

HOBOKEN ZONING BOARD OF ADJUSTMENT  
CITY OF HOBOKEN

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REGULAR MEETING OF THE HOBOKEN : Tuesday, 7 pm  
ZONING BOARD OF ADJUSTMENT : May 17, 2016  
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Held At: 94 Washington Street  
Hoboken, New Jersey

B E F O R E:

- Chairman James Aibel
- Vice Chair John Branciforte
- Commissioner Philip Cohen
- Commissioner Antonio Grana
- Commissioner Carol Marsh
- Commissioner Diane Fitzmyer Murphy
- Commissioner Edward McBride
- Commissioner Cory Johnson
- Commissioner Frank DeGrim

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

- Kristin Russell, Planning Consultant
- Patricia Carcone, Board Secretary

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

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## I N D E X

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1                   CHAIRMAN AIBEL: Good evening,  
2 everyone.

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

11                   Please join me to salute the flag.

12                   (Pledge of Allegiance recited)

13                   CHAIRMAN AIBEL: So good evening. We  
14 are at a Regular Meeting --

15                   MS. CARCONE: Regular Meeting.

16                   CHAIRMAN AIBEL: -- Regular Meeting of  
17 the Zoning Board of Adjustment.

18                   Roll call, please.

19                   MS. CARCONE: Commissioner Aibel?

20                   CHAIRMAN AIBEL: Here.

21                   MS. CARCONE: Commissioner Branciforte?

22                   VICE CHAIR BRANCIFORTE: Here.

23                   MS. CARCONE: Commissioner Cohen?

24                   COMMISSIONER COHEN: Here.

25                   MS. CARCONE: Commissioner Grana?

1 COMMISSIONER GRANA: Here.

2 MS. CARCONE: Commissioner Marsh?

3 COMMISSIONER MARSH: Here.

4 MS. CARCONE: Commissioner Murphy?

5 COMMISSIONER MURPHY: Here.

6 MS. CARCONE: Commissioner McAnuff and  
7 Commissioner Weaver are absent.

8 Commissioner McBride?

9 COMMISSIONER MC BRIDE: Here.

10 MS. CARCONE: Commissioner Johnson?

11 COMMISSIONER JOHNSON: Here.

12 MS. CARCONE: Commissioner DeGrim?

13 COMMISSIONER DE GRIM: Here.

14 CHAIRMAN AIBEL: Great. Thanks.

15 We have a very short administrative  
16 matter. We have two resolutions of approval.

17 And would you do the honors, Dennis?

18 MR. GALVIN: Fit Foundry, 1414 Willow  
19 Avenue, HOZ-15-42.

20 You know what I wanted to tell you,  
21 too, I think we should put -- in on my one of my  
22 towns we put the initials next to the resolution of  
23 people who can vote on it.

24 MS. CARCONE: Initials for people who  
25 can vote on it?

1 MR. GALVIN: Yes. Like on the agenda  
2 right next to the resolution that say --

3 MS. CARCONE: Oh, okay.

4 MR. GALVIN: -- like JB, PC, CM, and  
5 then these guys would know without me reading them  
6 off.

7 MS. CARCONE: Oh, okay.

8 COMMISSIONER MURPHY: I know.

9 MR. GALVIN: Mr. Branciforte, Mr.  
10 Cohen, Ms. Marsh, Ms. Murphy. Mr. Weaver is not  
11 here. Mr. McBride and Chairman Aibel.

12 Do I have a motion?

13 COMMISSIONER COHEN: Motion to approve.

14 MR. GALVIN: Can I have a second?

15 COMMISSIONER MURPHY: Second.

16 MR. GALVIN: Thank you.

17 Mr. Branciforte?

18 VICE CHAIR BRANCIFORTE: Yes.

19 MR. GALVIN: Mr. Cohen?

20 COMMISSIONER COHEN: Yes.

21 MR. GALVIN: Ms. Marsh?

22 COMMISSIONER MARSH: Yes.

23 MR. GALVIN: Ms. Murphy?

24 COMMISSIONER MURPHY: Yes.

25 MR. GALVIN: Mr. McBride?

1 COMMISSIONER MC BRIDE: Yes.

2 MR. GALVIN: Chairman Aibel?

3 CHAIRMAN AIBEL: Yes.

4 MR. GALVIN: And the second matter is

5 328 Jackson Street, 15-40, and the individuals

6 voting in favor, it's the same configuration.

7 Can I have a motion?

8 COMMISSIONER COHEN: Motion.

9 VICE CHAIR BRANCIFORTE: Motion.

10 COMMISSIONER COHEN: Go ahead.

11 VICE CHAIR BRANCIFORTE: Motion to

12 approve.

13 COMMISSIONER COHEN: Second.

14 MR. GALVIN: Thank you.

15 Mr. Branciforte?

16 VICE CHAIR BRANCIFORTE: Yes.

17 MR. GALVIN: Mr. Cohen?

18 COMMISSIONER COHEN: Yes.

19 MR. GALVIN: Ms. Marsh?

20 COMMISSIONER MARSH: Yes.

21 MR. GALVIN: Ms. Murphy?

22 COMMISSIONER MURPHY: Yes.

23 MR. GALVIN: Mr. McBride?

24 COMMISSIONER MC BRIDE: Yes.

25 MR. GALVIN: Chairman Aibel?

1 CHAIRMAN AIBEL: Yes.

2 Our first matter that's scheduled is  
3 510 Hudson Street.

4 Pat, was that withdrawn or was it --

5 MS. CARCONE: 610 Hudson Street is  
6 going to be renoticed. Is that correct?

7 MR. MATULE: Yes.

8 Good evening, Mr. Chairman.

9 Robert Matule appearing on behalf of  
10 the applicant.

11 Yes. 610 Hudson Street was noticed for  
12 this evening. There is a formal objector who  
13 appeared on Friday evening and raised issues with  
14 our notice, and rather than debate that subject, we  
15 have consented to carry the matter and renotice.

16 So I spoke with the Board Secretary,  
17 and she told me that the matter can be scheduled for  
18 the meeting of June 21st, so we will be renoticing  
19 for June 21st.

20 MR. GALVIN: What does the Board think?  
21 Are you okay with that?

22 COMMISSIONER MURPHY: I'm okay with it.

23 MR. GALVIN: Are you guys good?

24 VICE CHAIR BRANCIFORTE: Yes.

25 COMMISSIONER COHEN: Yes.

1                   MR. GALVIN: All right. I think that  
2 was the wise thing to do.

3                   MR. MATULE: Hopefully to the  
4 satisfaction of Mr. Weiner.

5                   MR. GALVIN: Well, at the very least I  
6 think we took off an issue that might exist, if we  
7 have to go on appeal.

8                   MR. MATULE: Yes, sure.

9                   CHAIRMAN AIBEL: Do we need a formal  
10 motion?

11                   MR. GALVIN: No, we don't.

12                   Do you waive the time in which the  
13 Board has to act?

14                   MR. MATULE: Yes, through June 21st.

15                   MR. GALVIN: Thank you.

16                   There is nothing to carry because they  
17 are going to renotice.

18                   CHAIRMAN AIBEL: Okay. Good.

19                   Thank you.

20                   MR. MATULE: Thank you.

21                   (Continue on next page)

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HOBOKEN ZONING BOARD OF ADJUSTMENT  
CITY OF HOBOKEN  
HOZ-16-1

- - - - - X  
RE: 1200 Bloomfield Street : Tuesday, 7:10 pm.  
Block 250, Lot 48, Zone R-1 : May 17, 2016  
Applicant: Hawthorne Properties, LLC :  
Variance Review & Variances :  
- - - - - X

Held At: 94 Washington Street  
Hoboken, New Jersey

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Attorney for the Applicant.

## I N D E X

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3 WITNESS

PAGE

4

5 JOHN NASTASI

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## E X H I B I T S

8

9 EXHIBIT NO.

DESCRIPTION

PAGE

10

11 A-1

Handout

15

12 A-2

Massing Study

21

13 A-3

Summer Solstice

28

14 A-4

Shoulder Season

29

15 A-5

(Not noted on the record)

16 A-6

A-2.3

70

17 A-7

A-2.5

71

18

19

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21

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25

1                   CHAIRMAN AIBEL: Next up is 1200  
2 Bloomfield Street.

3                   MR. BURKE: Thank you, Mr. Chairman.  
4 Good evening, Board.

5                   MR. GALVIN: Let me just cut in before  
6 you start.

7                   Prior to the meeting, you know, there  
8 was like a little time out. We were in the hallway.  
9 We were trying to figure some things out.

10                  Underneath this building, there is an  
11 area that was called into question by the staff of  
12 whether or not this was a cellar or a basement.

13                  If it was a cellar, it is not  
14 permitted. Habitation is not permitted in it. And  
15 according to Kristin, as long as it's -- Kristin,  
16 what is the definition for basement?

17                  MS. RUSSELL: 50 percent, no more than  
18 50 percent below grade.

19                  MR. GALVIN: Now, you've evaluated, and  
20 you had an opportunity with Mr. Nastasi to review  
21 all of the calculations, and you determined that --

22                  MS. RUSSELL: Mr. Nastasi showed me a  
23 plan section with dimensions within the basement  
24 showing grade, and it does reflect that they do meet  
25 the definition of basement.

1           I will ask him to explain that to the  
2 Board tonight as well, but briefly right before the  
3 meeting started, he did demonstrate that to me.

4           MR. GALVIN: Okay.

5           So if it did not have 50 percent above,  
6 it would be a condition that would require a  
7 variance. Then there would be two other concerns.  
8 There would be a fire concern and a flood concern.  
9 There is no flood concern with this building, but  
10 regardless, we never have to reach that. We never  
11 have to reach that variance, so I feel that the  
12 notice is adequate as was submitted without change,  
13 and there you go.

14           I'm just saying the issue that we  
15 discussed has been resolved, and if Mr. Nastasi can  
16 touch on it somewhere in his presentation, not at  
17 first, but somewhere along the line, you can touch  
18 on it.

19           All right?

20           MR. BURKE: All right. Thank you.

21           I just wanted to point out, this is the  
22 existing back structure, and Mr. Nastasi will --

23           CHAIRMAN AIBEL: Mr. Burke?

24           MR. GALVIN: Here is what I recommend:  
25 I think we should mark this as A-1, your handout,

1 Jim. The whole handout, just mark it as A-1.

2 MR. BURKE: Oh, okay. I didn't realize  
3 he had handed that out.

4 (Exhibit A-1 marked.)

5 CHAIRMAN AIBEL: We can't see it.

6 Is there one more copy?

7 All right. Here is your marked copy.

8 Thanks, John.

9 MR. NASTASI: Here, Mr. Chairman.

10 CHAIRMAN AIBEL: Thank you.

11 (Document handed to the Chairman)

12 CHAIRMAN AIBEL: Thank you very much.

13 MR. BURKE: Okay. So what you are  
14 seeing is the existing condition and the proposal,  
15 which is on this board here, and John will get into  
16 this, is right here.

17 So because the lot is undersized and  
18 because there is a two-car garage over here, which  
19 is part of this property, there are a whole slew of  
20 variances, but the reality, this is a fairly modest  
21 proposal to replace that with this.

22 COMMISSIONER MARSH: I'm sorry. I  
23 can't see it.

24 MR. BURKE: I'm sorry. You can't see  
25 that.

1 MR. GALVIN: Mr. McBride can't see  
2 either.

3 MR. NASTASI: I can move them toward  
4 the wall.

5 COMMISSIONER MARSH: Yeah. Maybe if  
6 you move them towards the wall, it would help.

7 COMMISSIONER MC BRIDE: These are the  
8 same in here --

9 MR. BURKE: Yes.

10 I just wanted to point out that  
11 this is the proposal --

12 COMMISSIONER MC BRIDE: -- these are  
13 the same that are in this.

14 MR. BURKE: Yes.

15 COMMISSIONER MC BRIDE: So I'm with  
16 you. All right.

17 MR. BURKE: All right.

18 COMMISSIONER MARSH: You just have to  
19 say where you are pointing.

20 MR. MC BRIDE: Yes. Just tell us which  
21 page it is. We don't need to see the big one.

22 Page 1 and page 3.

23 MR. BURKE: It's page -- well, this  
24 doesn't haven't have a page number on the  
25 illustration.

1                   Okay. So because there is a two-car  
2                   parking garage, and parking is not allowed in the  
3                   R-1 Zone, and because the lot is -- in length, it's  
4                   a hundred feet, but in width it is less than 20  
5                   feet, it is an undersized lot. So because of that,  
6                   anything that you do triggers a whole bunch of C  
7                   variances.

8                   But, again, it is really not a major  
9                   proposal. It is taking this piece down, and it is a  
10                  corner lot, so this is the 9th Street side, so that  
11                  is a very visible corner, and replacing it --

12                  COMMISSIONER MURPHY: 12th Street?

13                  COMMISSIONER MARSH: 12th Street side.

14                  MR. BURKE: -- pardon me?

15                  I'm sorry. Yeah. I'm sorry. I  
16                  apologize. Yeah, 12th Street, so it is a very  
17                  visible corner and replacing it with this structure.

18                  So for the C-1 or C-2 variance, we have  
19                  to prove that there is certain benefits, and that  
20                  there is a lack of detriment.

21                  And what would the detriment be?

22                  Well, the detriment would be whether  
23                  the mass is too big, whether it casts a large  
24                  shadow. And over here in back of Mr. Nastasi, we  
25                  will present a shadow study.

1                   So in summary, we got what is coming  
2 down hopefully, and what will replace it, and then  
3 whether it will cast a shadow or deprive people of  
4 additional sunlight.

5                   So, John, would you --

6                   MR. NASTASI: Yes.

7                   MR. GALVIN: I'm sorry.

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

11                   MR. NASTASI: I do.

12                   J O H N   N A S T A S I, having been duly sworn,  
13 testified as follows:

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

16                   THE WITNESS: John Nastasi,  
17 N-a-s-t-a-s-i.

18                   MR. GALVIN: Mr. Chairman, do we accept  
19 Mr. Nastasi's credentials?

20                   CHAIRMAN AIBEL: Yes, we do.

21                   MR. GALVIN: You may proceed.

22                   THE WITNESS: I think because we have  
23 some neighbors here, and we have the Board here, it  
24 is hard to position something that everybody can  
25 see, so I may wind up just doing a lot of moving

1 around.

2 As Mr. Burke mentioned, this is the  
3 existing structure at 1200 Bloomfield Street. It's  
4 an existing two-family house.

5 The metrics -- I have a board here.  
6 This diagram is inside of your booklet, but I have a  
7 board here that tries to make it as simple as  
8 possible, and I am hoping that it is not going to  
9 make it more complicated.

10 But Mr. Burke mentioned that this is  
11 existing. There is a small one-story vinyl sided  
12 addition, and we are proposing to unify the facade  
13 in the Hoboken vernacular of red brick and to make  
14 the house more of a dignified, unified structure.

15 But if we talk a little bit about the  
16 gist of this application, and I will try to do this  
17 for the neighbors as well, we have a nonconforming  
18 lot because there is an existing two-story garage,  
19 so I want to refer --

20 CHAIRMAN AIBEL: A two-car garage.

21 THE WITNESS: -- two-car garage, not a  
22 story. I apologize.

23 So what I am showing here in yellow is  
24 what would technically be an allowable building  
25 under the current Hoboken zoning.

1           So this yellow block, which would be 60  
2 feet in depth, and the height that it is at is  
3 essentially what would be allowable.

4           And, again, I put the asterisk, so Mr.  
5 Galvin can correct me, that it is a nonconforming  
6 lot because of the garage, but that yellow structure  
7 is the buildable envelope under the Hoboken zoning.

8           Now, that existing one-story addition  
9 doesn't sit full width, and it is also 65 feet deep,  
10 while the zoning suggests a 60 foot build-out.

11           So we made decision early on that we  
12 are coming to the Zoning Board, and we are going to  
13 come to the Zoning Board because for many reasons,  
14 structure, practicality, it makes sense to simply  
15 build up on the existing structure as opposed to  
16 follow the metrics of the Hoboken Zoning Code.

17           So instead of producing an addition  
18 that is the full width of the property and 60 feet  
19 deep, we are not going the full width. We are, in  
20 fact, just sitting on top of this, but we are going  
21 65 feet deep, so we need a variance for that.

22           But when you look at the metrics, an  
23 allowable addition under the letter of the Zoning  
24 Code would give us 10,000 cubic feet.

25           What we are proposing is 8,700 cubic

1 feet, so at the end of the day my client gets a  
2 smaller addition only because we are trying to be  
3 practical and build on top of an existing structure.

4 If we had demolished the -- if we  
5 demolished that one-story addition and started from  
6 scratch, it would be expensive, and it would be  
7 wasteful, but then we would go full width in 60  
8 feet, but we think this kind of makes more sense and  
9 it yields less of an addition.

10 I hope that kind of explains why we  
11 have a funny footprint, and it's not an Orthodox  
12 footprint that is full width and 60 feet deep.

13 MR. BURKE: I have marked that Exhibit  
14 A-2, which is 1200 Bloomfield Street Massing Study.

15 (Exhibit A-2 marked.)

16 CHAIRMAN AIBEL: So I apologize.

17 Is it your testimony that you are not  
18 going to demolish the extension?

19 THE WITNESS: We are not going to  
20 obviously. We are building on top of the extension.

21 CHAIRMAN AIBEL: You're building on top  
22 of the footprint or on top of the actual extension?

23 THE WITNESS: On top of the extension.

24 CHAIRMAN AIBEL: Okay. Thank you.

25 THE WITNESS: When you have, you know,

1       you have an existing foundation, masonry walls below  
2       grade, I don't want to demolish that, dig another  
3       hole, and build a new building. I think it is more  
4       practical to work with what you have.

5               MR. BURKE: But, John, this thing is  
6       gone, right? This look is gone? That's what I  
7       think the issue is.

8               THE WITNESS: No, I don't think so.

9               I think their question was -- I think  
10      their question was not esthetic. Your question was  
11      sort of construction.

12              CHAIRMAN AIBEL: Construction.

13              THE WITNESS: Yeah. There is a whole  
14      concrete base here that goes into the ground.

15              CHAIRMAN AIBEL: So you are going to  
16      build on the footprint -- on the footings?

17              THE WITNESS: The footings and base  
18      walls, because the base walls come out of the grade.  
19      This is a wood structure that we are going to get  
20      rid of that, but that is all concrete from there  
21      down. And by sitting on top of that, we are  
22      technically 65 feet four inches as opposed to more  
23      of what you would expect would be 60, but we are not  
24      the full width.

25              CHAIRMAN AIBEL: But you are

1 maintaining the 65 foot depth of the house?

2 THE WITNESS: Yes, and that was my next  
3 point.

4 CHAIRMAN AIBEL: Thank you.  
5 I'm sorry to interrupt.

6 THE WITNESS: You didn't.

7 My next point is that by building on  
8 top of the existing foundation and basement  
9 structure, we are now at 65 feet, and we are not the  
10 full width, and we are now aligning the roof, which  
11 is under allowable height, so this is within the  
12 zoning allowable height, but we are not maximizing  
13 the envelope in the addition.

14 As a matter of fact, we are stepping  
15 the addition back. I guess this is also known as a  
16 Juliet balcony, but we did not bring the third floor  
17 addition all the way to that 65 feet. As a matter  
18 of fact, that is set back. That is set back beyond  
19 the 60 foot dimension.

20 The reason why we did that is we think  
21 that allows more light into the backyards, and I  
22 also think that -- I don't think the house needed  
23 all of that extra square footage. So instead of  
24 having additional square footage that we do not  
25 need, I think this would be a more elegant solution.

1 It allowed us to wrap the cornice of the existing  
2 house, which we are extending, and then I think the  
3 house is a little bit more articulate on this corner  
4 property.

5 From an esthetic standpoint, as you can  
6 see from the before and after, we are looking to  
7 take this -- this is an interesting building,  
8 because the side wall on 12th is actually a facade.  
9 It is not common brick, so we want to take that  
10 facade brick, which is a cleaner brick, and then  
11 build, construct the addition in that brick, so that  
12 you get esthetically a unified appearance for the  
13 house, and the house is more dignified, and I think  
14 it beautifies the neighborhood and it makes the  
15 neighborhood more consistent in architectural  
16 character.

17 So I think there is a significant  
18 benefit esthetically to taking a house that looks  
19 like this and then removing all of the white vinyl  
20 siding and the white aluminum here, and actually  
21 doing a brick addition that matches the facade, and  
22 then rewrapping the bay in a more distinguished  
23 material, such as a cemetitious shingle.

24 The next part of the application of the  
25 sun studies --

1 MR. BURKE: Hang on, John.

2 THE WITNESS: Okay.

3 MR. BURKE: Before we do that, let's  
4 talk about the question about the gate, the way it  
5 would swing out and also the bricks, because there  
6 was a hundred percent impervious coverage.

7 THE WITNESS: All right.

8 The existing open space of the property  
9 in the rear yard as it exists is a concrete patio,  
10 100 percent impervious, and we are looking to  
11 relandscape this back area with grasses along the  
12 garage, and then pervious pavers over this existing  
13 rear parking area. So that whatever open space is  
14 existing on the property will now be pervious and  
15 will now absorb rainwater, so we can decrease the  
16 impervious coverage of the property.

17 MR. BURKE: And the gate then would not  
18 swing out the way it had?

19 THE WITNESS: Right. The gate -- the  
20 gate will be reconstructed with the same historic  
21 character, but it will slide horizontally, so as not  
22 to obstruct the --

23 MR. BURKE: Public walkway.

24 THE WITNESS: -- public walkway, the  
25 sidewalk, up and down on 12th Street.

1 MR. BURKE: All right.

2 So you see this as an improvement, an  
3 esthetic improvement, by eliminating what you see is  
4 a fairly ugly or old structure?

5 THE WITNESS: Right.

6 It is a structure that is not cohesive.  
7 It shows signs of age, and it also shows signs of ad  
8 hock additions, and we are making it architecturally  
9 cohesive, which I think is a significant improvement  
10 for the neighborhood.

11 We are also improving on the  
12 imperviousness of the property.

13 MR. BURKE: And I think you mentioned  
14 this, but so it's clear, this is currently a  
15 two-family and it will be taken down to a  
16 one-family?

17 THE WITNESS: Yes. The house will  
18 actually be converted from a two-family to a  
19 single-family property, and we will be changing that  
20 in the zoning books.

21 MR. BURKE: Okay.

22 So if there is nothing else to say  
23 about this, then there is a shadow study.

24 THE WITNESS: Yes.

25 MR. BURKE: And now go to the

1       detriment.

2                   THE WITNESS: We wanted to look at the  
3       sun since this is, you know, the end of the  
4       proverbial donut, and I wanted to study this  
5       building throughout the year to see the impact of a  
6       shadow on the neighbors' properties.

