aerial photograph and pointing to that.

9 If you go a little further to the
10 north, this would be the northeast, we got two
11 17-story buildings, 326 residential units, the Sky
12 Club.

13 This is a photograph showing what the
14 building that is currently on the site looks like.

15 So this red dashed line denotes the
16 site itself, so it goes from that corner to here.

17 The building is this dimension with
18 parking for that building to the east.

19 To the west is the car wash that I
20 mentioned, and directly behind it, which would be
21 here, is the cab company.

22 So on that site right now are three
23 nonresidential uses.

24 We are proposing to raise the existing
25 building and construct a five-story, eight

1 residential units and one commercial building.

2 I will go through all of the plans. It
3 is probably a good time -- I got renderings, but as
4 we get into the elevations, it will make more sense.

5 So I will start with Sheet Z-2. Again,
6 this is the site, so this is Harrison Street. This
7 is Paterson Avenue, and this is the shape of the
8 site, four sided. It comes to a point on the
9 southeastern portion of the lot.

10 Sheet Z-3 has our first floor plan. So
11 we are proposing a 1000 square foot retail space at
12 that corner because it is at the intersection of
13 Harrison and Paterson, so that is a 1000 square foot
14 retail space that is two feet off of grade.

15 So what we have done in this case, and
16 I will go through all of the elevations so that it
17 makes more sense, elevations in terms of height
18 above sea level, so it makes more sense, so if we
19 raise this two feet above grade, the vehicular entry
20 is on Harrison just about in the same area that is
21 currently is the access for the parking lot that is
22 there.

23 So this garage door accesses our 12
24 parking space. The residential entry, the main
25 residential entry, is off of Paterson here, so this

1 is the residential lobby along Paterson, vehicular
2 entry, and retail space entry right on the corner,
3 12 parking spaces.

4 We are covering -- proposing to cover
5 slightly less than a hundred percent of the lot on
6 this level to access the retail space. As I
7 mentioned, it is two feet above sea level. We are
8 proposing a ramp here that will take care of our ADA
9 requirement. It also allows us to have our lobby
10 raised two feet.

11 This part of town is about four feet
12 above sea level amongst the lowest we have ever
13 worked on, and it does flood regularly, so our
14 thought was here while we are going to do the dry
15 flood proofing for the retail space and the wet
16 flood proofing elsewhere, it might make sense in
17 this case to pick it up an additional two feet.

18 Z-4 is a similar plan showing our
19 ground floor. We are calling this our landscaping
20 topography plan. In terms of landscaping we are on
21 the ground floor. We are proposing planters within
22 the city right-of-way, so we need approval from the
23 City Council for that, as well as street trees.

24 You see the street trees here, one,
25 two, three, four, five, six -- there are seven

1 street trees proposed.

2 COMMISSIONER BRANCIFORTE: Frank, can
3 you pass around the board with the pictures?

4 THE WITNESS: Yes. It is two-sided, so
5 it should be easy enough.

6 COMMISSIONER DE GRIM: Thank you.

7 THE WITNESS: The second floor plan,
8 and I will go through the lot coverage, so you can
9 see, I'm looking at the second floor plan on Sheet
10 Z-5, that although we are a hundred percent lot
11 coverage on that ground floor, it gets progressively
12 less as we go up.

13 So on the second floor, we are
14 proposing 74.7 percent. So we get to this floor, on
15 the second, it is 74.7 percent. The roof area we
16 are proposing to be used as terrace space for the
17 two units that are on this floor. One is 2200
18 square feet, and the other is 2000 square feet.

19 Floors three and four are the same,
20 same lot coverage. However, we have small
21 balconies. There is a balcony to the west that is
22 104 square feet and then a terrace balcony that
23 creates or follows the shape of that point. This is
24 mostly for architecture purposes, it's 376 square
25 feet, but an odd shape.

1 I will tell you that we are asking for
2 lot coverage variances, because of the strange shape
3 of the site. It has been very difficult to actually
4 have a building work well, so our thought was, and I
5 will get into this more, but our thought was to have
6 100 percent lot coverage on the ground floor, and
7 one of the reasons is, if you look at the
8 photographs in terms of the context, there is really
9 no hole in the donut on this block. There is really
10 nothing.

11 The building to our north, the taxi cab
12 company, this one-story wall comes right up to the
13 property line, and that is the same case with the
14 building to the west.

15 So if we were to keep a yard, let's
16 call it, at ground level here, it would be
17 completely enclosed with the exception of this small
18 sliver, which is parking for the taxi company. So
19 that is Z-5, two floor plans.

20 The fifth floor, there is an additional
21 reduction in lot coverage, so when you get to the
22 fifth floor, we are proposing 54.7 percent.

23 So if you look at this line, that is
24 the line showing this floor below, the outer edge of
25 the floor below, and then our recess is seven feet

1 going around. So we are recessed at seven feet to
2 get more force in the corner, and seven feet going
3 around on both Harrison and Paterson Avenue. I have
4 a cross section showing what that looks like.

5 We are proposing outdoor space. No
6 outdoor parking. No outdoor space on the roof.
7 There is an extensive roof system. You can see that
8 is shown with the exception of where the mechanical
9 systems are. So at the center of the building we
10 have our air-conditioner condensers. They are all
11 labeled where, what spaces they'll be serving, as
12 well as the elevator bulkhead, as well as our second
13 means of egress stair, which has to go to the roof.

14 One of the comments that I received
15 from the Flood Plain Administrator's letter, when
16 she had asked if this stair can be switched, so that
17 the back stair is the one that is your -- would be
18 your second means of egress or the fire department's
19 access to the roof.

20 The requirement is that that fire
21 department access has to be as close to the lobby as
22 possible, so that is why we chose that one and not
23 the back one.

24 Building elevations, we are permitted
25 40 feet above the design flood elevation, and our

1 drawings are a bit older, so we actually show 12
2 feet here as opposed to the 14 feet, which it
3 currently is. But the building itself as we are
4 proposing it is 60 feet from the roof, the top of
5 the roof to grade, and that is because we have a ten
6 foot ceiling at ground level, and that is two feet
7 above grade, so that is 12, and then each of the
8 residential floors we are proposing 12 foot floor to
9 floor.

10 The thought here was, and this gets
11 into the architecture as well, so let's have this be
12 as much an industrial, with the concept of it being
13 a converted industrial building, hence the taller
14 heights, and that plays into the architectural
15 design.

16 In terms of adjacent buildings in
17 height, we don't see this additional height as
18 having very much impact. Our planner will go into
19 that. But the floors will meet the requirement. We
20 are asking for an additional ten feet in height.

21 So if you look at this plan, you can
22 see -- pardon me -- the elevations, and now I will
23 use A-1 with the 3D views.

24 So the majority of the building, four
25 stories is at about 40 feet -- pardon me -- 50 feet,

1 so that line is what is permitted --

2 MR. MATULE: Excuse me.

3 Could you just turn it a little bit, so
4 all of the Board members can see it?

5 THE WITNESS: Sure. Pardon me.

6 So we're proposing a recess to our top
7 floor, so you can see that here. These are some
8 perspectives of what it will look like.

9 We thought in terms of architecture,
10 let's play up that corner. It is a very difficult
11 condition to plan for and design for, but in this
12 case we thought let's really accentuate the corner
13 and make it a prominent feature in the elevation.

14 The elevation materials are cast stone
15 and brick, large industrial style windows, and we
16 can pass this around, if you would like, but this
17 would be a view looking at the building from the
18 intersection.

19 This would be the building looking at
20 it from the east -- I'm sorry -- this would be --
21 this is a view from the east, and this is a view
22 from the south, so that is looking south facing,
23 east facing, and that will be the actual corner of
24 where the intersection takes place.

25 I can pass that around or I can just

1 leave it after I go through the drawings.

2 This would be the side view of the
3 buildings that we are proposing to have an
4 interesting design by using the finished panels.
5 They are not stucco. They are going to be a Hardie
6 panel, which is a composite panel.

7 And Z-10, which I think you have got
8 Z-10, correct?

9 VICE CHAIR GREENE: No.

10 THE WITNESS: You don't have Z-10, so
11 pardon me. This would be another one that has to be
12 marked.

13 MR. MATULE: Okay. So we will mark it
14 A-4.

15 (Exhibit A-4 marked.)

16 THE WITNESS: Yes.

17 MS. BANYRA: Can you just tell us the
18 date of those plans?

19 THE WITNESS: This would be July 7th,
20 2015.

21 MS. BANYRA: Okay. So I mean, I am
22 looking at that, and you said two things that don't
23 seem to jibe, you know, and I guess that we don't
24 have it in our plan set.

25 THE WITNESS: Uh-huh.

1 MS. BANYRA: And then the 60 feet as
2 opposed to 50 feet, is that in your zoning table?

3 THE WITNESS: I was giving you 60 feet
4 from grade --

5 MS. BANYRA: Oh, okay.

6 THE WITNESS: -- and I will go through
7 that in more detail.

8 60 is from grade. 50 feet is from the
9 design flood elevation.

10 MS. BANYRA: Okay. Thank you.

11 THE WITNESS: Yes.

12 So this drawing Z-10 that you don't
13 have is a diagramed section of the building showing
14 what somebody would see across the street on
15 Harrison, so the seven foot setback as designed here
16 at the fifth floor, which is partially recent, the
17 idea here is to lessen the impact of that fifth
18 floor, recognizing that we are asking for an
19 additional ten feet in height.

20 The building will be cast in place
21 concrete, fully ADA compliant. We are proposing all
22 new sidewalks and curbs. It will have LED lighting,
23 low energy appliances, and a water retention system,
24 which is shown diagrammatically, as well as the
25 green roof, which takes up the majority of the upper

1 roof.

2 Again, I want to stress that it is
3 because of this strange site and the existing
4 conditions, it has been a very difficult project to
5 design for and actually make work. That goes to the
6 floor plans in the residential portions, but also in
7 the parking lot, so everything has been designed as
8 a result of this kind of a strange site.

9 MR. MATULE: Just a couple of points.

10 I know on one of the sheets, I guess it
11 was Z-6, you are showing an emergency generator on
12 the roof.

13 THE WITNESS: Yes, an emergency
14 generator, as well -- in the center -- as the other
15 mechanical systems that I described.

16 MR. MATULE: And the generator has,
17 what is it called Type 2 --

18 THE WITNESS: This will have the
19 Type 2 --

20 MR. MATULE: -- sound baffling --

21 THE WITNESS: -- sound baffle, sound
22 attenuation cover. It keeps them relatively quiet.

23 MR. MATULE: And in the garage itself,
24 in addition to the wall mounted bicycle racks, you
25 will also have space for bicycle storage on the

1 ground floor?

2 THE WITNESS: Yes. These spaces five
3 through 12 have wall mounted bicycle storage
4 racks -- pardon me -- number 12 doesn't, but the
5 other 11 through five do. And then there is also a
6 bicycle rack that -- where this left over space
7 between the two parking areas are, number three and
8 four, and then five and six.

9 So you have that here, storage, bicycle
10 storage as well as on the wall, and we are also
11 showing the electric parking stations, so there is
12 two, there's four, there's five of those proposed.

13 MR. MATULE: And I know these drawings
14 were probably done before the latest iteration from
15 PSE&G. Are all meters going to be above the design
16 flood elevation, both gas and electric?

17 THE WITNESS: Yes.

18 When this was initially designed,
19 Public Service requirements were to have all
20 electric above base flood elevation, but the gas
21 meters were supposed to be at grade level. Since
22 this was submitted, they have changed their mind on
23 the gas meters --

24 MR. GALVIN: Time out for a second.

25 At the Planning Board, we have been

1 chasing the applicants, and that is why they are
2 speaking to this issue about the gas meters, and it
3 is fantastic that PSE&G is going to do that, and it
4 eliminates that.

5 THE WITNESS: PSE&G is now going to
6 allow gas meters to be on the second floor as long
7 as they are at one of the front facade's access
8 points, so all of our meters will be at the second
9 floor in this building.

10 MR. GALVIN: So I don't have to put a
11 condition in every single resolution?

12 THE WITNESS: I don't think so.

13 MR. GALVIN: Thank you.

14 MR. MATULE: And you testified, but I
15 just want to make it clear for the record, that the
16 retail space will be dry flood proofed, and the
17 balance of the garage area will be wet flood
18 proofed?

19 THE WITNESS: Yes. The retail will be
20 dry flood proofed, and the balance will be wet flood
21 proofed. The lobby area will be wet flood proofed
22 with venting within the doors to equalize
23 hydrostatic pressure.

24 MR. MATULE: You received the H2M
25 review letters of April 21st and July 16th?

1 THE WITNESS: Yes.

2 MR. MATULE: No issues complying with
3 any of the points raised by Mr. Marsden?

4 THE WITNESS: I think that we complied
5 with almost all already and have sent Mr. Marsden a
6 response letter delineating where all of our
7 responses were in terms of the drawings.

8 MR. MATULE: And Paterson Ave, I
9 believe is a county road?

10 THE WITNESS: We would need Hudson
11 County Planning Board approval.

12 MR. MATULE: For both the project and
13 for any encroachments into the right-of-way?

14 THE WITNESS: Yes.

15 MR. MATULE: And just one point, I
16 know, I think Mr. Marsden raised in one of his
17 review letters, that on the western side of the lot
18 line, I think there is a small encroachment from the
19 property next door. The plan is to just build
20 around that encroachment?

21 THE WITNESS: The Triangle Car Wash
22 building slightly encroaches onto our property. We
23 would, of course, leave that where it is and start
24 our structure at that demising wall.

25 MR. MATULE: And the project in its new

1 iteration has been reviewed by the Flood Plain
2 Administrator?

3 THE WITNESS: Yes.

4 MR. MATULE: Okay. I have no further
5 questions at this time.

6 CHAIRMAN AIBEL: Great.

7 Board members?

8 Anybody have questions for Mr.
9 Minervini?

10 MR. EVERS: I have a question.

11 MR. GALVIN: Mr. Evers, come on up.

12 MR. EVERS: I'm sorry.

13 MR. GALVIN: I'm sorry. I thought we
14 were --

15 CHAIRMAN AIBEL: No, you lost control.

16 (Laughter)

17 MR. GALVIN: -- I lost where I was, not
18 control.

19 (Laughter)

20 CHAIRMAN AIBEL: Board members?

21 COMMISSIONER BRANCIFORTE: Frank, the
22 photos that you showed us earlier, I don't know
23 where the board is now.

24 MR. MATULE: I have it.

25 COMMISSIONER BRANCIFORTE: You have it

1 back there.

2 I am a little bit nervous now, because
3 which photos did you get off Google Earth, and which
4 ones did you take yourself?

5 THE WITNESS: It's very easily shown,
6 because these we took ourselves, and there is my
7 Jeep, and these were off Goggle Earth.

8 (Laughter)

9 COMMISSIONER BRANCIFORTE: Okay.

10 But you don't know when those Google
11 Earth pictures were taken?

12 THE WITNESS: No. But I have driven
13 by, and I don't think anything changed since this.
14 Certainly our building is the same. This has not
15 changed, nor have these two changed, so I am
16 confident to say that this depicts the existing
17 conditions.

18 COMMISSIONER BRANCIFORTE: All right.
19 Okay. Just curious.

20 And the -- you know, that's what I have
21 for now. Somebody else can go, if you want, Mr.
22 Chair.

23 CHAIRMAN AIBEL: Anybody else?

24 COMMISSIONER COHEN: Frank, with
25 respect to the point of the triangle, where you have

1 the columns and overhangs, is there a structural
2 purpose that that has?

3 Is that strictly a design feature, you
4 know, that goes into the corner?

5 THE WITNESS: It is structural.

6 It is too much of a distance for it to
7 be cantilevered considering the structural method
8 we're using, which is cast in place concrete,
9 so it is structural.

10 COMMISSIONER COHEN: Okay. But is it
11 structural just for the purpose of the concrete
12 balconies, or is it structural for the main portion
13 of the building?

14 THE WITNESS: If there were no
15 balconies at that point, you wouldn't need this
16 column.

17 COMMISSIONER COHEN: Right.

18 Now, it is possible perhaps to make the
19 column more slender, if you are thinking that it's a
20 bit too prominent.

21 COMMISSIONER COHEN: Well, are the
22 balconies going to be open to the residents there,
23 or is that closed off?

24 THE WITNESS: They are open to the
25 apartment that it's directly adjacent to.

1 COMMISSIONER COHEN: Okay.

2 THE WITNESS: So if I go to Sheet Z-5,
3 for example, the second floor, it shows that the --
4 even the doors are shown connecting to Unit A --

5 COMMISSIONER COHEN: I see it.

6 THE WITNESS: -- yeah, and the same for
7 the third and fourth. Not the fifth. The fifth
8 is -- the point is which would be the roof of the
9 balcony below.

10 COMMISSIONER COHEN: Okay. Yeah. So I
11 guess if there is a way to make it less impactful on
12 the ground level.

13 THE WITNESS: We can certainly do
14 something architectural.

15 COMMISSIONER MC ANUFF: Okay. Maybe
16 triangular shapes.

17 THE WITNESS: Maybe.

18 (Laughter)

19 COMMISSIONER COHEN: Okay.

20 CHAIRMAN AIBEL: Well, let me ask a
21 related issue to the bow of the building. We are
22 not seeing any public space at all, any open space
23 in your design.

24 Do you need the V-shape floors at the
25 very front of the building?

1 Could you eliminate them and have a
2 more open plaza at the corner of the building and
3 still have attractive and sizable apartments?

4 THE WITNESS: The short answer is yes,
5 we could eliminate those and not change the size of
6 the apartments, although I think architecturally
7 speaking, this is a better way to deal with that
8 pointed corner rather than have it chamfered, as I
9 think you are suggesting.

10 The renderings often make the point
11 seem a bit more violent than it probably really is.

12 And what we have done here is instead
13 of having this stone piece act as a railing, too, we
14 have a pipe railing with glass behind it to lessen
15 that impact. But just for the architecture, I think
16 it makes very much sense to have a --

17 MR. GALVIN: It has a cruise ship
18 design.

19 THE WITNESS: It does. There is
20 something nautical about that. But, again, the site
21 dictated that. The site has dictated every decision
22 just about in this building.

23 CHAIRMAN AIBEL: The balconies on the
24 Paterson Avenue side are in the public right-of-way,
25 and the same question for Harison?

1 THE WITNESS: These?

2 CHAIRMAN AIBEL: Yes.

3 THE WITNESS: Those are within our
4 setback, yeah, because when you get to the second
5 floor, that facade is set back off of the front
6 property line.

7 CHAIRMAN AIBEL: And on the Harrison
8 Street side, you are showing some bay projections?

9 THE WITNESS: Yes.

10 CHAIRMAN AIBEL: Are they in the
11 right-of-way?

12 THE WITNESS: That is within the public
13 right-of-way, and we would need City Council
14 approval for those.

15 We are proposing them to be two feet,
16 which --

17 MR. GALVIN: And you're going to go to
18 the City Council and argue for those?

19 THE WITNESS: Hopefully, not argue.
20 Hopefully just present.

21 MR. GALVIN: You know, I was talking to
22 Ms. Forbes today, so she is expecting you guys to go
23 into the Council and go get these things approved.

24 THE WITNESS: This is the discussion
25 that happened really at the Planning Board, and the

1 thought was that when proposing uses within the
2 city's public right-of-way, such as planters or bay
3 projections, even though they are permitted within
4 the ordinance, that the architect should be -- and I
5 guess the attorney should be the ones presenting
6 that to the City Council, and I would be happy to do
7 that, but it has never been the process up to this
8 point, but I will be happy to do it, though.

9 MR. GALVIN: Okay.

10 COMMISSIONER MARSH: I have a couple of
11 questions. Out of them actually comes out of the
12 blue, and I don't think -- I wouldn't expect you to
13 actually know this, but maybe you do.

14 When you -- it's 60 percent lot
15 coverage -- I mean, what's -- the requirement is 60
16 percent lot coverage, right?

17 THE WITNESS: Yes, yes.

18 COMMISSIONER MARSH: So you have a
19 green roof, right?

20 THE WITNESS: Right.

21 COMMISSIONER MARSH: Presumably to
22 replace the -- at least to replace the impervious
23 cover?

24 THE WITNESS: We don't have the option
25 of a rear yard. Even if we were reduce this lot

1 coverage at that ground floor, it would be a small
2 sliver, so yes, our thought was let's put it up on
3 the roof.

4 COMMISSIONER MARSH: So my question is:
5 How much -- I mean, do you measure the absorption
6 rate of a green roof in some way?

7 Like does it replace the 40 percent of
8 the lot that you shouldn't be covering?

9 THE WITNESS: I don't have it measured.

10 However, I think we have to think of
11 this in another way. All of the water that comes to
12 this site is ultimately going to the water retention
13 system. So whether it is a yard, a portion of it,
14 the majority of that water goes to the water
15 retention system as well even on the roof, the green
16 roof.

17 Eventually those plants will saturate,
18 and it goes into the retention system, so I don't
19 think the question of whether it is a garden or a
20 green roof makes much of a difference because we
21 have what we think is a preventive measure, the
22 retention system.

23 COMMISSIONER MARSH: Okay. I have to
24 think about that.

25 My second question is: Your setbacks

1 are all on the street side, right?

2 THE WITNESS: Yes, on the two street
3 sides.

4 COMMISSIONER MARSH: So I mean, your
5 lot is very, very different, but the lot to the
6 right of it is actually pretty standard, right?

7 The lots to the right of it?

8 THE WITNESS: I have the bird's eye
9 view.

10 COMMISSIONER MARSH: I'm afraid I have
11 to look at the plan. I can't look at bird's eye
12 views.

13 THE WITNESS: I will happily pass it to
14 you.

15 The one where the taxi cab company is a
16 rectangle.

17 COMMISSIONER MARSH: Those are also
18 R-3, correct?

19 THE WITNESS: R-3, correct.

20 The corner is similar to ours, except
21 it's a three-sided triangle.

22 COMMISSIONER MARSH: But here is what I
23 am thinking is that those lots are pretty standard.

24 THE WITNESS: The one lot is standard.

25 COMMISSIONER MARSH: No. The lots to

1 the -- these lots.

2 COMMISSIONER BRANCIFORTE: North and
3 west?

4 COMMISSIONER MARSH: Right here. Just
5 straight north of them. I think that is north.

6 THE WITNESS: Yes.

7 Well, no, the lot actually includes the
8 triangle piece.

9 What the drawing that you are pointing
10 at shows is the building outline, not actually the
11 lot outline.

12 COMMISSIONER MARSH: This says,
13 "Proposed Five-Story Building."

14 What is to the right of it?

15 THE WITNESS: I will get the same
16 drawings you are on.

17 COMMISSIONER MARSH: That is a good
18 idea.

19 (Laughter)

20 THE WITNESS: The triangle is this
21 rectangle to the north of us --

22 COMMISSIONER MARSH: Yes.

23 THE WITNESS: -- not the triangle, the
24 taxi cab company. Pardon me.

25 The Triangle Car Wash is here, and

1 although the buildings don't take up the corner,
2 this shape of the site is a triangle.

3 COMMISSIONER MARSH: Yes. But I am
4 talking about the rectangular lots to the right.

5 THE WITNESS: Right, which is one
6 combined lot.

7 COMMISSIONER MARSH: Well, so far it's
8 one combined lot --

9 THE WITNESS: Yes.

10 COMMISSIONER MARSH: -- but it is zoned
11 R-3, and it would be perfectly legitimate to break
12 that up or subdivide it or build a residential
13 building there, right?

14 THE WITNESS: Sure.

15 COMMISSIONER MARSH: Which would be, if
16 it was built as of right, would have a 30 foot rear
17 yard setback, right?

18 THE WITNESS: Yes.

19 COMMISSIONER MARSH: Are those 100 foot
20 lots?

21 THE WITNESS: I don't think they are
22 quite 100 feet. I could tell you for sure. I was
23 hoping I had some additional drawings.

24 Thank you.

25 They are 75 feet in depth.

1 COMMISSIONER MARSH: Okay. So they
2 require -- they still require a 30 foot rear yard,
3 right?

4 THE WITNESS: Without a variance.

5 COMMISSIONER MARSH: And so that rear
6 yard --

7 MS. BANYRA: 30 percent.

8 THE WITNESS: 30 percent.

9 COMMISSIONER MARSH: 30 percent, I'm
10 sorry --

11 MR. MATULE: 22.5 --

12 COMMISSIONER MARSH: -- I thought it
13 was 30 percent or 30 --

14 COMMISSIONER BRANCIFORTE: 25 feet --

15 COMMISSIONER COHEN: That's 22 and a
16 half --

17 MR. GALVIN: It is and/or. It's an
18 and/or.

19 COMMISSIONER MARSH: Okay. So it's --

20 COMMISSIONER COHEN: -- 22 and a half.

21 COMMISSIONER MARSH: -- so that 22 foot
22 rear wall --- I mean, that 22 foot rear backyard, it
23 is right next to a 50 foot wall, right?

24 THE WITNESS: Yes. Well, of course,
25 that is not the condition that is there now. You

1 are suggesting sometime in the future what may
2 happen, and I'm agreeing, yes, that may happen.

3 COMMISSIONER MARSH: And where we are
4 talking about the legitimate zoning of the area,
5 right?

6 THE WITNESS: I understand the point,
7 but that would not take into consideration any
8 construction that could happen on our site, because
9 if we were to apply that same 22 feet or so, this
10 building would be nothing on our site, which is why
11 we are asking for a hundred percent lot coverage.

12 Now, if you are suggesting we could
13 slide it in off of this northern property line a
14 bit, and then push it out, I guess that is a
15 possibility. But even in that case, it would be
16 just a little sliver of space. I don't think it is
17 good planning, and you can, of course, have your
18 opinion, but I think that is an awful way for us to
19 be looking at this building.

20 COMMISSIONER MARSH: Well, I am sure it
21 is an awful way to be looking at that building, but
22 I am looking at the other building, too.

23 THE WITNESS: The size of the
24 composite.

25 COMMISSIONER MARSH: Yes. I mean, --

1 THE WITNESS: I'm still --

2 COMMISSIONER MARSH: -- because that's
3 what zoning are -- is, right?

4 THE WITNESS: Right.

5 COMMISSIONER MARSH: You are having an
6 effect on the neighborhood, right?

7 THE WITNESS: Of course.

8 And what we put here, we think is the
9 best solution for now certainly, and for what may
10 happen later.

11 Of course, if there was nothing here,
12 then they would have wonderful rear yards, but that
13 is not the case. This is a lot that can be
14 developed --

15 COMMISSIONER MARSH: You are asking for
16 a variance --

17 THE WITNESS: Of course.

18 COMMISSIONER MARSH: -- and the impact
19 for the zoning code as a whole is that that would
20 make the lot next to you quite awkward to develop as
21 of right.

22 THE WITNESS: I understand, yes.

23 COMMISSIONER MARSH: Okay. Thank you.

24 CHAIRMAN AIBEL: Board members, any
25 other questions?

1 MR. GALVIN: Let me just say this, too:
2 You could have that opinion even though the
3 architect doesn't agree with you.

4 (Laughter)

5 COMMISSIONER MARSH: I would not expect
6 him to agree with me.

7 VICE CHAIR GREENE: Frank, you may not
8 know the answer to this.

9 Did the owner of this lot ever seek to
10 purchase the other lots on that -- as part of the
11 triangle?

12 THE WITNESS: I don't know. I think
13 Mr. Matule is asking the question to the applicant
14 right now.

15 (Counsel confers)

16 MR. MATULE: What I am told is that it
17 is a viable business. It is a very active taxi
18 company, and they don't have any interest. It's
19 sort of the last place in town for them to operate,
20 so they plan on being there a long time.

21 VICE CHAIR GREENE: Thank you.

22 COMMISSIONER DE GRIM: With regard to
23 the taxi company, apart from their building, is the
24 rest of their lot paved over for parking, or is
25 there any --

1 THE WITNESS: They are paved, and I am
2 looking at Z-9, paved in the front, and then there's
3 that small sliver that comes around the edge of the
4 building, so they're --

5 COMMISSIONER DE GRIM: Is that also
6 paved, the small sliver?

7 THE WITNESS: Yes. And last time I
8 looked, there were vehicles parked there.

9 COMMISSIONER DE GRIM: Thank you.

10 COMMISSIONER BRANCIFORTE: Mr. Matule,
11 this is the first time this lot has ever been in
12 front of the Zoning Board, right?

13 MR. MATULE: To my knowledge it is the
14 first time I brought it before you.

15 COMMISSIONER BRANCIFORTE: Frank, you
16 are nodding that it has never been here before?

17 THE WITNESS: We were here, I would say
18 in 2006, but they pulled the project back. We never
19 went to a vote on it. I don't think I ever finished
20 my testimony. The owner is here who can describe --

21 COMMISSIONER BRANCIFORTE: So it was
22 withdrawn?

23 THE WITNESS: Withdrawn, yes, for a
24 different building. I might add, there were 16
25 units in that case.

1 COMMISSIONER BRANCIFORTE: Yeah, okay.

2 MR. MARSDEN: Frank, I notice to me,
3 there is a significant layout difference on the
4 first floor with respect to where your parking is,
5 okay, and the movement of the -- from the previous
6 plan to the current.

7 You only need six parking spaces, and I
8 think those, which are now three and four, right, I
9 mean, that is -- before they could back out
10 straight. Now they have to back out and turn the
11 corner, and I don't see that as being a very, very
12 viable parking area.

13 Do you know what I am saying?

14 You might be able to fit one more
15 parallel next to the one that's there. No, I'm
16 saying right here.

17 THE WITNESS: Here?

18 MR. MARSDEN: 90 degrees.

19 THE WITNESS: Yes. Oh, I am sorry.

20 This way?

21 MR. MARSDEN: No.

22 MS. BANYRA: To the north wall.

23 MR. MARSDEN: Against the north wall,
24 right.

25 You might be able to fit one there with

1 move.