7                   And I did a solar -- we actually did a  
8       solar study throughout the entire year, but I will  
9       show you the big parts of the year, summer solstice,  
10      the winter solstice and the equinox, and that gives  
11      you the cross section of the whole year.

12                  So we'll start with the summer  
13      solstice, which is gardening season, which is  
14      summertime, and I am hoping these diagrams read,  
15      because we spent a lot of time to try and have them  
16      make sense. But we're basically showing two things  
17      in these diagrams: The dotted yellow line is the  
18      shadow cast at the summer solstice, June 21st, 11:30  
19      a.m., it's the shadow cast for a building that is,  
20      quote, unquote, as of right, and that is the dotted  
21      yellow line.

22                  And the blue -- the blue shadow that  
23      expands a couple feet past the dotted yellow line is  
24      actually our shadow because our building is five  
25      foot longer. So the light and air or the impact on

1 the site and the neighbor amounts to essentially a  
2 two foot by three foot shadow on the neighbor's  
3 property, and that is what this blue rectangle is  
4 right here.

5 Now, this solar study was done with  
6 computer modeling, built in solar tools. This is  
7 done with industry tools that 100 percent accurately  
8 depict the sun. We didn't estimate. We actually  
9 are using actual professional tools to do that.

10 So what I am showing essentially is the  
11 relationship between the dotted yellow line of what  
12 is existing and a blue shadow of an expanded shadow  
13 because of our additional five feet because we are  
14 sitting on the existing structure.

15 And one thing you could see is that the  
16 yards are obviously not impacted by the structure --  
17 the majority of the rear yard is -- there really is  
18 almost no impact except for a couple of feet of, I  
19 guess grass or pavers or whatever, but this is the  
20 summer solstice.

21 I will quickly talk about the other  
22 times of the year --

23 MR. BURKE: Hang on.

24 Mark that as A-3.

25 (Exhibit A-3 marked.)

1                   THE WITNESS: The next board is the  
2                   shoulder season, which is the equinox. March -- mid  
3                   March, mid September, the two shoulder seasons, and  
4                   what we are looking at again is we have a dotted  
5                   yellow line, which casts a shadow from an allowable  
6                   structure, and then we have an expanded blue shadow,  
7                   which is our shadow because our building is five  
8                   foot longer than what is allowable.

9                   You can see, again, because it is  
10                  shoulder season, there is a longer shadow, but our  
11                  shadow is essentially a couple feet longer than the  
12                  shadow that would be cast from an allowable  
13                  structure.

14                  So the impact during a shoulder season  
15                  sun, which is lower in the sky, has a minimal impact  
16                  and leaves the majority of the yards unencumbered.

17                  And then the last diagram --

18                  MR. BURKE: That will be marked Exhibit  
19                  A-4.

20                  (Exhibit A-4 marked)

21                  THE WITNESS: -- which is the dreaded  
22                  winter solstice, which has the longest shadows, and  
23                  on the winter solstice you are talking about, you  
24                  know, mid to late December, low sun at the south of  
25                  the sky, and this property is on the southern part

1 of the block, and the yellow dotted line casts a  
2 shadow of what would be an allowable shadow based on  
3 Hoboken zoning, and then we are showing an expanded  
4 because of the extra five feet.

5 But what I find really interesting  
6 especially the Zoning Board -- and I've been coming  
7 to the Zoning Board for 25 years -- the biggest  
8 detriment to the yards in the winter solstice when  
9 the sun is maybe most desirable are the six foot  
10 fences, because the six foot fences in the window  
11 cast shadows across your own yard.

12 So it is interesting, and I didn't know  
13 this before, if you could get your neighborhood  
14 together and take your fences down, we would have no  
15 shadows in the backyards, which would be really  
16 interesting. I don't think anybody would do that,  
17 but the simple six foot fence has more of a  
18 detriment in the backyard than a structure that goes  
19 in front of the property.

20 And from this diagram, you can see two  
21 sections of property is a couple feet of additional  
22 shadow.

23 So by showing the shadow study, summer  
24 solstice, equinox of a shoulder season, winter  
25 solstice, we are showing that the additional five

1 feet of life because we are using the existing  
2 structure has a really de minimis impact on light  
3 and shadow in the backyard throughout the entire  
4 year.

5 MR. BURKE: One other question. I  
6 think, Kristin, did you want him to also state on  
7 the record again the basement versus cellar?

8 MS. RUSSELL: Yes. If you could just  
9 put that on the record, yes.

10 MR. BURKE: Okay. Put that on the  
11 record, John.

12 THE WITNESS: Okay.

13 For the record, on page A2.3, I have  
14 drawing S-2, which is a proposed enlarged section of  
15 the basement. It is in the middle of the page on  
16 A.23, and what this is showing is that the basement  
17 has a seven foot three and 5/8ths inch ceiling, a  
18 typical Hoboken basement, maybe a little deeper than  
19 a typical Hoboken basement, and you're three feet  
20 seven inches in the ground and three feet eight  
21 inches above ground, and that 50/50 ratio is the  
22 definition that this floor is technically a basement  
23 and not a cellar, or the cellar would be greater  
24 than 50 percent below grade.

25 MR. BURKE: Any questions?

1 CHAIRMAN AIBEL: Board members?

2 Please, Mr. Grana.

3 COMMISSIONER GRANA: John, do you think  
4 we can go back to the front, if you will, because I  
5 have been tracking the exhibits. Just go back there  
6 for a second to the exhibits.

7 THE WITNESS: Okay.

8 COMMISSIONER COHEN: I think it's A-1,  
9 isn't it?

10 COMMISSIONER GRANA: It's A-1, but --

11 THE WITNESS: The existing?

12 COMMISSIONER GRANA: Yes.

13 So just to clarify, the comments I  
14 heard from you and Mr. Burke, so the structure in  
15 the rear, this is all part of the same lot, because  
16 it is not two lots, it's one lot --

17 THE WITNESS: One lot.

18 COMMISSIONER GRANA: -- with an -- I  
19 don't know, is this currently attached to the house  
20 in some way?

21 Is this an addition, the white  
22 structure?

23 THE WITNESS: The white structure is  
24 attached to the existing house.

25 COMMISSIONER GRANA: It is attached to

1 the existing house.

2 And I am going to try to do this  
3 visually. What we intend to reuse, if you will, is  
4 that part of the structure that is kind of below the  
5 white vinyl siding?

6 THE WITNESS: Correct. It is the  
7 concrete footings, foundation walls and basement  
8 that is below this line. Of course, the white  
9 siding is all the way down here, but this is  
10 concrete from there down.

11 COMMISSIONER GRANA: Okay.

12 THE WITNESS: We'll keep that concrete.  
13 We're proposing to keep the concrete --

14 THE WITNESS: And build a top?

15 THE WITNESS: Build a top, right.

16 COMMISSIONER GRANA: Okay.

17 My second question is: You made a  
18 comparison -- you talked about lot depth extending  
19 to 65 feet, but we actually -- you made a comparison  
20 of the delta between an as-of-right structure and  
21 this structure would have less volume, and if you  
22 look at the -- actually if you go back one slide,  
23 it's easier for me to describe it there.

24 Is that principally because the white  
25 structure is set back from the lot line, and you are

1 not building all the way out, so you have a narrower  
2 width --

3 THE WITNESS: Correct.

4 COMMISSIONER GRANA: -- and that's how  
5 if you build to the top and match the top, you  
6 actually have less volume, although the 65 in depth?

7 THE WITNESS: Yes. Instead of building  
8 10,000 cubic feet, we are only going to build  
9 8,000 -- we're proposing to build 8,700 --

10 COMMISSIONER GRANA: So it's a  
11 combination of the fact that the existing structure  
12 is set back, and you're not building flush to the  
13 existing building, plus you have a Juliet balcony on  
14 the top floor, so you lose volume there --

15 THE WITNESS: Correct.

16 COMMISSIONER GRANA: There was a  
17 comment made that this is a -- this is not a  
18 standard lot.

19 THE WITNESS: Correct.

20 COMMISSIONER GRANA: And I have to ask  
21 the question: The standard lot, that condition  
22 exists because there is a garage on the lot?

23 THE WITNESS: Correct.

24 COMMISSIONER GRANA: So even if there  
25 were no garage on the lot, would this be a standard

1 lot?

2 MR. BURKE: It would still not be a  
3 standard lot, but the garage is 20 percent of the  
4 lot coverage, so the primary structure is 60  
5 percent, excluding the garage coverage.

6 THE WITNESS: Yes.

7 COMMISSIONER GRANA: I guess the  
8 question is -- I just have to ask it: If the garage  
9 wasn't there, and you were building this addition,  
10 would you be able to build something that had the  
11 proper rear lot coverage?

12 (Someone sneezes)

13 THE WITNESS: God bless you.

14 If the garages weren't here --

15 COMMISSIONER GRANA: Bless you.

16 THE WITNESS: -- if the garages were  
17 not here, we could build as of right 60 percent lot  
18 coverage and more volume.

19 COMMISSIONER GRANA: And more volume?

20 THE WITNESS: Yes.

21 COMMISSIONER GRANA: Okay.

22 COMMISSIONER MURPHY: I am confused at  
23 that.

24 So you have been saying all along that  
25 this building would be 65 percent --

1 THE WITNESS: 65 feet.

2 COMMISSIONER MURPHY: -- feet -- oh.

3 So what would the percentage be?

4 THE WITNESS: 60 percent.

5 MR. BURKE: You know what --

6 COMMISSIONER MURPHY: At 60 percent --

7 the building itself is 60 percent coverage right

8 now, or the way you are proposing it to be?

9 THE WITNESS: Both, one and the same.

10 This structure, not counting the

11 garage --

12 COMMISSIONER MURPHY: Right.

13 THE WITNESS: -- this structure is 60

14 percent lot coverage. The garage is at 20 percent,

15 so if you -- now based at 80.

16 But if you ignore the garage, the

17 footprint of the house is 60 percent, so there must

18 have been some reason to building this white thing

19 whenever it was built, because it is 60 percent lot

20 coverage, even though it is 65 feet deep --

21 MR. BURKE: And that's sometimes

22 confusing because people think if it's 65 feet back

23 and --

24 COMMISSIONER MURPHY: Right. It's

25 because it's moved over a little. I get that.

1                   MR. BURKE:  -- but because it is  
2                   skinnier, as John said, it is 60 percent lot  
3                   coverage, that structure.

4                   COMMISSIONER GRANA:  So -- I understand  
5                   the garage -- I get it -- but it is triggering the  
6                   nonconformity.

7                   THE WITNESS:  Correct.

8                   COMMISSIONER GRANA:  Okay.  Hum...

9                   THE WITNESS:  The second thing that is  
10                  triggering the nonconformity is the 65 foot  
11                  dimension, the existing 65 foot dimension triggers  
12                  the nonconformity, so there is two things.

13                  COMMISSIONER MARSH:  I'm sorry, what?

14                  THE WITNESS:  The garage has triggered  
15                  nonconformity, and the fact that the existing  
16                  structure is 65 feet deep --

17                  COMMISSIONER MARSH:  Why is that  
18                  nonconforming?

19                  THE WITNESS:  Because it has to be 60  
20                  percent.  You can only build --

21                  COMMISSIONER MARSH:  60 percent lot  
22                  coverage.

23                  COMMISSIONER MURPHY:  60 percent lot  
24                  coverage.

25                  MR. BURKE:  It could be 70 --

1 THE WITNESS: It could be 70 -- the  
2 setback, yes -- let me correct that statement --

3 MR. BURKE: 30 feet or 30 percent.

4 THE WITNESS: -- so the residential  
5 structure is 60 percent lot coverage. You are  
6 allowed 70 percent lot coverage, but the garages are  
7 20 --

8 COMMISSIONER MARSH: You are allowed 70  
9 feet.

10 MR. BURKE: 70 feet linear, not 70  
11 percent.

12 THE WITNESS: Right, sorry.

13 COMMISSIONER GRANA: Okay.

14 THE WITNESS: I stand corrected.

15 COMMISSIONER MARSH: Thank you.

16 COMMISSIONER GRANA: Last question: Is  
17 the presence of this gate here, what is the intended  
18 use of that gate?

19 Is it -- because it looks like it's to  
20 provide additional parking, but I am not -- I'm not  
21 certain.

22 THE WITNESS: It is my intention -- it  
23 is my understanding that that would be used for  
24 parking space, and that gate will roll, not swing,  
25 and it would be used as a flex parking space.

1 COMMISSIONER GRANA: Okay.

2 And the current garage is two parking  
3 spaces, so potentially three parking spots on the  
4 property?

5 THE WITNESS: Yes.

6 COMMISSIONER GRANA: Okay.

7 CHAIRMAN AIBEL: Have you noticed  
8 variances for curb cuts?

9 MR. BURKE: The curb cuts were  
10 preexisting. We noticed for parking. We noticed  
11 for a parking variance.

12 COMMISSIONER GRANA: So they are  
13 preexisting curb cuts for all three -- I see a white  
14 line in the picture, and that goes out in the  
15 street, so does that mean that there's parking for  
16 all three spots?

17 THE WITNESS: Right.

18 There is documentation that the  
19 existing curb cuts in the no parking lot is for the  
20 two parking spaces in the garage and that space back  
21 there.

22 CHAIRMAN AIBEL: So do you have  
23 documentation you could provide us?

24 THE WITNESS: I have photographs with  
25 the no parking lines --

1                   CHAIRMAN AIBEL: No. I mean, my  
2 question then is, and you may not be the right  
3 person, Mr. Nastasi, is, you know, is there a permit  
4 for the parking? Were you given variances at some  
5 point? There is no curb cuts in the R-1 Zone.

6                   THE WITNESS: The only thing I'm  
7 stating on the record is that my photographic  
8 documentation of the site shows the curb cuts and  
9 the no parking lines, but I don't have any records  
10 of any kind of variances being filed in the past.

11                  CHAIRMAN AIBEL: Mr. Burke, are you  
12 going to be able to produce anything?

13                  MR. BURKE: I would have to look into  
14 it. I can't tell you yes or no at this moment.

15                  COMMISSIONER GRANA: Mr. Nastasi, do  
16 you know if there is currently parking in both the  
17 garage and in that site today?

18                  THE WITNESS: It is, from my office's  
19 input to me, it is our understanding that it has  
20 been used that way for quite a bit of time.

21                  COMMISSIONER GRANA: Okay.

22                                 Thank you.

23                  THE WITNESS: Thank you.

24                  CHAIRMAN AIBEL: Phil?

25                  COMMISSIONER COHEN: One question I had

1 from looking at the plans had to do with the  
2 bulkhead. It strikes me that that is going to be  
3 the highest structure on the block, that it is going  
4 to be a fairly prominent structure.

5 I will show you the pictures that  
6 reflected the deck on the handout -- yes, that is  
7 the one.

8 I mean, maybe you could talk a little  
9 bit about the height of that bulkhead, the purpose  
10 of that bulkhead, why it is necessary in order to do  
11 this plan.

12 I mean, it's just, you know, I have  
13 seen other structures where it looks like there is a  
14 floor that is above a line of row houses, where they  
15 are all the same height, and it just looks -- it  
16 just sticks out like a sore thumb, so I mean, that  
17 is my concern, and maybe you can address it.

18 THE WITNESS: I think those are good  
19 questions, and I would be concerned about that as  
20 well.

21 This bulkhead and roof terrace is  
22 designed and drawn based on the new zoning code that  
23 allows roof terraces up to a certain percentage of  
24 the roof with setbacks.

25 So this is sort of -- this is drawn as

1 per the new zoning developments that allow roof  
2 terraces. It doesn't reach anywhere near the front  
3 facade, and it is also set back from the side lots.

4 As a matter of fact, this model -- this  
5 is a hundred percent accurate model with the  
6 bulkhead in the model, and we are standing in the  
7 middle of 12th Street --

8 COMMISSIONER COHEN: Obviously from  
9 that angle, it is invisible. But I am just  
10 wondering if that is the angle, or if that is, you  
11 know, really the way it would look from, I guess,  
12 from the --

13 COMMISSIONER MURPHY: East.

14 COMMISSIONER COHEN: -- yeah.

15 If you're looking -- if you were coming  
16 down with traffic down Bloomfield Street and you're  
17 looking at the corner there, would this be -- would  
18 it be obvious from that view?

19 I mean, that is my concern.

20 THE WITNESS: It would be my concern,  
21 too, and it is my assessment that it is not viewable  
22 from the street, and it does meet all of the zoning.

23 This is how the zoning is written now  
24 for setback, roof coverage, and percentages of  
25 terraces, so this is our new -- this thing on the

1 roof, which looks bigger from sort of a helicopter  
2 view than it does from eye level, that meets the  
3 code to the letter of the law.

4 COMMISSIONER COHEN: Right.

5 And, again, I am really worried about  
6 the esthetic issue here. I am not questioning that  
7 this is in compliance with the ordinance. I'm  
8 just -- that is the one --

9 THE WITNESS: Right.

10 And to your point, I would not want to  
11 be the author or the architect of a house that you  
12 see the thing on the roof, and you could hear  
13 somebody saying you could never see that from the  
14 street, and lo and behold, there it is, and there  
15 are examples of that in town, and this is not one of  
16 those situations.

17 COMMISSIONER COHEN: Right.

18 The other question I had is: When you  
19 talked about the demolition --

20 THE WITNESS: Just can I say one more  
21 thing?

22 COMMISSIONER COHEN: Yeah, sure.

23 THE WITNESS: Because the cornice --  
24 the cornice comes up, so the roof -- this is  
25 existing, and the roof is here, and there is an

1 existing cornice, so that cornice is like a parapet.  
2 I think that has a lot to do with why you don't see  
3 a roof bulkhead from the street.

4 COMMISSIONER COHEN: Okay. You know, I  
5 accept your testimony.

6 We talked a little bit about the  
7 demolition and looking at A-1.1, it looks like in  
8 the basement demolition plan that the entire  
9 foundation is going to stay intact. But on the  
10 first floor demolition plan, it looks like on the  
11 northern wall, there is a plan to have the existing  
12 back and side walls removed.

13 THE WITNESS: Well, if you look at  
14 A-1.1, if you look at the basement plan, P-2, it  
15 states that the existing -- or the existing  
16 one-story structure will be stabilized into  
17 preparation for the addition above, so all of this  
18 below the white line is staying.

19 COMMISSIONER COHEN: Right.

20 THE WITNESS: Now, when you go to the  
21 first floor plan, we are seeing that this piece  
22 here, which looks like an addition on an existing  
23 addition, we are seeing this piece to be thin and  
24 not very substantial.

25 So we are showing this all coming down

1 here. But based on our measurements, these walls of  
2 this guy are thick, 12 inches thick, which suggests  
3 it is a masonry wall, and in our plan on P-1 of  
4 A-1.1, we are showing those masonry walls to stay.

5 So if we have a masonry structure, we  
6 are keeping it, but this rear piece is clearly not  
7 in conformance, so we will take that down.

8 COMMISSIONER COHEN: Thank you.

9 COMMISSIONER MC BRIDE: I have a couple  
10 questions.

11 Is the house vacant now?

12 THE WITNESS: It has been vacant since  
13 I was working on it.

14 COMMISSIONER MC BRIDE: Okay.

15 Back to the parking, I've walked by it  
16 a couple -- run by it a couple of times, and I  
17 haven't seen anybody parking there, but I seem to  
18 remember a while ago.

19 Back to the roof. The purpose of the  
20 roof is to house the elevator, the structure on the  
21 roof --

22 THE WITNESS: Yes.

23 The roof plan is A-2.3. At the bottom  
24 there is a proposed roof plan. It is a stair  
25 bulkhead and an elevator to the roof and to a roof

1 terrace.

2 COMMISSIONER MC BRIDE: And you talked  
3 about a roof terrace, so you're intending to use  
4 that as a recreational -- because you talk about a  
5 green roof and --

6 THE WITNESS: Yes.

7 COMMISSIONER MC BRIDE: -- can you  
8 explain that?

9 THE WITNESS: Sure.

10 Under the zoning code, a certain  
11 percentage of the roof can be used as a deck or a  
12 terrace as long as you incorporate green elements,  
13 and as long as you meet the requirements for  
14 setbacks from the facades and then also roof  
15 coverage.

16 COMMISSIONER MC BRIDE: Okay. So the  
17 intention is for recreational --

18 THE WITNESS: Yes, that's the --

19 COMMISSIONER MC BRIDE: I'm not sure I  
20 heard the answer to the other questions.

21 Any other structure on the roof of that  
22 height on that block or the block across the street  
23 or the block south of that, that you know of, any  
24 other roof terraces at that height?

25 THE WITNESS: I don't think I can

1 testify to that.

2 UNIDENTIFIED VOICE: I don't know --

3 CHAIRMAN AIBEL: You will get a chance.

4 THE WITNESS: I can't testify to that.

5 COMMISSIONER MC BRIDE: Not that you  
6 know of?

7 THE WITNESS: I wouldn't know. I  
8 didn't measure it.

9 CHAIRMAN AIBEL: How tall is the  
10 bulkhead?

11 COMMISSIONER COHEN: So, hang on a  
12 second. I want to hear the answer to this.

13 CHAIRMAN AIBEL: I'm sorry.

14 THE WITNESS: The bulkhead is eight  
15 feet 11 inches tall.

16 COMMISSIONER COHEN: And how wide?

17 THE WITNESS: It's an eight-foot  
18 ceiling --

19 COMMISSIONER COHEN: -- how wide is the  
20 eight foot 11-inch portion?

21 THE WITNESS: The elevator occupies the  
22 wider parts, so the stair is only four feet five  
23 inches wide. But then when you get to the elevator,  
24 that dimension gets a little bit wider, and it looks  
25 based on my drawings approximately six feet wide,

1 and I am scaling off of my drawings.

2 So the stair is four feet five inches  
3 wide, and when it gets to the elevator, it widens to  
4 approximately six feet or maybe six feet six.

5 CHAIRMAN AIBEL: I'm sorry, Ed.

6 COMMISSIONER MC BRIDE: No. That was  
7 part of the question.

8 COMMISSIONER MARSH: I have a question.

9 CHAIRMAN AIBEL: Okay.

10 Carol?

11 COMMISSIONER MARSH: First, I just have  
12 a technical question.

13 Those cornices, you know, like if you  
14 had a deck that stuck out, it would count as lot  
15 coverage. A pergola counts as lot coverage.

16 Those cornices don't count as lot  
17 coverage?

18 THE WITNESS: In the Hoboken ordinance,  
19 we don't count cornices as lot coverage -- as  
20 building coverage --

21 COMMISSIONER MARSH: Oh, you mean --  
22 okay.

23 THE WITNESS: -- in Spring Lake, your  
24 overhangs count as lot coverage. In Hoboken, they  
25 don't.

1 MR. BURKE: But a bay window --

2 COMMISSIONER MARSH: So that was one  
3 question --

4 THE WITNESS: But a bay window does  
5 because it is floor space, but the projecting  
6 cornices do not count.

7 COMMISSIONER MARSH: Okay.

8 The second question is: You said the  
9 basement, there was three foot seven inches below  
10 grade and three feet eight inches above grade?