2 MR. MARSDEN: But that was all a result
3 of the other changes you made?

4 THE WITNESS: Correct.

5 MR. MARSDEN: Okay.

6 And you have no problem with any other
7 comments on the list?

8 THE WITNESS: No. I think we have in
9 this -- I think I have responded to each one.

10 MR. MARSDEN: Okay.

11 THE WITNESS: Did you get a copy of our
12 response letter?

13 MR. MARSDEN: I don't have it in my
14 file, but I thought I saw it, so --

15 THE WITNESS: Yes. I will happily
16 resend it to you.

17 MR. MARSDEN: Okay, if you could do
18 that.

19 THE WITNESS: Yes.

20 COMMISSIONER BRANCIFORTE: Frank, I'm
21 sorry.

22 Z-1, your zoning table, says that you
23 have eight units, and you don't need a variance.

24 THE WITNESS: Yes.

25 COMMISSIONER BRANCIFORTE: Is that

1 right, or do they need the density variance?

2 MR. MATULE: No. There is a
3 calculation down on the Note A, which does the math,
4 how you back out the commercial space.

5 COMMISSIONER BRANCIFORTE: Oh, okay.

6 MR. MATULE: And after you back it out,
7 we can have 8.65 units.

8 COMMISSIONER MARSH: 'Cause you round
9 it down.

10 CHAIRMAN AIBEL: Could I ask you to go
11 back to the bulkhead sight lines?

12 THE WITNESS: Yes, sight lines we have.

13 CHAIRMAN AIBEL: So what is going to be
14 seen from the street of the bulkhead? It is a nine
15 foot --

16 THE WITNESS: The fire department
17 access there is we are showing here as eight feet,
18 and with the letter we received from the Flood Plain
19 Administrator has suggested that we switch. If I go
20 back to the floor plans, we have two means of
21 egress, and one of those has to go to the roof.

22 So it was suggested that instead of
23 this one going to the roof, which is how we have it
24 designed and what the section shows, we have this
25 one go to the roof.

1 The problem is, and the reason why we
2 chose this closer stair is because the fire
3 department requires that the stair takes you to the
4 roof in case of a fire, it's as close to the main
5 entry as possible, so the other one wouldn't be.

6 Could we reduce that eight feet to
7 seven and a half?

8 Certainly, but it is pretty compact
9 now.

10 CHAIRMAN AIBEL: It is going to be
11 reasonably close to the edge of the building, is
12 that correct?

13 THE WITNESS: And remember that by this
14 point, where the stair is, you are not at the
15 property line, so you have two setbacks.

16 I am looking at Sheet Z-4. Here is our
17 property line. The first setback takes place here,
18 and I will switch to the first setback here to the
19 residential plan of Z-5, and then the second setback
20 is here.

21 So this corner is set back more than
22 ten feet from the property line. I have exact
23 dimensions. It is exactly ten feet from the
24 property line -- oh, it is 11 feet from the property
25 line, so although it looks like because of where it

1 is in the plan, and it's on the property line, it is
2 set back 11 feet because there are two other
3 setbacks prior to that.

4 CHAIRMAN AIBEL: Okay.

5 Anybody else?

6 Board members, questions?

7 MS. BANYRA: Yeah.

8 Frank, you are asking for the hundred
9 percent lot coverage.

10 Can you talk about the floor plate, and
11 you said that it was difficult to design.

12 THE WITNESS: Yes.

13 MS. BANYRA: You know, and so based on
14 the shape of the property, talk about how the
15 design, you know, what could be cut back and/or how
16 does the shape of the lot dictate your, you know,
17 warrants a hundred percent lot coverage?

18 THE WITNESS: Of course. Although it
19 is not a triangle, it is just about a triangle. It
20 is a small sliver of a north-south wall there, so
21 that means that at two points at least the walls
22 converge into a small point, which makes for
23 difficult spaces.

24 What we did was, of course, we had to
25 separate -- we knew that the vehicular entry had to

1 go on Harrison. Adams in that area is just too
2 busy, so that in and of itself gave us this layout.

3 We tried to take advantage of a very
4 straight wall. The longest wall would have been
5 along Paterson for your parking. With that in mind,
6 it then seemed to make sense that the retail space
7 would be most viable in the corner.

8 Spaces like this, these little
9 leftovers certainly make for odd shapes, but we
10 didn't really know what the other option was, and I
11 guess there is an option to -- as I described
12 before, there is a small sliver of open space
13 between these two one-story buildings, where the
14 parking is now.

15 We could possibly do this, where these
16 two spaces -- have our wall here. It would lessen
17 the amount of lot coverage, reduce this parking
18 space, and it would be a very small green area, but
19 the negative is walking down the street, that could
20 be open. That is certainly something we could
21 consider.

22 Other than that, I don't think there is
23 anywhere else to provide outdoor space or a garden.

24 If we were to set it back here, some of
25 this, a majority of these spaces become useless.

1 We've got -- if we set it back ten or 15 feet here,
2 it would wind up with what would be now an alleyway
3 for sure.

4 MS. BANYRA: Yes.

5 Frank, hypothetically if you cut that
6 building off, what is the size? What is that
7 dimension?

8 THE WITNESS: This is approximately --
9 that is about 20 to 22 feet.

10 MS. BANYRA: What is the depth?

11 THE WITNESS: At its shortest point --
12 it's -- at its longest point -- actually its
13 shortest point I have, because that is on our site
14 plan, and that is on the survey. 18 and a half
15 feet.

16 MS. BANYRA: At the shortest point?

17 THE WITNESS: At the shortest point,
18 yes.

19 MS. BANYRA: Okay.

20 THE WITNESS: And it's probably about
21 25 or 27 feet at the cornice --

22 MR. MATULE: But --

23 THE WITNESS: -- and you would lose
24 some outdoor space on that second floor. I don't
25 really think it makes -- this project or this one,

1 that is something that we can certainly look at.

2 MS. BANYRA: Then the next question I
3 have is: Your landscaping is all within the city or
4 the county right-of-way --

5 THE WITNESS: Yes.

6 MS. BANYRA: -- and you are asking
7 again for a hundred percent lot coverage, so why
8 wouldn't you have considered setting those back, to
9 put that on this property, again, basically the
10 floor plates are you going to say?

11 THE WITNESS: Well, that's part of it,
12 but also we got a 16 foot wide sidewalk along
13 Harrison, so having the building front at that
14 property line, of course, matches the existing
15 structure to our north. Because it is wide, we
16 thought the plans -- we didn't put it there for
17 landscaping for residents to enjoy per se. It is
18 more of a -- it creates a softer edge between the
19 constructed wall of the building and the sidewalk,
20 so it is really there more for a visual effect.

21 MS. BANYRA: 16 from curb to building?

22 THE WITNESS: Correct.

23 MS. BANYRA: To the tree pit, well,
24 what's the width?

25 THE WITNESS: The tree width is 30

1 inches, three feet, so you are still 12 or 11 and a
2 half of --

3 MS. BANYRA: How far away -- how many
4 blocks away is the proposed park?

5 THE WITNESS: The park would be -- if
6 you can see it, here.

7 MS. BANYRA: So this is east of the
8 park?

9 THE WITNESS: This is east of the park.

10 MS. BANYRA: That's all I have, Mr.
11 Chair.

12 CHAIRMAN AIBEL: Okay.

13 Last call, Board members.

14 COMMISSIONER BRANCIFORTE: Just one
15 quick question, Jim. I'm sorry.

16 I was just curious about something on
17 the detention pond. When it floods and water gets
18 inside of that garage, does the water inside of the
19 garage drain directly into that detention tank?

20 THE WITNESS: Yes.

21 COMMISSIONER BRANCIFORTE: So it
22 doesn't just serve the roof, it serves the entire
23 building?

24 THE WITNESS: No. It serves all of the
25 uses of the building.

1 COMMISSIONER BRANCIFORTE: Okay. I was
2 just curious about that, because I know if Mr.
3 DeFusco was here, he would ask if that tank was big
4 enough, and if it could be made bigger.

5 THE WITNESS: Look, it certainly would
6 meet the requirements from the North Hudson Sewerage
7 Authority, which is the same as the New Jersey
8 Residential Site Improvement Standards.

9 COMMISSIONER BRANCIFORTE: Right.

10 THE WITNESS: Could we make it bigger,
11 if that is something the Board suggested, I think we
12 could certainly look at that.

13 COMMISSIONER BRANCIFORTE: Okay.

14 CHAIRMAN AIBEL: Okay. Let me open it
15 up to the public.

16 Now is the time for questions for Mr.
17 Minervini.

18 MR. EVERS: Yeah.

19 MR. GALVIN: Nope. At this point
20 you're just asking questions.

21 State your full name for the record and
22 spell your last name.

23 MR. EVERS: Michael Evers, E-v-e-r-s.
24 252 Second Street, Hoboken, New Jersey.

25 Good evening.

1 THE WITNESS: Good evening.

2 MR. EVERS: This has a density
3 variance?

4 THE WITNESS: No.

5 MR. EVERS: It does not have a density
6 variance.

7 Why is that, because it says in the
8 notice, it has a density variance.

9 MR. MATULE: I don't think so.

10 MS. CARCONE: It says on the agenda
11 that it has a density --

12 MR. EVERS: Yeah, it's on the agenda.

13 MS. BANYRA: I think that may have
14 been -- that mistake, it may have been ours because
15 we went back and forth with the calculation in terms
16 of the question that --

17 COMMISSIONER BRANCIFORTE: John.

18 MS. BANYRA: -- John had asked -- thank
19 you, John -- was relative to whether or not because
20 of the commercial space, I questioned whether or not
21 they had a density variance initially, and I don't
22 know that it ever came out of the --

23 MR. EVERS: I am wondering what the
24 calculation might be to determine --

25 MS. BANYRA: It is on the plans, and I

1 did review that. This has been carried about eight
2 times, but I remember going through this with both
3 Mr. Matule and --

4 CHAIRMAN AIBEL: Well, let's have Mr.
5 Minervini give us the calculation.

6 MR. MATULE: If I might just for the
7 record, I am looking at the notice that was
8 published in the newspaper. We didn't ask for a
9 density variance.

10 It may have been called out. I know
11 there was initially in one of the early reports, it
12 was called out as a possible variance, but it was
13 determined, and it is on Sheet Z-1 pursuant to the
14 ordinance, there is a mathematical calculation,
15 where you back out the percentage of the retail
16 space to the total space you are allowed.

17 And what I can tell you is that they
18 are allowed 9.28 dwelling units, and then after they
19 apply that calculation for the retail space, it
20 brings it down to 8.65, which was rounded down to 8.

21 MR. EVERS: So in layman -- speaking to
22 an ignorant layman --

23 MR. MATULE: If there was an ignorant
24 layman in the room, I might speak to him.

25 (Laughter)

1 In any event, what is your question?

2 MR. EVERS: -- so if you had no
3 commercial units --

4 THE WITNESS: We could put nine --

5 MR. MATULE: We could put nine units.

6 MR. EVERS: Nine units. Okay.

7 And how much space does the commercial
8 subtract from that or count for the unit?

9 THE WITNESS: Well, it's a 1,000 square
10 foot space we're proposing. I don't understand the
11 question, if that's not --

12 MR. EVERS: So that is more than 660
13 square feet?

14 MR. MATULE: But that is not how it
15 works.

16 THE WITNESS: It doesn't work like
17 that. You are welcome to take my drawings and look
18 at them --

19 MR. EVERS: Well, I was actually
20 reading the ordinance.

21 So can I have a copy of it?

22 Thank you.

23 I have no further questions.

24 MR. GALVIN: Thank you, Mr. Evers.

25 CHAIRMAN AIBEL: Any other questions

1 from the public?

2 Seeing none, could I have a motion?

3 COMMISSIONER COHEN: Motion to close
4 public portion for this witness.

5 COMMISSIONER MC ANUFF: Second.

6 MR. MATULE: Thank you.

7 CHAIRMAN AIBEL: All in favor?

8 (All Board members answered in the
9 affirmative)

10 MR. MATULE: Mr. Kolling.

11 MR. GALVIN: Raise your right hand, Mr.
12 Kolling.

13 Do you swear or affirm the testimony
14 you are about to give in this matter is the truth,
15 the whole truth, and nothing but the truth?

16 MR. KOLLING: Yes, I do.

17 E D W A R D K O L L I N G, having been duly sworn,
18 testified as follows:

19 MR. GALVIN: Mr. Chairman, do we accept
20 Mr. Kolling's credentials as a licensed planner?

21 CHAIRMAN AIBEL: Yes, we do.

22 MR. GALVIN: Mr. Matule, your witness.

23 MR. MATULE: Thank you.

24 Mr. Kolling, you are familiar with the
25 zoning ordinance and the master plan of the City of

1 Hoboken?

2 THE WITNESS: Yes, I am.

3 MR. MATULE: And you are familiar with
4 the project as presented by Mr. Minervini tonight
5 with any last minute revisions?

6 THE WITNESS: Yes.

7 MR. MATULE: You prepared a report,
8 dated December 23rd, 2014, and that was revised on
9 July 8th?

10 THE WITNESS: Yes, on July 8th.

11 MR. MATULE: Could you go through your
12 report for the Board and give us your professional
13 opinion regarding the requested variance relief?

14 THE WITNESS: Yes.

15 I think Mr. Minervini did an excellent
16 job of describing the location, and that we are
17 pretty much like diagonally across the street from
18 where the proposed park will be.

19 The property is very irregular in
20 shape. The block is very irregular in shape.

21 There are two other parcels on the
22 property. One is a triangular shape, and the other
23 one is more rectangular, and this lot is now pretty
24 much a hundred percent covered with impervious
25 surface between the building and the paved area.

1 As Mr. Minervini described, the
2 surrounding area, there are residential buildings
3 along Paterson. The Sky Club is nearby. A lot of
4 the buildings in the area are five and six stories.

5 The way the building is designed, it
6 pretty much fits into the scale and the character of
7 the area.

8 And also in terms of looking at the
9 property, obviously it is a corner property, the
10 property to the north is also a corner property, and
11 in trying to determine front yards and side yards,
12 you have to look at widths of streets. That is how
13 it is described in the zoning ordinance.

14 So, for instance, the most logical
15 front of this lot would be along Harrison, and then
16 the interior lot line that runs east to west would
17 be a side. Paterson would be a side, and the rear
18 lot line would be the very short lot line towards
19 the west.

20 Similarly, the rectangular property to
21 our north, the lots as shown on the tax map front on
22 to First Street, but this lot, I would consider it a
23 consolidated lot now, because there is a building on
24 it. It covers the rest of the lot lines.

25 So if this lot were to be redeveloped,

1 the front would be Harrison. The side would be
2 First, and the interior lot line to answer the
3 Commissioner's question about the 30 foot rear yard,
4 that would then occur against the western property
5 line for that lot, and you would probably think of
6 it on this lot in the same location.

7 I bring that out, because the way the
8 building is designed, the first floor does cover a
9 hundred percent of the lot, but the second floor and
10 the subsequent floors above step back from that
11 western lot line I think 32 feet, so it is sort of
12 a -- sort of replaces what would be the rear yard in
13 that location.

14 Frank already described the project in
15 detail. The zoning is an R-3 district, and the
16 purpose of this is to advance the achievement of a
17 viable residential neighborhood and to encourage
18 conservation and rehabilitation of existing sound
19 residential blocks and to support residential
20 revitalization by a variety of housing types and
21 related uses, and to otherwise reinforce residential
22 characteristics of the district by regulating uses
23 and structures not compatible with district
24 objectives.

25 Currently, the property is a commercial

1 use. It is what I would consider a heavy use,
2 quasi-industrial HVAC company, that's inconsistent
3 with the zone plan. Replacing it with a building,
4 such as proposed, would advance therefore the intent
5 and purpose of the zone plan, to reinforce the
6 residential characteristics of the district, so I
7 think that we do advance the purposes of the zone
8 plan.

9 The variances that we are looking for
10 include the building height. We are asking for 50
11 feet above DFE, where 40 feet is permitted.

12 We are looking for a rear yard setback
13 because 30 feet is required, and we have zero.

14 In addition, the distance of the
15 building from the street line, in some areas does
16 exceed the 70 feet, depending on where you take the
17 measurements from, but we are looking for that rear
18 yard variance as well.

19 Lot coverage, and there is a
20 requirement that lower roof decks not be in the
21 front yard, so because of the way the building is
22 arranged, and the balconies and the setbacks, you
23 can look at those as being a roof terrace, which
24 would be in the front, because it does front on
25 Harrison and onto Paterson.

1 Now, looking at the master plan, I
2 think that this meets several of the goals of the
3 master plan. It is in very close proximity to the
4 Second Street light rail station, and one of the
5 transportation goals states that transportation
6 improvements will make Hoboken a better place for
7 pedestrians, bicyclists, transit riders, and this
8 block or this building because of the location of
9 the block and proximity to the light rail station I
10 think purports that. The station is in close
11 walking distance. We are providing bicycle storage
12 areas, so I think we meet that goal.

13 Another recommendation talks about
14 encouraging a mix of uses and new developments to
15 provide supporting services to workers and
16 residents, and this is a mixed-use building.

17 I think that the retail space is well
18 located because it not only will help provide some
19 commercial space and services to people walking to
20 the light rail station, but because of the proximity
21 to the park across the street, this type of space
22 could serve as, you know, an ice cream parlor or
23 some other kind of store that might service the
24 people who might be utilizing the recreation area
25 across the street.

1 I think that it promotes capability in
2 scale and density and design and orientation, given
3 the scale of the buildings in the area, how they are
4 oriented towards Paterson and Harrison.

5 Also, the density is consistent with
6 the zone plan, and we are not asking for a density
7 variance in this regard. The master plan talks
8 about prohibiting surface parking lots and other
9 open parking areas.

10 In actuality, we will be removing an
11 open parking area that currently serves as the HVAC
12 Equipment Company, and we will be internalizing all
13 parking, and it will be hidden within the
14 architecture of the building.

15 We are providing street trees
16 consistent with the master plan. We are providing
17 diversity of housing types and a quality housing
18 model, all of the requirements and recommendations
19 that this Board has heard many times concerning
20 family-friendly units because of the size and design
21 of the types of units that are being proposed, and
22 it also meets the master plan recommendation for
23 green architectural standards in terms of the green
24 roof and other green features that have been
25 described by the architect.

1 So I think to address the variances, we
2 are looking for a D-6 height variance because we are
3 ten feet over, which is greater than ten percent of
4 what's permitted.

5 I think that the height variance can be
6 granted. The irregular shape of this property makes
7 it difficult to design a building that would have
8 eight units and still meet the goals of the master
9 plan in terms of being family-friendly and that sort
10 of thing.

11 But the size of the site still exceeds
12 the requirement by an insignificant amount, so I
13 think the size of this property allows it to
14 accommodate the additional height without
15 detrimental impact.

16 I think it also promotes capability in
17 scale and is designed with the density of the
18 properties around it, so although it is higher than
19 permitted, it is still in keeping within the scale
20 of the area, so I don't think there is any
21 substantial detrimental to the zone plan or to the
22 public good by granting this height variance.

23 I think that the project also advances
24 the achievement of a viable residential
25 neighborhood, which is one of the purposes of the

1 zone plan, so I think that also goes to the positive
2 criteria in terms of being beneficial to the zone
3 plan and to the surrounding community.

4 We also promote several of the purposes
5 of the Municipal Land Use Law. I think that the
6 project will promote the general welfare consistent
7 with Paragraph 2(a), because it provides quality
8 housing and supported uses for the residential
9 neighborhood and for the residents and as well as
10 the users of the park across the street.

11 I think it is consistent with the
12 principles of smart growth due to this location near
13 the mass transit facility of the light rail, and I
14 think that is consistent with Subparagraph 2(a).

15 It also promotes the establishment of
16 appropriate population density, because it is
17 consistent with that which is permitted within in
18 the zone which is Subparagraph 2(e).

19 It provides sufficient space in an
20 appropriate location for this kind of use, again,
21 because of its proximity to the light rail station
22 and character of the other surrounding uses, mixed
23 use and residential and commercial, their scale and
24 density, which is Subparagraph 2(g), and it also
25 promotes a desirable visual environment.

1 The facility currently is a one-story
2 quasi-industrial use and structure, and it is really
3 not very attractive and out of character with the
4 emerging residential community, and therefore this
5 would promote a much more desirable visual
6 environment consistent with that.

7 In terms of the C variances, as I
8 mentioned and Frank mentioned, this is a highly
9 irregularly shaped parcel. It is difficult to build
10 on. It's hard to meet the setback criteria because
11 of the severe angle of the corner, the extreme
12 shallowness of the western lot line. This results
13 in what meets the C1 criteria for hardship.

14 So when you try to apply say the rear
15 yard criteria, first of all, you have to pick where
16 you are going to apply that rear yard, and when you
17 look at some of the shallowness of that 18 foot
18 piece of lot line, it just becomes very difficult to
19 do that, and it makes the building or the property
20 very difficult to develop and would not really
21 result in any substantially functional space at any
22 rate, so I don't think there is any substantial
23 detriment to granting the rear yard variance.

24 And at any rate, the location that
25 would most likely be the rear yard has been

1 accommodated from the second floor up with a 30 foot
2 setback from that property line.

3 In terms of lot coverage, the parcel
4 already has a hundred percent lot coverage. I think
5 the entire block has a hundred percent lot coverage
6 quite frankly.

7 I think that this is also an outgrowth
8 of the irregular shape in trying to design a
9 building that could accommodate the permitted number
10 of units and in a way that meets what the goals of
11 the master plan are. So, again, I think you are
12 looking at a C-1 hardship criteria here as well.

13 The lower roof deck situation is
14 providing outdoor living space for the units.

15 Again, this is a difficult lot to
16 develop without doing that because of the frontages
17 on the two streets, and I think that the setbacks, I
18 think, are a better approach to design because they
19 help to give the building architectural interest,
20 and also by setting the fifth floor back, it helps
21 to break up what the mass of the building is,
22 provides more interesting architecture, and
23 therefore, is a better approach to design, and that
24 could fall under the C-2 criteria.

25 The other variance has to do with

1 retail frontage on the block. In fact, there is no
2 retail frontage on this block now. You are supposed
3 to have two retail facilities within the R district
4 before another retail is permitted.

5 But, again, you have to look at the
6 really unique aspects of this block, and that it's
7 entirely commercial to begin with, between the taxi
8 company, the car wash and the HVAC company.

9 I think that notwithstanding that there
10 aren't other retail uses on this block, it's is a
11 great location for a retail use because Paterson
12 Avenue does have a pattern of retail uses at the
13 ground floor, some of the other five and six-story
14 buildings that you see, and I think the emergence of
15 the potential park across the street also hearkens
16 to a need for a retail use, not to serve the
17 immediate surrounding area, to service the patrons
18 of the park and also those people going to the mass
19 transit facility.

20 So I think it is a much better approach
21 to allow that, and that would fall again under the
22 C-2 benefits outweighing the detriment type criteria
23 in that case.

24 It's also consistent with the
25 recommendation of the master plan to have mixed-use

1 types of buildings that can provide services to the
2 community, as well as the residents.

3 So I think in conclusion, we have met
4 the positive and negative criteria for both the D-6
5 variance, as well as the C variances under, in some
6 cases, the C-1 hardship criteria, and in other cases
7 in terms of the C-2 benefits that outweigh the
8 detriment criteria.

9 MR. GALVIN: Well, how do you support
10 the hardship if you haven't made any -- just because
11 of the narrowness, the shape of the lot, right? Is
12 that you --

13 THE WITNESS: It is the shape, the
14 unusual shape, and also the shallowness.

15 When you get to that rear property
16 line, it is only 18 feet long. Typically even a
17 front property line would be 20 to 25 feet, and
18 depth is usually a hundred feet, so --

19 MR. GALVIN: But isn't there a question
20 if you maybe could have acquired additional
21 property, maybe that would change some of those
22 outcomes?

23 THE WITNESS: Yes, but the existing
24 properties are all developed. They're all
25 functioning. They're all active.

1 The buildings that exist on those lots
2 exist on the property lines adjacent to this. There
3 is no way to move those or take a portion of those
4 lots.

5 And I think if you took portions of the
6 lots, at least in one instance, going towards the
7 west, you would make that lot more irregular. And
8 the other lot, well, I guess you could narrow it a
9 bit, because it is 75 by a hundred now.

10 MR. GALVIN: I understand that.

11 The second thing is: When you have an
12 undersized or a unique sized lot as you do here,
13 what is the minimum size of a building that you
14 think you need to have here?

15 I mean, does this building -- do we
16 have to fill the entire space that we are filling
17 here, the entire volume?

18 Am I clear?

19 MR. MATULE: I understand your
20 question. I think Mr. Minervini spoke to that
21 earlier when he was talking about it was really a
22 design function, that the site dictated the design
23 of the building. I don't know --

24 MR. GALVIN: I remember hearing that.

25 What I am asking the planner is, you

1 know, is there a point where we can't -- I
2 understand that we couldn't fully comply with the
3 zoning, but is there a scale of, you know, 50
4 percent or a hundred -- in other words, if we
5 completely comply with the zoning ordinance, you
6 wouldn't be able to -- you would have a stick going
7 up, and you can't live in that stick.

8 MR. MATULE: Correct.

9 MR. GALVIN: But could we have less
10 than the percentages, like 10 percent less or 20
11 percent less, or no, we have to have the full
12 percentage because that is what the site dictates?

13 THE WITNESS: Well, I think it depends
14 on where you are taking the setbacks from.

15 If you were trying to set it back from
16 the northern property line, I think anything
17 exacerbates the unusual shape because of the severe
18 angle of Paterson Avenue.

19 If you brought the building back from
20 the western property line, it is less of an impact.
21 You could cover less going from that direction
22 because you might regularize the building shape a
23 little bit more. But I think that has been
24 attempted in the design by the architect in terms of
25 at that western property line, he does extend it to

1 the property line to accommodate the parking, but
2 above that he pulls it in 30 feet from that western
3 property line, so he has --

4 MR. GALVIN: So it softens that.

5 THE WITNESS: -- softens that.

6 MR. GALVIN: Sure. Okay. Thank you.

7 COMMISSONER MURPHY: I have a question.
8 I just want clarity.

9 So are you considering that terrace on
10 the fifth floor part of roof coverage?

11 THE WITNESS: Not roof coverage. They
12 don't normally have a roof coverage requirement any
13 more, but they have what they have in the zoning
14 ordinance, they have something called a lower roof
15 deck, and it is supposed to be located only on the
16 rear or side property line area and three feet from
17 any property line.

18 I don't know if that really is what
19 they meant by a lower roof deck, because it is
20 really nothing more than a set-back area for the
21 fifth floor, so I'm not sure if it really is a
22 variance or not.

23 COMMISSIONER MURPHY: Right.

24 I just thought you referred to it as
25 roof coverage, so I was concerned because I think

1 the roof is what is on top of that fifth unit.

2 THE WITNESS: Yeah. The new ordinance
3 sort of breaks out upper roof and lower roof, but I
4 think what was intended by the lower roof, where as,
5 you know, in some buildings in Hoboken, the first
6 floor will extend deeper than the second or third
7 floor and you get a rear yard, and then that first
8 floor might act as an outdoor space for the units on
9 the second floor.

10 That is what I thought they really had
11 in mind when they were describing that, not
12 necessarily where you might have a balcony or a
13 recessed floor step backs in the front, but I just
14 thought I would address it at any rate.

15 COMMISSIONER MURPHY: Okay. Thank you.

16 COMMISSIONER BRANCIFORTE: So I have
17 one or two questions.

18 This is just a question for Mr. Kolling
19 now. I don't want anyone else to answer this
20 question. But point out exactly where the park is
21 that you are talking about.

22 THE WITNESS: The building is -- I just
23 have to stick where my finger is --

24 COMMISSIONER BRANCIFORTE: It's just
25 for Mr. Kolling now.

1 THE WITNESS: -- it's at the corner of
2 Harrison and Paterson, on the northwest corner of
3 Harrison and Paterson --

4 COMMISSIONER BRANCIFORTE: Just keep --

5 THE WITNESS: The park is at the
6 southwest -- southeast corner of Harrison and
7 Paterson.

8 COMMISSIONER BRANCIFORTE: Uh-huh.

9 And then where is the light rail
10 station exactly from there?

11 THE WITNESS: The light rail station
12 is, you go one block to the west to Marshall Street,
13 and then you walk one block to Second Street, and
14 that is where the light rail station is.

15 COMMISSIONER BRANCIFORTE: Okay.

16 So this is the problem that I have with
17 Mr. Minervini's pictures from Google Earth.

18 We don't need a traffic engineer
19 tonight because it is not required, but I just don't
20 see those photos representing the true traffic
21 problem there, and I am curious if you think it is
22 safe to put a retail space there. You mentioned an
23 ice cream parlor for kids -- for people to go to
24 after the park.

25 I mean, is it really safe to put an ice

1 cream parlor there and encourage people to cross
2 those streets?

3 THE WITNESS: You have to cross the
4 street. If you are going anywhere, you have to
5 cross the street.

6 So, yeah, the sidewalks, as Mr.
7 Minervini described, they are relatively wide, and
8 that is where the pedestrians are obviously, but --
9 and that is where the park was chosen, and I'm
10 assuming that that was taken into account when the
11 park site was chosen.

12 COMMISSIONER BRANCIFORTE: Okay.
13 Gotcha.

14 CHAIRMAN AIBEL: Well, are there
15 crosswalks across Paterson and Harrison Street or
16 stop lights?

17 THE WITNESS: From the aerial photo
18 there as shown, there's a painted crosswalk
19 indicated across Harrison Street.

20 I am not certain about going across
21 Paterson, but that is something that can be put in
22 as a condition of approval.

23 Typically if there is not a handicapped
24 ramp or something at the corner, the Board's
25 engineer will request that to happen. So if that is

1 the case, we can then provide painted crosswalks at
2 that location.