11 THE WITNESS: Yes. On Page A-2.3.

12 COMMISSIONER MARSH: So that is from  
13 the top of the floor to the bottom of the ceiling?

14 THE WITNESS: Correct.

15 COMMISSIONER MARSH: So those are -- I  
16 just want to make sure.

17 You are talking about a seven foot  
18 three inch --

19 THE WITNESS: Yes. I testified that  
20 the seven feet four, rather 5/8th of an inch, and  
21 that the fractions -- it is a seven foot four inch  
22 existing basement.

23 COMMISSIONER MARSH: Seven foot.

24 So where are the fragments? I'm sorry.

25 THE WITNESS: You have three feet seven

1 and a half inches and three feet eight and an eighth  
2 inch --

3 COMMISSIONER MARSH: Okay.

4 THE WITNESS: -- from the finished  
5 floor.

6 COMMISSIONER MARSH: Okay.

7 My next question is: Are there no -- I  
8 don't know -- I mean, are you allowed to put parking  
9 on an impervious cover -- on pervious cover?

10 I mean, there is all kinds of  
11 environmental issues with parking lots.

12 You know, if you had oil and stuff like  
13 that, are there no --

14 (Witness confers with counsel)

15 MR. BURKE: I don't have an answer to  
16 that question. You know, it is preexisting, and the  
17 effort was to really to try take something that was  
18 impervious and make it pervious for more water  
19 absorption --

20 THE WITNESS: I mean, pervious pavers  
21 are made for parking areas, so that on parking areas  
22 you can increase the pervious nature.

23 But Jim is asking our client I believe  
24 a question right now, which might be really helpful.

25 COMMISSIONER MARSH: Okay.

1                   And then on the same note, that curb  
2                   cut, what you are calling a curb cut, aren't there  
3                   engineering standards for curb cuts?

4                   I mean, that is really a sidewalk with  
5                   a chipped out curb on it. I mean, I walk by there a  
6                   lot.

7                   THE WITNESS: I don't disagree with  
8                   you. It's a very, you know, it's maybe an inch off  
9                   the blacktop. It is painted yellow --

10                  COMMISSIONER MARSH: Only like two or  
11                  three inches --

12                  THE WITNESS: -- and there's a white  
13                  line, and that's all -- I'm not testifying that it  
14                  was done by some engineer and meeting some kind of  
15                  codes. I am just saying that thing exists.

16                  COMMISSIONER MARSH: It doesn't look  
17                  like a curb cut to me.

18                  COMMISSIONER MURPHY: Could be an  
19                  illegal existence --

20                  COMMISSIONER MARSH: It is not a curb  
21                  cut,

22                  (Board members conferring)

23                  CHAIRMAN AIBEL: We had a case like  
24                  this before, and you're right.

25                  COMMISSIONER GRANA: Do we know if the

1 city painted the line or not?

2 THE WITNESS: No idea.

3 (Board members conferring)

4 CHAIRMAN AIBEL: I'm sorry. One at a  
5 time, please.

6 Carol?

7 COMMISSIONER MARSH: Yeah. I still  
8 have a couple more questions.

9 MR. BURKE: Hang on a second.

10 CHAIRMAN AIBEL: Is there a question?

11 COMMISSIONER MARSH: Yeah, I have  
12 another question.

13 How high are those garages, the  
14 existing garages?

15 How tall? Uh-huh.

16 I mean, they have to be at least --

17 THE WITNESS: They are approximately  
18 nine feet tall.

19 COMMISSIONER MARSH: They're about nine  
20 feet tall.

21 So how come they don't cast a shadow in  
22 your -- I mean, we are talking about the totality of  
23 the lot, right, the totality of the effect of the  
24 buildings on the lot.

25 So if they don't -- I mean, they must

1 cast more of a shadow and sooner in the winter than  
2 the six foot fence, right?

3 THE WITNESS: The garage is an existing  
4 structure. I am showing shadows in the drawing.

5 COMMISSIONER MARSH: It didn't look  
6 like it was on all of them, though.

7 THE WITNESS: We are showing it in the  
8 equinox.

9 COMMISSIONER MARSH: Right. But  
10 doesn't -- I mean that means -- okay. The  
11 equinox -- showing on the equinox --

12 THE WITNESS: They're shown.

13 COMMISSIONER MARSH: -- which one is  
14 that?

15 Hum, I mean you just said if we tore  
16 down all six foot fences, we would have sun in the  
17 summer. But that must mean that that nine foot  
18 building --

19 THE WITNESS: Right. In the winter  
20 solstice --

21 COMMISSIONER MARSH: -- in the  
22 winter -- I'm sorry --

23 THE WITNESS: -- in the winter solstice  
24 diagram, you can see the shadow of the garage. You  
25 can see that is the fence. That is the fence, and

1       that little bump right there is the shadow from the  
2       existing garage structure.

3                   COMMISSIONER MARSH: Right. But that  
4       means that that -- that's when the sun is at the  
5       lowest, right?

6                   THE WITNESS: In the longest day of the  
7       year, the lowest point --

8                   COMMISSIONER MARSH: Which means --

9                   THE WITNESS: -- in the south of the  
10      sky.

11                  COMMISSIONER MARSH: -- right.

12                  So that impact I am just saying is all  
13      year -- like I can't see from that picture -- oh, I  
14      see what you mean, that little block out is -- okay.

15                  And then -- how tall is the garage, how  
16      high is the ceiling -- okay. That was all of the  
17      questions I had.

18                  VICE CHAIR BRANCIFORTE: John, I have  
19      some questions about the roof.

20                  I am concerned you have four condensers  
21      on the roof.

22                  What do you call them, condensers,  
23      compressors, HVAC units?

24                  THE WITNESS: Compressors. Condensers  
25      are compressors.

1 VICE CHAIR BRANCIFORTE: Same

2 difference, right?

3 So you have four of them. Three are  
4 grouped together, and you have a --

5 (Board members conferring)

6 VICE CHAIR BRANCIFORTE: -- so you have  
7 it surrounded by an acoustic muffling --

8 THE WITNESS: Curtain system.

9 VICE CHAIR BRANCIFORTE: -- curtain  
10 system.

11 I'm just afraid with three units so  
12 close to each other, is that curtain system going to  
13 be enough to really make a difference with the  
14 sound?

15 THE WITNESS: I think it is a good  
16 question.

17 We have to comply with the noise  
18 ordinance, so I have been testifying that it will  
19 comply with the noise ordinance.

20 VICE CHAIR BRANCIFORTE: But how do  
21 you -- how can you testify that it is going to?

22 Do you have any certain formula that  
23 you use to design the curtain?

24 THE WITNESS: Yes.

25 We are using industry standard top of

1 the line compressors, which obviously are top of the  
2 line because of their sound, and we are also using  
3 the industry standard noise barrier system for  
4 dampening sound, so we are doing exactly what -- we  
5 are doing a thorough job of addressing this, as  
6 opposed to making like a haphazard system.

7 VICE CHAIR BRANCIFORTE: Okay. Let me  
8 take it one step further.

9 When you pour footings for a building,  
10 the higher the building, the thicker the footings,  
11 the deeper the footings go. Does the same apply to  
12 when you have more condensers, does the curtain wall  
13 have to be thicker and higher, more noise, you know,  
14 the condensers make?

15 THE WITNESS: No, it doesn't work that  
16 way --

17 VICE CHAIR BRANCIFORTE: Not with that?

18 THE WITNESS: -- because acoustic noise  
19 emanates in all directions, and that curtain dampens  
20 the acoustic noise that hits it, so --

21 VICE CHAIR BRANCIFORTE: It doesn't  
22 matter if it is an inch thick or four inches thick,  
23 the wall?

24 THE WITNESS: It matters, but this  
25 configuration that I am showing will meet the noise

1 ordinance.

2 VICE CHAIR BRANCIFORTE: Okay.

3 THE WITNESS: These also I think, more  
4 to your point, Commissioner Branciforte, I think  
5 four compressors that are zoned will be quieter than  
6 a package unit. A package unit would be running all  
7 of the time. Four compressors will only be running  
8 when that zone -- when each of those four zones are  
9 called. So you may have one zone called. You may  
10 have two, so I think this is actually a quieter  
11 solution than a combined package unit.

12 VICE CHAIR BRANCIFORTE: Then on  
13 A-2.3 --

14 THE WITNESS: Yes.

15 VICE CHAIR BRANCIFORTE: -- you show  
16 lights there on the bulkhead. Do you show detail  
17 for those lights?

18 THE WITNESS: I have to consult with an  
19 architect from my office. One second.

20 (Witness confers)

21 THE WITNESS: I don't think I have  
22 details on here, but I know that historically you  
23 have to meet the cutoff and spread of the light, so  
24 that it doesn't spread onto the neighbor's property,  
25 and I don't see this being any different.

1                   VICE CHAIR BRANCIFORTE: Could you  
2 include in your final -- you have to come back with  
3 final drawings. I am getting to an engineering  
4 thing that I don't know that much about, but  
5 eventually you will have to come back with final  
6 drawings. Can you include the details on that?

7                   THE WITNESS: Absolutely.

8                   VICE CHAIR BRANCIFORTE: Because you  
9 show an exterior wall sponce EC2, but I'm not sure  
10 where that goes.

11                  THE WITNESS: Right. And normally, we  
12 would show the cone of light and how it doesn't  
13 spread into the neighbor. We will add that  
14 information to the drawings.

15                  VICE CHAIR BRANCIFORTE: Now, I know  
16 the garage just west of your garage, I remember that  
17 the -- as I walked by, that garage door is always  
18 open, and the cars are always sticking out, like the  
19 tail end of the cars is always sticking out.

20                  Does that happen with these garages  
21 now?

22                  If I pull a car in there, can you shut  
23 the garage door?

24                  THE WITNESS: Yes, you can.

25                  I guess it has to do with if it is a

1 1978 Electra 225, it is not going to fit in that  
2 garage, but it's based on what kind of a car you  
3 have.

4 VICE CHAIR BRANCIFORTE: And the  
5 ceiling height of the garage --

6 THE WITNESS: Excuse me?

7 VICE CHAIR BRANCIFORTE: -- I mean, the  
8 ceiling height will -- is modern enough where --

9 THE WITNESS: Yes, I think it's --

10 VICE CHAIR BRANCIFORTE: -- where an  
11 SUV is going to be able to pull in there?

12 THE WITNESS: Right.

13 We testified that that structure is  
14 approximately nine foot tall, which means you have  
15 an eight foot ceiling, which means an SUV will fit.

16 VICE CHAIR BRANCIFORTE: Okay.

17 There was one other question for you on  
18 it.

19 You are planning on -- you are planning  
20 on basically refacing the brick --

21 CHAIRMAN AIBEL: Is that the question?

22 VICE CHAIR BRANCIFORTE: No. I'm -- so  
23 you said you are going to redo the facade and remove  
24 the white clad siding, whatever it is on the side --

25 THE WITNESS: Metal siding, correct.

1                   VICE CHAIR BRANCIFORTE:  -- replace the  
2                   gates that swing out with a sliding gate now --

3                   THE WITNESS:  Yes.

4                   VICE CHAIR BRANCIFORTE:  -- but I want  
5                   you to make it clear, I mean, you don't need a  
6                   variance to come to us to do that stuff.  I mean,  
7                   you could do that without asking for a variance,  
8                   correct?

9                   THE WITNESS:  Correct.

10                  VICE CHAIR BRANCIFORTE:  Okay.

11                  That's all I wanted to say.

12                  All right.  I think I am good.

13                  Thanks.

14                  COMMISSIONER MARSH:  May I ask another  
15                  question?  I am sorry.

16                  CHAIRMAN AIBEL:  Go ahead.

17                  COMMISSIONER MARSH:  On the -- on the  
18                  lighting things, can you go back to each one and  
19                  show where the sun starts, you know?

20                  Because you are only showing it at one  
21                  angle, right, and that doesn't tell the whole story.  
22                  I mean, you can't tell us the whole story without a  
23                  movie.

24                  THE WITNESS:  Right.  The sun  
25                  studies -- I have in my office animations of this

1 365 days of the year.

2 Now, because the property faces south,  
3 we picked the time of day where the sun is mid  
4 point, which is having the greatest effect on the  
5 yard based on this proposed addition.

6 So we did pick the point and the time  
7 in both the three seasons that this building is  
8 casting a shadow north of the properties --

9 COMMISSIONER MARSH: I understand.

10 That is not my question.

11 My question is: Where does the sun --  
12 like the sun isn't directly east -- I mean, it  
13 doesn't -- it isn't in line with 12th Street, right?

14 THE WITNESS: Right.

15 So if I were to do a diagram --

16 COMMISSIONER MARSH: If you were to go  
17 over there and draw a little arrow on that  
18 picture --

19 THE WITNESS: Can I have a pen?

20 COMMISSIONER MARSH: -- where the sun  
21 comes up and where does it go down --

22 (Board members confer.)

23 COMMISSIONER MARSH: I know, but he did  
24 it on specific times of the year, right?

25 THE WITNESS: That is your solar dial.

1 In the summer --

2 COMMISSIONER MARSH: No, no, no.

3 On that picture what time of year is  
4 that?

5 THE WITNESS: It's December 21st at  
6 12:30, so really the longest shadow --

7 COMMISSIONER MARSH: On December -- on  
8 December 21st at 12:30, what direction is the light  
9 in the morning, and what direction is the light at  
10 the end of the day?

11 THE WITNESS: Right. So if --

12 MR. BURKE: How the sun resolves --

13 THE WITNESS: -- let me finish -- can I  
14 just finish this diagram for a second?

15 COMMISSIONER MARSH: Sure. But I don't  
16 understand it, but go ahead.

17 THE WITNESS: I won't do it then.

18 COMMISSIONER MARSH: You can try.

19 THE WITNESS: That's okay.

20 COMMISSIONER MARSH: I understand that  
21 the sun changes angles.

22 THE WITNESS: It gets longer and  
23 shorter, right?

24 COMMISSIONER MARSH: Yes.

25 THE WITNESS: So in the winter -- in

1 the winter the sun starts -- this is north -- the  
2 sun starts here and ends here in the winter --

3 COMMISSIONER MARSH: Wait. Where is  
4 north? Where is north on that?

5 THE WITNESS: North is always straight  
6 up, so north is here --

7 VICE CHAIR BRANCIFORTE: Well, I'm  
8 sorry, you have to stop.

9 The north you are pointing now is  
10 not --

11 COMMISSIONER MARSH: It's not the north  
12 of the picture --

13 THE WITNESS: No, it's analytic north,  
14 right.

15 VICE CHAIR BRANCIFORTE: -- it has  
16 nothing to do with the way the drawing is set --

17 COMMISISONER MARSH: If you are going  
18 to do it, do it to go with the drawing, please.

19 THE WITNESS: Sunrise -- sunrise,  
20 sunset. So it is a very short day in the winter.  
21 So if you are looking at a clock in the winter in  
22 Hoboken, the sun rises at four o'clock and sets at  
23 eight o'clock --

24 COMMISSIONER MARSH: I just want you to  
25 show me the angle of the sun when it came up and

1 when it came down.

2 (Witness indicates)

3 COMMISSIONER MARSH: Antonio, can you  
4 move your head?

5 COMMISSIONER MURPHY: You're in the  
6 way.

7 COMMISSIONER MARSH: Thank you.

8 MR. GALVIN: Casting a shadow.

9 (Laughter)

10 COMMISSIONER GRANA: I'm trying to  
11 simulate the sun for you, Carol.

12 (Laughter)

13 COMMISSIONER MARSH: So the angle of  
14 the sun is --

15 THE WITNESS: This is the short winter  
16 day.

17 COMMISSIONER MARSH: That is down.

18 The angle of the sun is not there --  
19 thank you. That is what I wanted to know.

20 Can you actually draw that or not --

21 THE WITNESS: Like a longer line?

22 COMMISSIONER MARSH: Yeah, there you  
23 go.

24 (Witness complies)

25 THE WITNESS: Okay.

1 COMMISSIONER MARSH: Thank you.

2 CHAIRMAN AIBEL: Are you good?

3 COMMISSIONER MARSH: Yes, thank you.

4 COMMISSIONER DE GRIM: Chairman?

5 CHAIRMAN AIBEL: Frank.

6 COMMISSIONER DE GRIM: The elevator  
7 goes along the wall with the neighbor, is that  
8 correct?

9 THE WITNESS: Correct.

10 COMMISSIONER DE GRIM: Okay.

11 Is there anything to dampen the  
12 vibration of the elevator?

13 THE WITNESS: Yes. The mechanical  
14 equipment, if you look at -- if you look at A-2.1,  
15 you have the first and basement floor plans.

16 On those floor plans you can see in  
17 dark gray the 12-inch brick wall, which is the  
18 exterior wall --

19 COMMISSIONER DE GRIM: Right.

20 THE WITNESS: -- and then you see  
21 framing that is maybe another ten inches inboard of  
22 the 12 inches of gray masonry --

23 COMMISSIONER DE GRIM: Again, it  
24 essentially looks like two U's?

25 THE WITNESS: Yes. That's framing.

1 COMMISSIONER DE GRIM: Okay.

2 THE WITNESS: And then you see the  
3 equipment inboard of that. So that the equipment  
4 for this elevator is several feet off of the  
5 property line, so it is not mounted on the brick  
6 wall, which would transmit low frequency vibrations.

7 COMMISSIONER DE GRIM: Okay.

8 Thank you.

9 COMMISSIONER COHEN: One last thing.

10 If you could look at A-2.3, the cross  
11 section, I guess this drawing actually more than the  
12 other made me concerned about the bulkhead, because  
13 it looks like it is right up on 12th Street, and I  
14 know that it is not, and you know, based on your  
15 testimony, but like it looks like another floor from  
16 that view, and I hear your testimony, and I  
17 understand why it isn't, but, you know, that is one  
18 of the reasons why I was concerned.

19 THE WITNESS: Can I borrow the pen  
20 again?

21 I am going to modify this drawing.

22 Now, this is if I am laying on the  
23 ground --

24 COMMISSIONER COHEN: Yes.

25 COMMISSIONER GRANA: That's right.

1                   So the diagram at the bottom is if you  
2                   are looking straight down, and now you can see the  
3                   relative positions of the bulkhead --

4                   COMMISSIONER COHEN: Bulkhead.

5                   COMMISSIONER GRANA: -- and the  
6                   elevator --

7                   COMMISSIONER COHEN: Yes.

8                   COMMISSIONER GRANA: -- up against the  
9                   property line.

10                  COMMISSIONER COHEN: I'm sorry. Go  
11                  ahead.

12                  THE WITNESS: -- so this diagonal line  
13                  assumes I am laying -- I'm getting -- I'm laying on  
14                  the ground looking up past the cornice, and you can  
15                  see how the line misses the bulkhead.

16                  The section, it's too deceiving -- the  
17                  section because it's oblique, right, so you're  
18                  seeing it flat, and then the aerial view, which  
19                  assumes that, and they are just -- they give you a  
20                  false sense of perspective.

21                  COMMISSIONER COHEN: Thank you.

22                  VICE CHAIR BRANCIFORTE: John, the  
23                  drawing that you just held up, what is the date on  
24                  that --

25                  MS. CARCONE: We don't have --

1 VICE CHAIR BRANCIFORTE: -- your A-2.3

2 is completely different from our A-2.3

3 THE WITNESS: I have Zoning Board

4 Submission on May 6th.

5 COMMISSIONER COHEN: We have May 6th.

6 VICE CHAIR BRANCIFORTE: The A-2.3 that

7 you showed is different from the A-2.3 that we have.

8 THE WITNESS: I think what has been

9 added under Zoning Board Submission May 6th -- May

10 6th, this section through the basement --

11 COMMISSIONER MARSH: We don't have it.

12 VICE CHAIR BRANCIFORTE: Your plans are

13 different than ours.

14 THE WITNESS: -- that section was

15 added.

16 (Board members confer)

17 COMMISSIONER MARSH: With the same

18 date -- I think we're missing that page -- with the

19 same date?

20 MR. BURKE: They can't be both wrong.

21 COMMISSIONER MARSH: Do you want to

22 look?

23 MR. BURKE: Another marked May 6th --

24 (Board members confer)

25 THE WITNESS: The section through the

1 basement, which I testified to earlier, was added  
2 because Mr. Burke asked me to be prepared to present  
3 information on whether it's a basement or a cellar.

4 MR. BURKE: So we apologize --

5 VICE CHAIR BRANCIFORTE: Your exhibits  
6 are different from ours now.

7 MR. BURKE: -- it had to be added  
8 because of the issue that we discussed about the  
9 cellar versus the basement, because that came up  
10 late in the dialogue, and I think, in fact, it came  
11 up Thursday or Friday of last week. So John was  
12 trying to clarify and added that extra piece, but  
13 that should be the only deviation.

14 THE WITNESS: Knowing that I had to  
15 testify tonight to the difference between a cellar  
16 and a basement. The design is the same --

17 MR. GALVIN: That really shouldn't be a  
18 problem, guys.

19 VICE CHAIR BRANCIFORTE: Well, I'm just  
20 curious. Is there anything else that we are missing  
21 here or anything else --

22 MR. GALVIN: That's a fair question,  
23 and they are saying no.

24 VICE CHAIR BRANCIFORTE: -- I mean, are  
25 our exhibits the same?

1                   THE WITNESS: I will testify that the  
2 design has not changed, and that that piece of  
3 information was to clarify, but not to alter the  
4 scope of work.

5                   MS. CARCONE: Should we label that  
6 A-2.3 that they are showing as an exhibit because it  
7 is different than what we're looking at here?

8                   MR. GALVIN: Yes.  
9 Who is going to do that?

10                  MS. CARCONE: Mr. Burke.

11                  MS. RUSSELL: A-2.4 and A-2.5 are also  
12 different.

13                  MR. GALVIN: I am saying it would be  
14 wrong to penalize the applicant for that. That is  
15 all I am saying.

16                  COMMISSIONER MARSH: We just wanted to  
17 know, that's all.

18                  MR. BURKE: So this will be A-6. So  
19 A-2.3 will become Exhibit A-6.

20                                 (Exhibit A-6 marked)

21                  VICE CHAIR BRANCIFORTE: And then 2.4  
22 you also said was different, Kristin?

23                  MS. RUSSELL: 2.4 and 2.5. The plans  
24 that we have for May 6th show the addition being  
25 clad and siding, and what you have shown tonight is

1 I would say an improvement over that with the brick  
2 masonry, but our plans don't reflect that.

3 MR. BURKE: Okay.

4 VICE CHAIR BRANCIFORTE: Okay.

5 Hold up 2.4 and 2.5 for us to see it.

6 THE WITNESS: 2.4 shows elevation in  
7 brick, including -- this is existing, and this is  
8 proposed, and it shows the proposed in brick which  
9 matches all of the renderings.

10 And A-2.5 shows the site elevation in  
11 brick. This is existing, proposed in brick.

12 COMMISSIONER MURPHY: Right.

13 So my proposed is showing something  
14 that looks like, you know, the vinyl siding. Like  
15 in terms of -- it has like got like lines and --

16 THE WITNESS: Right. I think it was a  
17 cemetitious siding, and then been since made into  
18 brick, which I feel is a significant improvement.

19 COMMISSIONER MURPHY: Oh, definitely.

20 MR. BURKE: So let's mark A-7 as an  
21 exhibit, and that's page A-2.5.

22 (Exhibit 7 marked)

23 CHAIRMAN AIBEL: Mr. Nastasi, a quick  
24 couple of questions.

25 THE WITNESS: Yes.

1                   CHAIRMAN AIBEL: Was any consideration  
2 given to building the extension on the south  
3 property line as opposed to the north property line,  
4 thereby giving a little bit more breathing room in  
5 the donut?

6                   THE WITNESS: I would say that, yes,  
7 that was considered. But working with the existing  
8 footings and foundations and the basement walls is  
9 what led the addition to sit on top of what is  
10 existing.

11                  CHAIRMAN AIBEL: But you have crawl  
12 space denoted under there, is that correct?

13                  THE WITNESS: We are sitting on top of  
14 that.

15                  CHAIRMAN AIBEL: Of crawl space?

16                  THE WITNESS: Yes. We are sitting on  
17 top of the structure, though.

18                  CHAIRMAN AIBEL: And is there any  
19 reason you couldn't design a building that is 60  
20 feet from Bloomfield to the west edge?

21                  THE WITNESS: I could design a building  
22 at 60 feet.

23                  CHAIRMAN AIBEL: Okay.

24                  Antonio?

25                  COMMISSIONER GRANA: Just a quick

1 question because of the confusion about the  
2 materials that was introduced in testimony.

3 The existing structure that is at the  
4 front of the lot, so not the addition, the current  
5 material that is on the facade is brick, and that is  
6 to remain or to change?

7 THE WITNESS: The existing building is  
8 red facade brick on the front facade and the side  
9 facade, that is going to stay. And the brick that  
10 we are proposing on the addition will match that  
11 brick --

12 COMMISSIONER GRANA: Will match that  
13 brick --

14 THE WITNESS: -- which is facade brick,  
15 not red -- common red brick.

16 COMMISSIONER GRANA: -- okay.

17 And the new cornice -- the cornice will  
18 be replaced. Is that correct?

19 THE WITNESS: Yes. The cornice will be  
20 replaced, and we are adding -- we're proposing a  
21 matching cornice over the addition as well.

22 COMMISSIONER GRANA: And the material  
23 for the cornice is what?

24 THE WITNESS: Painted wood.

25 COMMISSIONER GRANA: Painted wood.

1                   And then the bay windows that project  
2                   from the structure in the front, that is currently  
3                   vinyl, and it will be replaced with --

4                   THE WITNESS: A cementitious siding.

5                   COMMISSIONER GRANA: Thank you.

6                   CHAIRMAN AIBEL: Is there any way the  
7                   bulkhead could be shrunk?

8                   THE WITNESS: I'm sorry, what?

9                   CHAIRMAN AIBEL: Is there any way the  
10                  bulkhead could shrunk?

11                  THE WITNESS: What I can propose is to  
12                  make the bulkhead as short as possible to meet code  
13                  because the height is not important there.

14                  So if we can build a seven foot ceiling  
15                  or a 7-6 foot ceiling, which meets code, I will  
16                  reduce the height of that bulkhead as short as  
17                  possible just to minimally meet code and allow  
18                  access.

19                  CHAIRMAN AIBEL: I really think you  
20                  have to give some thought to the sight lines from  
21                  the rear of the --

22                  THE WITNESS: From the front --

23                  CHAIRMAN AIBEL: -- from the front,  
24                  from the other side of the street from the south  
25                  side.

1 Any other questions, Board members?

2 I would like to open it up to the  
3 public.

4 VICE CHAIR BRANCIFORTE: Yes.

5 CHAIRMAN AIBEL: John, go ahead.

6 VICE CHAIR BRANCIFORTE: You have the  
7 stairs -- the stairs go to the roof, and the  
8 elevator also goes to the roof. Is it really  
9 necessary to have both?

10 THE WITNESS: You need stair by fire,  
11 and elevator for convenience, so one meets fire  
12 code, and one is for convenience.

13 VICE CHAIR BRANCIFORTE: Okay.

14 CHAIRMAN AIBEL: Phil?

15 COMMISSIONER COHEN: If you shrunk the  
16 cornice, would that --

17 THE WITNESS: The bulkhead?

18 COMMISSIONER COHEN: -- I'm sorry --  
19 the bulkhead. If you shrunk the bulkhead, would  
20 that make it -- would that affect the sight lines?

21 THE WITNESS: It will improve it.

22 COMMISSIONER COHEN: It will improve  
23 it.

24 I mean, because the sight lines -- I  
25 think one of the conditions I would like to see on

1       this would be a sight line study to show that the  
2       bulkhead is invisible to people on the street.

3               I guess, I am just pointing out the  
4       modification that the Chair is asking for, would  
5       that expose the bulkhead to view, if it was reduced?

6               I mean, I'm just wondering if that's an  
7       unintended consequence.

8               THE WITNESS: I'm sorry. Say the  
9       question again.

10              COMMISSIONER COHEN: By shrinking the  
11       bulkhead, would that expose -- again, I'm just  
12       concerned --

13              MR. BURKE: Oh, I see. You are saying  
14       if you shrink the -- okay. Would it be more  
15       visible?

16              COMMISSIONER COHEN: Right.

17              Would the sight lines -- I guess you  
18       are saying that the sight lines would improve, and  
19       it would not be --

20              THE WITNESS: It would be less visible  
21       if you shrunk it, right?

22              If it was lower, it would be less  
23       visible.

24              COMMISSIONER COHEN: Okay.

25              And by that -- yeah, I was confused on

1           that question.

2                         Just a follow up:  If the mechanicals  
3           of the elevator were not on the roof of the  
4           elevator, would it be possible to shrink the height  
5           of the bulkhead?

6                         THE WITNESS:  I don't believe the  
7           mechanicals are on the roof.  They're actually -- it  
8           is a digital elevator, and the mechanicals are  
9           below --

10                        COMMISSIONER COHEN:  Okay.

11                        Thank you.

12                        VICE CHAIR BRANCIFORTE:  Going back to  
13           your shadow study on the equinox --

14                        THE WITNESS:  Which season?

15                        VICE CHAIR BRANCIFORTE:  The equinox.

16                        Well, you could even use -- yeah, that  
17           is fine, and the one before that, too.

18                        Next door you have three skylights, and  
19           the skylights -- one of the skylights, the center  
20           skylight now will be shaded in blue, so that shadow  
21           there is being cast by the bulkhead?

22                        THE WITNESS:  Right.  That blue shadow  
23           is being cast by the bulkhead.

24                        VICE CHAIR BRANCIFORTE:  Now, go to the  
25           board just behind this one that you have on your --

1 THE WITNESS: Which is which season?

2 VICE CHAIR BRANCIFORTE: I don't know.

3 You have to take it off. I have to see the one  
4 behind you.

5 Now, that blue that is on now covering  
6 three of the -- or, you know, you see what I'm  
7 looking at, the same -- yeah --

8 THE WITNESS: This shadow is being cast  
9 by the facade.

10 VICE CHAIR BRANCIFORTE: By the facade.

11 Where is the bulkhead in this?

12 THE WITNESS: The bulkhead, you can see  
13 here. You are missing a corner, which is  
14 probably -- I'm sorry -- here it is.

15 VICE CHAIR BRANCIFORTE: That's the  
16 bulkhead?

17 THE WITNESS: See that little blue  
18 corner right there? See that little blue square,  
19 that is that corner from that bulkhead.

20 This shadow is being cast by the --

21 VICE CHAIR BRANCIFORTE: That's fine.

22 But if you go back to the other one,  
23 obviously if the bulkhead was shrunk down a little  
24 bit, we would still be giving some -- a little bit  
25 more light to that neighbor next door, wouldn't we?

1                   And I don't know about the third  
2       projection.

3                   THE WITNESS: Excuse me one second.

4                   (Witness confers)

5                   CHAIRMAN AIBEL: All right. I just  
6       wanted to make sure, Board members, you are okay?

7                   We can reserve the right to ask more  
8       later, but I would like to open it up to the public.

9                   For those of you who haven't appeared  
10      before us before, this is for questions only. You  
11      will have an opportunity to make your voices heard  
12      and your opinions known at the very end. This is  
13      questions for the architect.

14                  MR. GALVIN: Does anybody have any  
15      questions?

16                  CHAIRMAN AIBEL: Please come forward.

17                  MR. GALVIN: Come on up.

18                  CHAIRMAN AIBEL: Please come up.

19                  MS. GIGLIO: I do. I have a problem.

20                  MR. GALVIN: You got to come up.

21                  MS. GIGLIO: I'm sorry.

22                  MR. GALVIN: We'll break you in.

23                  MS. GIGLIO: Okay. Do I have to say my  
24      name?

25                  MR. GALVIN: Yes, you do.

1 MS. GIGLIO: Okay. Gabriella Giglio.

2 1205 Garden.

3 MR. GALVIN: Spell your last name.

4 MS. GIGLIO: G-i-g-l-i-o.

5 MR. GALVIN: Thank you.

6 And give us your street address. You  
7 were about to.

8 MS. GIGLIO: 1205 Garden Street.

9 MR. GALVIN: Thank you so much.

10 You ask questions only at this point.

11 MS. GIGLIO: Okay.

12 John, on this rendering here, as you  
13 look at the windows in the back here, since it is  
14 being extended all the way out, how far are the  
15 windows to the house right across on Garden Street,  
16 and will they be looking into their house?

17 THE WITNESS: These windows are 65 foot  
18 from the front, which means they are 35 feet from  
19 the backyard, which means there is probably another  
20 30 or 40 feet to the back of the other house, so it  
21 is approximately 70 feet.

22 MS. GIGLIO: Okay.

23 CHAIRMAN AIBEL: Additional questions  
24 for the architect?

25 Please come forward.

1 MR. GALVIN: Again, state your name for  
2 the record and spell your last name.

3 MS. NADDEO: Merry Naddeo, 1202  
4 Bloomfield. I'm right next door.

5 MR. GALVIN: Spell your last name  
6 please.

7 MS. NADDEO: N-a-d-d-e-o.

8 MR. GALVIN: Yeah. You don't want to  
9 get me in trouble with the court reporter.

10 MS. NADDEO: Excuse me?

11 MR. GALVIN: You don't want to get me  
12 in trouble with the court reporter.

13 MS. NADDEO: Oh, okay.

14 (Laughter)

15 First of all, there was some things  
16 that were said that are not true.

17 MR. GALVIN: No, no, no. It doesn't  
18 work that way --

19 MS. NADDEO: Well, you know, what  
20 questions --

21 MR. GALVIN: -- no, no --

22 MS. NADDEO: -- you know that those  
23 skylights --

24 MR. GALVIN: -- no. Just stop for one  
25 second. Stop for one second.

1                   What we want you to do here is we want  
2                   you to ask questions.

3                   MS. NADDEO: I am asking questions.

4                   MR. GALVIN: No. I am speaking, right?  
5                   And there will be a point in the hearing where you  
6                   are going to get to tell us how you feel about this.  
7                   So if you disagree --

8                   MS. NADDEO: No. I am not telling you  
9                   that. I am asking a question.

10                  MR. GALVIN: Not yet. Okay?

11                  You are going to go ahead and ask  
12                  questions now. But if you are going to try to  
13                  comment through questions, I am going to stop you.

14                  Go ahead. Ask questions.

15                  MS. NADDEO: Do you realize that those  
16                  three skylights that you said were the house next  
17                  door are not the house next door? It is two houses  
18                  next door, okay, do you realize that?

19                  MR. GALVIN: No problem.

20                  MS. NADDEO: And you identified them as  
21                  the house next door.

22                  THE WITNESS: I think the answer to the  
23                  question is that this is my client's house. This is  
24                  your house, and then that is your neighbor's house.

25                  MS. NADDEO: You had identified -- you

1           said this was next door with the skylights.

2                       VICE CHAIR BRANCIFORTE:   That may have  
3           been me in all honesty, that may have been my  
4           mistake.  I may have referred to it as the place  
5           next door --

6                       MS. NADDEO:   But they let it go.

7                       VICE CHAIR BRANCIFORTE:   -- but, no.  
8           Thank you for clearing that up.

9                       MS. NADDEO:   My question is you are  
10          having an elevator going through, and I am the house  
11          next door.  It is going to have a noise impact on  
12          me.

13                      MR. GALVIN:   No.

14                      Isn't it going to have noise impact on  
15          the next door neighbor --

16                      MS. NADDEO:   Isn't it going to have  
17          noise impact --

18                      MR. GALVIN:   -- and if not, why not?

19                      MR. BURKE:   It's like Jeopardy --

20                      MS. NADDEO:   I don't know --

21                      MR. GALVIN:   No, but I really just want  
22          you to comment when it's time to comment.  You can  
23          tell us that you think it's going to be noisy,  
24          but --

25                      MS. NADDEO:   Well, I'm asking.

1                   MR. GALVIN:  -- he is going to answer  
2                   it.  He's going to answer it.

3                   THE WITNESS:  I will testify that the  
4                   way we are constructing the elevator, that the  
5                   mechanism is several feet off of the brick wall  
6                   between you and my client, so we are not mounting  
7                   the equipment to that brick wall, which would cause  
8                   that wall to vibrate, so that equipment is actually  
9                   two feet into the property, so that --

10                  MS. NADDEO:  And that will assure that  
11                  I don't have (indicating).

12                  THE WITNESS:  -- yeah, and we will  
13                  assure that you don't have vibration --

14                  MS. NADDEO:  And what happens if I do  
15                  have it?

16                  THE WITNESS:  Call my office.  I will  
17                  come over immediately, and we will address the  
18                  problem.

19                  But we have put elevators in six or  
20                  seven houses in Hoboken already, and we do not have  
21                  low frequency problems to date.

22                  MS. NADDEO:  Also, one more question.

23                  The thing that you have on the roof  
24                  that you say is recreational, how can I be assured  
25                  that they are not going to be walking on my roof?

1 THE WITNESS: That's a very good  
2 question.

3 MS. NADDEO: Because I have had this  
4 problem.

5 THE WITNESS: Can I answer that?

6 MR. GALVIN: I don't know. Can you?

7 THE WITNESS: I don't think I can  
8 answer that question.

9 MR. GALVIN: How would they be walking  
10 on her roof?

11 I mean, how is that possible?

12 THE WITNESS: Well --

13 MS. NADDEO: If you get on the roof,  
14 you can walk from roof to roof.

15 MR. GALVIN: So we have to do something  
16 to prevent that, right?

17 THE WITNESS: I think the question  
18 is --

19 MS. NADDEO: And we all have those --

20 MR. GALVIN: Well, you have to give him  
21 a chance, you have to give him a chance to answer  
22 it.

23 I am for barbed wire, but that is just  
24 me.

25 (Laughter)

1 COMMISSIONER DE GRIM: Not razor wire?

2 MR. GALVIN: Whatever it takes.

3 (Laughter)

4 THE WITNESS: I can't testify what the  
5 neighbor is going to do on the roof. But what I can  
6 testify to is that we are enclosing the deck on --  
7 the proposed deck on the roof with fencing. So that  
8 if somebody wanted to get on to other roofs, they  
9 would have to jump that fence and then jump over the  
10 neighbors' parapets.

11 COMMISSIONER COHEN: How high is the  
12 proposed fencing?

13 THE WITNESS: It meets codes, so it's  
14 the normal 42 inches high.

15 MR. GALVIN: The other thing is: No  
16 one should be -- I mean, this is beyond the scope of  
17 the zoning application, but nobody should be on your  
18 roof. That is trespassing. They shouldn't be  
19 there.

20 So if somebody were on your roof, you  
21 should call the police.

22 MS. NADDEO: Okay. And one more, and I  
23 have to make this into a question.

24 MR. GALVIN: No. You are going to  
25 still get to comment, you know --

1 THE WITNESS: Think of Jeopardy.

2 MS. NADDEO: Did you know that --

3 MR. GALVIN: -- I promise.

4 MS. NADDEO: In 19 -- I have been there  
5 since 1970, and about 1971, '72, '73, did you know  
6 that Frank Daliani went out, and you were very  
7 astute about that, he chiseled that. It wasn't a  
8 legal parking space. Did you know that?

9 MR. GALVIN: Wait a minute. Stop for a  
10 second.

11 Raise your right hand.

12 MS. NADDEO: Absolutely

13 MR. GALVIN: Do you swear to tell the  
14 truth, the whole truth, and nothing but the truth?

15 MS. NADDEO: Absolutely. Absolutely.

16 MR. GALVIN: All right. So you can  
17 repeat it if you want.

18 MS. NADDEO: And Marian painted it  
19 yellow, and it has been that.

20 (Laughter)

21 Now, I also checked somehow later on,  
22 it was -- somehow through somebody's connections,  
23 they got that legally documented in Trenton, but it  
24 was done very, very poorly and very -- that is the  
25 way it was done. I know where the bodies were

1 buried.

2 (Laughter)

3 I had -- my great grandmother was a  
4 cook for the Stevens family. That is how long we  
5 were here. I know it.

6 MR. GALVIN: Next?

7 CHAIRMAN AIBEL: Please.

8 MR. GALVIN: State your name for the  
9 record and spell it for the record and give us your  
10 street address.

11 MR. NERSESIAN: Sure.

12 Greg Nersessian, N-e-r-s-e-s-s-i-a-n,  
13 and I'm at 1203 Garden Street.

14 I have two questions.

15 One to the point that the councilman  
16 made earlier. Would it be possible to see this  
17 shadow study when the sun is at this angle, so we  
18 can see how the shadows would be cast on this area  
19 of the backyards?

20 Are those available?

21 Can we put those into the -- make it  
22 publicly available?

23 THE WITNESS: I have all of that  
24 information. How do I make that available?

25 I am asking the question.

1                   MR. GALVIN: Yes. I mean, we are going  
2 to decide the case tonight I think, and so if there  
3 was another night that you could come back, and then  
4 we would have the additional shadow studies.

5                   Do you want them related to this case,  
6 or do you want to see them for some other purpose?

7                   MR. NERSESSIAN: Well, I guess my  
8 concern is if the shadow studies are being cast at  
9 noon, right, so the shadow is -- the sun is at its  
10 highest. So if we are making this decision based on  
11 how the shadow --

12                  MR. GALVIN: John, did you pick noon?

13                  MR. NERSESSIAN: -- affects all of  
14 these lawns, it should be done when the shadows were  
15 longer to the point that was made earlier, and that  
16 is what is going to affect the sunlight in these  
17 backyards, not when the sunlight is directly  
18 perpendicular to the wall.

19                  THE WITNESS: I think to answer -- I  
20 think to answer the question it is at 11:30. We  
21 picked the time, so that we would intentionally cast  
22 a shadow of our proposed addition, not the  
23 brownstones, because they have been here a hundred  
24 years, but the proposed addition, we picked a time  
25 to position the sun, so it would cast a shadow onto

1 our neighbors' properties.

2 If I pick early in the morning -- and I  
3 teach this at college -- so if I pick early in the  
4 morning, all of these brownstones would cast shadows  
5 in their backyards, so it would be sort of like a  
6 moot exercise, right? So I mean --

7 MR. NERSESSIAN: No, no, no.

8 But I mean the shadow -- we are  
9 considering the shadow that's being created  
10 explicitly by this structure, right?

11 So if the sun is coming in, what is the  
12 shadow that's being additionally created?

13 We're not concerned about the shadows  
14 that are already there. It's the incremental shadow  
15 that's being created both by this and by this thing  
16 on the roof, which is also going to cast a shadow,  
17 if the sun is earlier in the sky in these other --

18 THE WITNESS: I understand your  
19 question.

20 MR. NERSESSIAN: Comment, not a  
21 question.

22 MR. GALVIN: No. It is a question  
23 because we are in a question period, okay?

24 THE WITNESS: Well, I guess my point is  
25 that the shadow studies -- it a slippery slope.

1           I have been here before, and another  
2 architect picked noon at the equinox and showed one  
3 study, which was a meaningless study.

4           I am showing three points of the year,  
5 long sight, long shadows, short shadows, a shoulder  
6 season.

7           I mean, we could study shadows for  
8 months and semesters, and I teach this stuff, but I  
9 think one thing that you will notice is that  
10 buildings cast shadows. Fences cast shadows.

11          So if we start deciding buildings based  
12 on shadows, we will have to level every building in  
13 town.

14          And what I thought I did a very clear  
15 job of proposing is the delta and to show that from  
16 60 feet, which is technically allowable, to 65 feet,  
17 there is just a minimal increase because of the five  
18 feet, and this little delta is what that increase  
19 is, and that is really the question of the study,  
20 not to study the sun and shadows, you know, from  
21 scratch, but really just to look at the delta, and I  
22 am showing three times of the season that the delta  
23 is minimally --

24          MR. NERSESSIAN: I think you understand  
25 my question, right?

1                   THE WITNESS:  -- and I don't want to  
2                   be -- I mean, I just --

3                   MR. GALVIN:  Well, time out.  Okay.  I  
4                   let it go far enough.

5                   You got a second question?

6                   MR. NERSESIAN:  My second question is:  
7                   My understanding is that this is a rental property,  
8                   and it is going to be rented to a single family.

9                   MR. BURKE:  No.  Well, it is  
10                  irrelevant, though, for the purposes of tonight's  
11                  application.

12                  MR. NERSESIAN:  Well, I just wanted --  
13                  my concern, and maybe it is not an appropriate  
14                  concern at this point, but my question is:  Is there  
15                  a way to assure that this isn't going to be rented  
16                  to multiple families, that this is going to remain a  
17                  single-family house?

18                  MR. GALVIN:  Well, they are  
19                  representing that it is a single-family house.

20                  THE WITNESS:  We are testifying that  
21                  it's going to be.

22                  It is a two-family now, and we are  
23                  testifying that it will become a single-family.

24                  MR. NERSESIAN:  And it can't change,  
25                  in other words, once they make it a single-family,



1 That is why I asked the question because it is not  
2 necessarily mom, dad, you know, it's not Dick, Jane  
3 and Sally.

4 MR. GALVIN: No. It is way more  
5 complicated than that.

6 COMMISSIONER MARSH: Right. Family is  
7 pretty much who you say it is, yeah.

8 MR. GALVIN: Pretty close to that,  
9 but --

10 COMMISSIONER MARSH: Okay. Just  
11 checking.

12 MR. GALVIN: -- but I would usually  
13 see -- I think there would be two front doors and  
14 two different groups of people. That would be okay.