3 MR. MATULE: We are going to have to go
4 to the county also, and they may have some input,
5 assuming this is approved.

6 CHAIRMAN AIBEL: Anything else, Board
7 members?

8 MR. GALVIN: Hey, guys, there's traffic
9 lights at both corners, right?

10 COMMISSIONER MARSH: Right. There has
11 to be.

12 MR. GALVIN: They're both triangles.

13 COMMISSIONER BRANCIFORTE: Dennis, if
14 you have crossed that street any time of day, you
15 know those traffic lights do nothing.

16 MR. GALVIN: In Summit when you step
17 into the crosswalk, all the cars stop.

18 COMMISSIONER BRANCIFORTE: No, this
19 isn't California.

20 COMMISSIONER MURPHY: You should come
21 and spend a week with us.

22 (Laughter)

23 MR. MATULE: If you don't look, you get
24 run over.

25 (Everyone talking at once.)

1 COMMISSIONER BRANCIFORTE: Well, you
2 can laugh about it, but in Hoboken you do get run
3 over, so it is not really that much of a laughing
4 matter I guess.

5 MS. BANYRA: I have a question.

6 CHAIRMAN AIBEL: Go ahead, Eileen.

7 MS. BANYRA: Mr. Kolling, I heard you
8 indicated that besides the green roof, the architect
9 spoke of other green building improvements. I don't
10 remember hearing any other green building
11 improvements. Maybe you could either elaborate or
12 maybe Frank can elaborate on that?

13 MR. MATULE: Yes. Frank can come up.
14 I think he did talk about that already, but we can
15 have him reiterate them.

16 You are still under oath.

17 MR. MINERVINI: Yes.

18 F R A N K M I N E R V I N I, having been duly
19 sworn previously, testified further as follows:

20 THE WITNESS: I mentioned the water
21 retention system -- the water retention system, the
22 green roof, the LED lighting, as well as low energy
23 appliances and windows -- I didn't mention windows,
24 but that is what we're going to do.

25 MS. BANYRA: I mean, I think Energy

1 Star requires, maybe it's the building code now, low
2 flow fixtures and everything, so that is pretty
3 standard. I mean, to me, that is nothing special.
4 That's kind of required by the building code, right?

5 THE WITNESS: Not all of the things
6 are --

7 MS. BANYRA: No, not the LEDs, not the
8 green roof --

9 THE WITNESS: But it is still something
10 green, as this Board has seen in the past, so I was
11 speaking to it in reference to what we all know.

12 MS. BANYRA: Okay. I just wanted to
13 make sure that we are clear on that.

14 Then this goes back to Mr. Kolling.

15 E D W A R D K O L L I N G, having been previously
16 sworn, testified further as follows:

17 MS. BANYRA: Mr. Kolling, then the
18 sidewalk width on Paterson Road looks like up to the
19 tree, when you're looking at the pictures on that,
20 it looks really narrow. You talked about using that
21 as, you know, it is not only going to the park, but
22 it's also going to the light rail, and it's a
23 transportation thing.

24 Two things: There is no landscaping on
25 there, and then there are trees proposed that may or

1 may not be approved by the county based on the width
2 of that sidewalk, because it looks like the
3 clearance is going to be maybe -- maybe five feet
4 right to the building wall.

5 So I wanted to know if you could speak
6 to that a little bit, in terms of the setback of the
7 building, whether that's adequate based on your
8 testimony going to the light rail, going to the
9 park.

10 Harrison seems appropriate. It is
11 wide, but, you know, and I am also concerned that if
12 the county doesn't approve the trees along there --

13 A VOICE: There's two.

14 MS. BANYRA: -- then that is pretty
15 much a blank sidewalk and no --

16 THE WITNESS: Well, in that regard,
17 yes, it wouldn't be landscaping, but it would
18 increase the pedestrian way.

19 I really haven't noticed the detail, if
20 it is a tree pit or if it's --

21 MR. MINERVINI: No. It's been required
22 by the --

23 MS. BANYRA: County.

24 MR. MINERVINI: -- county.

25 We will have nine feet clear. It's a

1 12-foot sidewalk. We'll have nine feet clear.

2 MS. BANYRA: That is not on the
3 Paterson -- it says five foot on Paterson on the
4 plans. I think on Sheet -- maybe Z-4 --

5 MR. MATULE: Z-3 is showing nine feet
6 to the curb.

7 MS. BANYRA: I am looking at from the
8 tree pit, five foot four to the tree pit.

9 MR. MINERVINI: Yes. You are
10 absolutely right --

11 MR. MATULE: Frank, if I might --

12 MR. MINERVINI: -- I'm sorry about
13 that.

14 MR. MATULE: -- what my experience with
15 the county has been, because they have a very
16 specific requirement, they do the linear
17 measurements and tell you how many trees you need.
18 But if they find that the trees are an issue at that
19 site, they basically have the applicant make a
20 financial contribution on a per tree basis.

21 So what I was going to suggest, and I
22 am throwing it out as a potential condition, if the
23 county doesn't approve the trees along there, that
24 we could propose to the county an easement for
25 planters along that side of the building on the face

1 of the building.

2 Would that work, Frank?

3 MS. BANYRA: You would have to set the
4 building back then a little bit, Frank.

5 MR. MATULE: Well, the county wouldn't
6 let you put them on the sidewalk, because they're
7 only two or three feet wide.

8 MR. MINERVINI: We would need an extra
9 traditional 12 inches.

10 COMMISSIONER BRANCIFORTE: What we are
11 already dealing with narrower -- is that right here?

12 A VOICE: Seven foot sidewalk.

13 MR. MINERVINI: I'm sorry, what?

14 COMMISSIONER BRANCIFORTE: We are
15 dealing with a seven foot sidewalk there?

16 MS. BANYRA: Nine.

17 MR. MINERVINI: Nine.

18 MS. BANYRA: From the face of the
19 building to the curb, the edge of the curb.

20 MR. MINERVINI: The minimum requirement
21 is four -- wait -- we don't want that, of course --

22 MS. BANYRA: Yeah. On this site, this
23 road in particular, Harrison agreed -- on this road,
24 as you pointed out, it's really busy, and it's
25 really, you know, it's the more dangerous side of

1 the -- the whole thing is dangerous, but it's, you
2 know, it's a busy -- it's really busy, so --

3 MR. MINERVINI: It is possible that the
4 county won't allow trees here, but we will try it.

5 CHAIRMAN AIBEL: Board members?

6 So, Mr. Kolling, one quick question.

7 I understand your argument that you
8 need a hundred percent lot coverage to overcome the
9 hardship because of the uniqueness of the lot, but
10 do you need the extra ten feet in height to overcome
11 the hardship?

12 THE WITNESS: I think the way the
13 architect described it, is when you have an
14 unusually shaped building, you can't really design
15 units that are regular, with those irregularities.

16 So it makes it more difficult to fit
17 the units in, and I think that is why the extra
18 story was asked for, so that they could get eight
19 units that are permitted, and also to do those units
20 of a size that would be, you know, comparable to
21 other family-sized units that have been proposed in
22 other developments.

23 CHAIRMAN AIBEL: So maybe, I don't know
24 if this is a question for counsel.

25 Is it a legitimate argument to say I am

1 permitted to build to the permitted density and
2 exceed the height and lot coverage limitations to
3 overcome a hardship?

4 MR. MATULE: While Mr. Kolling was
5 testifying, the architect was reviewing the question
6 about whether the -- I don't want to say the wrong
7 direction -- but the corner of the building could be
8 pulled back on that one side, where we talked about,
9 where it was only on the ground floor, so maybe you
10 could address that, Frank.

11 MR. MINERVINI: At one point we talked
12 about how these two spaces are rather difficult, so
13 my thought was if we remove at ground level this
14 section of structure, we would lose those two
15 parking spaces, but we would only have one there
16 anyway based on our conversation.

17 And this area, although it is not green
18 as part of the taxi cab company, it is open. So
19 what we do in essence is create an open 20 foot
20 alley between Paterson Avenue and First Street, but
21 it will be a viewing corridor.

22 COMMISSIONER BRANCIFORTE: But then if
23 that lot to your right there, that you don't own and
24 you have no control over, the guy decides I am going
25 to put a building there, we are just going to have

1 basically an overhang with two walls?

2 MR. MATULE: No. There is no overhang.

3 COMMISSIONER MURPHY: No overhang.

4 MR. MINERVINI: This is only on the
5 first floor. When you get to the floors above, our
6 building doesn't go to this line.

7 COMMISSIONER BRANCIFORTE: Oh, okay.

8 MR. MINERVINI: And I will use the
9 second floor plan that will make it easier to
10 understand --

11 COMMISSIONER BRANCIFORTE: No, no.
12 That's fine. I understand what you are saying,
13 Frank, but still it goes back to the point that, you
14 know, you say it is going to be an -- you are kind
15 of selling to us as an open space way there, an
16 alleyway that would be open space. But that open
17 space can disappear on that other lot because you
18 can't guarantee us it's going to stay.

19 MR. MINERVINI: As we had talked about
20 before, on those other lots, the front of the
21 building would be along First Street. It's 75 feet
22 deep, so with the thought that there is some rear
23 yard there, if that building was ever to be
24 developed, it would be here, that rear yard --

25 COMMISSIONER BRANCIFORTE: Yeah. But

1 then you're putting -- but then you're kind of, you
2 know, see, because you are kind of assuming that the
3 people that are going to develop that other property
4 eventually are going to develop it, you know, in a
5 certain way.

6 THE WITNESS: Well, in terms of the
7 design, as Frank was pointing out, these lots are
8 substandard coming this way.

9 If they were able to be developed with
10 a row of buildings here, the rear yard would be
11 here, so you would still have adjacency to this.

12 If they were developed where Harrison
13 Street is to front, those would come back, and they
14 would still leave this open, so there's still an
15 adjacency --

16 COMMISSIONER BRANCIFORTE: But I think,
17 to me, we're talking about a hypothetical.

18 THE WITNESS: Well, it is what is
19 required. It's not a hypothetical.

20 COMMISSIONER BRANCIFORTE: But they
21 could always come to the Zoning Board and ask for a
22 variance.

23 MR. GALVIN: Well, we could control
24 that, though.

25 COMMISSIONER BRANCIFORTE: Yeah. But

1 they are kind of putting the onus on the other
2 owner, saying --

3 COMMISSIONER MARSH: Right.

4 COMMISSIONER BRANCIFORTE: -- we pushed
5 you into this corner, and now you're going to have
6 to ask for a variance.

7 MR. MINERVINI: This is --

8 COMMISSIONER MURPHY: No. They're
9 coming to us anyway.

10 VICE CHAIR GREENE: The other option
11 is --

12 COMMISSIONER DE GRIM: Well, the
13 alternative --

14 COMMISSIONER MC ANUFF: But what is
15 really the benefit of having that --

16 MR. MINERVINI: Less lot coverage, it
17 is a pocket yard. Given this configuration, street,
18 street, building, if we are to reduce lot coverage
19 in any way at the ground level, this would be the
20 logical place to do it, considering that this is
21 open already --

22 MR. GALVIN: Well, time out for a
23 second.

24 I think the argument isn't whether or
25 not it's open -- yeah, here we go. It is moving on

1 it's own --

2 (Laughter)

3 -- no. I mean the argument is you want
4 some open space. You are not really concerned with
5 how it is going to fit into that next lot.

6 He is talking about the alleyway, but
7 really what we are talking about is can we just get
8 some open space.

9 Is that going to be grass, or what's
10 that going to be?

11 THE WITNESS: It certainly could be --

12 MS. BANYRA: He's going to have to come
13 back with a design.

14 MR. GALVIN: No. But I am saying if
15 it's green, then you are going to have some aquifer
16 recharge, and it has small benefit in the overall
17 process. It's better than having a building and a
18 parking lot --

19 MS. BANYRA: Can I just make a comment
20 on this?

21 I think, you know, let me just explain
22 this to you.

23 So when you are going to design, and
24 hypothetically this could be a pocket park, I would
25 agree with some of the testimony here. And because

1 you can't -- you are trying to set the pace for the
2 next development. The next person coming in, it's
3 more than likely they're coming in with variances
4 because right up front the lots are undersized in
5 terms of the width and things, so you're trying to
6 set it up.

7 You often set up a path, a park, as in
8 you set the vision in motion, so that when the next
9 person comes in, here is a pocket park here, lay
10 another pocket park or some other space up against
11 it, so you're giving them a reason.

12 If we built the wall there, the next
13 guy coming in is going to say, there's a wall there,
14 why should I put this little -- by opening it up,
15 you have given the opportunity to shape that space.
16 It could be a very interesting little space. It is,
17 you know, 18 by 22.

18 It is going to be, you know, I'm going
19 to say roughly 300 square foot or something. It is
20 going to be -- it could be a little interesting
21 little space depending upon how they design that, so
22 you could end up walking out of the garage into this
23 little plaza area. It could be a very intimate,
24 very, you know, cool interstitial space.

25 So I don't think that that should be

1 necessarily -- and it does speak to the idea of
2 creating additional open space, so I don't want
3 to -- I am not arguing for them. I am agreeing that
4 that actually is a benefit in terms of -- I wouldn't
5 just negate it and say, just in case somebody comes
6 in and puts a wall there.

7 I think we are going to be able to
8 control it and when a green space is there, somebody
9 is going to then think to open it up and put another
10 green space next to it.

11 MR. GALVIN: Well, what I was saying
12 was, they were trying to oversell it. We can't
13 control that outcome.

14 It may be logical. We may be setting
15 that chess play up, but it may or may not work out.

16 COMMISSIONER BRANCIFORTE: Right.
17 That's what I'm saying --

18 MR. GALVIN: That's what I am saying.
19 It's the --

20 COMMISSIONER BRANCIFORTE: I am not
21 putting too much weight on that, on the idea that
22 it's going to stay an open --

23 MR. GALVIN: I'm saying, stay focused
24 on the additional -- if you think it's a -- if you
25 like this project and you think it is a benefit to

1 reduce the --

2 COMMISSIONER BRANCIFORTE: Footprint.

3 MR. GALVIN: -- footprint and the
4 building coverage, then the lot coverage, then it is
5 something that we could pick up in the process, and
6 I think we should try.

7 CHAIRMAN AIBEL: Okay. Any more
8 questions, Board members?

9 VICE CHAIR GREENE: Yes.

10 Now that you reduced the building, what
11 does that -- visually, what does that look like?

12 Are we now looking at instead of a bow,
13 we are now looking at a stern?

14 (Laughter)

15 MR. MINERVINI: It would be the other
16 side.

17 So here is the bow. You would be
18 losing this section right here.

19 VICE CHAIR GREENE: Oh, okay.

20 MR. MINERVINI: What we could do is, if
21 there is a fence, we could continue this pier line,
22 so there is some continuity, but there would be
23 railing here or a fence of some sort, and an open
24 fence that would match the architecture of the
25 windows --

1 VICE CHAIR GREENE: Then would you have
2 a doorway into the garage from there?

3 MR. MINERVINI: I think so, yeah. That
4 would be the access for the residents to use. I
5 think that makes perfect sense, as well as a one-way
6 or a locked gate to access it from Paterson.

7 CHAIRMAN AIBEL: Board members,
8 professionals?

9 COMMISSIONER BRANCIFORTE: Well, the
10 only other thing, too, is that this idea of
11 family-friendly, why is this family-friendly when
12 it's on this island that's surrounded by these busy
13 streets, that we already agreed, I mean, are
14 dangerous streets?

15 I mean, how can a family be crossing
16 the street --

17 MR. MINERVINI: I'm sorry.

18 My opinion, and of course, I am not a
19 planner, I am an architect, the city has determined
20 that the park is going to be within very close
21 proximity, that would help make this
22 family-friendly -- more family-friendly, pardon me,
23 in what we are proposing anyway, in terms of size,
24 in terms of amenities.

25 So given its location in proximity to

1 the park, I think this is a pretty good place for a
2 family unit, but it doesn't have to be a family, as
3 you mentioned many times.

4 THE WITNESS: And it is a residential
5 zone. The city has zoned it residential and the
6 intent of the zone plan is to stabilize and
7 revitalize the residential aspects of the district.

8 CHAIRMAN AIBEL: Okay. Let me open it
9 up to the public.

10 Anybody have questions for Mr. Kolling?

11 Please, come on up.

12 MS. HEALEY: Leah Healey, 806 Park.

13 You talked about the fact that the
14 street trees that may not be approved by the county
15 for the width would then become a contribution
16 instead.

17 Where does that contribution go?

18 MR. MATULE: It goes to the county
19 tree program, so they take the money and use it to
20 plant trees on other county roads.

21 CHAIRMAN AIBEL: However, they said
22 that they agreed to offer the money to plant
23 planters.

24 MS. HEALEY: Well, what I was wondering
25 is --

1 MR. GALVIN: Sure. Bob wants to
2 correct me.

3 MR. MATULE: No. What I said was,
4 just so the record is clear, when we go to the
5 county, they require a tree, I believe, every 30
6 feet.

7 When there are passage issues, they
8 waive the requirement that you plant them, but in
9 lieu of that, they require that we make a payment to
10 the county. You know, we have to get a bill from a
11 tree planting guy that says that the trees are \$300
12 a piece or whatever they are to plant, and if it is
13 six trees, it is \$1800.

14 What I was suggesting is if the county
15 says we don't want the trees there, we would be more
16 than happy as an alternative to ask the county for
17 an easement to put two-foot planters along the face
18 of the building on that street.

19 They would still have a seven foot wide
20 sidewalk then, which should be more than enough.
21 Now, that obviously is up to the county. I was just
22 proffering it as an alternative, if the county would
23 permit it.

24 MR. GALVIN: Right. So if the county
25 does not approve the proposed trees, the applicant

1 agreed to offer to install two two-foot planters on
2 the sidewalk?

3 MR. MATULE: Against the face -- on the
4 face, you know, on the face of the building as
5 opposed to out at the curb.

6 MS. HEALEY: Are these two-foot
7 planters that are pervious or impervious?

8 MR. MATULE: Well, I guess if they are
9 full of dirt, and they have plants in them, I guess
10 they would be pervious.

11 MS. HEALEY: Mr. Kolling, I don't know
12 if you can answer this, but --

13 THE WITNESS: It would depend on how
14 they were designed, but certainly you could have --
15 you could remove the concrete sidewalk --

16 MR. GALVIN: Let's stop.

17 Mr. Minervini, I'm sorry, I know --

18 MR. MINERVINI: I was figuring out the
19 reduction in lot coverage --

20 MR. GALVIN: What we are asking is if
21 the planters would count towards impervious or
22 pervious --

23 MS. HEALEY: No, I didn't ask that.

24 MR. GALVIN: I'm sorry.

25 Go ahead, Leah.

1 MS. HEALEY: Street trees are
2 well-known for their amazing ability to uptake flood
3 water, groundwater, everything.

4 What kind of planter are you going to
5 put there that could have the same effect as a
6 street tree in terms of the ability to uptake water?

7 MR. MINERVINI: It won't have the same
8 effect. It's purely for visual effect.

9 It will, however, there will be
10 concrete beneath, but it will be pervious. But the
11 plantings themselves won't make much of a difference
12 I think relative to what you're asking.

13 MS. HEALEY: So, and because I heard
14 money -- in lieu of money would go to the county,
15 which would have no benefit to the city, my question
16 is: Are you willing to take whatever trees and
17 perhaps more than you would have planted on the
18 sidewalk and put them into this new open space?

19 MR. MINERVINI: The open space that we
20 are creating?

21 MS. HEALEY: Correct.

22 MR. MINERVINI: It will be too small
23 for anything more than one tree. Even that would be
24 tight. It's a smaller space. I'm calculating it --

25 MS. HEALEY: 300 square feet?

1 MR. MINERVINI: -- I am calculating the
2 square footage now. It's in that range, but you
3 certainly couldn't have more than one tree in this
4 dimension.

5 MS. HEALEY: In 300 square feet?

6 MR. MINERVINI: Absolutely.

7 MS. HEALEY: How much does one tree
8 require for square footage?

9 MR. MINERVINI: You are thinking of it
10 in terms of a relationship from tree to tree.

11 If we look at the space, we have
12 confines on one, two, three, four sides, so a tree
13 could only go right in the center. You couldn't put
14 more than one tree in the center there.

15 We certainly look at that as something
16 as an interesting landscaping feature.

17 MR. GALVIN: I would --

18 THE WITNESS: There are possibilities,
19 that there is a park going to be --

20 COMMISSIONER MARSH: I have four trees
21 in my backyard --

22 THE WITNESS: -- going to be diagonally
23 across the street, and that's a contribution to
24 maybe the landscaping in the park.

25 COMMISSIONER MARSH: -- I have four

1 trees in a space that's smaller than that.

2 MR. MINERVINI: We're not trying to not
3 put trees in. One is logical here. More than that
4 would probably not be. We can put more somewhere
5 down the block, if so desired. We would happy to,
6 whatever trees we don't have here, I don't know what
7 your yard is. I am telling you that you can't have
8 more than one in this confined space.

9 You've got roofs to deal with. You've
10 got foundation walls on three sides, so I don't know
11 what your yard is, but we cannot put -- the species
12 of tree that's required for the street here, more
13 than one. It doesn't matter what you have on your
14 street.

15 However, understanding your point, we
16 could, if the county didn't want us to put these
17 trees here, we would happily put them across the
18 street or anywhere else that we could work with the
19 city and plant them. I would be happy to do that.

20 MS. BANYRA: You could also, I mean
21 hypothetically, if you set the building back two or
22 three feet, you could probably get it all, right?

23 MR. MINERVINI: Set the building back?

24 MS. BANYRA: From -- because if you're
25 pinching that road, right, and the tree can't fit

1 because it is pinched, if you set the building back
2 along Paterson --

3 MR. MINERVINI: So what you are
4 suggesting is this?

5 MS. BANYRA: Whatever -- it doesn't
6 have to be ten feet, but whatever to make it work.
7 yeah.

8 Street trees, and besides the fact that
9 what Ms. Healey stated, was that in terms of the
10 uptake, also the visual quality, will add not, as
11 you probably know well, Frank, to the amenity of a
12 building, because it adds to the visual attraction
13 of a building, as well the visual attraction of the
14 street.

15 So while planters do some, you know
16 recharge, I'm going to say or take up some water,
17 the trees have a whole different element.

18 "The New Yorker" had an article last
19 week about street trees on urban areas basically and
20 the value of street trees in urban areas.

21 MR. MINERVINI: Even if we were to set
22 this building back, the county would control what
23 The street trees are and the species --

24 MS. BANYRA: Understood, understood.

25 MR. MINERVINI: -- but I heard what you

1 had to say.

2 MS. BANYRA: I am done.

3 CHAIRMAN AIBEL: Anybody else in the
4 public have questions for Mr. Kolling?

5 Seeing none.

6 VICE CHAIR GREENE: Seeing none, I move
7 to close public portion for this witness.

8 COMMISSIONER DE GRIM: Second.

9 CHAIRMAN AIBEL: All in favor?

10 (All Board members answered in the
11 affirmative.)

12 MR. MATULE: Public comment?

13 CHAIRMAN AIBEL: That's where we are.

14 All right. Let me open it up to the
15 public for comment.

16 Anybody in the public wish to comment?

17 Please come forward.

18 MR. GALVIN: Raise your right hand.

19 Do you swear or affirm the testimony
20 you are about to give in this matter is the truth,
21 the whole truth, and nothing but the truth?

22 MS. HEALEY: I do.

23 MR. GALVIN: State your full name for
24 the record and spell your last name.

25 MS. HEALEY: Leah Healey, H-e-a-l-e-y.

1 MR. GALVIN: Street address?

2 MS. HEALEY: 806 Park Avenue.

3 I don't have a lot of comment on this
4 building itself. There was a lot of testimony, but
5 I haven't studied the plans.

6 However, I do feel very strongly about
7 the street tree issue, and this is a flood prone
8 area to begin with, and there is a lot of research
9 out there that indicates that street trees are an
10 incredible resource for uptake of rainwater,
11 stormwater, so I would hate to see this get out of
12 control just because it goes to the county.

13 And I know that this has happened once
14 before on Willow Avenue, where this Board said that
15 the project should go to the Shade Tree Commission,
16 and it was 7th and Willow, and they never went to
17 the Shade Tree Commission. They went to the county,
18 and the county kind of ignored the planner's
19 recommendation.

20 So I think there needs to be a little
21 more interface with the county, because I don't
22 think the county is trying to undermine our
23 street -- the flavor of our streets, but I don't
24 think they give it the attention, because what
25 really they're concerned about are their roads.

1 So I would ask that we not allow this
2 to default into some contribution to the county,
3 that we will never see for our street trees, and
4 that you consider and the applicant consider moving
5 this building in such a way that the normal street
6 trees can be provided, not only because of the
7 uptake, but because there is a park right across the
8 street, and I think there is a wonderful blending
9 that can happen here between the sidewalk and the
10 park. And one thing that trees do is create a
11 pedestrian quality. There's a psychological thing
12 that happens to people that walk down a street lined
13 tree -- a street lined with street trees --

14 (Laughter)

15 MR. MATULE: As opposed to the street
16 lined trees we now have.

17 If I could just --

18 MR. GALVIN: I was just going to say
19 the court reporter wrote what you thought, not what
20 you said, so you're okay.

21 MR. MATULE: While you were speaking,
22 the architect went back and spoke to the client, and
23 the client is more than willing to pull the building
24 back three feet from the sidewalk to try to
25 accommodate those trees. But, again, I just have to

1 reiterate, you know, as kind of a point of law for
2 the record, it is a county road. They have the
3 final say.

4 We certainly have offered. If the
5 county says we can't put the trees there, whatever
6 was going to go there, we'll be happy to make a
7 contribution to the City of Hoboken or plant them in
8 kind somewhere else, but ultimately that is the
9 county's call.

10 MR. GALVIN: You know, if we pull the
11 building back far enough, we would put it on the
12 property, right?

13 MR. MATULE: I suppose.

14 MS. BANYRA: No. You don't --

15 MR. MINERVINI: No --

16 MS. BANYRA: -- really want to do that
17 because it's too close to the building, and you
18 really can't get the canopy and all of the benefits
19 that you would get when it's along the street.

20 MR. GALVIN: Okay.

21 MS. BANYRA: So, but by pulling it
22 back, then you do have an adequate side width. You
23 have a few other things that could possibly work.

24 COMMISSIONER MC ANUFF: Let me just ask
25 a question then.

1 If the building is pulled back, the
2 county can still say, not approve the trees,
3 correct?

4 MR. GALVIN: But they are hoping that
5 it will be likely that they will be okay with it
6 with that three extra feet.

7 COMMISSIONER MC ANUFF: And if they say
8 no, what happens then? The building goes back to
9 the original dimension?

10 MR. GALVIN: Then we are back to this.
11 We're back to getting the two-foot planters.

12 COMMISSIONER MARSH: I didn't ask -- I
13 didn't look at the pictures for this particular
14 thing.

15 Are there overhead utility wires there?

16 MR. MINERVINI: There are, running
17 along Paterson.

18 COMMISSIONER MARSH: On that side of
19 the street?

20 MR. MINERVINI: Yes.

21 COMMISSIONER MARSH: Ugh...

22 MS. HEALEY: May I be allowed to finish
23 my comment, and then I'll sit down?

24 MR. MATULE: Sure, I'm sorry.

25 MS. HEALEY: I think it would behoove

1 this Board to understand what the county's rationale
2 is for their street tree decisions, because I can
3 understand the decisions they might have with
4 respect to the roadway.

5 But when it comes to the sidewalk, I
6 think we need to be better versed at what goes on at
7 the county level, so that we can make decisions that
8 don't get overturned or create things that we can't
9 control.

10 So I think there's a way to do that. I
11 don't know exactly how it is, but I would certainly
12 think that the resolution of this Board or some
13 communication to the county should indicate how
14 important we think it is for these street trees and
15 for the purposes they serve the community, rather
16 than just the county rule, and so that is all I
17 would ask.

18 MR. MINERVINI: If I may, can I
19 describe what we are amending?

20 CHAIRMAN AIBEL: Please.

21 MR. GALVIN: Well, I don't think it is
22 necessary. I mean, I think what we have to do is if
23 the Board is agreeable to your proposal in the first
24 place, then I would recommend to the Board that we
25 want to see want the green area is going to look

1 like and how you are going to propose to fill that
2 up and how that is going to work and then you would
3 revise the plans to show the three foot setback.

4 MR. MINERVINI: So there is no
5 question, I think given this building design, what
6 makes sense is to reduce that three feet from this
7 point back.

8 MR. GALVIN: Don't get mad at me
9 because he is doing it anyway.

10 CHAIRMAN AIBEL: That's good.

11 MR. MINERVINI: And I'm pointing this
12 out because I don't want to come back and have you
13 think that I tried to change things by not changing
14 it here.

15 So what our thinking is, we lose the
16 three foot on this swatch, even here if we had to,
17 but although this allows for our entry here, and
18 keeping it here is just a ramp space, it's not an
19 actual structure anyway. So this is set back, so
20 the thought is the sidewalk would increase three
21 feet from this entire swath, as well as this would
22 be open.

23 CHAIRMAN AIBEL: Is it pushed back just
24 on the first floor, or is it the whole building --

25 MR. MINERVINI: Yes, because once you

1 go above, it is set back six feet anyway.

2 CHAIRMAN AIBEL: Okay.

3 VICE CHAIR GREENE: So would it still
4 be set back six feet, or would it now be set back
5 three feet?

6 MR. MINERVINI: The second floor is not
7 going to change. The second floor is five feet at
8 its furthest point, and six feet where the windows
9 are, so then it would just be set back two feet off
10 of the --

11 (Everyone talking at once)

12 CHAIRMAN AIBEL: It's still six feet --

13 MR. MINERVINI: -- it's still six feet
14 from the property line. That's not changing.

15 VICE CHAIR GREENE: Okay. I get it.

16 MR. MINERVINI: This wall location, we
17 are not proposing to change.

18 VICE CHAIR GREENE: Now, are you going
19 to impact your parking spaces?

20 You have already given up two. Are you
21 going to lose another one?

22 MR. MINERVINI: I don't think -- I
23 think we can gain one here and lose two here, so the
24 net will be the same anyway.

25 MR. MARSDEN: You won't gain that one

1 because you took three feet off --

2 MR. MINERVINI: Oh, pardon me. You're
3 right.

4 We would have to add -- I'll see if we
5 can add a parallel space. I think 12 feet when it
6 was one --

7 MS. BANYRA: They're over by four --

8 COMMISSIONER MURPHY: I was going to
9 say you don't need to have all of that parking
10 anyway.

11 MR. MINERVINI: No.

12 VICE CHAIR GREENE: Yeah. But the four
13 that you're losing includes the handicapped spot.

14 MR. MINERVINI: This could be
15 rearranged. We'll have to do some redesigning for
16 sure.

17 COMMISSIONER DE GRIM: So you are going
18 to lose three and --

19 MR. MINERVINI: Yes, that's probably
20 the reality.

21 CHAIRMAN AIBEL: Okay. I think we are
22 ready to move on.

23 Thanks.

24 MS. ONDREJKA: Wait. Are there any
25 more questions?

1 CHAIRMAN AIBEL: No. Time for public
2 comment.

3 MR. GALVIN: Well, you can ask a
4 question.

5 MS. ONDREJKA: I wanted to question --

6 MR. GALVIN: Come on up. We'll put you
7 under oath, and you can ask a question.

8 Raise your right hand, Mary.

9 Do you swear or affirm the testimony
10 you are about to give in this matter is the truth,
11 the whole truth, and nothing but the truth?

12 MS. ONDREJKA: I do.

13 MR. GALVIN: State your full name for
14 the record and spell your last name.

15 MS. ONDREJKA: As always, Mary, last
16 name, O-n-d-r-e-j-k-a. 159 9th Street.

17 MR. GALVIN: Thank you.

18 MS. ONDREJKA: I believe -- can I ask a
19 question?

20 MR. GALVIN: Yeah.

21 MS. ONDREJKA: I believe you said or
22 someone said you didn't need a traffic study for
23 this?

24 MR. MINERVINI: Of me, are you asking
25 the question?

1 MS. ONDREJKA: Well, who would answer
2 that question?

3 MR. GALVIN: Well, no. There was no
4 traffic study needed in this case.

5 MS. ONDREJKA: Okay. There was not one
6 necessary.

7 Is that what I heard correctly?

8 MR. MINERVINI: Mr. Kolling had
9 mentioned that --

10 MR. GALVIN: Mr. Marsden -- time out.

11 Mr. Marsden, should we have had a
12 traffic study in this case?

13 MR. MARSDEN: No, it's not --

14 MR. GALVIN: Why not?

15 MS. ONDREJKA: Why not is my question.

16 MR. MARSDEN: The number of vehicles
17 inside required for parking doesn't mandate that. I
18 believe it is 50 vehicles.

19 MR. GALVIN: So it's quite a lot
20 vehicles before we need the --

21 MR. MARSDEN: Yeah. The smaller
22 developments don't require parking studies under a
23 certain threshold.

24 MS. ONDREJKA: But it is located in an
25 extraordinarily dense area, and once this plan taken

1 into account that they are reconfiguring Observer
2 Highway --

3 MR. GALVIN: Well, no. You asked the
4 question of why we didn't require it, and what we
5 are saying is that ordinance doesn't require it in a
6 smaller property.

7 I understand your rationale about it's
8 a busy location. We understand that.

9 MS. ONDREJKA: Aren't the cars going to
10 be backing out into Paterson?

11 MS. BANYRA: No.

12 MR. GALVIN: That would be up to them
13 to answer that question.

14 MS. ONDREJKA: Where are they going to
15 be backing out?

16 MR. MATULE: The cars will not be
17 backing out anywhere.

18 They will be pulling out --

19 MS. ONDREJKA: Or pulling out?

20 MR. MATULE: -- headfirst onto Harrison
21 Street --

22 MS. ONDREJKA: Okay. They'll be
23 pulling out.

24 MR. MATULE: -- headfirst onto Harrison
25 Street. That is one of the reasons why we have to

1 have the 20 foot backup aisles in the garage, so the
2 cars can back up and then pull out headfirst rather
3 than back out. The Board will not allow cars to
4 back out, in my experience, and we are not on
5 Observer Highway.

6 MS. ONDREJKA: I know you are not on
7 Observer Highway, but Observer Highway runs -- part
8 of it will go right into Paterson Plank. I have
9 seen the maps. It is a hellish area.

10 My -- my comment is: I walk down there
11 because I usually go down to The Gallery over there.
12 It is a horrendously busy, dangerous spot. I can't
13 even imagine that they are going to put this
14 building, which right now stands a one-story, I
15 understand.

16 This is just -- this has really gone
17 insane. I am at a loss for words. It is the most
18 dangerous area, in my opinion.

19 I had to run across those streets many
20 times, so I don't get hit, and I am a grownup. I
21 mean, I can only imagine when the park goes there
22 because once Observer Highway is narrowed down to
23 one lane going in either direction, people are going
24 to try to feed off in all directions trying to get
25 away from that mess. It's going to -- just you

1 wait. You wait.

2 COMMISSIONER BRANCIFORTE: But along
3 that line, though, how many spaces are you providing
4 right now, and how many do you need?

5 MR. MATULE: We originally -- the
6 original proposal I believe was, and, Frank, correct
7 me if I am wrong, we originally proposed 12 spaces,
8 and we actually needed, I believe, three for the
9 commercial and five for the residential, so we
10 needed eight, correct --

11 COMMISSIONER BRANCIFORTE: And now how
12 many --

13 MR. MATULE: -- and we are proposing
14 12, and I think we are now down to approximately
15 nine, so maybe we are one over.

16 COMMISSIONER BRANCIFORTE: Okay.

17 CHAIRMAN AIBEL: Okay. Let's keep
18 moving.

19 Comments from the public.

20 Last chance.

21 VICE CHAIR GREENE: Seeing no one, I
22 move to close public portion.

23 COMMISSIONER MC ANUFF: Second.

24 CHAIRMAN AIBEL: All in favor?

25 (All Board members answered in the

1 affirmative.)

2 CHAIRMAN AIBEL: Okay. Board members,
3 time -- oh, I'm sorry, Mr. Matule. My apologies.

4 MR. MATULE: Just very briefly, I
5 appreciate the comments from the public, but let's
6 bear in mind we are in a residential zone. We are
7 within the permissible density.

8 We are now going to be one over by the
9 parking. I think esthetically, it is going to be a
10 much better look for this corner. It is a gateway
11 to the city.

12 I think, as usual, Mr. Minervini has
13 come up with a very creative design. As a matter of
14 fact, I think right now the property has a couple of
15 curb cuts on it, so now we are only going to have
16 one 12-foot curb cut, and, you know, there is no
17 appreciable negative impact.

18 You know, obviously, there would be
19 less impact if it was a vacant lot, but we're
20 putting a building pretty much within the density
21 parameters there. The height is really esthetic.
22 It is 12 foot floor-to-floor heights rather than
23 ten, and I think perhaps because it is on a kind of
24 compact site, it makes more sense to have a taller
25 building esthetically, and with the modifications

1 the applicant has agreed to, I suggest it is an
2 excellent project, and I would ask that you approve
3 it.

4 CHAIRMAN AIBEL: Thanks, Mr. Matule.

5 Okay. Board members?

6 MR. MARSDEN: Can I just -- one quick
7 statement, okay?

8 Due to the fact that you have three
9 crosswalks at Harrison's intersection, I don't
10 believe it is a dangerous intersection. I believe
11 it is signalized, and it has crosswalks, and because
12 the public indicated that it was dangerous and it's
13 unsafe, and in my opinion, it is not.

14 CHAIRMAN AIBEL: Thanks, Jeff.

15 Okay. Board members, anybody want to
16 kick off?

17 COMMISSIONER COHEN: Well, I want to
18 start with the fact that it is currently being used
19 in a way that is not suitable for the zone. I mean,
20 it is a quasi-industrial commercial use in an R-3
21 zone.

22 This is going to be an attractive
23 building. It is a block away from the Sky Club,
24 which is a major residential development I think.
25 This is an area that has been considered by the

1 governing body at various times as a possible park
2 space, and the conclusion was to keep it
3 residential, so this project is consistent with the
4 what the governing body would like it to be.

5 In terms of the number of dwellings, in
6 terms of, you know -- and I think it is compatible
7 with the heights of the neighboring properties. You
8 have a six-story building across the street. The
9 Sky Club is obviously two 17-story towers blocked in
10 the other direction.

11 I think that there has been some
12 significant additional green spaces that have been
13 created here. I wasn't really expecting that in
14 this application, just because there really isn't
15 any green space on this entire block. It is pretty
16 much paved over, parking lots and inappropriate
17 commercial uses in a R-3 zone, so I think that we
18 are getting something that is frankly better than
19 what I expected, you know, from this application in
20 terms of having a potential greenway for future
21 developments.

22 I think that by having the building be
23 pulled back off the lot line the way it has been
24 offered, which is not consistent with the way
25 Paterson Avenue is, most of the properties on

1 Paterson Avenue are built at the lot line to allow
2 for an increased chance of having county street
3 trees on the block is a significant benefit.

4 Looking at the pictures from the Google
5 Maps above shots of Paterson Avenue, on the other
6 side of the street, there are trees, but there are
7 no street trees on this side of the block, so you
8 would have, you know, matching trees on both sides,
9 which would be a helpful part of the corridor, which
10 is a fairly unfriendly busy corridor.

11 So I think that it is a chance to
12 significantly green and improve the project, so I
13 mean, I guess we can talk in detail later, but I
14 think the offer to pull back the three feet on the
15 Paterson side, the offer to pull back the two
16 parking spots off the northern end of the lot and
17 make it into a green space, if they would present
18 and design for us with an extensive green roof is
19 going to be a significant improvement to an area
20 that is terribly prone to flood, so I think that the
21 advantages outweigh the disadvantages, and I think
22 it is a good project.

23 CHAIRMAN AIBEL: Anybody else?

24 Mr. Greene?

25 VICE CHAIR GREENE: Depiste the

1 description of all of the green elements, I note
2 that there was no conversation as to any LEED
3 certification. I assume that was intentional. I
4 don't know that it makes a difference whether or not
5 it's LEED certification.

6 I would ask that, do we know if this is
7 going to be a rental building or an ownership
8 building?

9 MR. MATULE: I am assuming ownership,
10 but obviously sometimes the market dictates that.

11 VICE CHAIR GREENE: Since there's going
12 to be some outdoor space, I would ask that the
13 storage on that outdoor space would be prohibited to
14 the best of one's ability to prohibit it, clearly
15 because most of them will be visible from the
16 street.

17 COMMISSIONER BRANCIFORTE: It is true.
18 I mean, in the past --

19 MR. MATULE: We have no objection to
20 that concept.

21 VICE CHAIR GREENE: I recognize that it
22 may be something that you can't absolutely control,
23 but at least something that --

24 COMMISSIONER COHEN: Condo association
25 bylaws or something like that.

1 VICE CHAIR GREENE: Right.

2 MR. MATULE: I think, you know, some
3 language could be put in the condo bylaws that say
4 that that common area has to be maintained as an
5 open space --

6 VICE CHAIR GREENE: No. I'm not
7 talking about the common area. I'm talking about
8 the individual balconies. The individual outdoor
9 spaces.

10 MR. MATULE: Oh, oh, oh, okay, yes,
11 sure.

12 COMMISSIONER COHEN: No storage areas.

13 MR. MATULE: You can't hang your coat
14 on the balcony --

15 CHAIRMAN AIBEL: No laundry --

16 (Everyone talking at once.)

17 COMMISSIONER BRANCIFORTE: No bicycles
18 on the balconies and --

19 VICE CHAIR GREENE: Yeah. I don't want
20 people to put, you know --

21 COMMISSIONER MC ANUFF: We have that in
22 my building.

23 MR. MATULE: My client also said he is
24 also more than happy to agree to have the building
25 LEED certified. He is going to have enough green

1 features in it to do it, so if you want that as a
2 condition --

3 VICE CHAIR GREENE: And then you might
4 just want that from a marketing standpoint, I don't
5 know, because the descriptions very much appear that
6 you get 80 points just for being three blocks from
7 the light rail station.

8 CHAIRMAN AIBEL: But I think the offer
9 you just made was that the little pocket park would
10 be open space.

11 MR. MATULE: Right. I thought they
12 meant storing things in the pocket park as opposed
13 to the balcony. I misunderstood.

14 COMMISSIONER BRANCIFORTE: But the
15 green space would be for the exclusive use of the
16 residents?

17 MR. MATULE: Yes.

18 COMMISSIONER BRANCIFORTE: Okay.

19 (Board members confer)

20 CHAIRMAN AIBEL: Okay. Other Board
21 members?

22 COMMISSIONER BRANCIFORTE: Well, Jeff,
23 with all due respect to what you are saying about
24 the design of the crosswalks and traffic lights,
25 you know, from an engineering standpoint it is

1 great. They have all the traffic lights in the
2 world.

3 I was out there just a few weeks ago on
4 a Friday afternoon and visited a friend down there,
5 and I was petrified when I crossed that street at
6 4:30 in the afternoon. I was really petrified.
7 Nobody was stopping. Nobody cared that I was
8 crossing the street. People could care less that I
9 was crossing the street. They just wanted to get
10 home at rush hour.

11 And to say that this is going to be a
12 family-friendly building, and the thought of moms
13 crossing that street with baby carriages, I can't
14 even -- honestly, I can't imagine a mom trying to
15 cross the street with a dog or a baby carriage. No.
16 I just can't see that happening.

17 And we are talking about, okay, he has
18 a right to go with eight units, but, you know, do
19 the eight units have to be this big?

20 I mean, can't some of them be
21 one-bedroom units, and the rest be two-bedroom
22 units, that will maybe shy people away from bringing
23 their families into that building?

24 I mean, not every building in town has
25 to be family-friendly, and the idea that, well, we

1 need the fifth story to get the units --

2 MR. MATULE: That's not a correct
3 statement. We are four over one.

4 COMMISSIONER BRANCIFORTE: Well, four
5 over one. So you have four residential units over
6 one unit -- story of parking, so technically it is
7 not a five-story building is what you're saying.

8 MR. MATULE: The additional height that
9 we are asking for is dictated by the fact that we
10 have 12 foot floor-to-floor heights rather than two
11 foot -- 10 foot floor-to-floor heights. It's really
12 an esthetic thing to have a taller building, because
13 it's such a stubby lot. It's got nothing to do with
14 increasing the density or making the units bigger.

15 COMMISISONER BRANCIFORTE: Well, if
16 it's esthetics, you know, then we can debate
17 esthetics all night back and forth. It's a small
18 lot. You need a taller building. I don't know if
19 that's necessary --

20 MR. GALVIN: I'm sorry. I didn't
21 mean --

22 COMMISSIONER BRANCIFORTE: -- we can go
23 back and forth on it all night.

24 MR. GALVIN: -- I'm late. You
25 shouldn't be --

1 MR. MATULE: I apologize.

2 MR. GALVIN: Okay. Thank you.

3 MR. MATULE: I just wanted the record
4 to be clear.

5 MR. GALVIN: I was writing a condition
6 and lost track.

7 COMMISSIONER BRANCIFORTE: So that is
8 what I have to say about it.

9 I mean, I appreciate the fact that
10 you're cutting the building back a few feet back on
11 that one side of the street, and you have given us
12 that green space, which will be wonderful for people
13 with dogs to keep them off the sidewalks. But
14 besides that, I just can't see putting three-bedroom
15 units that are going to attract families to this
16 building on such a dangerous corner.

17 Thanks.

18 CHAIRMAN AIBEL: Anyone else wish to
19 comment?

20 COMMISSIONER MC ANUFF: Yes.

21 For the project, I think it is a smart
22 design on a very difficult site, and it's certainly
23 an improvement over what currently exists there, and
24 it adds some retail space to the area, and I think
25 the way the building is designed with the setbacks

1 on each floor mitigates the impact of the height.

2 As far as the traffic issue there and
3 the pedestrians and whatnot, maybe the increase in
4 pedestrians in the area and families in the area
5 will help alleviate some of the traffic problems. I
6 don't know. You know, if you bring more people into
7 the area, it will affect the vehicles.

8 That is it.

9 I am behind the project.

10 CHAIRMAN AIBEL: Anyone else?

11 Ms. Marsh?

12 COMMISSIONER MARSH: I mean, there are
13 certainly good things about the project, which I
14 don't have to list. Everybody else did. Everybody
15 else listed it -- well, I'll do it. The retail
16 space, you know, pulling it back on Paterson Plank
17 Road is wonderful and all of that.

18 But my problem here is that we are
19 creating a tree lined street on Paterson Avenue.
20 You know, I have driven down Paterson Avenue a lot,
21 and I can't say I've ever actually seen anybody
22 strolling down Paterson Avenue. It is a very
23 unpleasant street to stroll down. It's busy. There
24 are trucks with diesel engines, and it sort of
25 doesn't matter how wide the sidewalk is. I would

1 walk around the building, which is where this
2 building becomes a 50-foot wall.

3 So you are walking down First Street,
4 which is a pedestrian street pretty much all the way
5 up and down, and that is the one that is going to
6 have the wall on it, and I'm feeling a little torn
7 about this.

8 I know it's an undersized -- I know
9 it's an awkward lot, but those are really big
10 apartments. Those apartments are the size of, you
11 know, big -- not big houses, but serious houses.

12 COMMISSIONER BRANCIFORTE: Carol, it is
13 kind of funny that you mentioned that, because I was
14 thinking about a few years ago we had the Manhattan
15 Ford Project that came to us. This is back in 1990
16 probably, and they were asking to expand their use
17 there, which would have brought more trucks into the
18 area, so it's funny that you mentioned that, because
19 I was thinking, you know, the truck traffic in that
20 area has actually gone up because of approvals we
21 have given in the past.

22 So we're kind of like on one side of
23 the street, we're saying, okay, go more industrial,
24 and on the other side of the street, we are saying,
25 no, go more residential, and the two don't mix at

1 this corner.

2 VICE CHAIR GREENE: Well, because that
3 is industrial and this is residential --

4 (Laughter)

5 COMMISSIONER BRANCIFORTE: I know, but,
6 you know, frankly, in my opinion --

7 VICE CHAIR GREENE: -- just for the
8 record.

9 COMMISSIONER BRANCIFORTE: -- I know it
10 is. I know it's an R-3 versus across the street an
11 I-1 --

12 COMMISSIONER MURPHY: Which then, you
13 know, begs the question. This is what -- I mean, if
14 we want this area to be residential supposedly, how
15 else do you do it?

16 You know, I mean --

17 COMMISSIONER BRANCIFORTE: Well, we
18 don't necessarily want it to be residential because
19 it says it could be anything. It could be a house
20 of worship or public retail business. I mean, it
21 doesn't have to be residential.

22 COMMISSIONER MC ANUFF: Well, how many
23 families would a house of worship bring to the area
24 then?

25 COMMISSIONER BRANCIFORTE: No. I

1 mean --

2 COMMISSIONER COHEN: Do you want the
3 families to walk to the church?

4 (Laughter and everyone talking at once)

5 COMMISSIONER BRANCIFORTE: No. My
6 point is that there are other uses -- my point is
7 there are other uses approved for this zone, not
8 just residential, so it doesn't just have to be
9 residential.

10 COMMISSIONER COHEN: It's a permitted
11 use.

12 COMMISSIONER BRANCIFORTE: It is. I
13 agree with you. I agree, it is.

14 COMMISSIONER MURPHY: Right.

15 Permitted, but maybe not the best
16 choice is what you are saying.

17 COMMISSIONER BRANCIFORTE: No. What
18 you're saying, do we want this to be residential --

19 COMMISSIONER MURPHY: Right.

20 COMMISSIONER BRANCIFORTE: -- and that
21 is a good question, do we want this to be
22 residential --

23 COMMISSIONER MARSH: Well, but it is a
24 permitted use, and that is not under consideration.
25 and --

1 COMMISSIONER BRANCIFORTE: Right.

2 COMMISSIONER MARSH: -- I don't know
3 what else to say. I am still thinking.

4 CHAIRMAN AIBEL: Anybody else, Board
5 members?

6 I am on the fence as well, but it is a
7 permitted use, so I am not planning to look at this
8 as a zone change. I don't take that position very
9 often.

10 So consistent with my view on life, it
11 is an R-3. The Council has spoken, and this
12 developer is allowed to build a residential
13 building. The question is whether we are going to
14 give it to him with the package of variances that he
15 has requested.

16 I have trouble with the height. I have
17 trouble with the lot coverage or building coverage.
18 They have mitigated the building coverage issue I
19 think in a healthy way.

20 I am still on the fence with the
21 height, but on balance, I am seeing this as a more
22 positive than a negative project.

23 I'm sorry. Go ahead.

24 COMMISSIONER MARSH: What is the lot
25 coverage in the end?

1 CHAIRMAN AIBEL: Do you have that, Mr.
2 Minervini, lot coverage?

3 MR. MINERVINI: I haven't calculated
4 it, but I can tell you, if you give me a minute, but
5 we are losing more than -- hang on -- 530 square
6 feet, which is just the back space. I haven't
7 calculated the three foot swath, because I
8 mistakenly thought that --

9 (All Board members talking at once)

10 MR. GALVIN: I want us to look at the
11 plan, the revised plan.

12 MR. MINERVINI: -- but I can calculate
13 it, if you could give me a couple of minutes.

14 VICE CHAIR GREENE: We actually have to
15 know the coverage, right, because we are granting a
16 variance.

17 MR. GALVIN: Yes, we do.

18 (Pause in proceedings while Board
19 members confer)

20 MR. GALVIN: Hey, guys?

21 (Board members continue to confer)

22 COMMISSIONER MARSH: I'm sorry.

23 MR. MINERVINI: Quick calculation, we'd
24 be going from the 99 percent lot coverage to 86
25 percent lot coverage on that ground floor with the

1 reduction.

2 COMMISSIONER MURPHY: I think I would
3 be happier if we could get that reduction down a
4 little bit.

5 COMMISSIONER MARSH: Me, too.

6 COMMISSIONER BRANCIFORTE: Down to 86
7 you mean or from 86 down further?

8 COMMISSIONER MURPHY: From 86 down a
9 little bit further.

10 I mean, you know, the garage is going
11 to have to be reconfigured. Is there a way we can
12 kind of like shrink everything a tiny bit?

13 You know, I mean, maybe that
14 building -- the line where they -- you know, it is
15 convenient right now, maybe that could be down a
16 little bit more. I don't know. I'm definitely not
17 an architect.

18 VICE CHAIR GREENE: What do you
19 actually gain by doing that?

20 COMMISSIONER BRANCIFORTE: A smaller
21 footprint.

22 COMMISSIONER MC ANUFF: What is the
23 number that people would be comfortable with?

24 COMMISSIONER MARSH: Here's what I'm
25 thinking. If we are claiming that that's the

1 backyard, and we are trying to set this up to where
2 there was some logic by which you are setting up the
3 lot next door, then you are also saying that that is
4 the backyard for the lot next door.

5 So what you are saying is that the
6 building essentially is going to be the depth of
7 this building.

8 COMMISSIONER MURPHY: If they use this
9 Harrison as the front.

10 COMMISSIONER MARSH: Right.

11 COMMISSIONER MC ANUFF: That's not set
12 in stone that they could do that.

13 COMMISSIONER DE GRIM: That's assuming
14 that the building behind that wall is ever going to
15 go away. I mean, there is a building there now up
16 against the wall.

17 COMMISSIONER MARSH: Yeah --

18 COMMISSIONER COHEN: But the other
19 problem is that, I mean, the way --

20 COMMISSIONER MARSH: -- which is a
21 nonconforming use by the way. They could never make
22 it bigger, and some day it is going to go away.

23 Go ahead. I'm sorry.

24 COMMISSIONER COHEN: -- the way that
25 this was presented by the architect is that this is

1 the way that with the design of the building that's
2 been presented to us, that it makes logical sense,
3 because they were losing those parking spots in the
4 back anyway, and that they were drawing the line
5 across, which is consistent with where the line
6 breaks in the building currently.

7 So, I mean, I feel like, you know, we
8 shouldn't be redesigning the entire building to try
9 and find an additional few feet or an additional
10 percentage or two. I think that we should vote on
11 what they are offering, you know, and if people like
12 it, great. If they don't, they don't.

13 But I think if we are trying to fight
14 over a percentage or two additional, I think we
15 could be doing this all night.

16 COMMISSIONER MARSH: Right. But you
17 also just said what the Council passed, and what the
18 Council passed was 60 percent lot coverage, so --
19 and we are saying, okay, well, maybe that really
20 means 86, which is kind of a big difference, and it
21 also says --

22 COMMISSIONER COHEN: Well, that is why
23 they are seeking a variance.

24 COMMISSIONER MARSH: -- I know --

25 COMMISSIONER COHEN: Yeah.

1 COMMISSISONER MARSH: -- it also sets up
2 the lot next door to have 60 percent be really
3 awkward any place you do it. So we are pretty
4 much -- and I'm looking at this lot, and this is an
5 awkward block. I get it. I am waiting for somebody
6 to convince me. So far I am not convinced, you
7 know, it's --

8 COMMISSIONER COHEN: Right.

9 I am looking at a lot that is a hundred
10 percent lot coverage pretty much throughout the
11 entire block. I mean, the fact that we pulled this
12 back from 99 to 86 is actually a major improvement
13 over what is there now.

14 COMMISSIONER MARSH: Well, what is
15 there now was a preexisting use. It was changed to
16 residential. That was not a residential use. It's
17 changed to residential --

18 COMMISSIONER COHEN: That is true.

19 COMMISSIONER MARSH: -- and residential
20 uses come with 60 percent lot coverage, so we are
21 not cutting it back to 86. We are increasing it to
22 86 from 60 percent.

23 So the question is: Would you
24 increase -- would you allow them an increase in lot
25 coverage to 86 percent in order to accommodate what,

1 another -- a bigger unit?

2 Is that what we're accommodating here?

3 COMMISSIONER MC ANUFF: You are talking
4 about the other site?

5 COMMISSIONER MARSH: No. I'm talking
6 about this site. I mean --

7 COMMISSIONER MC ANUFF: I think --

8 COMMISSIONER MARSH: -- this site is
9 permitted 60 percent, so we are allowing them to
10 increase that coverage to 86 in exchange for?

11 COMMISSIONER MC ANUFF: -- right -- I
12 think if it were a rectangular site or a square
13 site, I would go with the 60 percent.

14 I just think the difficulty in the
15 site, you have to give them some leeway.

16 COMMISSIONER MARSH: So how long --

17 MR. GALVIN: Let me do this, if I might
18 just interject.

19 Mr. Matule, and, Mr. Minervini, are we,
20 you know, you told us it is 86 percent. We have a
21 drawing. We obviously have some Board members that
22 are expressing concern.

23 MR. MATULE: Okay.

24 Mr. Minervini, why don't you just say
25 this on the record?

1 Mr. Minervini?

2 MR. MINERVINI: Pardon me. I'll use
3 the floor plan.

4 The number 86 percent came because we
5 reduced that ground floor, and I aligned it with the
6 opening that was there already. It was one of those
7 lots, so it made logical sense to me.

8 If 86 percent is not palatable, I heard
9 what we can do is reduce the ground floor to be this
10 same shape. So what you would have instead of this,
11 as I mentioned before, you would have this
12 additional space, too. It is probably --

13 COMMISSIONER COHEN: On the first
14 floor?

15 MR. MINERVINI: On that first floor, so
16 the back of the building would align all of the way
17 because you would have a bigger garden. I would
18 have to calculate it, but it's probably an
19 additional -- well, we know the answer. It would be
20 75 percent. The answer in lot coverage would be the
21 same as the floor above.

22 COMMISSIONER BRANCIFORTE: And the
23 parking spaces, you would still have enough?

24 MR. MINERVINI: We will have enough.
25 We will certainly lose spaces, but we will have

1 enough to park, yes.

2 COMMISSIONER COHEN: So it is 75
3 percent?

4 MR. GALVIN: Yeah.

5 COMMISSIONER BRANCIFORTE: One think I
6 didn't bring up is --

7 (Commissioner Marsh and Commissioner
8 Murphy talking at the same time.)

9 COMMISSIONER BRANCIFORTE: -- well,
10 I'll let these guys talk --

11 (Laughter)

12 COMMISSIONER MURPHY: Two trees --

13 COMMISSIONER BRANCIFORTE: -- one thing
14 that I didn't bring up so much on this project, but
15 I see it in some other projects, it kind of is
16 irking me now is when we have too many parking
17 spaces, more parking spaces than are necessary, and
18 some people would say, "Well, that is great. We are
19 getting cars off the street."

20 But my theory is we are putting more
21 cars on the street by allowing more cars into the
22 city. So if I was going to ever allow an extra
23 parking space, this is not the place I would do it
24 on that corner with that kind of traffic.

25 CHAIRMAN AIBEL: But I think they are

1 down to what is --

2 COMMISSIONER BRANCIFORTE: Well, now,
3 they may be down to eight with this extra --

4 CHAIRMAN AIBEL: Yes.

5 MR. MINERVINI: We are losing an
6 additional space --

7 COMMISSIONER BRANCIFORTE: -- yeah, so
8 I mean, that is a positive for me actually losing
9 the additional parking space.

10 MR. GALVIN: All right. Thank you.

11 I asked for your help. You gave it to
12 me.

13 Thank you.

14 Are there any other deliberative
15 comments that need to be made?

16 COMMISSIONER BRANCIFORTE: Well, the
17 only other comment I'd say, you know, Owen, what you
18 were saying before, it does make a lot of sense.
19 They are on an odd-shaped lot, and they should be
20 given some leeway.