15 If it became three front doors with  
16 three different groups of people, that would be  
17 violative, and you could alert the zoning officer,  
18 and she would take action. Okay?

19 MR. NERSESIAN: Yes.

20 CHAIRMAN AIBEL: Okay.

21 Anybody else who wants to ask  
22 questions, please come forward.

23 Do you have one, sir?

24 MR. RIBOT: Well, I just --

25 MR. GALVIN: You have to stand up.

1 MR. RIBOT: My name is Greg Ribot,  
2 R-i-b-o-t.

3 MR. GALVIN: Street address?

4 MR. RIBOT: 1201 Garden Street, so I am  
5 directly in back.

6 And, you know, I guess my question was  
7 sort of similar to what Greg before me was asking  
8 about the shadows, and I know it seems like you kind  
9 of answered them, but you know, being that I garden  
10 along there and stuff like that, I know that a few  
11 feet of shadow here and there and this way and that  
12 makes a big difference, and I see that the house  
13 right next door looks like it is going to be most  
14 severely impacted by the shadow.

15 And my -- what would -- I would just  
16 like to see what the --

17 THE WITNESS: So is this your property  
18 here?

19 MR. RIBOT: Yeah.

20 I mean, I believe that, you know, this  
21 will probably be affected -- you know, in terms of  
22 sunrises and stuff like that from the back of the  
23 house, you know, will make some difference.

24 Where does the sun rise in the summer,  
25 like in the longest day?

1 THE WITNESS: From here.

2 MR. RIBOT: From here. So, yeah, all  
3 right.

4 So it is going to -- well, yeah, you  
5 answered my question. It is going to create  
6 additional -- like a blockage of sunrise for the  
7 people who live in the upstairs apartment of my  
8 house --

9 THE WITNESS: I think the sunrise --

10 MR. RIBOT: -- but for certain periods  
11 anyway --

12 THE WITNESS: -- for it to clear the  
13 brownstones, it is probably here already, because as  
14 it rises early, the street is in the shade, and by  
15 the time it gets high enough, it is already swinging  
16 in the south. But it will not -- I think my  
17 testimony with the three seasons, it won't impact  
18 your backyard. It never really makes it to the back  
19 of this backyard, so it won't impact your backyard.

20 This is your backyard, correct?

21 MR. RIBOT: Hum, no -- my backyard  
22 is -- that is -- yeah --

23 THE WITNESS: Okay. So your backyard  
24 is the space in front of the structure --

25 MR. RIBOT: Yeah, I get it. It's not

1 going to make a difference.

2 THE WITNESS: It's not going to make  
3 any difference, right.

4 If anything, your garage will cast a  
5 shadow on your backyard.

6 CHAIRMAN AIBEL: Okay.  
7 Any other questions?

8 MR. GALVIN: Yes, sir.  
9 Name and address.

10 MR. TROMMER: Stephen Trommer,  
11 T-r-o-double m-e-r.

12 MR. GALVIN: Thank you.

13 MR. TROMMER: 1205 Garden Street.

14 You have seen that example, and John  
15 what you just said, what I am trying to wrap my head  
16 around is: So I am here. Why then, if there is no  
17 impact to this house obviously here, why were we  
18 notified?

19 Why were we legally notified?

20 MR. GALVIN: Oh, I will answer that.

21 The law requires that everybody within  
22 200 feet who owns property gets noticed. That's  
23 why, because your property values could be affected  
24 by what we do.

25 THE WITNESS: 200 feet is from the four

1       corners, so you are talking about a dimension like  
2       this from that corner.

3                   MR. TROMMER:  On then that same  
4       subject, so I understand why I was legally notified.  
5       But if the statement is that there is anticipated no  
6       impact for these houses here, was there actually a  
7       study done to know?

8                   I mean, my biggest concern obviously  
9       would be this structure, which is not there  
10      currently.

11                  I mean, was there a study done that  
12      would show that the houses on Garden Street, all of  
13      these backyards, won't be affected?

14                  THE WITNESS:  Stephen, I will testify  
15      that that roof bulkhead will not cast a shadow on  
16      your property.

17                  I am his architect, and I did his  
18      house.  I know where his house is.  That bulkhead  
19      will not cast a shadow on your property.

20                  (Laughter)

21                  CHAIRMAN AIBEL:  Will he see it?

22                  MR. TROMMER:  And that was the last  
23      question I was going to ask, because --

24                  MR. GALVIN:  Wait a minute.  Time out.

25                  MR. TROMMER:  -- the comment was made

1       that the concern would be people walking on the  
2       street, would they are able to see that structure on  
3       top. But as a resident behind it, obviously from my  
4       third floor, probably my second eye can see it, is  
5       that considered a concern as well to the Board and  
6       certainly as to why --

7                   MR. GALVIN: Will he be able to see it?

8                   THE WITNESS: I think from your third  
9       floor, you should be able to see it.

10                  MR. GALVIN: But some day you are going  
11       to say you used to be able to see a Nastasi  
12       bulkhead.

13                   (Laughter)

14                  CHAIRMAN AIBEL: Any other questions  
15       for the architect, please?

16                   Okay. Seeing none, can I have a  
17       motion?

18                  COMMISSIONER GRANA: Motion to close  
19       public portion for this witness.

20                  COMMISSIONER MC BRIDE: I have a  
21       question.

22                  COMMISSIONER COHEN: Second.

23                  MR. GALVIN: Can we close the public  
24       portion?

25                  CHAIRMAN AIBEL: We are going to close

1 public.

2 Do I have a second?

3 COMMISSIONER COHEN: Second.

4 VICE CHAIR BRANCIFORTE: Second.

5 CHAIRMAN AIBEL: All in favor?

6 (All Board members answered in the  
7 affirmative)

8 VICE CHAIR BRANCIFORTE: Go ahead.

9 Did you want to ask --

10 CHAIRMAN AIBEL: We have a question  
11 from a Board member.

12 Mr. McBride?

13 COMMISSIONER MC BRIDE: Yeah.

14 John, you didn't talk about -- we  
15 talked about the green roof, but you didn't talk  
16 about maintenance to that green roof. Tell us how  
17 you set up the maintenance for that.

18 THE WITNESS: I did not set up a  
19 long-term maintenance plan. That is a good  
20 question. I don't know if I can testify to that.

21 COMMISSIONER MC BRIDE: Drainage.  
22 Start with that.

23 THE WITNESS: Oh, okay --

24 MR. GALVIN: Well, we've been --

25 THE WITNESS: -- infrastructure, we

1 have set up a new roof, roof drains, drainage, so  
2 that it is completely up to code, and at the highest  
3 forms of renovation, so that we are improving the  
4 conditions of the roof. The green roof is in trays,  
5 so it is in industry standard green roof trays,  
6 which allow drainage.

7 And as for maintenance, I think that is  
8 going to have to be on the homeowner.

9 COMMISSIONER MC BRIDE: Source of water  
10 is the homeowner?

11 Thank God.

12 THE WITNESS: Source of water as well.  
13 Thank God.

14 CHAIRMAN AIBEL: Okay.

15 Do you have any other witnesses?

16 MR. BURKE: No, I don't, Mr. Chairman.

17 CHAIRMAN AIBEL: So we'll open it up  
18 for public comment.

19 MR. GALVIN: Public comment.

20 CHAIRMAN AIBEL: Now is the time to  
21 come forward with your opinions.

22 MS. NADDEO: Well, as the next door  
23 neighbor --

24 CHAIRMAN AIBEL: No. Please come  
25 forward.

1 MS. NADDEO: I'm coming.

2 CHAIRMAN AIBEL: Thanks.

3 VICE CHAIR BRANCIFORTE: Your name.

4 THE REPORTER: Would you state your  
5 name again?

6 MS. NADDEO: Merry, M-e-r-r-y, Naddeo,  
7 N-a-d-d-e-o.

8 THE REPORTER: Thank you.

9 MR. GALVIN: And you're under oath, so  
10 you may proceed.

11 MS. NADDEO: Don't worry. I'm very  
12 truthful.

13 MR. GALVIN: No. Everybody else I'm  
14 going to put under oath now.

15 MS. NADDEO: I am very, very concerned.  
16 Since this property was sold, it has been a diaster.

17 Now, I know this is going to improve  
18 it, but what -- I mean, the thing on the roof, what  
19 if they have a party up there?

20 I mean, I am a senior citizen. My  
21 husband is a very sick man at this point, and I am  
22 sorry to tell people this, but he is.

23 What if they have a party up there?

24 I am going to be calling the police all  
25 of the time?

1                   You know, and when you say, if they  
2 walk on your roof, you call the police.

3                   I don't want to live like this. You  
4 know, can't you protect me?

5                   My taxes are more than her taxes on  
6 that -- than Marian's taxes were. Check it out. My  
7 taxes are more. I don't have half of the property.  
8 You are squeezing me in like a rat. That is how I  
9 feel.

10                  Yes, I have a garden. I have a  
11 beautiful garden. I have pictures. We didn't end  
12 up with them here, but I do have one still on my  
13 phone. It is going to impact my garden.

14                  I play the piano and I garden at this  
15 point in my life. That's what I do.

16                  If you would like to show this around,  
17 show it.

18                  MR. GALVIN: Mr. Burke, do you have any  
19 objection to that?

20                  MR. BURKE: No.

21                  MS. NADDEO: I am very concerned about  
22 this. I lived in Hoboken my whole life.

23                  I have grandparents who were born here,  
24 and there is a lot of people who look down on us.

25                  Well, I have a Ph.D, okay? I am no

1       dope. I am a classical pianist and I'm very  
2       emotional about this.

3                   And ever since, you know, I helped  
4       Marian an awful lot, this is what I got out of the  
5       front gates today, and I didn't get all of it. And  
6       I have spoken to people, and I said, you know, I  
7       know, right, you think I am a crazy woman. This is  
8       crazy.

9                   This was all there. You can recognize  
10      this. You can recognize this. That has been there  
11      a month. I swept for them all winter because I  
12      didn't want it in my gate, and I spoke to somebody,  
13      and I am sure it was you, and you deny it. It was  
14      you.

15                   I said: "Are you the owner?"

16                   "No, I am the architect."

17                   I said: "Well, could you tell the  
18      owner that this is disgusting?"

19                   I am not the only one on the block that  
20      was complaining.

21                   And he turned his head and walked away  
22      from me.

23                   Well, today I did a pretty good job  
24      cleaning it, but there is still a lot more in the  
25      front, and I have done this.

1                   How long has it been sold, a year and a  
2           half?

3                   There was no consideration for my  
4           property.

5                   Now, what's going to happen when they  
6           do this construction?

7                   Is there going to be consideration?

8                   I don't think so, and I think I don't  
9           want to leave Hoboken. I am not one that, you know,  
10          sold my house to make a big profit, and then asked  
11          to go into Church Towers.

12                   I paid my way. All through my life I  
13          paid my way, and I want to stay here, and I don't  
14          want my property looking like a little -- you are  
15          affecting the value of my property. There is no two  
16          ways about it, and I don't like it.

17                   CHAIRMAN AIBEL: Thanks, Mrs. Naddeo.  
18          I appreciate it.

19                   Anybody else have a --

20                   MR. GALVIN: Just for the record --

21                   MS. NADDEO: Would you like to see my  
22          garden?

23                   You should really take a look at it.

24                   MR. GALVIN: I think we should take a  
25          look at the garden, okay?

1 COMMISSIONER MARSH: Okay.

2 MR. GALVIN: Just why don't you pass  
3 it, and each Board member will look.

4 And I want to state for the record, why  
5 don't you describe what you are holding? Like  
6 pretend somebody, like we are talking to the judge.  
7 He is not here, and you have a clear plastic bag,  
8 and you have collected debris, and it's --

9 MS. NADDEO: From the front of their --

10 MR. GALVIN: -- some cardboard and it's  
11 clearly like --

12 MS. NADDEO: -- this is a stick that  
13 has been there forever, a lot of leaves.

14 If you look even deeper, there's even  
15 one of these things that people put their dog poop  
16 in --

17 MR. GALVIN: Uh-huh.

18 MS. NADDEO: -- that was thrown over  
19 the gate.

20 When I picked that up, my husband said,  
21 "No, don't do that."

22 And I said, "No. I have to show this."

23 This is how I live.

24 MR. GALVIN: Okay. No. You did good.

25 You did good. I just wanted to describe it because

1 we are not going to put it into the evidence.

2 COMMISSIONER MARSH: Can I ask a  
3 question?

4 This is evidence, right?

5 MR. GALVIN: I would usually kid around  
6 about that, but --

7 COMMISSIONER MARSH: We are looking at  
8 it. I mean --

9 MR. GALVIN: -- we're seeing a -- you  
10 know --

11 VICE CHAIR BRANCIFORTE: There's no  
12 objection to it, so...

13 MR. GALVIN: -- there is no objection  
14 to you looking at it --

15 CHAIRMAN AIBEL: It's a beautiful  
16 garden.

17 MR. GALVIN: -- and it's Ms. Naddeo's  
18 garden.

19 Can you provide us a picture tomorrow,  
20 that picture, could you get us that picture?

21 MS. NADDEO: Sure.

22 MR. GALVIN: Okay. Give that to  
23 Ms. Carcone.

24 COMMISSIONER MARSH: I just wanted  
25 to --

1 MR. GALVIN: Yes, please.

2 COMMISSIONER MARSH: -- if you could  
3 tell us when you took it, what time of day, what  
4 time of year? I mean, it looks like spring --

5 MS. NADDEO: I don't remember. It was  
6 last year because, you know, my plants aren't fully  
7 out yet.

8 MR. GALVIN: Okay.

9 COMMISSIONER MARSH: It would have been  
10 not too long from here, though, right, because those  
11 are spring flowers I think.

12 MR. GALVIN: Give it back.

13 MS. NADDEO: Probably last spring.

14 COMMISSIONER MARSH: You should be able  
15 to tell where that shadow is tomorrow morning.

16 MS. NADDEO: Oh, wow. I didn't see  
17 that, and that is without all of this building, and  
18 I got a big shadow.

19 MR. GALVIN: Well, part of Mr.  
20 Nastasi's argument, though, is that what he is  
21 adding isn't going to be that much --

22 MR. NATASI: The photo should be time  
23 stamped.

24 MS. NADDEO: I'm sorry. I just took a  
25 photo to show someone my garden. I didn't think --

1                   VICE CHAIR BRANCIFORTE: Well, in all  
2 honesty, Mr. Nastasi, your attorney had no problem  
3 with us looking at this, so it's kind of late to  
4 start asking for time stamps.

5                   MR. BURKE: I do think, I mean,  
6 two-thirds of this is covered in shadow, so I have  
7 no objection to showing it --

8                   MS. NADDEO: Well, I don't have shadow  
9 in my yard --

10                  VICE CHAIR BRANCIFORTE: But, Ms.  
11 Naddeo, to ask you a question, you have a fence  
12 there, and that is not a solid fence, is it?

13                  MS. NADDEO: No.

14                  VICE CHAIR BRANCIFORTE: Thanks.  
15 That is fine. I just wanted to ask  
16 that.

17                  CHAIRMAN AIBEL: I would like --

18                  MR. BURKE: Do you have a recollection  
19 as to when you took that?

20                  MS. NADDEO: Last year.

21                  MR. BURKE: So you don't know the time  
22 of day?

23                  MS. NADDEO: No, I didn't. I'm sorry.  
24 you know, I didn't expect to be here. I had  
25 pictures, but somehow in going from my house to

1 coming here, we lost them.

2 Please don't do this to me. Please.

3 That is all I am going to say.

4 Have some pity on my house.

5 CHAIRMAN AIBEL: Thanks, Mrs. Naddeo.

6 Anybody else want to give an opinion,  
7 please come forward.

8 MR. GALVIN: Raise your right hand.

9 Do you swear or affirm -- that's okay.

10 You'll do fine.

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 MR. RIBOT: Yes.

15 MR. GALVIN: State your full name for  
16 the record and spell your last name.

17 MR. RIBOT: Greg Ribot, R-i-b-o-t.

18 MR. GALVIN: You may proceed.

19 Go ahead.

20 MR. RIBOT: Yeah.

21 I just want to say that what she is  
22 saying, you know, like her backyard there, if I were  
23 in her position, I would be equally upset because I  
24 know when you put a wall up like that right against  
25 somebody's yard, it is going to make it feel a lot

1 more claustrophobic.

2 Also, I mean, peripherally, you know,  
3 there is one less rental unit here in Hoboken this  
4 means.

5 I have a three-family house, so, you  
6 know, I mean, I know apartments are sort of in short  
7 supply in this town I think, you know, so that is  
8 just what I wanted to say.

9 And also that one of the biggest  
10 selling points of the apartments in my house is the  
11 light and the air. I mean, the fact that they are  
12 light apartments, you know, because there is windows  
13 all around them. So anything that impacts, you  
14 know, that creates shadows on somebody's yard is  
15 definitely a monetary consequence.

16 You know, the more you block somebody's  
17 sky and view and light, the more of an impact it has  
18 on it. You try and sell a house, and it looks dark  
19 and dank, you know, it is going to be rough, and  
20 this does affect me a lot less than it will Ms.  
21 Naddeo, so you know.

22 But it affects me somewhat. But I just  
23 think that, you know, I don't think what she says  
24 should be minimized in any way, shape or form. You  
25 know, it definitely will have a monetary impact on

1 her.

2 CHAIRMAN AIBEL: Thank you.

3 Anybody else wish to provide an  
4 opinion?

5 Okay. Seeing nobody else.

6 COMMISSIONER COHEN: Motion to close  
7 public portion.

8 COMMISSIONER GRANA: Second.

9 CHAIRMAN AIBEL: All in favor?

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

12 CHAIRMAN AIBEL: Okay.

13 Mr. Burke?

14 MR. BURKE: Excuse me, Mr. Chairman.

15 (Counsel confers)

16 CHAIRMAN AIBEL: Yes, sir, please.

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

18 The question that came up about the  
19 parking and curb cut, I don't have an answer.

20 I also think that I allowed the  
21 photograph of the garden to be shown to the Board,  
22 but in a way, it maybe was a bit biased in that I  
23 don't know when it was taken, and what I am seeing  
24 is two-thirds of a shadow. So we are arguing that  
25 the shadow that this would cast as an increase to

1        what is there is de minimis, but we are at a bit of  
2        a disadvantage.

3                    I would like, and I hate to do this,  
4        but I cannot get a hold of my client right now  
5        because it is a corporation, and I have been trying  
6        to reach that person to discuss certain things that  
7        we would do.

8                    So I think what I would like to ask if  
9        we could carry this, and I hate to do it, but just  
10       so we can come back and answer some of the questions  
11       regarding the curb cut and a few of the other items,  
12       because I don't believe -- I believe there is a lot  
13       of good in this application.

14                   I believe esthetically, it's a huge  
15       difference, I believe, but there are some questions.  
16       In particular, the neighbor next door, and I would  
17       like to see if we could address those and carry  
18       this.

19                   CHAIRMAN AIBEL: Well, I will open it  
20       up for discussion among the Board, but we have a  
21       full application that has been presented tonight.

22                   What I was going to mention to the  
23       public was the applicant has a right to build as of  
24       right certain things, and the question is tonight:  
25       Is this something that the Zoning Board can accept

1 under the rules that we apply.

2 So we are focused on a package that Mr.  
3 Nastasi presented very well. There are some pluses  
4 and maybe there are some minuses in it that we heard  
5 tonight. I think I have heard enough that I would  
6 like to proceed to a vote, but if my colleagues feel  
7 that there are reasons they would want to defer, I  
8 would be happy to hear them.

9 COMMISSIONER MARSH: May I?

10 CHAIRMAN AIBEL: Please.

11 COMMISSIONER MARSH: I'm sorry.

12 Can I make a comment along with my  
13 opinion, or we are not allowed to deliberate at the  
14 moment?

15 MR. GALVIN: I would ask you to hold  
16 back from deliberating at this point because we are  
17 trying to decide whether or not we want to carry  
18 this to another night, and I don't think it would be  
19 a good idea to deliberate just yet.

20 COMMISSIONER MARSH: Well, in that case  
21 I think we heard this, and I don't think what I am  
22 going to say is going to be affected by whether or  
23 not -- I mean, that adds to it, but I don't think  
24 that would sway my opinion one way or another.

25 MR. GALVIN: Okay.

1 CHAIRMAN AIBEL: Mr. Grana?

2 COMMISSIONER GRANA: I think that, you  
3 know, Mr. Burke and Mr. Nastasi are arguing  
4 principally that this is a better design solution,  
5 and I've heard sufficient --

6 MR. GALVIN: No, no, don't deliberate.

7 COMMISSIONER GRANA: -- I'm just  
8 saying, I have heard sufficient testimony.

9 MR. GALVIN: Thank you, sorry.

10 COMMISSIONER GRANA: I wasn't going to  
11 deliberate. And as a result, I heard sufficient  
12 testimony tonight to vote.

13 MR. GALVIN: Okay.

14 CHAIRMAN AIBEL: Mr. Cohen?

15 COMMISSIONER MC BRIDE: I agree.

16 COMMISSIONER COHEN: Well, I think I  
17 heard sufficient testimony to vote, but I think if  
18 there is going to be a significant improvement to  
19 the plan that they are considering in light of the  
20 public criticism, then I would want to give them  
21 that opportunity to address that --

22 COMMISSIONER MURPHY: And I agree with  
23 you --

24 COMMISSIONER COHEN: -- if that is the  
25 purpose --

1                   COMMISSIONER MURPHY:  -- if that is  
2                   what they want.

3                   COMMISSIONER COHEN:  -- if that is the  
4                   purpose for this.  Frankly, I don't think it matters  
5                   whether you show us about the history of the  
6                   variance on the parking there.  I don't think that  
7                   is going to be something that would make a  
8                   difference.

9                   But if what you are going to  
10                  demonstrate would ameliorate the concerns of the  
11                  neighbors, then I would be interested in your  
12                  addressing that.

13                  If that is the purpose, then I think it  
14                  is worth having that.

15                  CHAIRMAN AIBEL:  I guess I have a  
16                  disagreement with my colleagues on this.

17                  You know, at this point, I think  
18                  accepting amendments on the fly continues to be a  
19                  very poor trend.  The applicant had the opportunity  
20                  to present a proposal.  It did.  We have heard it  
21                  fully.  The public has heard it fully.

22                  My own feeling is if there is a better  
23                  design or something that will address the comments  
24                  that we will make in our deliberations, the  
25                  applicant is free to come back with a new

1 application.

2 COMMISSIONER MARSH: I agree.

3 COMMISSIONER GRANA: I agree.

4 CHAIRMAN AIBEL: Well, I got two  
5 agreements anyhow.

6 VICE CHAIR BRANCIFORTE: Well, no, I do  
7 see it both ways also.

8 But, hey, your clients knew they were  
9 in front of the Board tonight. I am a volunteer. I  
10 made myself available. Why couldn't he make himself  
11 available?

12 MR. BURKE: Well, there is a  
13 representative here of the client, but the  
14 decision-maker unfortunately is not available at the  
15 moment --

16 VICE CHAIR BRANCIFORTE: Well, I mean,  
17 it's one of --

18 MR. BURKE: -- let me finish -- and I  
19 would like to present several things to that person  
20 and come back to this Board, which would address  
21 potentially the bulkhead issue and the curb cut, so  
22 there is a number of things.

23 Yes, we could start all over again, and  
24 it would be more time consuming unfortunately to  
25 start from square one --

1                   COMMISSIONER MARSH:  Mister -- I'm  
2                   sorry.  I didn't mean to interrupt.

3                   MR. BURKE:  -- so unfortunately, I  
4                   mean, it is very rare that I can't get a hold of the  
5                   applicant during a hearing, but this is one of those  
6                   meetings.

7                   COMMISSIONER MARSH:  Chairman Aibel, is  
8                   the bulkhead part of the variance application?

9                   CHAIRMAN AIBEL:  No.

10                  COMMISSIONER MARSH:  It is not, so I  
11                  don't -- we are talking about a variance here, not  
12                  the bulkhead and not the curb cut.  I don't know  
13                  that that is relevant.

14                  MR. GALVIN:  Well, if some of the Board  
15                  members felt that the bulkhead was too much, and you  
16                  might be inclined to vote for it, if it were  
17                  reduced, even though it's being --

18                  COMMISSIONER MARSH:  If we --

19                  MR. GALVIN:  -- we consider -- what I  
20                  have been saying to them out in the hallway --

21                  COMMISSIONER MARSH:  -- may I ask a  
22                  question before you finish?

23                  MR. GALVIN:  Sure.

24                  COMMISSIONER MARSH:  Supposing we voted  
25                  on an application that had less of a bulkhead, and

1       it was approved, and then two months later, they  
2       asked -- they went to the Zoning Board and asked to  
3       build that bulkhead --

4               MR. GALVIN: No. It's not the way --

5               COMMISSIONER MARSH: -- they can build  
6       it as of right they just said.

7               MR. GALVIN: No. This property would  
8       be nonconforming. It has variances. They can't do  
9       that.

10              COMMISSIONER MARSH: They can't?

11              MR. GALVIN: Not in my world they can't  
12       do that. I am not saying it never happens, but it's  
13       not --

14              COMMISSIONER MARSH: You can build --  
15       you can change a nonconforming lot to the acceptable  
16       lot size.

17              MR. GALVIN: They can't do that. They  
18       have variances that they have here.

19              COMMISSIONER GRANA: But just to --

20              COMMISSIONER MARSH: But everybody has  
21       a variance.

22              MR. GALVIN: They don't have a right to  
23       do -- if you have made a change that was -- if you  
24       have promised us that you are lowering -- it is part  
25       of the testimony then, too, if they promised us that

1           they were lowering the bulkhead in exchange for you  
2           granting them a variance --

3                       COMMISSIONER MARSH:   So we are going to  
4           put a deed restriction on this that says you  
5           can't --

6                       MR. GALVIN:   It doesn't have to say  
7           that.  It's part of the testimony.  I include in  
8           every one of my resolutions that if they give us  
9           testimony that they are doing X, and if they did  
10          something different, the zoning officer technically  
11          could go out and issue a notice of violation.

12                      COMMISSIONER MARSH:   And what if it's a  
13          new zoning officer, and it's a new applicant --

14                      MR. GALVIN:   It's in the resolution, if  
15          the neighbor remembers it --

16                      MR. BURKE:   The resolution is a  
17          recorded document.

18                      MR. GALVIN:   -- it is not a recorded  
19          document.

20                      MR. BURKE:   We typically do.

21                      MR. GALVIN:   No.

22                      COMMISSIONER MARSH:   No, it's not.  
23          That is why it should have a deed restriction.

24                      MR. NASTASI:   If it's a nonconforming  
25          lot because of the garages, and I go to make it --

1                   COMMISSIONER MARSH: No, it's a  
2 nonconforming lot --

3                   MR. NASTASI: -- because of the  
4 garages --

5                   COMMISSIONER MARSH: -- because of the  
6 size of the lot --

7                   MR. NASTASI: -- no. It doesn't  
8 conform because it is over the lot coverage, and I  
9 go to the zoning officer and I want to do something  
10 that's as of right --

11                   COMMISSIONER MARSH: The building is  
12 nonconforming -- the lot is nonconforming because of  
13 its size. The building is nonconforming because --

14                   MR. NASTASI: -- but because of it's  
15 nonconforming conditions, if I go to the Zoning  
16 Board with an as-of-right thing, it still gets  
17 kicked to the Board because --

18                   COMMISSIONER GRANA: Exactly.

19                   COMMISSIONER MARSH: Okay.

20                   MR. NASTASI: -- so you don't --

21                   COMMISSIONER MURPHY: This lot isn't  
22 wide enough --

23                   COMMISSIONER MARSH: I think it's not  
24 wide enough --

25                   COMMISSIONER GRANA: If I could say

1 something?

2 CHAIRMAN AIBEL: Mr. Grana.

3 COMMISSIONER GRANA: The clarification  
4 here that I think Mr. Nastasi is trying to make is  
5 no matter what changes the owner would want to make  
6 to the property, and Dennis can tell me if I am  
7 right or wrong, no matter what changes that the  
8 owner of the property may wish to make, they would  
9 probably end up in front of the Zoning Board because  
10 whatever they are doing is on a nonconforming lot.

11 MR. GALVIN: Yes, that's --

12 COMMISSIONER MARSH: No.

13 COMMISSIONER GRANA: Is that true?

14 MR. GALVIN: Well, Kristin, help me  
15 out.

16 MS. RUSSELL: Yes, it is true.

17 COMMISSIONER MARSH: Wait. Our zoning  
18 ordinance says if you build within the rest of --

19 COMMISSIONER MURPHY: No, but it's not  
20 wide enough.

21 COMMISSIONER MARSH: -- but it's  
22 already a nonconforming building --

23 COMMISSIONER GRANA: It's 17.5 by 100.

24 CHAIRMAN AIBEL: Not a nonconforming  
25 lot --

1                   COMMISSIONER MARSH:  -- but you are  
2                   allowed to build to conforming -- to a conforming  
3                   structure --

4                   MS. RUSSELL:  You can bring a building  
5                   into conformity without a variance, but this  
6                   building can't -- if they were to change the height  
7                   of the bulkhead, that is not going to suddenly make  
8                   the lot conforming.

9                   The only thing that you can do without  
10                  going to the Board is to bring it into conformity.

11                  COMMISSIONER MARSH:  We don't have a  
12                  copy of the code, right?

13                  They changed it recently.

14                  COMMISSIONER MURPHY:  The lot size was  
15                  20 --

16                  COMMISSIONER MARSH:  It is, but you can  
17                  build to 60 percent on an undersized lot as long as  
18                  it's conforming --

19                  MR. GALVIN:  I think that is correct.  
20                  You can build to 60 percent.  That is the law,  
21                  right.

22                  COMMISSIONER COHEN:  They are at 65.

23                  MR. GALVIN:  They are at 65.

24                  COMMISSIONER MARSH:  Right.

25                  Wait.  If you were at 55 before --

1       supposing you are on one of these undersized lots,  
2       and you're at 55 percent, you can build to 60  
3       percent as of right. You don't need to come before  
4       the Zoning Board, even though it is an undersized  
5       lot.

6                    COMMISSIONER MURPHY: No, I don't think  
7       so.

8                    COMMISSIONER MARSH: That's what the --

9                    MR. NASTASI: Can I clarify this?

10                   COMMISSIONER GRANA: We're  
11       deliberating.

12                   MR. NASTASI: Because of the garage, we  
13       are 80 percent, so anything that we do on this  
14       property, we're getting kicked back to the Board.

15                   COMMISSIONER MARSH: That's what --

16                   MR. GALVIN: If they removed the  
17       garages, and they brought this down to 60 percent,  
18       but I am still showing other variances, okay --

19                   COMMISSIONER MARSH: Okay, okay.

20                   MR. GALVIN: -- so they would have to  
21       remove all of those other variances from my list,  
22       masonry and -- but I get what you are saying.

23                   There is a possibility out there that  
24       somebody could take a lot that has variances on it,  
25       that we granted relief for, knock the building down,

1 and go see the zoning officer and build something  
2 that's completely different than we approved, but  
3 that is okay, because that's what we want them to  
4 do.

5 COMMISSIONER MARSH: That is not what I  
6 was saying. That's not what I was saying, okay?

7 MR. GALVIN: No.

8 But, in my opinion, if there is any  
9 property, and I get it, the nonconforming structure,  
10 if you could add something that is conforming, does  
11 it somehow slip through based on a new ordinance. I  
12 am not positive, okay?

13 But normally the view is that you have  
14 variance relief on a property, you don't get to do  
15 whatever you want.

16 If it affects any of that variance  
17 relief, you have to come back to the Board.

18 COMMISSIONER MARSH: I still think we  
19 should vote on it tonight --

20 MR. GALVIN: Okay. No problem. I'm  
21 not -- I'm certainly not --

22 COMMISSIONER MARSH: -- I do. We heard  
23 the application. If the decision-maker is not here,  
24 I am sorry, but I am here.

25 CHAIRMAN AIBEL: Okay.

1                   So do we need to have further  
2                   discussion on this?

3                   Are we comfortable moving forward, or  
4                   do you want to have a vote on that?

5                   VICE CHAIR BRANCIFORTE: I feel  
6                   comfortable voting on it tonight.

7                   CHAIRMAN AIBEL: Okay. I do as well.

8                   MR. GALVIN: Listen, I can tell you  
9                   right now you have at least four individuals that  
10                  are voting that are ready to go, so I think that you  
11                  should proceed.

12                  Duly noted. I would love to have the  
13                  picture in the record. I would like to have more  
14                  information about the curb cut, but I think you have  
15                  already expressed that you don't feel that you need  
16                  it, that you don't need that information in order to  
17                  make your decision, so please proceed.

18                  CHAIRMAN AIBEL: I would like to open  
19                  it up for discussion, Board members?

20                  MR. GALVIN: Now you can tell me.

21                  COMMISSIONER MARSH: Now I can tell  
22                  you?

23                  CHAIRMAN AIBEL: Ms. Marsh?

24                  VICE CHAIR BRANCIFORTE: Well, do we  
25                  need to hear from the attorney?

1                   CHAIRMAN AIBEL: We did.

2                   COMMISSIONER MARSH: I think we have  
3                   been discussing this whole application as if the  
4                   garages didn't exist, but the garages do exist. And  
5                   we're -- you know, I understand the comment about  
6                   the bulk, that they are actually building less bulk,  
7                   but the bulk the way it is situated is only, you  
8                   know, the open spaces is not relevant because it is  
9                   on the sidewalk side, and I can tell from personal  
10                  experience that a building that sticks out two feet,  
11                  even if -- I mean, even if it doesn't technically  
12                  affect the sunlight, which this one does, and it is  
13                  going to affect it differently at different times of  
14                  the day.

15                  At noon, it is going to show the shadow  
16                  north and south, not when it is like at ten in the  
17                  morning when it stretches as far as possible.

18                  But a five foot wall on your property  
19                  line is a lot. That is a big wall. That is the  
20                  size of, you know, my niece, you know, not me, but  
21                  my niece laying down. You know, this is a two-story  
22                  wall anyway with a roof deck on top of it, and I  
23                  don't see how it benefits anybody except the owner  
24                  personally.

25                  CHAIRMAN AIBEL: Thank you.

1 Anybody else wish to comment?

2 COMMISSIONER GRANA: Yes.

3 CHAIRMAN AIBEL: You are usually ready.

4 COMMISSIONER GRANA: Hum, so I know we  
5 heard a lot about -- hum, I know we heard a lot  
6 about, hum, different things like the curb cuts and  
7 the bulkheads.

8 I understand there is an issue with the  
9 bulkhead, not so much with the curb cuts, because  
10 parking is here. It has been occurring here for  
11 some time. It looks like there is a property right  
12 next door.

13 But the challenge for me with this  
14 application is very simple, and I think it has very  
15 little to do actually with the architect's testimony  
16 because I understand the desire to build on an  
17 existing structure, and I think, and this is really  
18 important, I am not sure it came through clear in  
19 all of the testimony, but it was clear to me that  
20 what was being discussed was not whether or not a  
21 structure goes up here, but the delta between a  
22 potential as-of-right structure and what they wish  
23 to build using this foundation.

24 It sounds great because actually when I  
25 look at the final product, I think it is a better

1 design solution.

2 If you look at what they are proposing,  
3 it matches quite handsomely with the building across  
4 the street and quite handsomely and quite  
5 complimentary to the building that is catty corner.

6 The issue is that this property, you  
7 know, benefits from a garage, and that garage is  
8 triggering an 80 percent lot coverage on this lot,  
9 if this is approved, and I don't think that we have  
10 historically allowed that kind of lot coverage.  
11 That would be my challenge with this application.

12 VICE CHAIR BRANCIFORTE: What was that?

13 COMMISSIONER GRANA: Nothing to do with  
14 the design itself.

15 VICE CHAIR BRANCIFORTE: What were you  
16 saying again about the garages and the --

17 COMMISSIONER GRANA: The challenge is  
18 that you are going to have 80 percent lot coverage  
19 on this lot with this proposed development.

20 While I think it is a great design  
21 solution, you are going to trigger 80 percent lot  
22 coverage, and it hasn't been addressed in the  
23 application.

24 CHAIRMAN AIBEL: Anybody else?

25 COMMISSIONER MURPHY: Well, I guess,

1       you know, for me I am also challenged by this  
2       because, you know, they are saying that they, you  
3       know, want to build on top of this little extension  
4       to the back of the house. But if they cut off the  
5       five feet, they can still go up, and they could go  
6       all the way up as of right.

7                   COMMISSIONER GRANA: I am not sure that  
8       is true, is it?

9                   Would there still be a variance?

10                  COMMISSIONER MURPHY: Oh, because of  
11       the --

12                  MR. GALVIN: No. It is not true,  
13       because they would have to knock down the garage.

14                  COMMISSIONER GRANA: Because they would  
15       still have to knock down the garage.

16                  COMMISSIONER MURPHY: The garage -- I  
17       got you. Right. But they could leave it the way it  
18       is because it is preexisting?

19                  MR. GALVIN: No. I think that is a  
20       faulty premise, and that's what I've been trying to  
21       get across to everybody is that --

22                  COMMISSIONER MURPHY: Okay.

23                  MR. GALVIN: -- there is practicality.  
24       When you have an existing structure, we don't want  
25       to destroy that structure, if we can avoid it.

1                   But when an applicant seeks a variance,  
2                   variance relief, even though they have preexisting  
3                   conditions and preexisting circumstances, everything  
4                   is on the table for the Board. So that is why the  
5                   zoning officer or our planner should list all of the  
6                   proposed variances and all of the existing variances  
7                   because you look at everything. You look at the  
8                   four corners of the lot, and you look at the  
9                   ultimate solution, so they don't really have any  
10                  entitlement to a side yard setback variance or to  
11                  the fact that the garage is there.

12                  If you think that this is otherwise a  
13                  good proposal, then okay.

14                  I mean, this couldn't be an as-of-right  
15                  project ever if it has parking here because parking  
16                  is not permitted in the zone, but they could take  
17                  everything away and build an as-of-right building  
18                  and one that went higher and might have cast a  
19                  shadow more so onto Mrs. Naddeo's property. I think  
20                  that is a possibility.

21                  COMMISSIONER GRANA: That is my point  
22                  about my struggle here about the 80 percent lot  
23                  coverage, while I actually think that the design  
24                  solution that's been presented is a pretty good one.

25                  Commissioner Cohen?

1 COMMISSIONER COHEN: Yeah.

2 You know, I mean, I think the biggest  
3 frustration that Ms. Naddeo had, which I think would  
4 be addressed is that if you have this converted into  
5 a single-family home with a beautiful front with a  
6 proud homeowner that takes care of their property, a  
7 lot of the things that are upsetting will go away,  
8 and this is a beautiful design for a beautiful  
9 house.

10 My concern is not having the uniform  
11 roof line, and I recognize that it may not drive the  
12 heart of the variance, but I mean when you look down  
13 these historic blocks, where you see a single line  
14 of the roof, you know, it's a problem.

15 Now, I was satisfied by the fact that  
16 you are not going to see that. It's not going to  
17 impact you from the walk in, and if we do approve  
18 this, I'm going to want to have drawings that show  
19 that, to establish that. But it still will impact  
20 Ms. Naddeo's family and Mr. Ribot's view in the  
21 back, and it will affect the neighbors because it is  
22 situated on that side.

23 So for me, that is an unfortunate  
24 aspect of this. I don't know that the elevator is  
25 necessary for this project. In order for this to be

1 a beautiful design without that elevator, I think  
2 there would be a lot less of an impact on the  
3 neighborhood. For really not making that big of a  
4 difference in what is otherwise a beautiful design,  
5 but that's my misgiving about it.

6 But other than that, I think that it  
7 would help the neighborhood, and it would be a  
8 beautiful addition, but for that.

9 I am not dead set against this  
10 application, but that is my concern.

11 COMMISSIONER MC BRIDE: I only add  
12 that, in my opinion, we have 80 percent lot coverage  
13 now as a fact, so unless we ask them to tear  
14 something down, it is not going to get any better.

15 It is an improvement. It is an ugly  
16 addition to the building. If you look down the  
17 backyards, there are some other add-ons that got  
18 there somehow, so this wouldn't be the first add-on,  
19 and I don't have a problem with an uneven roof line,  
20 so I think it is an improvement.

21 COMMISSIONER JOHNSON: I think  
22 design-wise, it looks like -- it does look like an  
23 improvement, more in conformity with the block.

24 But my issue is kind of, you know, the  
25 property is a bit, I would think, a bit of an

1           encumbrance on the neighbors in the area.

2                     One: It takes up a lot of parking  
3 spots to begin with. Then now, on top of that, you  
4 are asking for additional stories above it.

5                     I think there has to be some type of a  
6 give and take here, so, you know, with the  
7 assumption -- I guess we were going off of the  
8 assumption that they had an as-of-right to build on  
9 top of that. But if that is not the case, I think  
10 there has to be some type of give and take in this  
11 situation. Either the parking has to go, or you get  
12 the additional, you know, the unit.

13                    CHAIRMAN AIBEL: Anybody else wish to  
14 comment?

15                    VICE CHAIR BRANCIFORTE: I was waiting  
16 to hear from everybody else because I don't have  
17 much to say. I don't know how to verbalize it.

18                    But I just think back to when I lived  
19 on Garden Street, and the neighbor two or three  
20 doors down put an addition on, and it ended up in  
21 front of the Zoning Board. On appeal, it actually  
22 ended up in front of the Zoning Board, and it just  
23 reminds me how in a congested city like Hoboken, we  
24 fight for every square inch of light and for every  
25 cubic foot of air we can.

1                   And the fact that the shadow study  
2 shows this yellow outline of what is allowed to be  
3 built versus what they want to be built in blue, and  
4 given the fact that there is a slight difference,  
5 you are going to say, well, it is de minimus. That  
6 is typical of what an applicant always says.

7                   You know, I don't think I can vote for  
8 this, and that is part of it, and the other part is  
9 it is 80 percent lot coverage.

10                  The other thing, too, is, you know, you  
11 show in the shadow study that everything -- all of  
12 the fences are solid. Yet, in the picture that we  
13 were shown, the fence was see-through, and light was  
14 able to pass through it, so I am questioning the  
15 shadow study in general right now, so that is all I  
16 have to say.

17                  CHAIRMAN AIBEL: All right. I will  
18 make some quick -- are you okay?

19                  COMMISSIONER COHEN: Yes.

20                  CHAIRMAN AIBEL: -- I'll make some  
21 quick last comments. I think everybody has touched  
22 on a number of the issues for me.

23                  I don't believe, and I will start right  
24 off, the design is beautiful. You know, I am sure  
25 it would be great in the right place, but it was I

1 think a little bit insensitive to the neighbor to  
2 the north. I think I would encourage the applicant  
3 to give thought to moving the bulk of the extension  
4 to the lot line on the south side.

5 I don't know why the foundation of  
6 this, you know, very, very modest and probably not  
7 very well constructed extension dictates or drives a  
8 65 foot building.

9 I am comfortable that the architect and  
10 the engineers can create a beautiful house that  
11 would be 60 feet and minimize the impact on the  
12 donut. The fact that we have a question about the  
13 curb cut for the third car is troublesome to me.

14 We have heard these kind of  
15 applications before, and I think we have to be  
16 particularly vigilant of ensuring that any curb cuts  
17 are legal and properly in force, not grandfathered,  
18 because as counsel said, everything is on the table  
19 tonight.

20 I have concerns that the third car  
21 creates an eyesore, where we can turn that middle  
22 area of the lot into a beautiful garden, which would  
23 benefit the neighborhood, so I am not really seeing  
24 any benefit to the neighborhood by keeping ground  
25 parking outdoors.

1                   The bulkhead I thought could be  
2                   engineered in a much more sensitive way. I would  
3                   encourage that.

4                   It is a very large house. There was a  
5                   question initially about whether there was a right  
6                   to build in the cellar without a use variance. It  
7                   wasn't a cellar. I will grant that the proofs  
8                   appear to demonstrate that it was a basement. But  
9                   this is a very large four-story house, and I hope  
10                  that the architect and the applicant can create  
11                  something a little bit more mindful of the  
12                  neighbors.

13                  And if there is nothing else, I think  
14                  we're ready for a motion.

15                  VICE CHAIR BRANCIFORTE: I'll make a  
16                  motion to deny.

17                  CHAIRMAN AIBEL: Do I have a second?

18                  COMMISSIONER MARSH: I'll second it.

19                  MS. CARCONE: Okay. Commissioner  
20                  Branciforte?

21                  VICE CHAIR BRANCIFORTE: Yes, to deny.

22                  MS. CARCONE: Commissioner Cohen?

23                  COMMISSIONER COHEN: No.

24                  MS. CARCONE: Commissioner Grana?

25                  COMMISSIONER GRANA: Yes.

1 MS. CARCONE: Commissioner Marsh?

2 COMMISSIONER MARSH: Yes.

3 MS. CARCONE: Commissioner Murphy?

4 COMMISSIONER MURPHY: Yes.

5 MS. CARCONE: Commissioner McBride?

6 COMMISSIONER MC BRIDE: No.

7 MS. CARCONE: Commissioner Aibel?

8 CHAIRMAN AIBEL: Yes, to deny.

9 MS. CARCONE: It's denied.

10 CHAIRMAN AIBEL: Thank you, Mr. Burke.

11 COMMISSIONER GRANA: Thank you, Mr.

12 Burke.

13 CHAIRMAN AIBEL: Okay. We are going to

14 take a ten-minute break, and then turn to 522

15 Hudson.

16 (Recess taken)

17 (The matter concluded at 9:30 p.m.)