21 But they could honestly cut back the
22 footprint by just making the units smaller and going
23 from three three-bedroom units down to maybe two
24 three-bedroom units, and adding in smaller units
25 versus having all of these big units, so I mean,

1 that is one way to cut down the footprint and still
2 allow them the eight units they're allowed.

3 COMMISSIONER MC ANUFF: Was there a
4 breakdown of units on there?

5 COMMISSIONER BRANCIFORTE: Yeah, on the
6 first page. I think it's --

7 VICE CHAIR GREENE: Well, at the end of
8 the day, you will have completely redesigned the
9 building --

10 COMMISSIONER BRANCIFORTE: I know.
11 Well --

12 VICE CHAIR GREENE: -- and they came
13 here with an application, and I think we should vote
14 on the application.

15 CHAIRMAN AIBEL: I'm in agreement --

16 COMMISSIONER MURPHY: I think that most
17 of us are kind of, you know, just cut off part of
18 the garage --

19 CHAIRMAN AIBEL: -- well, okay.

20 I agree it is time to vote on the
21 proposal that is before us.

22 Mr. Matule?

23 Bob?

24 MR. MATULE: Pardon?

25 CHAIRMAN AIBEL: I am trying to get it

1 to a vote.

2 MR. MATULE: I'm sorry.

3 CHAIRMAN AIBEL: I think we should vote
4 on the proposal before us. There has been an offer
5 now to reduce the building coverage to 75 percent --

6 MR. MATULE: 75 percent on the ground
7 floor.

8 CHAIRMAN AIBEL: -- on the ground
9 floor.

10 It is going to provide an extra open
11 space in the back.

12 I guess on balance, looking at the
13 legal standards, I believe that this is probably an
14 appropriate use of our variance power, so I would
15 like to see a motion, and let's get to a vote and
16 it's just up or down.

17 VICE CHAIR GREENE: Can we hear the
18 conditions?

19 CHAIRMAN AIBEL: Counsel, do you have
20 conditions?

21 MR. GALVIN: Yes. I have one.

22 The applicant is to obtain City Council
23 approval of all encroachments into the city
24 right-of-way and must do so before the first
25 certificate of zoning.

1 2: The plan is to be revised to show a
2 pocket park at the north end, and the building --
3 that is not really a pocket park, is it?

4 It's a --

5 COMMISSIONER MC ANUFF: Private
6 backyard?

7 VICE CHAIR GREENE: Just call it open
8 space.

9 CHAIRMAN AIBEL: It's a rear yard.

10 COMMISSIONER MC ANUFF: Private space.

11 COMMISSIONER MURPHY: Side yard.

12 MR. GALVIN: Let me say this: What I
13 think that they need to do is I think that they need
14 to show us the revised plan and how they are going
15 to landscape that rear yard, because I think that is
16 essential to your decision, not just that it is open
17 space, but that it is landscaped.

18 Do you disagree with me?

19 MS. BANYRA: You mean prior to
20 memorialization?

21 MR. GALVIN: Yes. That's what I was
22 thinking. That it would be reviewed and approved by
23 the Board at the time of memorialization.

24 MR. MATULE: Fine.

25 MR. GALVIN: So you show the building

1 pulled back, and you come up with a logical plan.
2 Maybe now you can find two trees out there and the
3 plan that you're going to create.

4 3: The storage on the outdoor balcony
5 is to be prohibited. It must be imposed by a deed
6 restriction or included within the condominium
7 governing documents, which are to be recorded prior
8 to the issuance of the first certificate of zoning.
9 The document of choice to be provided to the Board's
10 Attorney for his review and approval prior to being
11 recorded.

12 Okay?

13 VICE CHAIR GREENE: There was also, Mr.
14 Minervini, in response to somebody's question was
15 taking about a larger detention facility.

16 COMMISSIONER COHEN: Right, water
17 retention.

18 VICE CHAIR GREENE: I mean, I am not
19 sure we know the size of the one that was on the
20 plans, but he offered a larger --

21 MR. GALVIN: Can you do that at the
22 time of memorialization also without me adding that
23 as a condition?

24 MR. MINERVINI: Yes. We can provide
25 civil engineering calculations showing what is

1 required by NHTSA. I'm thinking in the two time
2 range, double it, depending on how our foundation
3 allows --

4 COMMISSIONER BRANCIFORTE: I mean,
5 obviously, we would all love to see the biggest
6 detention system available given the size of your
7 footprint, so as big as you can go --

8 MR. MINERVINI: Yes.

9 MR. MATULE: That is the plan.

10 MR. MINERVINI: Yes, I agree. That is
11 what we will do, and I will provide those
12 calculations.

13 MR. GALVIN: I also have: The building
14 is to obtain LEED certification.

15 Then the last thing is kind of like, I
16 am not sure.

17 I have: If the county does not approve
18 the proposed tree, I think the concern here is that,
19 great, the county gets money for the trees, but I
20 think we would like to see the trees get planted
21 somewhere else in Hoboken, if that's possible.

22 How do you feel about that?

23 MR. MATULE: Yeah. What I was going
24 to suggest is: We have no objections to a condition
25 that says whatever -- if the county makes us remove

1 however many trees, we will make the contribution in
2 kind to the City of Hoboken or plant trees where
3 they direct us to plant for an equal number of
4 trees.

5 So if the county says take away four
6 trees, we will give the city four trees because --

7 MR. GALVIN: Okay --

8 MR. MATULE: -- if we gave the county
9 four trees --

10 MR. GALVIN: -- what I have is to make
11 a contribution to the Hoboken Shade Tree Commission
12 to plant a minimum of blank trees or to plant
13 whatever trees are prohibited.

14 CHAIRMAN AIBEL: Anything else?

15 Are we okay?

16 I think we are at the point of having a
17 motion.

18 Does anybody want to --

19 MR. MARSDEN: To repeat, they're going
20 to set the building back three feet --

21 MS. BANYRA: Redesign the building. He
22 already put it down.

23 MR. MARSDEN: Oh, okay.

24 MR. GALVIN: I don't know that I put
25 that down, but I said it out loud --

1 MR. MATULE: Yes.

2 MR. GALVIN: -- so that's what we're
3 looking for. We're looking for three feet along
4 Paterson. We are looking for like a landscaped plan
5 in that rear yard that brings the property to 75
6 percent, and we are looking for the drainage
7 calculations.

8 Those are three things we need to have
9 at the time of memorialization about a month from
10 now.

11 MR. MATULE: Okay.

12 CHAIRMAN AIBEL: Do I have a motion?

13 COMMISSIONER COHEN: Motion to
14 approve --

15 CHAIRMAN AIBEL: With the conditions.

16 COMMISSIONER COHEN: -- with the
17 conditions as indicated by counsel.

18 VICE CHAIR GREENE: I'll second it.

19 MS. CARCONE: Okay. Commissioner
20 Greene?

21 VICE CHAIR GREENE: Yes.

22 MS. CARCONE: Commissioner Cohen?

23 COMMISSIONER COHEN: Yes.

24 MS. CARCONE: Commissioner Marsh?

25 COMMISSIONER MARSH: Yes.

1 MS. CARCONE: Commissioner Murphy?

2 COMMISSIONER MURPHY: Yes.

3 MS. CARCONE: Commissioner Branciforte?

4 COMMISSIONER BRANCIFORTE: I'm going to
5 say no.

6 MS. CARCONE: Commissioner McAnuff?

7 COMMISSIONER MC ANUFF: Yes.

8 MS. CARCONE: Commissioner Aibel?

9 CHAIRMAN AIBEL: Yes.

10 Thanks, everybody, for waiting.

11 I guess we are going to take a
12 ten-minute break, and we will proceed with 302
13 Garden.

14 (Recess taken)

15 (The matter concluded)

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C E R T I F I C A T E

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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.
This transcript was prepared in accordance with
NJAC 13:43-5.9.

HOBOKEN ZONING BOARD OF ADJUSTMENT
CITY OF HOBOKEN
HOZ-15-13

- - - - - X
RE: 302 Garden Street :
APPLICANT: 304 Garden Street, LLC :December 15, 2015
Appeal & Minor Site Plan Approval :
and C & D Variances :Tuesday 9:50 p.m.
- - - - - X

Held At: 94 Washington Street
Hoboken, New Jersey

B E F O R E:

- Chairman James Aibel
- Vice Chair Elliot H. Greene
- Commissioner Philip Cohen
- Commissioner Carol Marsh
- Commissioner Diane Fitzmyer Murphy
- Commissioner John Branciforte
- Commissioner Owen McAnuff

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

- Eileen Banyra, Planning Consultant
- Jeffrey Marsden, PE, PP
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.

7 ROBERT C. MATULE, ESQUIRE
8 89 Hudson Street
9 Hoboken, New Jersey 07030
10 (201) 659-0403
11 Attorney for the Applicant.

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I N D E X

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WITNESS

PAGE

FRANK MINERVINI

160

EXHIBIT NO.

DESCRIPTION

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PH-2

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Colored facade

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Photo Board

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A-5

Survey

195

1 (Commissioner De Grim excused.)

2 CHAIRMAN AIBEL: Okay. We are back on
3 the record.

4 MR. GALVIN: Come on, let's go.

5 CHAIRMAN AIBEL: Thank you, everyone.
6 Thanks, everybody.

7 (Laughter)

8 We are at 302 Garden Street now.

9 Good evening.

10 MR. MATULE: Good evening, Mr.
11 Chairman, and Board members.

12 Robert Matule, appearing on behalf of
13 the applicant.

14 If I could, I would just like to kind
15 of make some opening remarks and give the Board a
16 sense of the procedural background of what is going
17 on, because this is kind of a complicated series of
18 applications.

19 We originally filed -- well, I will
20 take two steps back.

21 The property at 302-304 Garden Street
22 was two and a half residential floors approximately
23 over a commercial floor. I believe it was a dry
24 cleaners.

25 When the applicant purchased it, he

1 purchased it on the premise that there was a hundred
2 percent lot coverage on the ground floor. He
3 initially got a first certificate of zoning
4 compliance to rebuild the ground floor.

5 The question arose about lot coverage.
6 The zoning certificate was pulled. Additional
7 information was provided. The zoning certificate
8 was reissued. The back of the building was ripped
9 off, and the zoning certificate was pulled again,
10 and that is where things have sat for probably the
11 last six or eight months. The back is just a
12 rubble, and things were stopped.

13 So we initially filed an appeal of the
14 zoning officer's revocation of that certificate.

15 We then also filed an application to
16 the Board for variances, and then the zoning
17 ordinance changed, and we modified that application.

18 And then after some conversations with
19 the zoning officer, we also most recently requested
20 a certificate of nonconformity with respect to the
21 existing lot coverage that was on the site.

22 A survey from 2012 was produced that
23 showed approximately 93.2 percent lot coverage on
24 the site as opposed to the hundred percent lot
25 coverage our 2014 survey showed.

1 The application that is before you now
2 is traveling on the premise that that 93.2 percent
3 lot coverage is correct, and that we are actually
4 seeking to pull that back even a little more.

5 One of the problems was the lot
6 coverage or lack of lot coverage was generated by a
7 hole in the roof kind of in the -- not in the center
8 of the building, but in the rear south side of the
9 building, which kind of didn't make any sense to
10 have that open space there inside of the building
11 between four walls.

12 So the plan that we presented to the
13 Board now was to rearrange that by pulling the whole
14 rear wall of the ground floor back to about five
15 feet off the rear property line, part of which also
16 is generating this, that it is only a 70 foot deep
17 lot.

18 So what is before you now is the ground
19 floor is 65 feet deep, and then the upper three
20 floors, because we are now proposing three
21 residential floors, are all whatever 60 percent is,
22 42 feet. So the actual building portion is
23 complying at 60 percent of the 70 percent, but
24 because we have a fire escape, a real metal old
25 fashioned fire escape on the back of the building,

1 even though the ordinance permits that as a rear
2 yard encroachment, it has been the policy of this
3 Board to consider that lot coverage, so that is
4 generating the five percent lot coverage we are
5 asking for on the upper floors.

6 So that is kind of the history of how
7 we got here.

8 I have one of my witnesses. He is from
9 Atlantic Environmental Solutions, who has done a
10 historical map study with Sanborn Maps and aerial
11 photos. I can have him testify about the history of
12 the property as it can be gleaned from those maps in
13 the context of the lot coverage.

14 What I am suggesting procedurally is we
15 might be able to avoid having that testimony by
16 presenting the application first in the context of
17 all of this that has gone on, and then depending on
18 how the Board is predisposed or not for that
19 application, if need be, I can then also present my
20 other testimony about the certificate of
21 nonconformity and/or the appeal of the zoning
22 officer's decision.

23 The point being that if the application
24 that is being presented is viewed favorably by the
25 Board, we would then withdraw those other two parts

1 of the application, and that would just be the end
2 of it.

3 But I say that in the context that what
4 we have right now is a building that is partially
5 torn down, and so again, I have to say this for the
6 record, and I am sure you can appreciate this, that,
7 you know, all of this is without prejudice to any
8 estoppel argument or other rights the applicant may
9 have as a result of the actions that they took
10 initially based on the zoning certificates that were
11 issued.

12 Again, I would like to think that what
13 we are proposing is kind of a win-win situation for
14 everybody, and it makes a couple of difficult things
15 go away, so with that premise --

16 CHAIRMAN AIBEL: Could I ask a quick
17 question?

18 MR. MATULE: Sure.

19 CHAIRMAN AIBEL: Do the neighbors share
20 the view that this is an acceptable solution?

21 MR. MATULE: Well, I can't -- I am
22 under that impression. Mr. Minervini has spoken
23 with a couple of the neighbors who have a concern
24 about the rear wall, because one of the things that
25 we have as part of this is we have an 11 or 12 foot

1 high rear wall on the back of the property line,
2 which they have all ivy growing up --

3 MR. GALVIN: 15.

4 MR. MATULE: -- 15 feet -- well,
5 however high it is, we are willing, if the Board is
6 predisposed to granting a variance, because we are
7 only allowed to have I believe a six foot high wall,
8 we are willing to keep that wall there and make sure
9 it is stabilized, and actually there is a section
10 that's missing that we would have to fill in which
11 would be of equal height, and I think that would
12 address the concern of the people who live directly
13 behind us.

14 I also have been in touch with
15 Ms. Fallick over the last week or so going over
16 plans because she is speaking on behalf of a
17 resident of the building that she lives in, the
18 person who lives down on the ground floor, who had a
19 concern that our ground floor extension may block
20 their windows, and we have made it very clear that
21 we will be below their windows.

22 A concern was expressed that if that
23 roof level is right there, theoretically if somebody
24 got on the roof and could come down the fire escape,
25 they could maybe get access to that apartment from

1 the back windows.

2 The applicant has proffered that he
3 would be more than happy to put burglar bars or
4 whatever kind of appropriate security device the
5 occupant of the apartment wanted, but it would not
6 impact them at all, and that is pretty much what I
7 know about any concerns the neighbors have. But I
8 am sure when we get to the public comment portion,
9 they can come up.

10 My point being is that the applicant
11 and the applicant's foreman has been working very
12 diligently with the neighbors to understand any
13 concerns they may have and tried to address them,
14 and it is my belief that we have done that.

15 CHAIRMAN AIBEL: Rather than having a
16 lengthy debate over the lot coverage issue, it would
17 certainly be nice to know that we can get past
18 that --

19 MR. MATULE: Well, that is part of why
20 I am trying to proceed in this fashion both in terms
21 of economy of the Board's time, and you know, if we
22 don't have to go to the hard questions, let's not.

23 MR. GALVIN: Well, I think it is
24 sensible. I think if the Board sees favorably on
25 the relief sort, or even if you make changes and

1 come to a final outcome, then we don't need to reach
2 the first two issues.

3 I mean, if you grant a variance, you
4 don't have to have a certificate of nonconformity,
5 and whether the zoning officer got it right or not,
6 if we come to this final resolution, it won't
7 matter, so I think that is what the Court would
8 expect us to do.

9 The other thing that I think is
10 significant is that if we make a determination
11 regarding nonconformity or whether or not the zoning
12 officer erred in both of those cases regardless of
13 what decision we made, they would be reviewed by the
14 Court as a matter of law, so we wouldn't have the
15 presumption of validity. We do get the presumption
16 of validity on our decision as to the variance, but
17 we are just holding your other two questions in
18 abeyance, and let's see what happens.

19 MR. MATULE: Okay. Very good. I
20 appreciate that.

21 On that note, I would like Mr.
22 Minervini sworn and we can have him testify.

23 MR. GALVIN: Raise your right hand.

24 Do you swear or affirm the testimony
25 you are about to give in this matter is the truth,

1 the whole truth, and nothing but the truth?

2 MR. MINERVINI: I do.

3 F R A N K M I N E R V I N I, having been duly
4 sworn, testified as follows:

5 MR. GALVIN: State your full name for
6 the record.

7 THE WITNESS: Frank Minervini,
8 M-i-n-e-r-v-i-n-i.

9 MR. GALVIN: Mr. Chairman, do you
10 accept Mr. Minervini's credentials?

11 CHAIRMAN AIBEL: We do.

12 MR. GALVIN: You may proceed.

13 MR. MATULE: Thank you.

14 Mr. Minervini --

15 COMMISSIONER MARSH: I'm sorry.

16 MR. GALVIN: Hold on. Time out.

17 COMMISSIONER MARSH: Before we even
18 start, it is warm enough. Can we turn the heat
19 down? And I can't hear you.

20 THE WITNESS: Yes. Thank you for that.
21 Yes, thank you.

22 (Laughter)

23 MR. MATULE: Okay. Can we proceed
24 while Pat is adjusting the temperature?

25 MR. GALVIN: In Pat's defense, it was

1 cold when we got in here.

2 Go ahead. Let's go.

3 MR. MATULE: Would you please describe
4 the existing site and the adjoining buildings, and
5 then when you get to describe the proposed
6 renovation and addition, just I would like you to
7 just sort of digress a little bit into the whole
8 structural system because that is an integral part
9 of this whole process.

10 THE WITNESS: Yes.

11 We do have to mark three boards.

12 MR. MATULE: Thank you for bringing
13 that to my attention.

14 So we have A-1 --

15 THE WITNESS: We have PH-1 and PH-2.
16 They were color --

17 MR. MATULE: Okay. So A-1 is PH-1.

18 (Exhibit A-1 marked.)

19 (Exhibit A-2 marked.)

20 (Exhibit A-3 marked.)

21 MR. MATULE: And just tell us what it
22 is for the record.

23 THE WITNESS: Photographs taken from
24 Goggle Earth, and on this side some were taken from
25 my office.

1 MR. MATULE: PH-2 is A-2, and that's
2 photos taken by your office?

3 THE WITNESS: Well, not all of them,
4 but two of them are. It is also a bird's eye view
5 from Google Earth.

6 MR. MATULE: A-3?

7 THE WITNESS: A-3 would a colored
8 facade of what the proposed building would look
9 like.

10 MR. MATULE: Okay. While you are
11 testifying, Frank, I will put it up here.

12 MR. GALVIN: It's not going to shut
13 off instantly. It will shut off. It just needs
14 to --

15 MS. CARCONE: When you get through the
16 cycle --

17 MR. GALVIN: It needs to get that hot
18 air out.

19 MS. CARCONE: Okay.

20 MR. GALVIN: Don't I know it.

21 MS. CARCONE: It feels good.

22 MR. MATULE: Okay. So describe the
23 existing site and the adjoining building, if you
24 would.

25 THE WITNESS: We have got a 20 foot

1 wide by 70 foot deep lot on the west side of Garden
2 Street, one building off of the Third Street
3 intersection.

4 It was most recently used, the ground
5 floor, as a dry cleaners, and then there are two and
6 a half residential floors above.

7 It was and still is the case, and what
8 is interesting about this building, it has two
9 residential floors, and then a gabled roof, which
10 you don't really see very often in Hoboken. It had
11 living space squeezed in there, not very safe, and
12 it was part of our plan to remove that again because
13 of the safety.

14 So nevertheless, what we are proposing
15 is the ground floor to be a commercial space, in
16 this case an office, where it was a dry cleaner, to
17 extend where the property is seven feet, the
18 commercial space would extend 65 feet making a five
19 foot rear setback.

20 Floors two and three would be extended
21 to 42 feet, which would equal 60 percent, and then
22 there would be a new fourth floor, which is actually
23 4-3, as Mr. Matule would correct me, I'm sure, we
24 have the ground floor and below DFE, and then three
25 residential floors above.

1 So three residential units, one
2 commercial unit.

3 The three residential units, the floors
4 are 20 feet in width.

5 By the way, Sheet Z-5 shows existing
6 conditions, previous existing conditions, and Z-6 is
7 what we are proposing.

8 So 28 feet in width, 42 feet in depth,
9 and that would be for floors two, three, and four.

10 The ground floor, again, as I
11 mentioned, is to be an office space going back to
12 the -- to the point, where we leave a five foot rear
13 yard, so that would be 65 feet from the front of the
14 building, so this shown, I will get to all of the
15 details, and there's a large skylight --

16 COMMISSIONER BRANCIFORTE: Frank, what
17 is the date on your plans?

18 THE WITNESS: This would be 11/11.

19 COMMISSIONER BRANCIFORTE: 11/11 what?

20 MR. MATULE: '15.

21 COMMISSIONER BRANCIFORTE: We have the
22 old plans, 2/12.

23 COMMISSIONER MC ANUFF: I have 2/12 as
24 well.

25 COMMISSIONER BRANCIFORTE: We have the

1 old plans.

2 THE WITNESS: Do you have 11/11?

3 (All Board members talking at once)

4 MS. CARCONE: You can have mine.

5 Do you want these?

6 COMMISSIONER MURPHY: Maybe we can all
7 look at this one.

8 COMMISSIONER BRANCIFORTE: Just lay
9 them out here.

10 COMMISSIONER MARSH: These are big.

11 THE WITNESS: I have an 11-by-17 set,
12 if somebody would like that.

13 COMMISSIONER MARSH: Sure.

14 MR. MATULE: I know how that happened,
15 but I am not saying.

16 MR. MARSDEN: I was going to say I have
17 an extra small plan, but I am not giving this away.

18 (Laughter)

19 COMMISSIONER MARSH: You mean I can
20 borrow it, if I give it back to you?

21 MR. MATULE: Here. Wait a minute. I
22 want to make sure you have a full set.

23 COMMISSIONER BRANCIFORTE: Thanks.

24 There are no notes on this, right, Mr.
25 Matule, that I shouldn't see?

1 (Laughter)

2 MR. MATULE: No. I would have only
3 highlighted --

4 MR. GALVIN: Watch out for Branciforte.
5 (Laughter)

6 MR. MATULE: -- I just highlighted what
7 the variances were in the zoning table.

8 THE WITNESS: So in context, we are in
9 the R-1 zone.

10 I mentioned already that we are on
11 Garden Street, the west side, one building off the
12 corner of Third Street.

13 The building to -- directly to our
14 south is a four-story residential building.

15 As you go further north, you got a
16 three-story, five-story, 33-2, and on Sheet Z-1, it
17 describes all of the buildings in our general
18 vicinity as well as the 200 foot map.

19 To Mr. Matule's point, to partially
20 discuss what he had mentioned, we were hired
21 initially to rebuild the cellar space and the ground
22 floor, which was a dry cleaners. It was a dry
23 cleaning establishment, and the cellar was just
24 storage.

25 So the building had very little

1 foundation, so what we did was, and most of this
2 work has been done on this cellar area as well in
3 the main portion of the building, is it has been
4 restructured.

5 So with concrete and steel, the entire
6 structure of the building up to that first floor
7 level had been restructured.

8 The existing floors, two, three and a
9 half have not been touched, so they are exactly as
10 they were for the last 30 years or so.

11 MS. BANYRA: Frank, for how far back
12 are those improvements, how --

13 THE WITNESS: Yes.

14 The existing building, and Sheet Z-2
15 shows this, is 32.24 feet -- sorry -- 31.24 feet.

16 We are proposing the addition to bring
17 us to 42 feet, a little bit more than ten feet, and
18 that is 60 percent of our total 70 foot depth. We
19 are not asking --

20 MS. BANYRA: Can I ask you -- but that
21 is for the second, third -- that's going up?

22 THE WITNESS: Yes.

23 MS. BANYRA: What about the ground
24 floor?

25 THE WITNESS: The ground floor --

1 MS. BANYRA: Talk to me about what you
2 did on the ground floor and what foundations or what
3 did you change on that --

4 THE WITNESS: All of that work was done
5 within this part of the building.

6 Here, nothing yet has been done. That
7 is one of the reasons why we are proposing to put
8 the new back wall at this point.

9 So if you compare the two drawings on
10 Sheet Z-2, you can see what the existing conditions
11 are as compared to what we are proposing.

12 So what we are proposing is that the
13 main portion of the building, which would be floors
14 two, three, and four extend 42 feet off the front
15 property line, a four and a half foot fire escape,
16 and then the commercial space at the ground floor
17 goes back to 65 feet leaving a five foot in essence
18 rear yard.

19 There is a brick wall, and I am sure
20 the neighbors -- I just had a quick discussion with
21 them, and we will also discuss this, there is a
22 brick wall at this point.

23 Can everyone see that?

24 I know it's -- there is a brick wall at
25 this point. It has been there for years. It was

1 the original brick wall building. At some point
2 this was infilled with wood.

3 Our proposal was to reduce the height
4 of this brick wall to six feet, and then continue
5 with a wooden fence here, but we would like to amend
6 our drawings based on our conversations with the
7 neighbors behind us, to leave the wall at its height
8 now, which I thought was 12, but I have been told
9 it's actually 15 feet in height, and extend this
10 section, which was wood, to match the brick that is
11 existing to that same height of 15 feet, and that is
12 what the neighbors who live here would like their
13 family to have greenery growing on that wall, and we
14 think it is a better solution for us.

15 We kept it at six feet just not to have
16 to ask for that variance, but we are happy to ask
17 for that variance.

18 MS. BANYRA: Mr. Chair, can I -- I'm
19 sorry to stop you again, Frank.

20 But looking at your demolition plan, so
21 could you just -- you know, and there is a point to
22 this question, so I am sorry I am throwing you off.

23 But you have a demolition basement
24 plan. Is it your testimony that that was already
25 done?

1 THE WITNESS: This work within the
2 space has been done structurally, and this area has
3 been done. Nothing done here nor here.

4 MS. BANYRA: So where it says:
5 Existing retaining wall to remain, and then the
6 other walls to be removed, those actually were
7 removed, so that has all been done?

8 THE WITNESS: Yeah. Well, you can see
9 that where the new walls have to -- wall to remain,
10 we restructured within the existing building. The
11 brick that was there was falling apart, but we
12 obviously couldn't remove that, so our structure,
13 concrete columns, are set within that, so we made
14 the building safe at that area within that volume.
15 Haven't done anything else above or behind.

16 MS. BANYRA: So you left the existing
17 retaining walls, and you built on the inside of
18 those to support them basically?

19 THE WITNESS: Yes, and some were
20 reconstructed --

21 COMMISSIONER MC ANUFF: Excuse me. It
22 is shown better on Z-6, if you want to look at that.

23 THE WITNESS: Thank you.

24 Oh, there you go.

25 This gives you much more details as to

1 where things were reinforced and where they weren't.

2 The point to this drawing is what was
3 good, we kept. And what wasn't, we replaced with
4 concrete without changing any of the volume or
5 changing any of the heights. This is all exactly as
6 it was. Just an effort to make the building safer
7 and allow the future construction to happen.

8 MS. BANYRA: So I will save my
9 questions relative to that conversation.

10 THE WITNESS: Okay.

11 MS. BANYRA: Okay. Thank you.

12 MR. MARSDEN: Frank, you did redo the
13 foundation and the wall up?

14 THE WITNESS: Yes.

15 MR. MARSDEN: Oh, okay.

16 THE WITNESS: Yes.

17 So if you can stay with Sheet Z-6, the
18 proposed plans, I already talked about how the
19 storage would be commercial space use only, which is
20 the floor above.

21 The commercial space at ground floor
22 will require dry flood proofing as the front and
23 back and will have a five foot rear yard.

24 The wall that I just discussed in a bit
25 of detail, which abuts the neighbor's property, who

1 I am sure will speak, is this wall. They want that
2 brick to remain and then to be rebuilt here, because
3 it was never brick, it was wood.

4 Floors two, three, and four will each
5 have one residential unit. Your main stair on the
6 northern wall, a fire escape to the rear of the
7 building.

8 This is the roof section of the office
9 space below. What this box shows is a large
10 skylight.

11 There are no mechanicals proposed for
12 this roof. All condensing units and anything else
13 that's required will go to the upper roof.

14 Sheet Z-6.1, our proposed roof plan,
15 here is where the mechanicals are, as well as a roof
16 deck to the rear that would be accessed from the
17 main stair, a 42-inch high railing around it. This
18 is all new structure. So at this fourth floor,
19 everything is new.

20 The third floor and the second floor,
21 we are adding to the back of the building, bringing
22 it to 42 feet, where it was just a bit under 32
23 feet, so slightly more than ten feet.

24 Elevations, and I got photographs, if
25 you want to see what the building looked like

1 before, but it was -- well, you can see the building
2 here what it looked like before. It was a wood
3 frame front.

4 What we are proposing is a slightly
5 more contemporary building. There is a colored
6 rendering there, and you can pass it around, but
7 that is what the plan is what this building would
8 look like.

9 The ground floor would be mostly glass
10 at the commercial space.

11 Two and three will have a brick section
12 in through here, cast stone and aluminum panels.

13 So in an effort to be short and sweet,
14 I think that is it.

15 MR. MATULE: Couple of questions.

16 Let's talk about the height of the
17 building.

18 What's the height of the building going
19 to be?

20 THE WITNESS: The height of the
21 building -- we are -- so ground floor is at 8.5
22 NAVD. That is correct, so we are eight and a half
23 NAVD.