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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.  
Dated: 5/18/16  
This transcript was prepared in accordance with  
NJAC 13:43-5.9.

HOBOKEN ZONING BOARD OF ADJUSTMENT  
CITY OF HOBOKEN  
HOZ-15-39

- - - - - X  
RE: 522 Hudson Street : Tuesday, 9:45 pm  
Block 216.01, Lot 27, Zone R-1 : May 17, 2016  
Applicant: Bradley & Nora Kodak :  
Site Plan Review & Variances :  
- - - - - X

Held At: 94 Washington Street  
Hoboken, New Jersey

B E F O R E:

- Chairman James Aibel
- Vice Chair John Branciforte
- Commissioner Philip Cohen
- Commissioner Antonio Grana
- Commissioner Carol Marsh
- Commissioner Diane Fitzmyer Murphy
- Commissioner Edward McBride
- Commissioner Cory Johnson
- Commissioner Frank DeGrim

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

- Kristin Russell, Planning Consultant
- Patricia Carcone, Board Secretary

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1                   CHAIRMAN AIBEL: We are back. Court is  
2 in order, Mr. Matule.

3                   Thank you for waiting.

4                   522 Hudson Street.

5                   MR. MATULE: Yes.

6                   Good evening, Mr. Chairman, and Board  
7 Members.

8                   Robert Matule appearing on behalf of  
9 the applicant.

10                  Just some opening remarks, if I might.  
11 This is an application for an accessory apartment on  
12 Court Street at 522 Hudson Street. The property was  
13 renovated approximately in 2009, the principal  
14 structure on Hudson Street, into four residential  
15 condos.

16                  At the time that was done, a fifth  
17 condo unit, if you will, was created for the parking  
18 pad that was on Court Street, and I believe at one  
19 time there may have actually been a garage structure  
20 there, and just a cement pad is there now, where two  
21 cars are parked, and the tax records currently list  
22 it that way, as Condo Unit 5, with two parking  
23 spaces.

24                  I have supplied the Board Attorney with  
25 copies of the condo documents, but they contemplated

1 at a point in the future that this, in fact, would  
2 be developed into an accessory apartment as  
3 permitted under the code.

4 If the Board would like, I have extra  
5 copies of that language from the master deed that I  
6 could provide for whatever it is worth.

7 MR. GALVIN: I forgot that this was the  
8 case.

9 Let me just say for the Board's  
10 information and for Pat.

11 I am satisfied in this case, and I  
12 think we should proceed, but, you know, what I am  
13 concerned with in the future with all of these like  
14 little, if you have a condo, a form of ownership,  
15 and somebody wants to come in and do an improvement.  
16 Let's say that they have 55 percent lot coverage,  
17 and there are two units, and they want to do five  
18 percent.

19 Well, they took up that -- the next  
20 person wants to come back and do the same kind of  
21 deck or addition, now they are going to need a  
22 variance to do it.

23 In other words, we had one not that  
24 long ago, a different example, where there were two  
25 unit owners. One of them wanted to expand a deck or

1 to make a small expansion, but the front of the  
2 house looked like ugly. It really looked like it  
3 needed to be renovated, and the Board was afraid to  
4 say renovate this front because the person was kind  
5 of saying, well, I am only one unit owner, I can't  
6 do the whole front.

7 And what I am saying is the condominium  
8 owns the property. The condominium owns the whole  
9 project, so if you want an improvement, like clean  
10 up the front facade or replace the windows, you  
11 shouldn't be held back by the fact that they only  
12 have one of the two units or one of the four unit  
13 owners.

14 COMMISSIONER MARSH: May I ask a  
15 question along those lines?

16 You know, I only lived in one condo in  
17 my life, but in that condo I didn't own the space  
18 outside. I am not an applicant. The condo  
19 association is.

20 MR. GALVIN: That is what I am saying.

21 COMMISSIONER MARSH: Yeah, because --

22 MR. GALVIN: We are agreeing actually.

23 But in this case, where you have like a  
24 two unit, it's like a duplex, and one condo unit is  
25 in one, and they want to put on a little deck, and

1 the other person says, yeah, go ahead and see if you  
2 can get it, you know, I just think we have to at  
3 least understand that the condominium, the whole  
4 property, is in front of the Board, that you  
5 shouldn't be held back by the fact that it's only  
6 one -- in these smaller condos, that you're being  
7 held back because it is one person, and they can't  
8 afford to do the whole project.

9 COMMISSIONER MARSH: What do you mean,  
10 not hold back?

11 MR. GALVIN: Like if you don't like --I  
12 guess I am not articulating it well.

13 If the front of the building looks like  
14 garbage, and you want it to get upgraded --

15 COMMISSIONER MARSH: Right.

16 MR. GALVIN: -- if you feel that you  
17 would need that, if there was a developer coming in  
18 for these two units, whatever you would want for  
19 that developer should be the same thing you should  
20 want if it's an individual condo unit coming in and  
21 seeking it, and I think that is the problem.

22 They want to take the advantage of  
23 being a condo and having, you know, be beyond zoning  
24 and subdivide, but it's not a subdivide piece of  
25 property. There is not -- Unit 1 and Unit 2 aren't

1 subdivided. They are still for purposes of zoning,  
2 it is one building.

3 CHAIRMAN AIBEL: Is the owner of the  
4 garage unit also an owner in the --

5 MR. MATULE: Yes. The owner of the  
6 garage unit owns the ground floor condo in the  
7 building.

8 But, as I was saying, if I could just  
9 submit this, I am going to mark it A-1 and give the  
10 Board Secretary a copy, but that document  
11 specifically provides that no further consent of the  
12 condo association is required. Notwithstanding that  
13 fact as part of this application, we did submit a  
14 letter from the condo management company indicating  
15 that they consented to the application being filed.  
16 It's sort of a belt and suspenders.

17 (Exhibit A-1 marked)

18 COMMISSIONER MARSH: If I want to read  
19 this, then you have to stop talking because I can't  
20 read and listen.

21 MR. MATULE: Okay.

22 (Pause)

23 COMMISSIONER MARSH: What is this from?

24 VICE CHAIR BRANCIFORTE: This is from  
25 the master deed you say?

1                   MR. MATULE: This is from an excerpt  
2 from the master deed for 522 Hudson Street  
3 condominium.

4                   My point being that I am just giving it  
5 to you as anecdotal evidence of the fact that the --  
6 when this originally was converted to condominiums,  
7 this -- what we are doing here tonight was  
8 contemplated to take place at some point in the  
9 future back then.

10                   (Pause)

11                   CHAIRMAN AIBEL: I think we should --

12                   MR. MATULE: And when Ms. Marsh tells  
13 me to stop talking --

14                   CHAIRMAN AIBEL: Yes, really, that was  
15 pretty hard.

16                   COMMISSIONER MARSH: Sorry. I was  
17 actually asking.

18                   MR. MATULE: -- I am only being  
19 factitious.

20                   COMMISSIONER MARSH: I live with a lot  
21 of engineers. You have to be blunt. I'm sorry.

22                   MR. MATULE: So Mr. And Mrs. Kodak,  
23 the applicants, they are now requesting variances to  
24 construct this accessory apartment.

25                   As I am sure you have learned, as I

1 have learned recently, the Board Attorney and the  
2 Planner have taken the position that due to the  
3 Massaro (phonetic) case, even though accessory  
4 apartments are called out as a conditional use in  
5 the R-1 Zone because the conditions are not set  
6 forth under the section of the ordinance that lists  
7 conditions, that based on that case, we need a D-1  
8 use variance to have an accessory apartment.

9 MR. GALVIN: Right. So we need to fix  
10 the ordinance, and we have been talking about it.

11 MR. MATULE: Right.

12 And I am sure that will happen, but in  
13 the meantime, in order to clear the legal hurdles we  
14 have to clear, we are asking for a D-1 use variance  
15 to have the accessory apartment on Court Street.

16 We are also asking for a D-5 density  
17 variance, because the principal structure on Hudson  
18 Street has four units in it, and based on the lot  
19 size, that makes that a nonconforming use because as  
20 of right with the 660 denominator, they are only  
21 allowed to have three units on the site.

22 This accessory apartment will create a  
23 fifth unit on the site. I think this is an issue  
24 that Mr. Galvin and I will be spending some time  
25 researching in the future on another case, but I

1 would certainly submit that if the Board finds  
2 sufficient evidence to grant a D-1 variance for the  
3 accessory apartment, I think the need for a density  
4 variance is sort of subsumed into that D-1 variance  
5 because I don't know how you could have an accessory  
6 apartment without the occupancy that goes along with  
7 that.

8 But be that as it may, we are also  
9 asking for that D-5 density variance.

10 We are also asking for a C variance for  
11 height because we are requesting two floors within  
12 the 30 foot envelope that the ordinance calls out,  
13 and we also --

14 MR. GALVIN: But we are only treating  
15 it as a C-2 --

16 MR. MATULE: Right.

17 MR. GALVIN: -- because the garage is  
18 an accessory structure, and the law says ten feet,  
19 ten percent of the principal structure, so this is  
20 an accessory structure, it is only a C variance.

21 MR. MATULE: Correct.

22 MR. GALVIN: But if we're going to  
23 treat it -- I gave this a lot of thought today, so I  
24 want to tell you this.

25 That if we were to treat it as a

1 principal structure, I got good news. It complies,  
2 because a principal structure can be 40 feet in  
3 height, so it wouldn't become -- if the garage is a  
4 principal structure, it doesn't become a problem  
5 until it exceeds 40 feet in height --

6 MR. MATULE: We also waive --

7 MR. GALVIN: Hold on. Hold on.

8 Mr. Grana?

9 COMMISSIONER GRANA: So are you saying  
10 that as an accessory structure, we should treat this  
11 within the 40 foot height threshold or to a  
12 different threshold?

13 MR. GALVIN: I am not sure. We have to  
14 tease it out a little bit.

15 COMMISSIONER GRANA: Okay.

16 MR. GALVIN: What we are saying is if  
17 you treat the garage as a dual principal use, you  
18 don't need a height variance, in my opinion, if it's  
19 at 30 feet.

20 If it is an accessory structure, then  
21 you need a C-2 variance for the height because it  
22 exceeds the accessory structure height.

23 COMMISSIONER GRANA: And the accessory  
24 height limit is at 30 feet?

25 MR. GALVIN: Kristin?

1 MS. RUSSELL: Two stories and 30 feet.

2 COMMISSIONER GRANA: Two stories and 30  
3 feet.

4 Thanks for clarifying.

5 MR. GALVIN: Great job.

6 COMMISSIONER MURPHY: So really it's  
7 the story that's the issue that triggers it --

8 MS. RUSSELL: Yes.

9 COMMISSIONER MURPHY: -- and it's still  
10 staying within the correct height.

11 MS. RUSSELL: Yes.

12 COMMISSIONER COHEN: Right.

13 COMMISSIONER MURPHY: But if it were a  
14 main building --

15 MR. GALVIN: It would be conforming.

16 COMMISSIONER MURPHY: -- right.  
17 Because we don't worry about stories any more. We  
18 only care about the height.

19 MR. GALVIN: Correct, and it would be  
20 within the height limit.

21 COMMISSIONER MURPHY: Uh-huh. But  
22 which wouldn't -- it would still be 30 feet, not 40.

23 MR. GALVIN: The accessory structure  
24 would be -- the garage would be 30, but it would be  
25 less than 40, which is the principal standard, the

1 standard for a principal building, but I don't think  
2 you have to treat it as that.

3 The other thing to keep in mind is, we  
4 are getting harassed right now one block away over I  
5 think at some point technicalities. I think in this  
6 instance, we are not sure which way to call it, and  
7 that's why we are being conservative and we're  
8 including more variances than I think are necessary.

9 Does that help?

10 COMMISSIONER MURPHY: Uh-huh.

11 MR. GALVIN: And you guys ultimately  
12 have to figure out if this is just the accessory  
13 garage on steroids, or if it is a second principal  
14 use. But if it is, they have noticed properly, and  
15 you can grant it, if you think it is justifiable.

16 MR. MATULE: The other issue, which I  
17 think is also a new issue, and Kristin in her report  
18 called out a C variance for parking because we have  
19 two parking spaces.

20 In the parameters of -- in the R-1 Zone  
21 under the Court Street Subdistrict, parking is  
22 permitted for an accessory apartment, one space, so  
23 I think to be conservative, Ms. Russell has said,  
24 well, you have two spaces, so you may need a parking  
25 variance for that second parking space.

1                   MR. GALVIN: It sounds like she is  
2 right.

3                   MR. MATULE: So if, in fact, that  
4 is -- heretofore, I think it has always been treated  
5 as a minimum rather than a maximum --

6                   MR. GALVIN: Oh.

7                   MR. MATULE: -- but, be that as it may,  
8 we are requesting to amend our application to ask  
9 for that C variance, notwithstanding the fact there  
10 is already two parking spaces there. It is on the  
11 tax records as two parking spaces, and we would like  
12 to maintain those two, but except in an enclosure.

13                   MR. GALVIN: And as I said in the last  
14 case, there is no entitlement to those preexisting  
15 operations.

16                   MR. MATULE: Yes. I understand, so I  
17 am just trying to get it all out there, so when we  
18 start the testimony, we know what we are looking to  
19 do.

20                   And then lastly, Ms. Russell called out  
21 expansion of a nonconforming structure because of  
22 the density.

23                   I don't know about that one, because we  
24 are not expanding the principal structure, and I  
25 think the fact that we are asking for both the D-1

1 to have the accessory apartment and the D-3 for -- I  
2 mean the D-5 for density, you know, no harm, no  
3 foul. We will ask for it, if you think we need it,  
4 but I think it all sort of --

5 MR. GALVIN: I am making the same  
6 argument here that we made in 606 in Faucher.

7 The Board hasn't gotten a copy of that  
8 yet, but the Faucher case, where Faucher appealed  
9 it, in the Faucher case, the Court basically found  
10 that the Board made a good decision, but we didn't  
11 address density, and I don't know that we addressed  
12 density, either myself or Mr. Matule because it  
13 wasn't obvious to us it wasn't called out.

14 So the Court basically said, they  
15 affirmed what we decided, but wanted to remand it to  
16 us for findings on the issue of whether or not -- on  
17 the density, on whether or not the site could  
18 accommodate the deviation from the density standard.

19 Anyway, they are appealing, and I am  
20 not so sure that you are going to get a chance to  
21 comment on that while it is on appeal, or we will  
22 find out that they have to come here first. I don't  
23 know.

24 But regardless, I think the judge is  
25 wrong. I think if we considered to the D-1

1 standard, it probably incorporates the D-5. But  
2 what the judge said is there is no case law  
3 specifically on my point. So the same thing here, I  
4 think the fact that they are asking for a D  
5 variance, if you meet the highest standard,  
6 everything else -- you're finding everything else is  
7 included by way of the site is particularly suited  
8 for the project that you're --

9 MR. MATULE: One last variance that  
10 was called out was -- and we are going to in  
11 testimony amend the plan was the air conditioning  
12 condenser on the roof was within three feet of the  
13 lot line. An oversight, I am sure, but we will be  
14 amending the application, or the architect's  
15 testimony will talk about the fact that it will be  
16 moved, so it meets that three foot parameter, and we  
17 don't need that variance.

18 So having gotten all of that out, what  
19 I would like to do now is have Mr. McNeight come up,  
20 and we can have him describe the project, and then  
21 we can go into Mr. Ochab's testimony.

22 MR. GALVIN: Mr. Grana, are you okay?

23 COMMISSIONER GRANA: I just wanted to  
24 clarify that your counsel on that last point is that  
25 these other variances are subsumed in the D-1, if we

1 overcome that hurdle.

2 MR. GALVIN: That is my view, and that  
3 was my view previously also, so...

4 COMMISSIONER GRANA: Okay. Thank you.

5 VICE CHAIR BRANCIFORTE: Now, when the  
6 planner gets up, we will discuss whether this should  
7 be considered principal or accessory, or that is  
8 just not in question any more?

9 MR. GALVIN: Let's see how the case  
10 flows and let's see how you feel about it, okay?

11 VICE CHAIR BRANCIFORTE: Got you.

12 MR. GALVIN: Okay.

13 Raise your right hand.

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

17 MR. MC NEIGHT: I do.

18 J A M E S M C N E I G H T, having been duly sworn,  
19 testified as follows:

20 MR. GALVIN: State your full name for  
21 the record and spell your last name.

22 THE WITNESS: James McNeight,  
23 M-c-N-e-i-g-h-t.

24 MR. GALVIN: Mr. Chairman, do we accept  
25 Mr. McNeight's credentials?

1 CHAIRMAN AIBEL: Yes, we do.

2 MR. GALVIN: All right.

3 MR. MATULE: All right.

4 Mr. McNeight, before you begin your  
5 testimony, I see you have some boards here.

6 Could you -- so we are going to take  
7 the first board and we're going to mark it A-2.

8 If you could just describe for the  
9 record what it is.

10 (Exhibit A-2 marked)

11 THE WITNESS: A-2 is a facade drawing  
12 on the proposed building and two contextual  
13 photographs of Court Street.

14 MR. MATULE: Okay. And then I see you  
15 have another photo.

16 THE WITNESS: Yes. This is another  
17 single photo that is going to be A-3.

18 MR. MATULE: I will put that on the  
19 back. It is a nice picture.

20 (Exhibit A-3 marked)

21 THE WITNESS: Another Court Street  
22 building that references the house where the  
23 proposed building is going to be built.

24 MR. MATULE: Okay.

25 And you have a set of the plans?

1                   THE WITNESS: These are the same set  
2 that the Board has revised, the 9th of February.

3                   MR. MATULE: So could you describe the  
4 existing site and the surrounding area for the Board  
5 members?

6                   THE WITNESS: Yes.

7                   So this is located in the R-1 Zone. It  
8 is also located in the Court Street overlay zone.

9                   It fronts on Hudson Street. It is a  
10 hundred feet deep and goes back to Court Street.  
11 It is 22.42 feet wide, which is 22 feet five inches,  
12 a hundred feet deep.

13                  The principal building is 60 feet eight  
14 inches deep. We are proposing to leave the 20 foot  
15 gap between the principal building and the accessory  
16 building, so that leaves the depth of our proposed  
17 accessory building at 19 feet four inches, so it  
18 will be the 22 feet five inch width of the property,  
19 and 19 feet four inches deep.

20                  As we stated before, I will just  
21 reference my drawing here, let me just mention also  
22 even though we are not in the historic zone, we went  
23 to the Historic Commission because there is some  
24 controversy whether or not any Court Street building  
25 goes to the Historic Commission, so we did go into

1 the Historic Commission, and this facade design has  
2 been sanctioned by them.

3 Let me just discuss, it's entirely  
4 brick, the building, as far as the masonry is  
5 concerned. This big arch borrows the nice 19th  
6 Century arch of a building that is between Sixth and  
7 Seventh on Court Street.

8 And the top, instead of having any kind  
9 of a wood cornice or any other kind of cornice, it  
10 has corbel brick, like this building I did on the  
11 corner of Seventh and Court Street 15 years ago.

12 But basically what you see here on my  
13 drawing is the corbeling of that brick, so the brick  
14 itself becomes the embroidered edge of the top of  
15 the building, so esthetically that is what that is  
16 about.

17 This picture is the site where these  
18 bushes are, so you have this one-story garage here  
19 with this rather rough wall facing our property, so  
20 it is this gap between that rough wall and this  
21 telephone pole that is the 22 feet five inches.

22 As Mr. Matule said, this proposed  
23 structure was in mind when this main building was  
24 renovated, and it already has all of the utilities  
25 stubbed out ready to go right underneath this pile

1 of dirt that is there now. But there is gas,  
2 electric, sewer and water to service this building  
3 already.

4 So let me just go through our drawings.  
5 You will hear testimony as to the zoning chart after  
6 me.

7 So basically if you look at Z-2, you  
8 will see the facade, which is just the smaller  
9 version of that larger drawing that you saw there.

10 The south side, there is this very  
11 large building that comes all the way back from  
12 Court Street, that the reason you don't see all of  
13 the south elevation is that extra foot is where the  
14 big building overlaps where we are going to be  
15 touching it.

16 So you have the front facade, the side  
17 facade, which is basically just solid brick, and the  
18 rear facade that is going to be facing the principal  
19 building.

20 The first floor has a residential  
21 lobby. It also allows people coming down from the  
22 fire escape from the principal building to escape to  
23 Court Street through that hallway.

24 The second floor has a living room, a  
25 kitchen and a powder room, and the third floor is a

1 single bedroom and a single bath.

2 The roof of the structure has a scuttle  
3 that you can go up the stairway and access the roof  
4 to service the mechanical equipment.

5 As Mr. Matule said, we are going to  
6 back that equipment off of that south property line  
7 by three feet.

8 That one condenser that is up there is  
9 controlled -- this is a relatively small building --  
10 that one condenser is going to control all -- both  
11 air conditioning systems on the two floors. It is  
12 surrounded by a sound deadening device.

13 The roof itself is going to be made out  
14 of white vinyl, so it is highly reflective.

15 The facade calculations show that the  
16 building has both the necessary amount of masonry on  
17 its solid area, and it has the necessary amount of  
18 fenestration to satisfy the fenestration code.

19 MR. MATULE: And if I might, just the  
20 door that is on there, that looks like I guess a  
21 sliding --

22 THE WITNESS: Yeah. They made it look  
23 like they are stable doors, but it is actually a  
24 four piece overhead door that is, you know, a  
25 typical overhead door that goes over the car.

1                   MR. MATULE: So there will be no  
2 protection of the door out into Court Street?

3                   THE WITNESS: Correct, because Court  
4 Street is only 20 feet wide.

5                   MR. MATULE: And in your photo that's  
6 marked A-2, the better part of the street is  
7 cobblestones. If during the course of construction,  
8 if any of those cobblestones are disturbed, they  
9 would be reset and put back in place?

10                  THE WITNESS: Correct. Yeah.

11                  The interface between Court Street and  
12 the facade of the building will be buttoned up so  
13 it's nice cobblestone right to the garage door and  
14 to the main entrance.

15                  MR. MATULE: How about lighting, light  
16 fixtures on the building?

17                  THE WITNESS: The light fixtures I am  
18 showing on Z-2.

19                  Basically there is a light fixture next  
20 to the front door and next to the back door.

21                  MR. MATULE: That is it? No other  
22 lights?

23                  THE WITNESS: No other lights.

24                  MR. MATULE: So there's no other  
25 lighting?

1 THE WITNESS: Right.

2 MR. MATULE: You received comments  
3 from H2M on February 23rd?

4 THE WITNESS: Yes, I did.

5 MR. MATULE: And on your revised plans,  
6 you addressed those comments?

7 THE WITNESS: Yes, I have.

8 MR. MATULE: And you testified that the  
9 building will be all brick?

10 THE WITNESS: Yes. The facade is all  
11 brick.

12 MR. MATULE: On the front and the  
13 sides as well?

14 THE WITNESS: Yes, and the sides,  
15 right.

16 MR. MATULE: How about -- well, I'll  
17 call it the back wall facing east?

18 THE WITNESS: The back wall is brick as  
19 well.

20 MR. MATULE: Okay. Very good.  
21 Obviously, it is a one-family?

22 THE WITNESS: One-family unit, yes.

23 MR. MATULE: All right.

24 I have no further questions at this  
25 time.

1 CHAIRMAN AIBEL: Thanks.

2 Frank?

3 COMMISSIONER DE GRIM: I have just a  
4 quick question.

5 You said the back wall, the rear  
6 elevation is brick?

7 THE WITNESS: Yes.

8 COMMISSIONER DE GRIM: Okay. Because  
9 on the drawing, it just looks like it's siding or  
10 something. It's all straight lines.