24 The total height of the building is 36
25 and a half feet. We don't need a height variance,

1 and that's depicted on the zoning chart.

2 So we fall within the requirements of
3 height in both feet and -- but there is a difference
4 between feet and stories -- but in both feet and
5 stories, and that's shown -- pardon me -- building
6 height. Here we go. So we are at 36 and a half
7 feet above DFE where 40 is permitted.

8 MR. MATULE: I just want to make the
9 record clear.

10 The existing two residential units that
11 are above the commercial space now --

12 THE WITNESS: Will be completely
13 rebuilt.

14 MR. MATULE: -- they are going to be
15 completely rebuilt?

16 THE WITNESS: Yes. The layouts will --
17 all of the partitions will be removed, and the floor
18 structure will be replaced as well.

19 MR. MATULE: And you are going to have
20 to --

21 THE WITNESS: Realign.

22 MR. MATULE: -- realign the floors, so
23 they are going to be made higher?

24 THE WITNESS: Yes.

25 In essence, this building will be new

1 construction from that point above, with some of the
2 work that's been done already acting as the base for
3 that work.

4 MR. MATULE: And are piles going to
5 have to be driven to support any of that?

6 THE WITNESS: Screw piles have already
7 been installed.

8 MR. MATULE: Oh, the Helica piles have
9 already been --

10 THE WITNESS: Oh, pardon me. Thank
11 you. Raul is the construction manager --

12 MR. MATULE: -- but the piles that will
13 go in will be Helical piles as opposed to driven
14 piles?

15 THE WITNESS: Yes. And, of course, he
16 says -- but he is specifically referring to the
17 additional weight on that back addition, but we will
18 need Helical piles. That happens within the
19 building, not with a big driving machine. With a
20 small backhoe that's an attachment on the back, so
21 there is no vibration as we are all used to when we
22 think about pile driven excavations.

23 MR. MATULE: And the buildings that are
24 on either side of you now to the north and to the
25 south, does your building interact with them in

1 terms of support or stability?

2 THE WITNESS: Completely independent
3 our structure will be, yes.

4 And I should mention those buildings go
5 back just about to that rear 70 foot line as well as
6 shown on our photograph, PH-1.

7 I do think you have this in black and
8 white. But the two buildings we are talking about
9 specifically is this one on the corner and this one
10 set in. At the lower floor, it is all the way back,
11 and on the upper floor it is about equal to about
12 what we are going to be.

13 MR. MATULE: And then the building on
14 Third Street is perpendicular to you?

15 THE WITNESS: Yes. There is a
16 perpendicular, which would be -- looking at Sheet
17 Z-1, Lot 44 right there. So the wall that we are
18 talking about on our property is located right here.

19 MR. MATULE: So pretty much that whole
20 corner of the block was covered with building?

21 THE WITNESS: Yes.

22 MR. MATULE: Give or take?

23 THE WITNESS: Yes, four stories, three
24 stories, three stories -- you see as you go up --
25 four stories. It describes each of the buildings as

1 we go around the corner.

2 MR. MATULE: And the lot coverage you
3 are proposing at grade now is what, 92.8?

4 THE WITNESS: 92.8, as calculated by
5 the most recent survey. It was 93 percent prior.

6 MR. MATULE: And the floor, were these
7 plans reviewed by the Flood Plain Administrator?

8 THE WITNESS: Yes, and I have her
9 report here somewhere.

10 There was nothing on here --

11 MR. MATULE: You had no issues?

12 THE WITNESS: No.

13 MR. MATULE: And I am assuming now this
14 building will be totally compliant with the new
15 flood damage ordinance?

16 THE WITNESS: Yes, correct.

17 The commercial space will be dry flood
18 proofed. So if I go to the floor plans, the
19 commercial space would be dry flood proofed, so no
20 water can enter here or here.

21 The lobby area will be wet flood
22 proofed with venting on both doors.

23 MR. MATULE: Here.

24 THE WITNESS: Thank you.

25 MR. MATULE: And did you also receive

1 H2M's reports of 7/22 and 12/8?

2 THE WITNESS: Yes.

3 MR. MATULE: Any issues addressing any
4 of Mr. Marsden's comments or concerns?

5 THE WITNESS: No.

6 MR. MATULE: Will the building have any
7 green features?

8 THE WITNESS: I think we can propose
9 LED lighting, Energy Star appliances, the double
10 flush toilets, which are a construction code
11 requirement now, but we're not proposing any
12 particular LEED certification.

13 MR. MATULE: And because this is an
14 existing building, you're not required to have
15 on-site detention?

16 THE WITNESS: That's correct.

17 MR. MATULE: And no work has been done
18 since the stop work was put on it?

19 THE WITNESS: Correct.

20 MR. MATULE: All right. That's pretty
21 much it.

22 CHAIRMAN AIBEL: Could you unconfuse
23 me?

24 Are you demoing the two-story
25 residential floors above the newly constructed --

1 THE WITNESS: Yes. It is there now.
2 We are going to -- our plan is to demo it, make it
3 structurally sound and allow for the revised layout.

4 CHAIRMAN AIBEL: So you already
5 reinforced the cellar slash --

6 THE WITNESS: The majority of it, yes.

7 CHAIRMAN AIBEL: -- ground floor, so
8 you finished doing that, and build a new building on
9 top of it?

10 THE WITNESS: In essence.

11 CHAIRMAN AIBEL: Okay. Go ahead.

12 MR. MARSDEN: You will provide a letter
13 from North Hudson saying no detention is required?

14 THE WITNESS: Yes.

15 MR. MARSDEN: Okay.

16 CHAIRMAN AIBEL: Okay.

17 Board members, questions?

18 COMMISSIONER BRANCIFORTE: So the
19 height that was there before was, you're saying, 40
20 feet, and now you are going to --

21 THE WITNESS: The height that was there
22 was 30 feet. We are proposing 36 and a half.

23 MR. MATULE: Where are you measuring it
24 from, the Design Flood Elevation?

25 THE WITNESS: That is above the --

1 correct.

2 COMMISSIONER BRANCIFORTE: So I guess,
3 how does this compare then to the buildings next
4 door to it?

5 THE WITNESS: Our Sheet Z-1 has a
6 diagram giving you relative heights.

7 COMMISSIONER BRANCIFORTE: Right.

8 CHAIRMAN AIBEL: It's slightly lower
9 than the building to the south, and slightly higher
10 than the building to the north?

11 THE WITNESS: I think that is about
12 right.

13 CHAIRMAN AIBEL: By about how many
14 feet, Frank?

15 THE WITNESS: We measured 43.1 feet --
16 I'm sorry, that's -- yes, that's correct, 43.1, and
17 we are proposing 36, so seven feet, six foot
18 difference to the building to our south.

19 North, we are just about the same, 12
20 inches or so above that.

21 COMMISSIONER MC ANUFF: I have a
22 question, and maybe you answered this before, and I
23 just didn't hear it.

24 Is it possible to reduce the 42 foot
25 depth to accommodate the fire escape and not have a

1 variance for the lot coverage?

2 THE WITNESS: Certainly it is possible.
3 I don't think it is part of this application.

4 I will keep going until I get to Sheet
5 Z-6 -- so actually Sheet Z-7 is better.

6 What I think you are suggesting is this
7 comes into here.

8 COMMISSIONER MC ANUFF: Right.

9 THE WITNESS: It has very small
10 foreplay as it is at 77 square foot.

11 COMMISSIONER MC ANUFF: Is that
12 existing or --

13 THE WITNESS: No. Existing is about a
14 ten foot difference up to here.

15 I think what we -- listening, of
16 course, to what you're saying, as I looked at the
17 drawing we can do this, reduce that lot coverage a
18 bit, if the Board wanted.

19 CHAIRMAN AIBEL: I was going to ask the
20 same question.

21 THE WITNESS: I don't think it is
22 feasible to pull it into the building because again
23 it is small footprint, a small lot, but we can
24 reduce that size.

25 COMMISSIONER BRANCIFORTE: I'm sorry,

1 Frank. Can you go over that one more time?

2 What Owen just asked, I kind of missed.

3 THE WITNESS: I think the Commissioner
4 asked if we can pull this fire escape into the
5 building, therefore, not needing any lot coverage
6 variance.

7 I suggested that perhaps a better
8 solution is to keep it where it is, not so as to
9 make this 1,077 square foot unit smaller, keep it
10 where it is, but reduce its overall width.

11 So we got right now three feet to the
12 two property lines. I think we could probably make
13 this seven on either side, so an additional nine
14 feet or so less -- pardon me -- nine feet or so less
15 for the fire escape and still have it function as a
16 fire escape.

17 COMMISSIONER MC ANUFF: It would be
18 between 60 and 65 percent.

19 THE WITNESS: Yes. That would reduce
20 the lot coverage, but I think given, as I looked at
21 the drawings, if the fire escape is an issue for the
22 Board, we can certainly do it that way.

23 CHAIRMAN AIBEL: And there's no plan to
24 create a roof deck on the rear first floor?

25 THE WITNESS: No. There is no plan,

1 and to that point I don't think it is even possible.
2 We have a very large skylight here with a railing
3 around it, but there's not much space left on there.

4 COMMISSIONER BRANCIFORTE: So on Z-6,
5 where we are right now, that stairway that you show
6 all the way to the right, the drawing all the way to
7 the right, and the stairway in the upper right-hand
8 corner of that footprint --

9 THE WITNESS: Here?

10 COMMISSIONER MC ANUFF: That leads down
11 from the fire escape.

12 THE WITNESS: Yes. That takes you --
13 the purpose of this is we that have to get from the
14 fire escape down into the stair --

15 COMMISSIONER BRANCIFORTE: Okay. All
16 right. Okay.

17 It looked like an internal staircase
18 for a second. That is what I was trying to figure
19 out.

20 Like, that would match two floors,
21 connect two floors?

22 THE WITNESS: Pardon me --

23 COMMISSIONER MC ANUFF: It is inside of
24 the building.

25 THE WITNESS: -- John, this is internal

1 to the building.

2 COMMISSIONER BRANCIFORTE: Well, it
3 doesn't mean it is duplex. There is no duplex --

4 THE WITNESS: No, there's no duplex --

5 COMMISSIONER BRANCIFORTE: I thought
6 that stairway was for a duplex, and I was just
7 trying to figure that out.

8 THE WITNESS: Okay.

9 CHAIRMAN AIBEL: Is there a bulkhead?

10 THE WITNESS: There is a stair going to
11 the main roof, so that has got an eight foot
12 bulkhead. That would be on the north side of the
13 building not seen very much anyway by the two
14 streets -- well, you got Third Street here, one
15 building away, which is four stories anyway, and the
16 street here that allows access to this roof deck.

17 CHAIRMAN AIBEL: So how far back is it
18 from Garden Street?

19 THE WITNESS: It is -- I have a line
20 there with no dimension.

21 It is ten feet plus, pardon me, it is
22 about ten foot eight.

23 COMMISSIONER BRANCIFORTE: How big were
24 the units that were there before this?

25 I mean, these were not thousand square

1 foot units beforehand, were they?

2 THE WITNESS: No. I am going to guess
3 they were in the 700 range.

4 CHAIRMAN AIBEL: Is there a front
5 parapet?

6 THE WITNESS: There is a small parapet
7 at the bay extension, and it's just an architectural
8 method of having this be seen in two different
9 planes at a different height. But that could
10 certainly be brought closer to the roof plane, but
11 even with that parapet, we are below the 40 feet
12 above BFE that is permitted.

13 CHAIRMAN AIBEL: I am concerned about
14 the visibility of the bulkhead from Garden Street
15 and from I guess across the street, and it sounds
16 like the parapet might help.

17 THE WITNESS: The parapet might help
18 here, and we can also, if we could have a green
19 screen along that wall, something just to soften the
20 view, if it is seen, I think that is the easy
21 solution.

22 CHAIRMAN AIBEL: Good.

23 Any questions, Diane?

24 COMMISSIONER MURPHY: Did you think
25 about trying to design anything with a stoop,

1 because like the whole block doesn't have stoops,
2 but there are a number of stoops on that block --

3 THE WITNESS: There are. Their first
4 residential floors are much lower than ours.

5 We have commercial space on the ground
6 floor, and the second floor is at that DFE, which
7 has to be at that same design number. I don't think
8 stoops work in this kind of a situation.

9 MR. MARSDEN: What is the elevation of
10 the first residential floor?

11 THE WITNESS: It's above DFE actually.
12 It is at 20.2 foot -- 12 feet above the sidewalk.

13 MS. BANYRA: Just two things on your
14 condensers up on top. They have to be moved three
15 feet from the side lines.

16 THE WITNESS: Yeah. I can certainly
17 make this dimension at 36.

18 MS. BANYRA: Also, you have to have
19 sound attenuation around them. Those are
20 requirements in the ordinance.

21 THE WITNESS: On a condensing unit?

22 I don't think on a condensing unit.
23 It's not really possible --

24 MS. BANYRA: What's level three
25 attenuation? I thought that is what it was

1 around --

2 THE WITNESS: Yes, and that is
3 generally what comes with the units as a package
4 normally. But the Type 2 is mostly used for a
5 cogeneration unit an emergency generator.

6 That is an applied cover, which we
7 cannot do on a condensing unit, but we can meet the
8 ordinance, which is 3.

9 CHAIRMAN AIBEL: Board members?

10 COMMISSIONER MURPHY: I just want to
11 understand that the lot coverage on the first floor
12 is being dictated by a preexisting condition,
13 generally speaking, and then you are pulling it back
14 a little bit?

15 THE WITNESS: Yes.

16 As Mr. Matule mentioned -- well, I
17 walked through the building. It was 100 percent lot
18 coverage. It had a roof cover, and that is what the
19 survey that was given to me showed.

20 Subsequent to that, surveys were
21 produced that were older showing that a part of it,
22 which is -- if you are looking at the roof, here is
23 the building. Here's the roof section. This
24 section wasn't always covered. Therefore, it was
25 less lot coverage. In that case it was 93 percent.

1 So what we have done is we have used that number at
2 93 percent, as if this were a void and reconfigured
3 it.

4 So now instead of having the open void,
5 which was somewhere over here in the center, having
6 that void as a buffer between the back of our first
7 floor and the adjacent building to our east.

8 MR. GALVIN: You know, can I jump in
9 for a second?

10 I think sometimes there is a mistaken
11 belief in Hoboken that you have entitlement to
12 things from the past. In other words, you know,
13 there is no -- and some other towns have this, too,
14 where people try to -- like, in other words, a lot
15 of times people try to take down part of a building,
16 but leave up the nonconforming wall, in some other
17 town, and then in the hopes that that will fly, and
18 they will be able keep to their nonconformity.

19 But once you come in for a variance,
20 you are opening yourself up to the complete
21 authority of the Board, so we want them to bring the
22 building into as much conformity as possible.

23 So you really shouldn't twist yourself
24 into saying -- at least not in the first part of
25 this case, you either like this proposal or you

1 don't like it, but you don't have to like twist
2 yourself into what was there previously and what are
3 they entitled to.

4 There might be a structure there, but
5 they can move anything. It is just a question of
6 cost. Sometimes from a practical standpoint, if
7 there are footings there, you might be more inclined
8 to say, it wouldn't make sense to make them rip this
9 out for two feet. But I don't think you should be
10 worried about what was previously conforming or not
11 conforming, or what was there before.

12 I am just speaking to Ms. Murphy.

13 COMMISSIONER MURPHY: So technically,
14 that first floor could also be put at 60 percent?

15 MR. GALVIN: There is somewhere along
16 the continuum, yes. If they are telling you that
17 they already have the building there, and that would
18 be difficult, you know.

19 But I am saying, you might disagree
20 with me, I'm saying there are no rights. We grant
21 somebody a variance for something, and then they
22 want to come back for a new variance, we didn't lock
23 in the front yard setback and now we can't ever
24 consider that again, or you know --

25 MR. MATULE: If I might, and I am not

1 disagreeing with you at this point because that is
2 why we are going through this process at this point,
3 but I have two exhibits here, I'm going to call them
4 A-4 and A-5, which just might clarify things for the
5 Board.

6 These are the two surveys that Frank
7 talked about, the one from --

8 (Exhibit A-4 marked.)

9 MR. GALVIN: Right. But what I am
10 trying to do is I am trying to head off people
11 suffering to try to figure out what was there, what
12 came, what went. It is like this is the project.
13 This is what the proposal is. We like it; we don't
14 like it.

15 If we think it is too much building
16 coverage, we say no. Then they go to the next part
17 of their case that says, hey, we have always been
18 here. You either agree or you don't agree.

19 COMMISSIONER MURPHY: Okay. Thank you.

20 COMMISSIONER MARSH: I am still trying
21 to figure out what is next door to this building, so
22 I would really like to see those pictures.

23 MR. GALVIN: Okay. Cool.

24 COMMISSIONER MARSH: Why are pictures
25 always so big?

1 COMMISSIONER MURPHY: So they can put
2 them all on one sheet.

3 MR. GALVIN: Mr. Minervini, when you
4 get a break possibly when the planner is testifying,
5 could you recalculate lot coverage based on the
6 proffer that you made?

7 THE WITNESS: Yes, yes.

8 COMMISSIONER MARSH: Mr. Minervini,
9 what wall are we seeing here?

10 THE WITNESS: These photographs might
11 be better. We are talking about --

12 COMMISSIONER MARSH: That wall?

13 THE WITNESS: No.

14 COMMISSIONER MARSH: Over here
15 somewhere?

16 THE WITNESS: Yes, exactly.

17 COMMISSIONER MARSH: Okay. So I can't
18 see that --

19 (Board members confer)

20 MR. MATULE: You know what, just for
21 the record, I am going to mark this A-4.

22 We can have Mr. Ochab further qualify
23 it for the record, but just for identification
24 purposes now, Frank, if you want to take this board
25 marked A-4 with three photos on it and see if that

1 will help answer the Commissioner's question.

2 THE WITNESS: Showing the back of the
3 building -- back of the building, side of the
4 building, as well as the back corner, this section
5 is to be rebuilt.

6 This is the height that the neighbor is
7 going to ask for, and you can pass them around, ask
8 us to keep as is --

9 COMMISSIONER MARSH: This picture says
10 view from building towards rear, and that brick wall
11 is supposed to be at the rear?

12 THE WITNESS: Yes, it is the rear.

13 MR. MATULE: Yes, because that is all
14 gone now.

15 COMMISSIONER MARSH: But the brick wall
16 is not.

17 MR. MATULE: Here's the brick wall --

18 THE WITNESS: The brick wall is not
19 gone --

20 MR. MATULE: -- right there --

21 COMMISSIONER MARSH: Right. So on this
22 picture --

23 MR. MATULE: -- going over the top --

24 COMMISSIONER MARSH: -- where is the
25 brick wall, here?

1 THE WITNESS: The brick wall is here.

2 MR. MATULE: No. The brick wall is
3 right where you had your finger.

4 Go back. Do you see where the ivy is?

5 COMMISSIONER MARSH: Here?

6 MR. MATULE: Here, if I might step
7 up --

8 MR. GALVIN: Just remember to keep your
9 voices up, so our court reporter can hear you.

10 MR. MATULE: This was one of the
11 multiple structures on the property.

12 This is the rear wall of this building,
13 and this is the wall right here --

14 COMMISSIONER MARSH: Oh, oh, I see.

15 MR. MATULE: -- this is their ivy
16 growing up over the wall --

17 MR. GALVIN: So we're pointing at the
18 lower left photo of which exhibit?

19 COMMISSIONER BRANCIFORTE: PH-2.

20 COMMISSIONER MARSH: PH-2.

21 COMMISSIONER BRANCIFORTE: It's a
22 drawing.

23 COMMISSIONER MURPHY: A-2.

24 COMMISSIONER MARSH: A-2.

25 MR. MATULE: And now this lower right

1 photo is looking at that same building from ground
2 level with all its guts and roof removed.

3 COMMISSIONER MARSH: Okay. Got it.

4 MR. MATULE: So I don't know if that
5 answers the question.

6 MR. GALVIN: What exhibit was that?

7 COMMISSIONER MARSH: A-4.

8 MR. MATULE: A-4.

9 MR. GALVIN: Thank you so much.

10 (Board members review photographs and
11 confer)

12 CHAIRMAN AIBEL: Okay. Are we ready to
13 move on?

14 COMMISSIONER BRANCIFORTE: I wonder if
15 the public could --

16 MR. GALVIN: No, no. You are in the
17 same place that we are. I just want to make sure
18 that the Board has gotten all of their questions and
19 is comfortable where they are at.

20 COMMISSIONER MARSH: May I?

21 COMMISSIONER BRANCIFORTE: The
22 neighbors --

23 MR. GALVIN: Yes. We are going to do
24 that, John. That's a good idea.

25 COMMISSIONER BRANCIFORTE: No, no, no,

1 I'm saying --

2 COMMISSIONER MARSH: Where over here is
3 the property line?

4 MR. GALVIN: Yes. Mr. Aibel already
5 thought of that.

6 COMMISSIONER BRANCIFORTE: Oh, okay.

7 THE WITNESS: Bob, we actually have
8 that survey that might be helpful, too, because it
9 shows where this is relative to the property line.

10 MR. GALVIN: You need to do it.

11 MR. MATULE: Okay. I am going to mark
12 this --

13 THE WITNESS: This is the back wall of
14 our building --

15 (Everybody talking at once.)

16 MR. GALVIN: Whoa, whoa. One voice at
17 a time.

18 MR. MATULE: All right. So I will mark
19 this survey. What are we up to now, A-5?

20 MS. CARCONE: A-5.

21 (Exhibit A-5 marked.)

22 MR. MATULE: Okay. So I got a survey
23 here, dated December 18th, 2012, that I marked A-5.
24 This was the old --

25 (Audience talking at once.)

1 MR. GALVIN: Hey, guys, audience --

2 CHAIRMAN AIBEL: Please.

3 MR. GALVIN: -- it's getting harder for
4 the court reporter to hear --

5 CHAIRMAN AIBEL: Ma'am, please.

6 MR. MATULE: -- looking at this, this
7 building right here is this building right here.

8 MR. GALVIN: Remember, you are speaking
9 to the audience. When you get like that --

10 COMMISSIONER MARSH: This flashing is
11 on the property line --

12 MR. MATULE: This is the property line,
13 right.

14 MR. GALVIN: -- you have to speak up.

15 COMMISSIONER MARSH: -- this flashing
16 is on the property line.

17 MR. GALVIN: Thank you.

18 MR. MATULE: Correct.

19 COMMISSIONER MURPHY: Where is that
20 going on here?

21 MR. MATULE: This blue building is
22 back here off of our site.

23 This building with the coping tile on
24 the top, where the ivy is growing up the back is
25 this building right here.

1 THE WITNESS: That's the brick wall
2 we're proposing --

3 MR. MATULE: And this is the wall that
4 we are proposing to keep across the back.

5 Where this corrugated yellow stuff is,
6 that is this here.

7 COMMISSIONER MARSH: And this right
8 here --

9 MR. MATULE: This is this brick
10 building right here.

11 COMMISSIONER MARSH: Which ends here?

12 MR. MATULE: Right. It is in back of
13 this four-story,

14 This is one building, and then this is
15 a second building.

16 COMMISSIONER MARSH: This is the second
17 building?

18 MR. MATULE: Yes. This is a
19 standalone. It's in back of this building on the
20 corner.

21 CHAIRMAN AIBEL: The transcript is
22 going to be great.

23 MR. GALVIN: Yes.

24 MR. MATULE: See this building on
25 corner? This is this, and this is the building with

1 the blue siding.

2 COMMISSIONER MARSH: Okay, okay. I got
3 it.

4 COMMISSIONER MURPHY: And this is the
5 whole site we are talking about right now, and that
6 brick wall is here -- no --

7 MR. MATULE: No. The brick wall is
8 right here.

9 COMMISSIONER MURPHY: Okay.

10 MR. GALVIN: Good, everybody?

11 COMMISSIONER MARSH: Yeah.

12 MR. GALVIN: Okay.

13 COMMISSIONER BRANCIFORTE: Don't go too
14 far with that, Bob. I need to see it, too.

15 CHAIRMAN AIBEL: Okay. Do we have more
16 questions?

17 Questions for the architect, anybody?

18 COMMISSIONER MARSH: No, I'm fine.

19 CHAIRMAN AIBEL: Okay. I am going to
20 open it up to the public for questions --

21 MR. GALVIN: Can I say it?

22 CHAIRMAN AIBEL: Go ahead.

23 MR. GALVIN: Here is our game plan:
24 While normally we would just have you cross examine
25 the witness, in this case because we really want

1 your input so we can understand if we are getting
2 this right, I am going to put you under oath, so you
3 can kind of ask questions and tell us what you need
4 us to know.

5 Does that work?

6 UNIDENTIFIED VOICE: So I don't have to
7 like figure out a way to make it a question?

8 MR. GALVIN: Yes. No, I don't want you
9 to do that, but this is a special one-time-only
10 deal.

11 All right.

12 (Laughter)

13 Because I think I'm being --

14 MR. MATULE: The Pope declared a year
15 of jubilee, so --

16 MR. GALVIN: Go walk through the doors,
17 man.

18 (Laughter)

19 Do you swear or affirm the testimony
20 you are about to give in this matter is the truth,
21 the whole truth, and nothing but the truth?

22 MS. FALLICK: I do.

23 MR. GALVIN: State your full name for
24 the record and spell your last name.

25 THE WITNESS: Cheryl Fallick, F, as in

1 Frank, a- double l-i-c-k.

2 My address is 204 Third Street.

3 MR. GALVIN: Thank you. Terrific.

4 Go ahead.

5 You can ask questions or you can tell
6 them what you think, although I am not going to let
7 you repeat yourself later on, so, you know...

8 MS. FALLICK: Okay.

9 Frank, you said that when you were
10 explaining this, you were saying that nothing has
11 been done -- wait. You said that the first floor
12 has been -- yeah -- the second and third floor,
13 there's nothing that's been done.

14 THE WITNESS: Right.

15 MS. FALLICK: The first floor of the
16 building has been ex --

17 THE WITNESS: Where the cellar was has
18 been restructured.

19 The back section that we're talking
20 about here has just had the roof section removed.

21 MS. FALLICK: Okay. Okay. So I was
22 going to say like something happened and stuff has
23 been torn down --

24 THE WITNESS: Of course, yes, and our
25 photographs reflect that.

1 MS. FALLICK: Right.

2 And you said when you first saw the
3 building, you saw a hundred percent lot coverage?

4 THE WITNESS: Yes. The photograph
5 that's also there --

6 MS. FALLICK: But did you see the
7 building?

8 THE WITNESS: I walked through the
9 building.

10 MS. FALLICK: Okay. I am just curious
11 how you saw it with a hundred percent lot coverage.

12 THE WITNESS: I don't understand the
13 question.

14 How do I know it's a hundred percent
15 lot coverage?

16 MS. FALLICK: How could you -- yeah --
17 just to clarify, so that they all know, I look at
18 this yard and have for 33 years, 34 years. So my
19 windows look out on to this, and it didn't have 100
20 percent lot coverage, so that is how I am asking how
21 you saw 100 percent lot coverage.

22 THE WITNESS: I didn't, of course, I
23 couldn't do a calculation.

24 What I was referring to specifically
25 when I walked through, that corrugated section was

1 there.

2 Was it there before?

3 I am not saying it was there before.

4 That's for sure, and that is why we have two
5 different surveys. I was explaining where the
6 initial design came from.

7 MR. MATULE: If I might, Ms. Fallick,
8 so we marked this survey from 2012 as A-5, which
9 shows an opening in the structures.

10 THE WITNESS: Right.

11 MR. MATULE: Does that to your
12 recollection reflect what was there --

13 MS. FALLICK: Yeah. There is -- there
14 is -- to my recollection, and I don't want to
15 confuse anybody, but this space was open. There is
16 like a little wood hanger, dilapidated. It was
17 never really an official structure -- shed here that
18 fills in the space on the brick wall that you were
19 talking about.

20 This is a full brick structure.

21 This was essentially a breezeway, so
22 this wasn't a full wall structure. This had a
23 carport.

24 That all has been there for years,
25 although apparently what you saw was somebody --

1 THE WITNESS: Perhaps --

2 MS. FALLICK: -- well, actually I don't
3 want to say something filled in, because I am under
4 oath, and I know that somebody, not you --

5 THE WITNESS: No, it wasn't me.

6 MS. FALLICK: -- somebody, I don't know
7 if it was the developer came in -- this is my
8 concern.

9 You know, I have talked to Mr. Matule.
10 He has been very accommodating. But my concern that
11 I have, and I am just going to cut right to that is
12 that some dishonesty was put on the table here
13 because somebody came and filled in what wasn't 100
14 percent lot coverage, and that concerns me, and
15 there are other things that concern me.

16 Demolition was started without
17 notifying Jim and Bev.

18 Abatement wasn't done, so a building
19 that had cats now has mice, so, you know, that is a
20 lot of -- before we get into the building itself, I
21 am just concerned about like disregard for very old
22 buildings that are surrounding this, and like there
23 is some doors here.

24 Like Frank was talking about how -- or
25 I guess -- no -- I know you are not under oath --

1 about how there was a hole in the middle of the
2 building. But it's not that there was a hole in the
3 middle of the building. It was two buildings.

4 MR. MATULE: Well, all I was saying
5 with reference to A-5 is that these were all
6 structures on the property and where that pink is,
7 there was nothing there. That was open to the
8 ground. If you were standing looking up, you would
9 be looking at the sky.

10 MS. FALLICK: But this -- but this --
11 this wasn't a full building. This is the doorway
12 across to 306 -- I know it is really confusing for
13 everybody -- but like there was this space here, but
14 this was an open area here, too.

15 This is not the same building. You can
16 actually see the wall --

17 MR. MATULE: But it had a covering
18 over it is what I am suggesting, but, again, I think
19 we're --

20 MS. FALLICK: It wasn't a hole in the
21 building --

22 MR. GALVIN: Listen --

23 MS. FALLICK: -- it was not a hole in
24 the building. It was different buildings, okay?

25 MR. GALVIN: -- I am getting it.

1 Where I think we are at is we held off,
2 and we may never reach the issue of what did they
3 have there before, and you are making your point
4 pretty clear that, you know, it is not uncommon for
5 me to see this, that somebody did something they
6 weren't supposed to do. They have taken liberties.
7 They expanded what they had out there. You are
8 hearing testimony it is a hundred percent lot
9 coverage.

10 I am telling my Board not to rely on
11 that for purposes of making a determination they
12 like it or they don't like it.

13 MS. FALLICK: Right.

14 I'm actually talking about -- and that
15 is true -- like you're going to look at that,
16 whether you like it or don't like it --

17 MR. GALVIN: Right.

18 MS. FALLICK: -- and what I am saying
19 is these are very, very old buildings on either
20 side. It was a brick building. The dry cleaner is
21 still there. You can see --

22 MR. GALVIN: I saw it on Google.

23 MS. FALLICK: -- brick face --

24 THE WITNESS: To be accurate, it's a
25 wood frame building, and the two side walls were not

1 even there, which necessitated the structural
2 infill, so it is not -- you may have liked the way
3 it looked on the outside, but it was absolutely not
4 safe, and it would not conform to any code current
5 today.

6 MS. FALLICK: Well, there was something
7 at some point in time, somebody told us that it was
8 in danger -- like I don't know -- I am not saying it
9 was them, but there was danger of collapse.

10 And when the building abuts the
11 laundromat, which abuts me, that scares me. Like I
12 don't want that to go down, the laundromat to go
13 down, and my home to go down.

14 MR. GALVIN: That is an argument for us
15 doing something, so we can get it stabilized and
16 make it better --

17 MS. FALLICK: So --

18 MR. GALVIN: -- I don't know that this
19 is the plan that we have to say yes to, but some
20 plan.

21 MS. FALLICK: -- I did have just one
22 other thing that I wanted to ask about.

23 I have an earlier version of the plan
24 and this is --

25 MR. GALVIN: That is correct. Thank

1 you.

2 THE WITNESS: I'm sorry.

3 Was the question for me?

4 MS. FALLICK: -- I have an earlier
5 version of the plan, and it has -- I think these are
6 like the -- what are these things?

7 THE WITNESS: Condensing units on the
8 main roof, not the lower roof.

9 MS. FALLICK: Okay. They have been
10 moved up now?

11 THE WITNESS: There's nothing --

12 MS. FALLICK: Is this the whole -- is
13 this the back part of the building?

14 Have they been moved up?

15 MR. MATULE: No. Let me just show
16 you. This is not the plans I sent you.

17 MS. FALLICK: I know. I am talking
18 about an old plan.

19 MR. MATULE: But I just want to
20 explain to you, in the old plan, the original plan,
21 so this is the ground floor, the office space.

22 This is the residential space, the 42
23 feet deep, and then this is the roof over here.

24 MS. FALLICK: This is the roof of the
25 first floor?

1 MR. MATULE: Right. So there's nothing
2 there other than two skylights, and then you got the
3 third floor and the fourth floor.

4 This is the roof above the fourth
5 floor, you know, 40 feet up in the area, and the
6 air-conditioning --

7 MS. FALLICK: This is the lower roof
8 that we were talking about?

9 MR. MATULE: -- no, it's not a low
10 roof. It is the very upper roof at the top of the
11 building.

12 Now, Frank just made a note that these
13 have to be set in at least three feet.

14 MS. FALLICK: But these are going to be
15 on top of the fourth floor?

16 MR. MATULE: Right.

17 MS. FALLICK: But were they on the --

18 MR. MATULE: No --

19 MS. FALLICK: -- so when I'm reading
20 this, it says --

21 THE WITNESS: That is the upper roof.

22 MS. FALLICK: -- the lower roof --

23 MR. MATULE: -- no. The appurtenance
24 is that lower roof, 208 square feet, including the
25 skylight.

1 MS. FALLICK: So that's all that was
2 there?

3 THE WITNESS: Yes.

4 MS. FALLICK: Okay. All right.

5 That was the concern because it looked
6 to me like -- in any event, I mean, I have other
7 pictures, if people on the Board just want to see --

8 MR. GALVIN: I think we will take
9 whatever you want to submit to us.

10 Who took the pictures and when were
11 they taken?

12 MS. FALLICK: Hum, they were taken
13 Saturday or Sunday --

14 MR. GALVIN: That's good enough.

15 MS. FALLICK: -- this past Sunday.
16 They were actually taken on Jen Giattino's,
17 Councilman Giattino's, smart phone from --

18 MR. GALVIN: We don't need to know
19 that. That is not a plus or minus.

20 If a developer came in here and started
21 to tell me which councilman liked the plan, that
22 wouldn't be good.

23 MS. FALLICK: That's my councilperson.
24 It happens to be in the Sixth Ward.

25 MR. GALVIN: Yeah, I know.

1 MS. FALLICK: Then I have others that
2 were taken from the first floor apartment that were
3 taken over the summer by somebody I am not going to
4 mention.

5 MR. GALVIN: I got you.

6 MR. MATULE: But they were not taken by
7 you?

8 MS. FALLICK: I don't have a smart
9 phone.

10 MR. GALVIN: But you know that those
11 pictures are correct?

12 MS. FALLICK: Yes.

13 MR. GALVIN: So how many are you going
14 to give me?

15 MS. FALLICK: I'm going to actually
16 just give you things that are useful.

17 So one --

18 COMMISSIONER MARSH: Can I ask a
19 question?

20 MR. GALVIN: No.

21 COMMISSIONER MARSH: No, I can't?

22 MR. GALVIN: No.

23 COMMISSIONER MARSH: Can I ask a
24 question right now?

25 MR. GALVIN: No. We should pause for

1 one second based on an experience.

2 MS. FALLICK: I think I am going to
3 give you four, and they are going to show the
4 windows, my neighbor's windows that I am concerned
5 about, and the vent, which Frank and I were talking
6 about, so apparently I don't have to be concerned
7 about that, and --

8 MR. MATULE: All right. So just if I
9 might --

10 MS. FALLICK: Mark them?

11 MR. MATULE: -- I don't want to mark
12 them "O." Should I mark them --

13 MR. GALVIN: No, no. "N" for neighbor,
14 yes. That's the way I like to do it.

15 MR. MATULE: -- "N" for neighbor.

16 So we're going to mark them N-1, which
17 is this first picture which was --

18 (Exhibit N-1 marked.)

19 MS. FALLICK: Taken this past
20 weekend --

21 MR. GALVIN: No, we're good.

22 I am satisfied that the pictures are in
23 evidence. You just have to mark them, and let's get
24 them up to the Board.

25 So do you have another thought about

1 the case?

2 MS. FALLICK: Hum, well, yes.

3 My biggest thought is it is not so much
4 that I mind whatever kind of was there in the first
5 place. I don't really mind that.

6 My biggest fear is two-fold: One, does
7 this create a precedent because this is a yard --

8 MR. GALVIN: No. It never creates a
9 precedent. Every case in zoning goes on its own
10 merits.

11 Like you heard the last case was a
12 triangle. You know, if that was a rectangle
13 somewhere else, I don't know that we would have done
14 75 percent, so it doesn't bind us --

15 MS. FALLICK: Okay. I'm right over
16 here, so this matches the street --

17 THE REPORTER: Wait a second. You
18 can't talk at the same time.

19 MR. GALVIN: I'm sorry.

20 MS. FALLICK: -- this matches the
21 street, like this matches the height of the
22 building, so it does happen --

23 MR. GALVIN: Yeah. But it is true
24 sometimes that the height of something is near a
25 couple of other buildings -- just give it to the

1 Board -- that are tall, where if we were in a
2 different neighborhood when everything was only two
3 stories, I think the Board would be hesitant to yes,
4 you can go to 50 feet.

5 I think circumstances, like where
6 you're located, you're on a busy street, all of
7 these different factors come into it.

8 So trust me. When I say we teach this
9 to New Jersey Planning Officials, each case on its
10 own merits. There's never a precedent in zoning,
11 not when we grant variances.

12 MS. FALLICK: Okay.

13 I am also really very, very, very, very
14 concerned about the disregard. I am scared about my
15 home, and I feel that, hum, hum, pile driving or --
16 I mean, so far I have seen a lot of disregard for
17 us, and we have no recourse because this is a rental
18 building. So my concern is really more, you know,
19 the behavior -- I mean, do I like the visual?

20 No, but that is what is happening all
21 over town, hum --

22 MR. GALVIN: You know, I mean, the
23 obligation is on the builder to make sure that he
24 doesn't injure the homes that are next to the
25 property --

1 MS. FALLICK: Yeah, but if he does --

2 MR. GALVIN: -- and if they do, it is
3 on them to fix it or take care of it, right?

4 Look, it is one of the things that we
5 have to live with in our environment that we have
6 zero lot line, so every home is attached to the home
7 next door, and they are doing this all of the time,
8 and help me out here.

9 What do you do?

10 How do you avoid that, and how would
11 you fix that, if you had a problem here?

12 THE WITNESS: Well, we don't want a
13 problem, of course, so in this case we are using
14 Hlica piles, which are a screw pile as opposed to,
15 as I mentioned again before, the driven pile --

16 MR. GALVIN: So there won't be any --

17 THE WITNESS: --- so it's very, very,
18 very little impact in terms of vibration.

19 The contractor will be required to put
20 a monitor on the adjacent buildings and ensure that
21 there is no additional vibration.

22 I would suggest you call the building
23 department. As it gets closer, if construction was
24 to commence, call the building department. And in
25 my experience, they will be on top of the

1 contractor.

2 But even if that didn't happen, what we
3 are proposing has very little impact, much different
4 than what we've seen --

5 MS. FALLICK: Yeah. Thank you for the
6 answer, but I didn't feel comfortable about it.

7 He basically said we are going to like
8 not let anything happen -- you asked what do you do
9 with --

10 THE WITNESS: I answered that question
11 with the Helical pile.

12 MS. FALLICK: That is how you are
13 protecting it.

14 But he asked you what happens if --

15 MR. GALVIN: Yeah. You are building
16 all over the city, and you're squeezing in every
17 single space, you have to squeeze it in --

18 THE WITNESS: If a neighbor has an
19 issue, they call the building department.

20 The building department will call me,
21 call the contractor or their office, have a site
22 visit, see if in fact there is a problem --

23 MR. GALVIN: What is the worst thing
24 you have ever seen?

25 THE WITNESS: Repair of adjacent

1 properties.

2 MR. GALVIN: Okay. Because it could
3 happen, right?

4 THE WITNESS: Right.

5 MS. FALLICK: Okay. But like --

6 MR. MATULE: And I know that the --

7 MR. GALVIN: That was an honest answer.

8 MR. MATULE: -- the foreman for the
9 applicant has been talking with the neighbors, so I
10 am sure that there is a telephone number or
11 something we will be happy to give the neighbors.
12 If there is a problem, they could call them.

13 If they want to call the building
14 department first, that's their prerogative.

15 MR. GALVIN: The other thing, too,
16 there is a point where the Zoning Board's authority
17 ends. We can only go so far, you know. That is
18 something that gets picked --

19 MS. FALLICK: I understand that. I
20 understand that --

21 MR. GALVIN: -- up by other people.
22 The building department, the police department,
23 other situations, you know, other situations --

24 MS. FALLICK: -- okay, but I -- I --

25 MR. GALVIN: -- no police department in

1 this place --

2 MS. FALLICK: -- I understand that.

3 But so like to -- the property owner is not here,
4 okay?

5 So they have not talked to the property
6 owner of the laundromat or of my building, so that's
7 not true.

8 The little old lady that is out in the
9 Midwest, you know, so that is not true, so they
10 talked to Jim and Bev --

11 MR. MATULE: Wait a minute.

12 All I am saying is I have been
13 communicating with you --

14 MS. FALLICK: Right.

15 MR. MATULE: -- I believe Raul has
16 been communicating with people who live in the back.
17 Raul is a representative of the applicant.

18 So what is the "not true" part --

19 MS. FALLICK: Because you haven't been
20 communicating with the owner of the laundromat --
21 you've been communicating with me --

22 MR. MATULE: Right --

23 MS. FALLICK: -- but I don't have any
24 rights --

25 MR. MATULE: -- okay --

1 MS. FALLICK: -- and -- and -- and

2 thank you, and I appreciate that, but --

3 MR. MATULE: -- so --

4 MS. FALLICK: -- but I am just saying
5 that the owner is not here. The owner is probably
6 not --

7 MR. GALVIN: But here is the thing.
8 What I am basically saying is we never have -- we
9 don't get into that. We don't have that function --

10 MS. FALLICK: Right.

11 So you don't get into that, and I have
12 been told if there is a problem, call the
13 construction office, and I had experience calling
14 the construction office.

15 So my feeling is, you know, because
16 maybe they could work it out with the owner of the
17 building, that's not me. And when my feeling is,
18 okay, you know what, if I can't feel protected, then
19 stick with the zoning code that it is because that
20 will keep it away from me.

21 I don't want to be like that --

22 MR. GALVIN: No. But even if we built
23 something -- I don't want to be in this position of
24 doing that. I represent the Board. I want to make
25 a fair outcome, but something has to go there.

1 Even if we took everything down and
2 said be completely compliant, they have to build a
3 structure between these two buildings that are going
4 to have to -- even if it were two stories, it would
5 have to touch the buildings to the left and to the
6 right. There is a possibility that when they do
7 that, something could go wrong. Hopefully not.
8 They do them all of the time.

9 So I have never heard of, me
10 personally, nobody has ever told me after the fact
11 that there was a problem when they have done any of
12 the construction that we approved. It doesn't mean
13 it is not happening, but nobody has pointed it out
14 to me.

15 But I do know this: That the Board can
16 only do what it can do.

17 MS. FALLICK: Right.

18 MR. MATULE: Respectfully, all I am
19 suggesting is you said the owner lives out in the
20 Midwest somewhere, so the owner is not going to know
21 anything about this --

22 MS. FALLICK: But I'm --

23 MR. MATULE: -- you are the eyes and
24 the ears of the owner on the ground here --

25 MS. FALLICK: Right. But I don't have

1 authority of the building -- I mean, I have --

2 MR. MATULE: You don't need to have
3 authority. You are a resident of the building.
4 That gives you the authority to pick up the phone
5 and call the building department or call the zoning
6 officer or better yet, call me or call the
7 applicant. But either way, the fact that you are
8 not the owner and merely a tenant doesn't deprive
9 you of any rights.

10 MR. GALVIN: Okay?

11 We'll go on to the other questions.
12 the next witness --

13 MS. FALLICK: We'll go --

14 MR. GALVIN: -- yeah, because I think
15 you made your point well.

16 MS. FALLICK: -- yeah. I mean, it is
17 not -- it's not so much -- I mean, what Mr. Matule
18 and I discussed when I talked to my downstairs
19 neighbor, he felt -- my downstairs neighbor felt it
20 actually might be quieter with a building there as
21 opposed to a yard with a pit.

22 MR. GALVIN: Sometimes. It depends on
23 your neighbors.

24 MS. FALLICK: Sometimes.

25 So like if I -- but I mean, we are very

1 concerned about the windows being covered, very
2 concerned about that.

3 We know what is said here, and then we
4 have seen what happens, so, you know -- I know what
5 you are saying, but I just wanted to put it on the
6 record.

7 MR. MATULE: Okay.

8 MS. FALLICK: But, no, he's certainly
9 willing to talk to us. So our fear -- our concern
10 is safety, and our concern is whatever is agreed to
11 by this particular developer will be ignored.

12 It is not this architect. It's not
13 this attorney --

14 MR. GALVIN: No. I understand your
15 attorney --

16 MS. FALLICK: Okay. Thank you.

17 CHAIRMAN AIBEL: Okay. Does anybody
18 have questions or comments?

19 MR. GALVIN: Go ahead.

20 Raise your right hand.

21 Do you swear or affirm the testimony
22 you are about to give in this matter is the truth,
23 the whole truth, and nothing but the truth?

24 MS. HEALEY: I do.

25 MR. GALVIN: State your full name for

1 the record.

2 MS. HEALEY: Leah Healey, H-e-a-l-e-y.

3 MR. GALVIN: Street address?

4 MS. HEALEY: 806 Park.

5 MR. GALVIN: Thank you.

6 MS. HEALEY: Mr. Minervini, are you
7 familiar with the building as it was used before the
8 demolition or before any of the shoring up?

9 THE WITNESS: I had walked through it,
10 not while the business was running. Although I did
11 actually use the front part of the customer service
12 area at one time, but not the back portions.

13 MS. HEALEY: So can you tell me, if you
14 know, what use was that ground floor put to?

15 THE WITNESS: I don't really remember.
16 Most of it was storage and cleaning apparatus. What
17 each space in the rear was used for, I don't
18 remember. When I walked through, it was empty.

19 MS. HEALEY: So what was the operating
20 business that was there?

21 THE WITNESS: It was a dry cleaners.

22 MS. HEALEY: Okay.

23 And so did you walk through the rear
24 areas of the building?

25 THE WITNESS: Uh-huh.

1 MS. HEALEY: All the way to the back of
2 the property line?

3 THE WITNESS: Yes.

4 MS. HEALEY: What did you find back
5 there?

6 THE WITNESS: It was all empty by that
7 point because the previous owner had removed his
8 equipment. So what he used it for, I don't know.

9 MS. HEALEY: Okay.

10 And the lot size, I believe you said it
11 was 28 by 70.

12 Is 28 wider than a normal lot for R-3?

13 THE WITNESS: Typically between 20 and
14 25. 28 is -- this is R-1 by the way --

15 MS. HEALEY: It is R-3 --

16 THE WITNESS: -- no. It's within the
17 R-1 zone.

18 MS. HEALEY: Oh. So what's the
19 average -- what's the lot size --

20 THE WITNESS: Minimum is 20 feet. The
21 average is probably 25, but there are some at 30.
22 There are some at 32.

23 MS. HEALEY: Normally are they 20 feet?

24 THE WITNESS: I think they are between
25 20 and 25.

1 MS. HEALEY: Thanks.

2 And you did not yet calculate the
3 coverage of the ground floor. I think you said it
4 was 65 feet.

5 What's the lot coverage of that --

6 THE WITNESS: It's 92.8 as proposed.

7 MS. HEALEY: 92.8.

8 Have you ever walked through the
9 buildings on Third Street that abut this property?

10 THE WITNESS: I have not.

11 MS. HEALEY: Do you have any pictures
12 of that building itself?

13 I couldn't -- I think some have been
14 introduced, but the building is actually on Third
15 Street that will abut this building?

16 MR. MATULE: I am showing Ms. Healey
17 A-4.

18 MS. HEALEY: A 4.

19 MR. MATULE: This is the rear.

20 This is the building that goes up to
21 the corner. It is all one building, and then this
22 is the rear portion.

23 MS. HEALEY: Right.

24 So, if you know, Mr. Minervini, on A-4,
25 the first photo with the red brick building, how

1 much space is between the red brick building and
2 your property line?

3 THE WITNESS: I think it's zero. I
4 think this goes to the rear property line of their
5 property line.

6 MS. HEALEY: Okay.

7 So all of those six windows that I can
8 see, and I am not sure if there are other windows,
9 are on the property line?

10 THE WITNESS: Yes, but we are not
11 proposing to cover them.

12 MS. HEALEY: So that was my next
13 question.

14 How far from those windows will your
15 building be both the first, the ground floor and
16 every floor above that?

17 THE WITNESS: It is two answers.

18 The lower section is about between 8
19 and 12 inches below the window sills, so our lower
20 floor --

21 MS. HEALEY: I'm talking about the
22 distance between --

23 THE WITNESS: -- yes. I'm going to
24 answer it both ways.

25 This way you are asking. I will see if

1 I can give that to you.

2 MS. HEALEY: Yes.

3 THE WITNESS: My drawings based on the
4 survey don't have the window locations there,
5 although -- and I was hoping we had the little
6 cutout, but that wasn't part of the survey.

7 So I don't know the answer. I know we
8 don't meet this, because that is the rear property
9 line shared, so we still have 26 feet. I know we
10 don't meet that.

11 Whether it's here or here or here, I
12 don't know.

13 MS. HEALEY: So the --

14 MS. FALLICK: 204 Third Street is 20
15 feet --

16 THE WITNESS: Pardon?

17 MS. FALLICK: 204 Third Street is 20
18 feet.

19 THE WITNESS: In where?

20 MS. HEALEY: So if I am understanding
21 you correctly, from looking at this photo, your 92
22 percent lot coverage ground floor building is not
23 going to extend across the back of this building?

24 THE WITNESS: It will extend to here,
25 but it won't come up this high. The 92 percent --

1 MS. HEALEY: I understand it won't come
2 up this high.

3 I want to know the distance between
4 your building and the back of this building.

5 THE WITNESS: I can give you the
6 distance between our building and this line, which
7 is five feet exactly. So if you carry this down to
8 the edge of our building, it is exactly five feet.

9 MS. HEALEY: So the bottom of your
10 building, the ground floor is five feet from that,
11 from this building?

12 THE WITNESS: From this edge. It would
13 be their property line on the western side.

14 MR. MATULE: Let me show you something.

15 This is that building. That is that
16 building.

17 So let's just say there is your
18 windows.

19 Our building -- the ground floor is
20 going to come within five feet of the edge of this
21 building. It will be five feet from here to here,
22 and that will be open, and it will be below those
23 windows.

24 So if you measured, if you took a tape
25 measure on the corner of this building and --

1 MS. HEALEY: What's the distance
2 between here and here?

3 That's what I want.

4 MR. MATULE: Zero, zero. It's zero lot
5 line. It is the side yard.

6 MS. HEALEY: Okay. So your building --

7 MR. MATULE: It's going to be right
8 here --

9 MS. HEALEY: -- is going to roll right
10 up against that building?

11 MR. MATULE: -- yes, zero lot line.

12 MS. HEALEY: I just wanted to be clear
13 on that.

14 Thanks.

15 The use of the ground floor commercial
16 space, do you have any tenant or interest in that
17 space?

18 Do you have any idea what that will be
19 used for?

20 UNIDENTIFIED VOICE: The owner is going
21 to --

22 MR. MATULE: No. You can't talk --

23 THE WITNESS: It will be an office for
24 use of the applicant -- use by the applicant.

25 MS. HEALEY: And who is the applicant?

1 THE WITNESS: The name you are asking,
2 is that relevant?

3 MR. MATULE: Well, the principal --

4 MS. HEALEY: I don't know what business
5 they're in, if they need an office --

6 THE WITNESS: It is an office.

7 MR. MATULE: -- he is in the real
8 estate rental and development business, and that is
9 going to be his business office. He works out of
10 his house now.

11 MS. HEALEY: So it will be a realty
12 office?

13 MR. MATULE: No, not a realty. It will
14 be his private business office for his own private
15 business.

16 MS. HEALEY: So this space isn't being
17 fit out for some particular business, other than his
18 private business office?

19 MR. MATULE: Is your question is it not
20 being fit out?

21 MS. HEALEY: I'm just trying to get a
22 sense of --

23 MR. MATULE: I can proffer to you that
24 it's being --

25 MS. HEALEY: -- what 92 percent

1 coverage is going to be used for.

2 MR. MATULE: -- it's going to be used
3 for a business office.

4 MS. HEALEY: For the applicant?

5 MR. MATULE: For the applicant.

6 MS. HEALEY: Okay. Thank you.

7 CHAIRMAN AIBEL: Anybody else?

8 Please come up.

9 MR. GALVIN: Raise your right hand,
10 Mary.

11 Do you swear or affirm the testimony
12 you are about to give in this matter is the truth,
13 the whole truth, and nothing but the truth?

14 MS. ONDREJKA: I do.

15 MR. GALVIN: State your full name for
16 the record and spell your last name.

17 MS. ONDREJKA: Mary, last name

18 O-n-d-r-e-j-k-a.

19 159 9th Street.

20 Okay. In my experience, I know when
21 there is a shed or an additional building, one-story
22 usually, which is in a lot of the backyards of
23 Hoboken or was, that they were allowed to use the
24 length of that shed to add to the front of the
25 building for an extension.

1 Do you know that to be true?

2 THE WITNESS: No. The front of the
3 building is always set first --

4 MS. ONDREJKA: No, no, no --

5 THE WITNESS: -- for the store
6 throughout Hoboken --

7 MS. ONDREJKA: -- I meant -- but
8 remember, you're -- right now, what is the length of
9 the building?

10 THE WITNESS: It is --

11 MS. ONDREJKA: Into the yard, what is
12 it?

13 THE WITNESS: Which floor are we
14 talking about?

15 MS. ONDREJKA: The deck -- the first
16 floor.

17 THE WITNESS: It's 65 feet.

18 MS. ONDREJKA: No, I meant structure.

19 How much of the structure is sitting on
20 the first floor?

21 What's the length of the structure on
22 the first floor?

23 THE WITNESS: You're asking the
24 original building?

25 MS. ONDREJKA: The original, the

1 original.

2 THE WITNESS: Well, I don't know how to
3 answer that question, other than --

4 MS. ONDREJKA: Okay. Let me just
5 repeat --

6 THE REPORTER: Wait a second, Mary.
7 You can't talk when he's talking.

8 THE WITNESS: -- the structure went
9 back 70 feet.

10 Now, was all of it brick?

11 No. Some of it was brick. That would
12 be on the northern side, so I am not really sure I
13 understand your question.

14 MS. ONDREJKA: Okay. Let me make it
15 clear.

16 There is a discrepancy, because
17 remember, you said that it was a hundred percent lot
18 coverage, assuming that it was built a hundred
19 percent back on all of the lot, which was not the
20 case, because there was a breezeway and they had a
21 corrugated roof, and so they had a structure that
22 would serve like a shed, like a lot of buildings --

23 THE WITNESS: But that was all indoor
24 space.

25 The reason I said that, I wasn't making

1 an argument for our 93 percent. I was explaining
2 how that 93 percent number came up initially.

3 I walked through the space. It was lot
4 coverage. Whether that hole was filled in another
5 time, perhaps, I don't know. It seems that is the
6 case based on the photographs.

7 All of those spaces were interconnected
8 and could have been used so it was protected from
9 the weather, so as I see this, it is lot coverage.

10 Whether your definition of lot
11 coverage, I don't know --

12 MS. ONDREJKA: Well, the reason, too is
13 this structure, this building is second from the
14 corner. It is not logical that any -- if you look
15 in town, any structure right next to the corner, you
16 don't want to fill that in because you are walling
17 in that area tightly for the donut area there to
18 extend out.

19 I thought there was a code that you
20 can't extend out when you get close to the corners
21 because you are blocking it in like a dumbwaiter
22 situation.

23 The length that you are asking to go, I
24 can understand the length of the small building,
25 which would have been this back, would be

1 legitimately extending that you could ask for an
2 extension on the structure --

3 THE WITNESS: No variance for that
4 structure, for the main portion of the structure,
5 just for the fire escape.

6 MS. ONDREJKA: That's right. You don't
7 need a variance for that. That is correct.

8 So the next question is: Since --
9 let's not dispute what was there -- what was the
10 width or the length from this area to the end of the
11 lot?

12 What is this, ten feet?

13 THE WITNESS: I can't answer the
14 question. I can tell you looking at this drawing
15 that Bob has, the survey.

16 This is the open area that I think has
17 been the bigger question, and that was the question
18 that the zoning officer had.

19 This was structure. This was
20 structure. This was -- although you said it was a
21 breezeway, it was covered.

22 MS. ONDREJKA: Breezeways are covered.

23 THE WITNESS: Yeah. So which meant
24 that it could have been used by the shop, by the
25 store as indoor space, storage space, if --

1 MS. ONDREJKA: But that is not true
2 because there is a door going out, so it was open to
3 the elements.

4 THE WITNESS: Maybe one day it was.
5 Maybe at one time it was. Maybe this was built 30
6 years after the bigger building was built.

7 You are imagining that there was a plan
8 to all of this.

9 When these buildings were built, this
10 was probably built first. This was probably built
11 second, and these two, the third and fourth --

12 MS. ONDREJKA: Right.

13 And my guess was this was all done
14 illegally because it's right near the corner, and I
15 thought there was a zoning law or rule that you
16 can't fill in all of this space at the corner. It
17 is killing the green space, the air.

18 I have been in plenty -- they did this
19 behind me. But it was three buildings from the
20 corner, so they were legitimately allowed to do it,
21 but the second and the first next to the corner,
22 they can't extend it.

23 This is what you're trying to do. You
24 are trying to cover it up, so then I would think,
25 why not, if you are going to wall it in, there

1 should be an alley here because right here you are
2 going to go right up next to their windows, maybe on
3 the first floor, you're going to go down here, and
4 you're asking to go up two -- you're asking to --

5 MR. MATULE: Not back here. We are not
6 going up back here.

7 MS. ONDREJKA: You're not going up
8 there at all?

9 MR. MATULE: No. We are not going up
10 back here.

11 MS. ONDREJKA: But you are going back
12 up here.

13 MR. MATULE: Which is what the zoning
14 code permits.

15 MS. ONDREJKA: And what you're doing is
16 you're creating an "L" there. You're blocking in
17 this -- see, they won't be able to see out any more.

18 They will see out this way, but there
19 will be a brick wall in their face in the windows.
20 That's why they stopped the --

21 MR. MATULE: I can't --

22 MS. ONDREJKA: -- it's too close to the
23 corner. It's walling it in.

24 MR. MATULE: -- are you aware of the
25 fact that behind these two buildings that we are

1 talking about, there is another building that takes
2 up a hundred percent of the lot?

3 MS. ONDREJKA: Yes, yes, yes, I am.

4 MR. MATULE: So that's why they don't
5 have any windows back here or back here?

6 MS. ONDREJKA: That's correct, but --

7 MR. MATULE: Okay. So aren't they
8 walled in already?

9 MS. ONDREJKA: Why add insult to
10 injury?

11 Why wall it up further is what I don't
12 understand. I didn't think this was linked to do
13 that --

14 MR. MATULE: We are not walling it up.
15 We are opening it up.

16 MS. ONDREJKA: -- and I wanted to know
17 what was the -- so what was the --

18 MR. GALVIN: It's a balance. It's a
19 balance.

20 I made it so that you could ask
21 questions, and you could also comment because we
22 wanted to learn from your comments --

23 MS. ONDREJKA: Right. I understand --

24 MR. GALVIN: -- but, again, the same
25 thing, it's like Bob has a client. He has to

1 represent his client. You know that there is a
2 limit to what he can give you by way of your
3 comments --

4 MS. ONDREJKA: Okay.

5 MR. GALVIN: -- so you are telling us
6 that you like this proposal, you don't like this
7 proposal, whatever, you know --

8 MS. ONDREJKA: I just don't think it's
9 legally right to do that, because you are affecting
10 the neighbors as well as walling in the donut, and
11 what is this for, somebody's personal space?

12 It's not even going to a business.

13 You are asking for a hundred -- almost
14 a hundred percent lot coverage for somebody's
15 personal office?

16 Is that legitimate?

17 Is that a legitimate reason to give
18 them a hundred percent lot coverage?

19 I disagree.

20 MR. GALVIN: All right.

21 CHAIRMAN AIBEL: I think you made your
22 point. We understand it.

23 MR. GALVIN: Thanks.

24 MS. ONDREJKA: Wait a minute.

25 Let me ask this question: Since you

1 are going to be walling it all up in there, why can
2 there not be an air space between there and this
3 building, so that it is not so confined?

4 MR. MATULE: My answer would be --

5 CHAIRMAN AIBEL: No. Let Mr. Minervini
6 answer it.

7 MS. ONDREJKA: Yes, please.

8 THE WITNESS: How do I answer a
9 question that can you put five feet here, can you
10 five feet there?

11 You could put five feet anywhere around
12 this. You can make the building 20 feet deep. It
13 is a silly question because it is not this proposal.

14 MR. GALVIN: Well, it's not a silly
15 question.

16 THE WITNESS: It is to me.

17 MS. ONDREJKA: No, it's not a silly
18 question --

19 THE WITNESS: It's not this proposal --

20 MR. GALVIN: Don't do that --

21 MS. ONDREJKA: -- it's like air
22 space --

23 MR. GALVIN: -- don't do that. I asked
24 you not to do that --

25 MS. ONDREJKA: If they did that,

1 apartments and buildings, they opened up a vent.

2 What I am saying is I think that -- if
3 they are going to do this, they should have some --

4 MR. GALVIN: Okay. No, no. We are
5 listening to you, but anything could be done. I
6 agree that anything could be done --

7 MS. ONDREJKA: One last question --

8 MR. GALVIN: -- but they have given us
9 a proposal, and we are going to probably vote it up
10 or down unless we have a suggestion for them to
11 modify it somewhat.

12 THE WITNESS: One of the questions --

13 MR. GALVIN: No. You shouldn't really
14 say anything.

15 MS. FALLICK: It doesn't abut it now.

16 MR. GALVIN: No, you shouldn't --

17 MS. ONDREJKA: It doesn't abut it now,
18 but it will.

19 MR. GALVIN: I think the Board has
20 listened. Listen, we put her in a hybrid situation.
21 If she's got a question, you answered the question,
22 and you have answered the questions that she's asked
23 you, and she is commenting.

24 When she is commenting, leave it alone.
25 Let her finish commenting.

1 MS. ONDREJKA: Yeah, leave me alone.

2 (Laughter)

3 Okay. One more question.

4 You are going up with this extension --
5 you are extending out into the backyard. Not -- if
6 you are extending out on the first floor, but you're
7 extending out not as far on the second, third and
8 fourth floors, correct?

9 THE WITNESS: Correct.

10 MS. ONDREJKA: And what's the length of
11 that extension in the center?

12 THE WITNESS: 42 feet --

13 MS. ONDREJKA: 42 feet --

14 THE WITNESS: -- from the front
15 property line --

16 MS. ONDREJKA: -- from the front
17 property line --

18 THE WITNESS: -- it's just about ten
19 feet further from where the building is now.

20 MS. ONDREJKA: Okay.

21 Actually -- and that is what percentage
22 of the total 70 --

23 THE WITNESS: 60.

24 MS. ONDREJKA: Okay. That is fair.
25 You are allowed that, correct?

1 THE WITNESS: The main building. We
2 are asking for a variance for the fire escape.

3 MS. ONDREJKA: Yes.

4 Well, why can't you keep it all nice
5 and sweet here, and don't go back all the way on the
6 first floor, so you have more air and go 60 feet
7 instead of 90 or whatever the percentage that you
8 want to do on the first floor?

9 This is all for a stupid office. They
10 could at least go and be descent and respectful to
11 the neighbors especially since you're walling into
12 that corner to go up 60 -- all the way from the
13 first to the top, what's wrong with that?

14 MR. GALVIN: I think that is a comment,
15 not a question.

16 MS. ONDREJKA: It is a comment, but I'm
17 just saying --

18 MR. GALVIN: No. He's not going to
19 answer that.

20 MS. ONDREJKA: -- why can't you not do
21 that?

22 MR. GALVIN: He is not going to answer
23 that.

24 MS. ONDREJKA: He's not going to answer
25 that question?

1 MR. GALVIN: No. I don't think he has
2 to. You are making an argument. You're making a
3 good argument, but let's --

4 MS. ONDREJKA: All right. I'm done.

5 CHAIRMAN AIBEL: Thanks.

6 Anybody else want to comment or
7 question?

8 MR. EVFERS: Yeah. If nobody wants to
9 say anything, I have a question.

10 CHAIRMAN AIBEL: Is somebody coming up?

11 MR. GALVIN: Raise your right hand.

12 Do you swear or affirm the testimony
13 you are about to give in this matter is the truth,
14 the whole truth, and nothing but the truth?

15 MR. EVERS: I do.

16 MR. GALVIN: I saw you put it down. We
17 might have to start over.

18 (Laughter)

19 No, I'm kidding. I'm kidding.

20 State your full name --

21 (Laughter - everyone talking at once.)

22 MR. EVERS: I wanted to ask a question,
23 but okay.

24 MR. GALVIN: Yeah, but we're in a
25 hybrid thing.

1 State your full name for the record.

2 MR. EVERS: Michael Evers, 252 Second
3 Street, Hoboken, New Jersey.

4 MR. GALVIN: All right. Fire away.
5 You can ask questions or you can comment.

6 MR. EVERS: Okay. I feel wildly
7 liberated.

8 (Laughter)

9 MR. GALVIN: Sorry.

10 MR. EVERS: My basic question here is
11 there seems to be a significant dispute of facts
12 with regard to the lot coverage on this property.

13 And the question I have is both to Mr.
14 Minervini and to the Board.

15 What proofs did these two sides offer
16 to resolve this disputed fact, and how do we know
17 that the corrugated -- all of these variety of
18 things, it must be a marvelous building, how many of
19 them are actually legal?

20 If I put illegal structures on a lot,
21 and then say, gee, that is the lot coverage, how is
22 the Board establishing --

23 MR. GALVIN: Well, you are asking for
24 the Board's opinion, and they really haven't given
25 it yet.

1 MR. EVERS: No. I didn't ask for your
2 opinion. I asked what procedure --

3 MR. GALVIN: No, no, no. I didn't give
4 an opinion. I told you --

5 MR. EVERS: I didn't accuse you of
6 giving opinion an opinion.

7 MR. GALVIN: It's okay.

8 (Laughter)

9 I'm saying the Board. I don't have any
10 opinion. It's after eleven o'clock.

11 MR. EVERS: I am asking a procedural
12 question.

13 What steps has this Board engaged in to
14 resolve these disputed facts?

15 MR. GALVIN: Here's the -- time out.
16 Here is the answer.

17 We said right from the outset, which I
18 think a Court would want us to do, we put the legal
19 issue off of whether it was conforming or not
20 conforming at all, to address whether we would, if
21 they came in before anything got built out there,
22 would we approve the structure that they are
23 proposing with the variances they are requesting.

24 There has been some reference to this
25 preexisting structure.

1 I am telling the Board not to engage in
2 that. I don't care that there's an existing
3 structure out there. We could turn down the
4 application. It is possible. And if we do, then we
5 are going to move into the next question. If they
6 want to continue to pursue a certificate of
7 nonconformity, they can. But if a Board was to
8 grant them permission for what they're proposing, we
9 don't need to reach that question. It's just like a
10 court.

11 MR. EVERS: I understand your answer.

12 MR. GALVIN: Yeah.

13 MR. EVERS: Okay.

14 That a dispute of facts has arisen, and
15 the Zoning Board has decided it is not their purview
16 to determine that disputed facts --

17 MR. GALVIN: No. Wait a minute. Time
18 out.

19 There is a longstanding judicial
20 tradition of not reaching questions that we do not
21 need to answer.

22 So if the Board were to grant an
23 approval, we don't have to reach the next question.

24 If we don't grant them an approval,
25 then we will reach those questions.

1 MR. EVERS: Uh-huh.

2 So we are assuming then that the Zoning
3 Board is going to view this matter as if it were an
4 empty lot, and they are not going to be in any way,
5 shape or form influenced by the extent to which this
6 lot is currently covered. Is that correct?

7 MR. GALVIN: You know, that would
8 probably be a smart thing. I would agree with your
9 advice.

10 I don't know that that will be the full
11 case because there is -- their argument that there
12 has been some use in the past of some portion of
13 this yard, I don't know what the Board -- and I
14 can't speak for the Board. I don't know what
15 they're going to do.

16 MR. EVERS: The reason I am asking this
17 question, if the applicant is contending that part
18 of the basis of why they should be granted a
19 variance is because of the existing state of the
20 building, in particular, the existing degree of lot
21 coverage, and a dispute has arisen as to whether
22 this was ever legal lot coverage, that would seem to
23 be relevant to the request to grant lot coverage
24 above and beyond --

25 MR. GALVIN: Right. And let me just

1 say this. Let me just say this.

2 The other thing that I have already,
3 and if you were listening, and I am sure you were, I
4 advised the Board that an applicant has no
5 entitlement anywhere in Hoboken to these
6 nonconforming conditions.

7 The fact that they come in all of the
8 time and say, we have a building here, it's a
9 hundred percent lot coverage, and you want to get an
10 approval, we don't have to allow them to have a
11 hundred percent lot coverage.

12 They are making their best argument,
13 and sometimes they convince either this Board or the
14 other Board that we should continue that condition.
15 But basically when they need new variances, they
16 want greater relief, they want to increase the size
17 of the building, we pretty much require them, if
18 they want to get that approval for more height, to
19 bring the building, to recreate the donut.

20 It could be something we do. We don't
21 always do it. It depends on the facts of the case.

22 CHAIRMAN AIBEL: Do you have a question
23 or a comment on the case?

24 MR. EVERS: Well, I thought all of it
25 was a pretty relevant question.

1 CHAIRMAN AIBEL: Well, we have a
2 different view, so let's just move on.

3 MR. EVERS: Well, no, actually you just
4 editorialized on my testimony.

5 (Audience laughs)

6 MR. EVERS: The last question I had was
7 this: What is the actual lot coverage you're
8 looking for? You're sitting in a peanut gallery
9 going back and forth --

10 THE WITNESS: 92.8 --

11 MR. EVERS: What?

12 THE WITNESS: -- 92.8 on the ground
13 floor, and it's 60 percent above.

14 MR. GALVIN: Is that the revised
15 number?

16 MS. BANYRA: Yes.

17 THE WITNESS: Yes, yes.

18 I'm sorry. With the five feet setback
19 at the rear, so we are proposing to cover the
20 entire --

21 MR. EVERS: Any compelling reason for
22 this 92.8 percent lot coverage issue?

23 MR. GALVIN: And if you say it was a
24 preexisting condition, you are really going off
25 the --

1 MR. EVERS: Well, thank you --

2 (Everyone talking at once)

3 THE WITNESS: I already described this,
4 and I described it in the sense of how we came to
5 our initial design, and I described what I walked
6 through and I described what we saw.

7 The revision that this Board sees is
8 from 100 percent lot coverage, which was the initial
9 set of plans because that was the inclusion of the
10 space that is in question to the 92 -- 93 percent
11 lot coverage, which is with that space taken out.

12 So I don't see this as a question of
13 lot coverage any longer. Now, whether you think
14 that the existing lot -- the preexisting lot
15 coverage is enough of a reason to grant this, it is
16 up to you. But it is certainly enough of a reason
17 for us to come to this Board and propose it.

18 MR. EVERS: So your contention is that
19 part of the design you came up with would lead to
20 this extraordinary request for lot coverage is based
21 on the existing structure?

22 THE WITNESS: The previously existing
23 structure.

24 MR. EVERS: The previously existing
25 structure.

1 So the structure no longer exists,
2 correct?

3 THE WITNESS: No. The construction was
4 commenced based on a previous zoning letter.

5 MR. EVERS: So then there is no
6 compelling reason based on the previously
7 existing --

8 THE WITNESS: Maybe I disagree with
9 you --

10 MR. GALVIN: The other thing that I
11 think is a factor that's out there, but not one that
12 I will let the Board rule on, Boards can't take into
13 consideration what is basically called equitable
14 estoppel.

15 When someone pulls a permit, and they
16 rely on it, and they do construction, the Zoning
17 Board is not permitted to rule on that.

18 But if we were to deny this case, and
19 they were to go to court, and if there were any
20 merit to that claim, that would be taken up by the
21 Law Division.

22 So, you know, again, sometimes we have
23 a sensible solution. It is wise for us to take the
24 sensible solution. I don't know that we have one.
25 I'm not saying one way or the other.

1 MR. EVERS: Thank you.

2 I have no further questions.

3 CHAIRMAN AIBEL: Thank you.

4 Does anybody else have questions or
5 comments on this matter?

6 UNIDENTIFIED VOICE: Comments?

7 MR. GALVIN: No. They have already
8 commented. They already commented.

9 CHAIRMAN AIBEL: Anybody who has not
10 spoken, does anybody else wish to come forward?

11 COMMISSIONER BRANCIFORTE: Motion to
12 close.

13 CHAIRMAN AIBEL: Do I have a second?

14 COMMISSIONER MC ANUFF: Second.

15 CHAIRMAN AIBEL: All in favor?

16 (All Board members answered in the
17 affirmative)

18 CHAIRMAN AIBEL: Thank you.

19 COMMISSIONER BRANCIFORTE: Jeffrey, one
20 quick question:

21 Because this used to be a dry cleaners,
22 does the EPA or the DEP have to come in and check
23 the place for environmental conditions?

24 MR. MARSDEN: Typically that is part of
25 the property transfer. That is when ISRA comes into

1 effect at certain -- we can ask for it.

2 COMMISSIONER BRANCIFORTE: Okay.

3 COMMISSIONER MARSH: Can I ask a couple
4 of questions?

5 I am still trying to figure out what is
6 around this building.

7 MS. BANYRA: No, don't.

8 (Laughter - everyone talking at once.)

9 COMMISSIONER MARSH: Forget the lot --

10 MR. MATULE: Can I make a suggestion?

11 My planner has more photographs. He
12 might be able to elucidate.

13 COMMISSIONER MURPHY: Can I ask a
14 question?

15 (Board members confer.)

16 COMMISSIONER MURPHY: How deep is that
17 cellar?

18 THE WITNESS: It's about six and a half
19 feet or so.

20 COMMISSIONER MURPHY: No. I don't
21 mean -- depth --

22 COMMISSIONER MC ANUFF: Length.

23 THE WITNESS: Oh, as shown on --

24 COMMISSIONER MURPHY: -- I just didn't
25 see -- I don't know if I am looking at the wrong

1 thing.

2 THE WITNESS: That is probably Z-6.

3 Here we go.

4 The exact dimension is 42 feet.

5 COMMISSIONER MURPHY: Thank you.

6 COMMISSIONER BRANCIFORTE: Frank, on
7 the second floor rear elevation, the back of the
8 building on the second floor lower right-hand
9 corner, are those sliding glass doors?

10 THE WITNESS: No. I think that is
11 floor-to-ceiling glass -- oh, no, they are --
12 pardon.

13 Those are doors that access the fire
14 escape. They are swinging doors, but they access
15 the fire escape. The same doors on the two floors
16 above. Here.

17 COMMISSIONER BRANCIFORTE: Yes.

18 So you were saying before, there's no
19 real chance of people hanging out on that rear deck
20 because of the --

21 THE WITNESS: I was proposing to the
22 point that we would reduce this, so there is no
23 place for anybody to hang out. It's just purely the
24 landing for a fire escape.

25 COMMISSIONER BRANCIFORTE: You know

1 what's a little deceiving about that is I forget
2 that that is the second floor, and there's
3 actually -- the first floor extends below it out,
4 so --

5 THE WITNESS: Yes. This is the fourth
6 and the third.

7 On the second floor, it extends beyond
8 it, of course, which would be here. The first floor
9 roof goes back to here.

10 This is just so we can connect the fire
11 escape from here to here to the ingress stair that
12 we talked about.

13 (Board members confer)

14 COMMISSIONER MARSH: I really want to
15 ask a question, and I don't want to wait for
16 pictures.

17 What is the depth of the building you
18 are proposing on the first floor?

19 THE WITNESS: 65 feet. The property is
20 70 feet deep --

21 COMMISSIONER MARSH: I did not ask the
22 property.

23 THE WITNESS: I'm answering the
24 question, and I've already answered it --

25 COMMISSIONER MARSH: No. Can I go to

1 my next question?

2 THE WITNESS: -- and that's not very
3 fair.

4 I answered it's 70 feet, and 65 feet is
5 the building, which means there are five feet left.

6 COMMISSIONER BRANCIFORTE: Which adds
7 up to 92 percent lot coverage.

8 THE WITNESS: Yes, 92.8 percent.

9 COMMISSIONER BRANCIFORTE: 92.8. I'm
10 sorry.

11 Thank you. I'm sorry.

12 COMMISSIONER MARSH: You are proposing
13 a 65 foot building?

14 THE WITNESS: Yes, on the first floor.

15 COMMISSIONER MARSH: What is the depth
16 of the building just north of it?

17 THE WITNESS: I know your question, but
18 you can't think of it that way because the lots
19 turn, of course, and at that point you are looking
20 at the back of the adjacent buildings.

21 COMMISSIONER MARSH: No, north of it.

22 COMMISSIONER MURPHY: North of it.

23 THE WITNESS: I'm sorry. Pardon me.
24 Pardon me.

25 MR. MATULE: This one.

1 THE WITNESS: Yes.

2 COMMISSIONER MARSH: What is the depth
3 of that building?

4 THE WITNESS: My survey doesn't show.
5 I think it is about the same, but the photographs
6 might help --

7 COMMISSIONER MARSH: The photographs I
8 find singularly unhelpful.

9 THE WITNESS: I don't have that
10 dimension then.

11 COMMISSIONER MARSH: Okay.

12 If you're asking me -- excuse me -- but
13 if you are asking the Board for a variance for lot
14 coverage, every time we've done this, we consider
15 what the buildings look like next to it, so I say
16 that is a really important piece of information.

17 COMMISSIONER MC ANUFF: I think it's on
18 here. It is on Z-2. You probably can add --

19 MS. BANYRA: The planner has not
20 testified yet.

21 COMMISSIONER MARSH: Okay.

22 MS. BANYRA: I mean, that is typical
23 for the planner to address.

24 COMMISSIONER MC ANUFF: You got 42, 23,
25 23 and five --

1 THE WITNESS: That is our building, and
2 the Commissioner is asking for the building to the
3 north --

4 COMMISSIONER MC ANUFF: Aren't these
5 dimensions the total of this?

6 THE WITNESS: Of our property.

7 COMMISSIONER MC ANUFF: Isn't that
8 building at that property?

9 THE WITNESS: To answer your question,
10 without actually having dimensions --

11 (Everybody talking at once)

12 MR. GALVIN: Shush, shush.

13 THE WITNESS: -- I should have that
14 information --

15 CHAIRMAN AIBEL: One at a time.

16 THE WITNESS: I don't have that
17 dimension unfortunately, and I will get it.

18 Based on the photograph, if you look at
19 what is existing, so this shows the back of our
20 existing building, which was 32 feet.

21 I can estimate that this is more than
22 42 feet that we are proposing for our building, but
23 I don't have the dimension --

24 COMMISSIONER MARSH: What 42 feet are
25 you proposing?

1 THE WITNESS: Pardon me?

2 (Everybody talking at once)

3 COMMISSIONER MARSH: What 42 feet are
4 you proposing?

5 COMMISSIONER COHEN: Come on, come on.
6 Phyllis has earned her Purple Heart.

7 (Laughter)

8 CHAIRMAN AIBEL: Okay. We are taking a
9 five-minute break. Everybody sit where you are.
10 Counsel are going to have a side bar discussion.

11 No more testimony.

12 (Recess taken)

13 CHAIRMAN AIBEL: Okay.

14 MR. GALVIN: Mr. Matule, do we have a
15 plan?

16 And, Pat, do we have where do we move
17 it to?

18 COMMISSIONER MURPHY: I am ready to
19 hear it.

20 COMMISSIONER MARSH: They have not made
21 their case, so we can't vote.

22 MS. BANYRA: No. The planner has not
23 testified yet.

24 MS. CARCONE: Are we going to carry it
25 to next Tuesday?

1 MR. GALVIN: No, absolutely not.

2 MS. CARCONE: Okay. So then the next
3 meeting is January 19th.

4 MR. GALVIN: Is there anything else on
5 that night?

6 We are going to move both of these
7 cases to January 19th. That is my plan.

8 MS. CARCONE: Okay. That's fine.

9 COMMISSIONER MURPHY: Is that a regular
10 meeting?

11 MS. CARCONE: Yes.

12 COMMISSIONER MURPHY: So that means
13 anyone that's elected newly to the Board would have
14 to read the transcript?

15 MR. GALVIN: Correct.

16 COMMISSIONER COHEN: Yes. Good luck.
17 Good luck.

18 VICE CHAIR GREENE: Frank is going to
19 be sorry he left, and now he's going to have to read
20 the transcript, and I got news for you, this is
21 going to be an interesting transcript. Mumble,
22 mumble, mumble, argue, argue, argue.

23 (Everybody talking at once)

24 COMMISSIONER BRANCIFORTE: Okay. Let's
25 get this show on the road.

1 MR. GALVIN: Okay. Mr. Matule, we are
2 going to carry this case.

3 MR. MATULE: Okay.

4 MR. GALVIN: Even if you could pull a
5 rabbit out of the hat, we're carrying this case.

6 MR. MATULE: I'll try it right now. I
7 have him by one leg.

8 (Laughter)

9 COMMISSIONER BRANCIFORTE: I have a
10 quick question.

11 If the planner has any more pictures
12 that he wants to enter into evidence, can he do it
13 now?

14 MS. BANYRA: No.

15 MR. GALVIN: Not now. It's not fair.

16 COMMISSIONER BRANCIFORTE: Okay.

17 MR. GALVIN: It's not fair. You might
18 be okay, but it is not okay to everybody that is
19 here, I'm sure --

20 COMMISSIONER BRANCIFORTE: No. I meant
21 if we --

22 CHAIRMAN AIBEL: Is it worth waiting
23 five minutes?

24 VICE CHAIR GREENE: Well, while we're
25 doing this, why don't we carry the other one?

1 MR. MATULE: Yeah. Why don't we do
2 that. I am texting right now, and I'm trying to get
3 a relatively substantial concession in the rear
4 yard, but --

5 (Counsel confers)

6 MR. GALVIN: What is the other matter?

7 MS. CARCONE: 75-77 Madison.

8 MR. GALVIN: 75-77 Madison is going to
9 get carried to the January 19th meeting.

10 COMMISSIONER BRANCIFORTE: Without
11 further notice.

12 MR. GALVIN: Is there a motion to carry
13 that without notice to the January 19th meeting?

14 MR. MATULE: Yes, let's carry it.

15 MR. GALVIN: Do you waive the time in
16 which the Board has to act?

17 MR. MATULE: Absolutely.

18 MR. GALVIN: We are going to carry it
19 to January 19th because we don't want to mess up the
20 22nd meeting.

21 MR. MATULE: Thank you.

22 COMMISSIONER BRANCIFORTE: What's the
23 other matter?

24 MS. CARCONE: 75-77 Madison.

25 COMMISSIONER BRANCIFORTE: Motion to

1 carry 75-77 Madison --

2 CHAIRMAN AIBEL: Do you extend the
3 time?

4 MR. MATULE: Yes, I did.

5 COMMISSIONER BRANCIFORTE: -- without
6 further notice to what date?

7 MS. CARCONE: January 19th.

8 COMMISSIONER BRANCIFORTE: To January
9 19th --

10 COMMISSIONER MURPHY: Second.

11 MR. MATULE: With no further public
12 notice --

13 COMMISSIONER BRANCIFORTE: -- with no
14 further notice.

15 MR. MATULE: -- and I agree to extend
16 the time in which the Board has to act.

17 MR. GALVIN: All in favor?

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

20 MR. GALVIN: Anybody opposed?

21 CHAIRMAN AIBEL: All right. Motion to
22 close --

23 VICE CHAIR GREENE: And what about
24 this?

25 MR. GALVIN: We have 302 Garden in

1 front of us.

2 CHAIRMAN AIBEL: I'm sorry. I thought
3 we moved it.

4 MR. GALVIN: We moved 75 Madison.
5 (Everyone talking at once.)

6 MR. MATULE: Oh, I thought we were
7 moving 302 Garden --

8 CHAIRMAN AIBEL: I was.

9 THE WITNESS: I misunderstood as well.
10 Are we proceeding?

11 MR. GALVIN: Very unlikely.

12 MR. MATULE: Hold that thought, please.
13 (Board members confer off the record)

14 MR. MATULE: What I am trying to do --

15 MR. GALVIN: We are on the record.

16 MR. MATULE: -- we can go on the
17 record. I will know in a minute.

18 What I am suggesting to the applicant
19 is that he pull the rear yard back to 15 feet, which
20 would then give us a 55-foot deep ground floor,
21 which would be approximately 78.5 percent lot
22 coverage.

23 I don't know if that would resonate
24 with the Board or not, but that is what I'm
25 suggesting to the applicant, to try to come up

1 with -- or we can carry it and come back and discuss
2 it in January.

3 COMMISSIONER MURPHY: I think we have
4 to carry it anyway because we have to go through --

5 MR. GALVIN: No. What I am saying is
6 right now, if they came in and said, no problem, we
7 will do 63 percent, let's just say they could say
8 that, then I would put the planner on, and I would
9 quickly elicit the planning testimony, and maybe we
10 could finish it. But since they are not suggesting
11 that --

12 VICE CHAIR GREENE: Just on the
13 record --

14 MR. GALVIN: -- and I would also say
15 that some of the Board members still feel like they
16 don't understand what is going on on that ground
17 floor, and I feel uncomfortable going to a vote
18 until we have a better understanding. We need more
19 testimony.

20 MR. MATULE: We will come back with
21 revised drawings in January. How is that?

22 MR. GALVIN: That is what I am
23 thinking.

24 MR. MATULE: Unless the Board wants to
25 vote tonight. Otherwise, I am fine coming back.

1 COMMISSIONER BRANCIFORTE: Do we need a
2 motion to carry it?

3 MS. BANYRA: Yes. You do need a
4 motion.

5 MR. GALVIN: Hold on. Everybody stay
6 with me. Let's make sure we all agree.

7 I recommend as your attorney that you
8 should carry this. We are certainly not in the
9 position to vote on it one way or the other. There
10 is a good chance there is going to be litigation in
11 this case because they have another part to this
12 case that has yet to come up. All right?

13 What we did is we held off the
14 interpretation and the appeal to decide if we could
15 live with the proposal and grant the variances.

16 If we deny that, there is going to be a
17 second part of this case, and there is a high
18 probability that this case goes on appeal to the
19 court, and I want to make sure that we have done
20 everything properly in case that it goes to court,
21 and I feel like the fact that anybody is
22 uncomfortable, we might need some more explanation
23 or different drawings or something, and that has to
24 happen. And if you are going to change the plan,
25 that is significant, and I think we should wait to

1 see that, and certainly the argument that it exists
2 now is not a fair argument under all of the
3 circumstances. Okay?

4 (Everyone talking at once)

5 MR. MATULE: We beat that to death.

6 MR. GALVIN: Yes, we beat it to death.
7 You got the point.

8 (Laughter)

9 Okay. So with that, will you agree to
10 waive the time in which the Board has to act to
11 January 19th?

12 MR. MATULE: January 19th, yes.

13 MR. GALVIN: Okay.

14 So do we have a motion and a second to
15 carry this without notice to January 19th?

16 VICE CHAIR GREENE: I will move that we
17 carry the application to January 17th --

18 (Laughter)

19 MR. GALVIN: January 19th. The 19th --

20 VICE CHAIR GREENE: -- January 19th --

21 MS. CARCONE: January 19th.

22 VICE CHAIR GREENE: -- 19th --

23 MR. GALVIN: -- without further notice.

24 VICE CHAIR GREENE: -- without further
25 notice,

1 COMMISSIONER MURPHY: Second.

2 COMMISSIONER BRANCIFORTE: Make a
3 motion to close. It's your last motion. Go for it.

4 (Laughter)

5 VICE CHAIR GREENE: Motion to close.

6 CHAIRMAN AIBEL: Second.

7 (The matter concluded at 11:45 p.m.)

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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.

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.
This transcript was prepared in accordance with
NJAC 13:43-5.9.