11 THE WITNESS: No. It's --

12 COMMISSIONER DE GRIM: It's brick?

13 THE WITNESS: Yeah, it's brick.

14 COMMISSIONER DE GRIM: Okay. Thank  
15 you.

16 CHAIRMAN AIBEL: Antonio?

17 COMMISSIONER GRANA: Mr. McNeight, two  
18 quick questions.

19 The total height -- I calculated that  
20 the total height of the structure is about 32 feet  
21 six inches, something like that?

22 THE WITNESS: Yeah.

23 The actual floor like -- I mean roof  
24 line is 30 feet above grade --

25 COMMISSIONER GRANA: The roof line is

1 30 feet above grade.

2 THE WITNESS: -- and then we have the  
3 30 inch parapet around the top.

4 COMMISSIONER GRANA: Okay.

5 And then on Z-4, I just want to be sure  
6 that I understand this description here.

7 This is moving south down Court Street.  
8 This is the site. This goes down the block, and  
9 this gap here is because there is no structure on  
10 Court Street at this point?

11 THE WITNESS: Yes. I had it in my  
12 drawing originally. I had the back end of that  
13 large building that I was testifying --

14 COMMISSIONER GRANA: Right.

15 THE WITNESS: -- here is the front of  
16 that large building.

17 COMMISSIONER GRANA: Right.

18 But in the photograph, it looks like  
19 it's just a lot almost --

20 THE WITNESS: Yeah.

21 That was one of the -- the engineer's  
22 wants from his letter, that he wanted me to remove  
23 that because it looked like that big building was a  
24 presence right on the property line when, in fact,  
25 it is pushed back.

1                   COMMISSIONER GRANA:  It's associated  
2     with --

3                   THE WITNESS:  Yes.  It is approximately  
4     15 feet back from where the cars --

5                   COMMISSIONER GRANA:  -- so it's  
6     associated with Hudson versus Court.  But all of the  
7     rest are associated with Court Street?

8                   THE WITNESS:  Correct.

9                   COMMISSIONER GRANA:  Thank you very  
10    much.

11                  COMMISSIONER MC BRIDE:  All of those  
12    buildings that we see here are on the Court Street  
13    line?

14                  THE WITNESS:  All of the buildings left  
15    of this diagram touch Court Street, correct.

16                  COMMISSIONER MC BRIDE:  And those other  
17    buildings are represented as living quarters over  
18    garages?

19                  THE WITNESS:  Yeah -- yeah.  This is a  
20    Stevens' fraternity.  I am not quite sure if they  
21    live upstairs or not, but the rest of them, any of  
22    the other multi stories are used for that accessory  
23    purpose.

24                  COMMISSIONER MC BRIDE:  And all of  
25    those show on the other map, there is a gap between

1 that and the main house on Hudson, an interior  
2 courtyard, if you will?

3 THE WITNESS: Of all of those other  
4 buildings?

5 COMMISSIONER MC BRIDE: Or most of  
6 them, as I look at Z-3.

7 THE WITNESS: Let's see.

8 Yeah.

9 COMMISSIONER MC BRIDE: On both sides  
10 of --

11 THE WITNESS: Yes, correct. The white  
12 is open area, right.

13 MR. MATULE: So just for the record,  
14 Mr. McNeight, you are pointing to Sheet Z-3?

15 THE WITNESS: Yeah.

16 I am talking about, you know, in this  
17 case, where Court Street cuts the block in half, you  
18 know, the donut is very long in this case, but  
19 predominantly 80 percent of the buildings have a  
20 rear yard between the accessory buildings and the  
21 primary buildings -- principal buildings.

22 VICE CHAIR BRANCIFORTE: So these  
23 buildings along Court Street, they used to be --  
24 well, the first question is: Do you have a letter  
25 from the Historic Committee okaying the facade?

1                   MR. MATULE:    We don't have it with us,  
2                   but --

3                   THE WITNESS:   I have it, but I don't  
4                   have it with me.

5                   MR. MATULE:    -- I could submit it to  
6                   Pat.  That is why I had him testify to it.

7                   VICE CHAIR BRANCIFORTE:  Yeah.  I mean  
8                   I look to see if they have any comments on that  
9                   letter, what the letter said exactly.

10                  But Court Street, these buildings  
11                  especially, my understanding is they used to be  
12                  stables --

13                  THE WITNESS:  Correct.

14                  VICE CHAIR BRANCIFORTE:  -- and then so  
15                  the bottom floor was horses, carriage, and then the  
16                  top floor was a loft, hay loft.

17                  THE WITNESS:  Correct.

18                  VICE CHAIR BRANCIFORTE:  So I went over  
19                  this maybe with you, but in the last few  
20                  applications on Court Street, I still don't  
21                  understand why we have to lose the idea of a loft  
22                  above the garage.

23                  You know, why does it have to be two  
24                  stories above the garage?

25                  Why can't you have the same height, but

1       instead of having a second story, have it as an open  
2       loft, bedroom -- bedroom loft that would look down  
3       just --

4                   THE WITNESS: Well, basically it is an  
5       accessory, you know, it's called out to be an  
6       accessory apartment, not a hay loft any more, you  
7       know.

8                   So even though we like to sort of  
9       imitate the old stables that were there as far as  
10      the facade treatment, you know, it doesn't make much  
11      sense to have a big open room there that would be  
12      basically 20-by-20-by-20 a big cube. It would be  
13      interesting, but it wouldn't be very useful.

14                  VICE CHAIR BRANCIFORTE: No. I am  
15      saying you can have the second floor with your  
16      kitchen and your powder room and your living room,  
17      and then have from the floor straight up to the  
18      ceiling open except with a bedroom loft style, a bed  
19      that hangs on a loft above the living room or above  
20      the kitchen open to the ceiling.

21                  THE WITNESS: If we did that, the bed  
22      would be limited to like a fold-down bed in a prison  
23      cell. You know, it is too tiny for any kind of a  
24      mezzanine setup.

25                  VICE CHAIR BRANCIFORTE: Well, I mean,

1       it doesn't seem that way on your drawing on Z-2. It  
2       seems like you have a lot of room.

3                You know, do you really need -- look,  
4       my point is, I feel like we are losing the charm on  
5       Court Street, and we are losing the historic --  
6       well, the story of Court Street by just building  
7       apartments rather than trying to do something  
8       interesting that would make it seem like, you know,  
9       what it was originally.

10               THE WITNESS: My only comment is the  
11       ordinance allows for an accessory apartment, and an  
12       accessory apartment needs basically two floors, and  
13       this is just a one-bedroom apartment.

14               MR. MATULE: I would just comment that  
15       that is an architect speaking, not a lawyer.

16               (Laughter)

17               COMMISSIONER MC BRIDE: Mr. McNeight,  
18       was there a building there before?

19               THE WITNESS: Hum, not in my memory of  
20       the last 30-something years. But as Mr. Matule  
21       said, there is a floor there, like there was a  
22       garage there at one point with a concrete slab as --

23               COMMISSIONER MC BRIDE: Or possibly a  
24       stable or whatever --

25               THE WITNESS: Yeah. Something from the

1 old time -- from the old days, yes.

2 COMMISSIONER MC BRIDE: We don't have  
3 any historic photograph, just as a curiosity  
4 question?

5 THE WITNESS: No, not that I ever seen.

6 COMMISSIONER MC BRIDE: Just as a  
7 historic question.

8 COMMISSIONER MURPHY: Does the owner  
9 park right now in that one space?

10 MR. MATULE: Yes.

11 COMMISSIONER COHEN: So maybe I am just  
12 not clear on the background of this. Maybe you  
13 understand, or maybe Mr. Matule in his presentation,  
14 but is it your understanding that your client here,  
15 who owns the garage, and has the right to build an  
16 apartment above it pursuant to his condo  
17 association, he is asking you to design that  
18 apartment, is that your understanding of what is  
19 going on?

20 THE WITNESS: That is my understanding,  
21 yes.

22 COMMISSIONER COHEN: Okay. And he  
23 doesn't live or his family doesn't live on this  
24 land? It is just his car parks there and that's it?

25 MR. MATULE: No, no. I had said

1 before in answer to a question, Mr. Kodak lives in  
2 condominium Unit 1 in the Hudson Street principal  
3 structure.

4 COMMISSIONER COHEN: Does he own Unit 1  
5 and Unit 5?

6 MR. MATULE: Yes.

7 COMMISSIONER COHEN: And is his intent  
8 to rent out Unit 5 and continue to live --

9 MR. MATULE: I don't know whether -- I  
10 have him here. I could bring him up. I don't know  
11 whether the intent is to rent it out or to have it  
12 available for family members to use when they are  
13 visiting, or for a nanny. I don't know. We have  
14 not discussed that.

15 COMMISSIONER COHEN: Okay.

16 MR. MATULE: But the condo documents  
17 also provide that the space in between those two  
18 structures is a limited common element attached also  
19 to Unit 1. So in effect, he would have the entire  
20 hundred foot ground unit.

21 COMMISSIONER COHEN: So if there were  
22 five units in the condominium building, he owns  
23 two-fifths of the five units?

24 MR. MATULE: Two-fifths, yes.

25 The documents, the way they are set up

1 now, the percentage interests that determine your  
2 percentage of ownership and your monthly maintenance  
3 things and that are heavily skewed towards the four  
4 units in the front with only a minor interest for  
5 the parking spaces in the back, but because they  
6 were written to be phased, assuming this were  
7 approved and built, then everybody would have a 20  
8 percent interest. It would just be a straight out  
9 divided among the five units.

10 COMMISSIONER COHEN: Okay.

11 So he has less than a two-fifths  
12 interest in it right now. That would be --

13 MR. MATULE: Well, technically, yes.  
14 I don't have the exact percentage even in front of  
15 me, but I would say he has about a 32 percent  
16 interest.

17 COMMISSIONER COHEN: Okay.

18 Thank you.

19 COMMISSIONER JOHNSON: The building to  
20 the south, does that have north facing windows?

21 THE WITNESS: No, a solid wall.

22 COMMISSIONER MARSH: Can you pass those  
23 pictures around?

24 THE WITNESS: Sure.

25 VICE CHAIR BRANCIFORTE: So I am not

1       sure if I am allowed to ask the question, Dennis,  
2       but I will throw it out there.

3                   MR. GALVIN:  I'm ready to move.  Don't  
4       worry about it.

5                   VICE CHAIR BRANCIFORTE:  So if the  
6       owner of Units 5 and 1 right now parks both of his  
7       cars in that garage, we give him permission to build  
8       this apartment above, he has to move one of those  
9       cars out because by law that parking is really only  
10      supposed to be for that apartment above it, right?

11                  MS. RUSSELL:  I don't know that it says  
12      that --

13                  MR. GALVIN:  Do you --

14                  VICE CHAIR BRANCIFORTE:  The parking --

15                  MS. RUSSELL:  -- it's just -- as far as  
16      I recall, the ordinance says parking, you know, one  
17      ground floor parking space and the unit above.  It  
18      doesn't say that the two have to be linked.

19                  I mean, you might infer it, but it  
20      doesn't say that.

21                  VICE CHAIR BRANCIFORTE:  So, yeah.  My  
22      understanding was that those garages belong to the  
23      apartments above, not to the principal structures on  
24      Hudson Street, so that is wrong?

25                  MS. RUSSELL:  I think that is wrong.

1                   MR. GALVIN: I think that is more of an  
2 impression than what it actually says.

3                   VICE CHAIR BRANCIFORTE: Okay.

4                   MR. GALVIN: It seems logical, but --

5                   VICE CHAIR BRANCIFORTE: Yeah. I  
6 thought we discussed this at one of the other  
7 hearings about another application on the same  
8 street.

9                   CHAIRMAN AIBEL: A very small point,  
10 and I appreciate the white roof, Mr. McNeight, but  
11 are their sight lines from the Hudson Street  
12 apartments on the west side that will look down on a  
13 20-by-20 foot white pad?

14                   THE WITNESS: Yes. At least the top  
15 floor. The top floor unit would be looking down on  
16 the roof.

17                   CHAIRMAN AIBEL: I don't know if there  
18 is anything you can create to maybe modify --

19                   THE WITNESS: We had this discussion  
20 before, and my client said he would be glad to put a  
21 green roof on top of it, you know, but that is the  
22 two things that are in the ordinance now.

23                   If it isn't a green roof, they want it  
24 a highly reflective white roof.

25                   CHAIRMAN AIBEL: And that would be fine

1 on a four or five-story building, but --

2 MR. MATULE: The applicant would be  
3 happy to put a tray type green roof system there.

4 THE WITNESS: Because we do have access  
5 to the roof for maintenance, so it could be accessed  
6 for plant maintenance as well.

7 CHAIRMAN AIBEL: Thanks.

8 MR. MATULE: But just to be clear, Mr.  
9 McNeight, depending on where on the air conditioning  
10 condenser relative to the scuttle that's located,  
11 there would have to be some kind of pathway --

12 THE WITNESS: Yeah. Maybe I will move  
13 the condenser to the other side to make it easier.

14 MR. MATULE: All right.

15 CHAIRMAN AIBEL: Any other questions,  
16 Board members?

17 John, no?

18 Okay. Opening it up to the public.

19 Seeing nobody in the public.

20 COMMISSIONER COHEN: Motion to close  
21 public portion.

22 COMMISSIONER GRANA: Second.

23 CHAIRMAN AIBEL: All in favor?

24 (All Board members answered in the  
25 affirmative.)

1 MR. MATULE: Thank you.

2 CHAIRMAN AIBEL: Mr. Ochab?

3 MR. MATULE: Mr. Ochab.

4 MR. GALVIN: Oh, I'm sorry. I was  
5 trying to look at the pictures of Court Street.

6 Do you swear or affirm the testimony  
7 you are about to give in this matter is the truth,  
8 the whole truth, and nothing but the truth?

9 MR. OCHAB: I do.

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

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

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

15 MR. GALVIN: Thank you.

16 Mr. Chairman, do you accept Mr. Ochab's  
17 credentials?

18 CHAIRMAN AIBEL: Yes, yes.

19 MR. MATULE: Now, Mr. Ochab, I see  
20 that you have a couple photo boards there.

21 Can we mark them before -- assuming you  
22 are going to refer to them?

23 THE WITNESS: Yes, you assumed  
24 correctly.

25 (Laughter)

1 MR. MATULE: All right.

2 So I am going to mark one photo board  
3 A-4, and I will mark the other one A-5, and then if  
4 you could just for the record describe what they are  
5 and when you took the pictures, assuming you took  
6 the pictures.

7 (Exhibits A-4 and A-5 marked)

8 THE WITNESS: I am sorry that Mr.  
9 Nastasi took all of the easels with him.

10 (Laughter)

11 Anyway, so these are photographs of two  
12 boards, photographs of the Hudson Street side and  
13 then the Court Street side all taken by me actually  
14 late last year, November of last year.

15 I have been back several times since  
16 then. There's not much of a change, except for one,  
17 which I will show you on the second floor.

18 So what we have is four photographs.

19 The upper left photograph is a  
20 photograph of the site on Hudson Street. It is the  
21 building with the red door, okay, so that is the  
22 visual image of that.

23 The photograph on the right, upper  
24 right, is a photograph of again the building in  
25 question on the right side, and then the larger

1 five-story building just to the south of us, so you  
2 can see that image there.

3 And then the lower right is an image of  
4 again the building in question with the red door and  
5 then buildings to the north.

6 Nothing is changing here. Everything  
7 stays as you see it. No physical change whatsoever.

8 The lower left photograph is a  
9 photograph of the rear of the building from Court  
10 Street.

11 So what you have is again you can see  
12 the building right in the center of the photograph.

13 To the right is the five-story building  
14 to the south.

15 Then you see two or three buildings to  
16 the north, and a small garage just to the north of  
17 the subject site.

18 The site is really right in the center  
19 of the photograph and in the foreground, so I am  
20 actually standing on Court Street, and you see that  
21 somebody mentioned there is a concrete pad or  
22 concrete foundation.

23 Is that better?

24 COMMISSIONER MARSH: Glare.

25 COMMISSIONER MURPHY: Glare.

1                   THE WITNESS: I'm sorry. Just let me  
2 know.

3                   So there is a little concrete pad here,  
4 and then the center courtyard area. That is what we  
5 have there.

6                   And then on A-5, again, we are looking  
7 again all at the rear of the property on Court  
8 Street.

9                   And, again, the upper left photograph,  
10 this is a photograph here of the site in question.  
11 This is right here in the foreground, and then this  
12 is more of the building to the south.

13                  So you can see that the building on the  
14 south, and the south is a large building, and the  
15 issue here is that this building is about 15 feet  
16 off of Court Street. No potential really for any  
17 accessory structure because this building is -- I  
18 mean, in density terms, it is way out. It's 29  
19 units on, you know, 2,500 or 5,000 square feet, so  
20 it is way out.

21                  And in any case, the whole building  
22 would have to come down and get reconstructed in  
23 order to get any sort of accessory building there.

24                  What happens now is that it is just  
25 parking. People are heading in and parking off of

1 Court Street that are occupants of this building to  
2 the south.

3 This photograph in the upper right is a  
4 photograph of, again, the site looking north, so we  
5 have, again, just beyond the telephone pole the  
6 concrete pad, which is where the accessory structure  
7 would go.

8 We have a small, very deteriorated sort  
9 of cinder block and wood garage -- I will call it a  
10 garage -- I didn't see any vehicle in it or anything  
11 in it for that matter, but it looks like it is ready  
12 to come down.

13 And just to the north of that is a  
14 three-story accessory apartment. That is 526  
15 Hudson, which the Board approved maybe a year or two  
16 ago. I remember doing that project, so that is what  
17 you have there.

18 Looking -- turning around and looking  
19 across Court Street, looking at sort of the  
20 Washington Street side, if you look directly across  
21 and just to the north, we have again a three-story  
22 accessory apartment, a garage.

23 And then on the lower right photograph,  
24 basically looking south, this building was being  
25 constructed. So this is on the Washington Street

1 Side. It is a three-story. I believe this garage  
2 is on the first floor, and then a pattern of some  
3 accessory structures as you go further to the south.

4 So basically that is sort of the  
5 context of where we are at here.

6 What we are proposing obviously is an  
7 accessory apartment similar to the others that were  
8 done along Hudson.

9 And so far from my records, at least we  
10 have three that were done most recently, 504 Hudson,  
11 which is beyond the big -- going to the south --  
12 526, which is this one here, and then 523 Washington  
13 or 520 Court, which is the lower right recently.

14 And it is of no consequence, but I also  
15 have at least three others in the works. 506 Hudson  
16 and then 520 Court and 516 Court, so there are three  
17 others that are sort of in the hopper waiting, that  
18 have nothing to do with the proofs in this case, but  
19 just I guess my point is that there is a lot of  
20 activity here to build accessory apartments and  
21 structures, and this is sort of the evolving context  
22 of the Court Street area.

23 So we have a use variance, and we have  
24 a density variance. We have a C variance for  
25 height, where we are proposing three stories, where

1 two are allowed, although we are meeting the 30 foot  
2 physical height requirement, and we have a variance  
3 for parking, where two are being proposed, and one  
4 is permitted.

5 So in the context of the D variance  
6 then, the basic elements that dictate what happens  
7 on Court Street are in this case very unique because  
8 Court Street is its own little urban form. It is  
9 not so much here about density. It is about the  
10 built environment and the urban form that Court  
11 Street is becoming.

12 It is very consistent with what the  
13 master plan is prescribing for Court Street. Even  
14 though the master plan doesn't get into a lot of  
15 detail about Court Street, it really just says that  
16 the current form or the current projection on Court  
17 Street as it's prescribed in the zoning ordinance  
18 should be continued. And although even though the  
19 master plan talks about the scale and the character  
20 of the neighborhoods in Hoboken, preserving them, it  
21 doesn't specifically get to what the Court Street's  
22 particular environment is like.

23 So we had a pattern of these types of  
24 accessory apartments, and in my view, they have all  
25 been parking on the first floor, two floors above.

1                   There is no lot coverage issue here.  
2           It is 20 feet between the rear of the building, the  
3           accessory building and the principal building. And  
4           so this is a pattern that I think was not certainly  
5           encouraged by the master plan, and the master plan  
6           wants to continue to keep that type of development  
7           happening, and that has manifested itself again in  
8           the zoning ordinance. Even though we have this  
9           quirky dilemma in the zoning ordinance, that the use  
10          is a conditional permitted use, which means it is  
11          permitted, the zoning ordinance wants to say -- it  
12          does say that it's a permitted use. It has certain  
13          conditions associated with it. But those conditions  
14          are not specified in the right place, which then  
15          makes it, according to the case law, a D variance,  
16          D-1 use variance.

17                   So I understand all of that certainly,  
18          but in my view, when you are reading the zoning  
19          ordinance, it says, well, these accessory apartments  
20          are encouraged, at least in the best case  
21          encouraged, and in the least case accepted as part  
22          of the zoning scheme for the City of Hoboken.

23                   So we have basically specified the type  
24          of building that is prescribed in the zoning with  
25          respect to its mass and its form and also how it

1 relates to all of the other newly constructed  
2 accessory buildings on the Court Street corridor.

3           So with respect to that, then my  
4 argument is that the site is particularly suited for  
5 accessory apartments because of those things, and  
6 that the master plan is certainly calling out this  
7 pattern should be continued, and that what we are  
8 proposing here is consistent with the master plan's  
9 objectives with respect to the Court Street  
10 environment.

11           I can talk about some details, but  
12 basically I think I actually said this before, too,  
13 that here, if anywhere in Hoboken, Court Street is a  
14 dynamic and unique environment. It's cobblestone.  
15 It's brick. It's narrow. It's confined, but it is  
16 also quiet.

17           It is somewhat remote, somewhat removed  
18 from the hustle and bustle of Washington Street and  
19 Hudson. It has got its own unique little  
20 environment, which I think should be encouraged from  
21 a planning perspective, it should be encouraged, and  
22 that is what this project adds to it.

23           It adds one more residential component  
24 to what the master plan is suggesting, but also to  
25 what I think Hoboken is, which is a series of

1 dynamic neighborhoods that have their own unique  
2 character, their own unique scale, and this is  
3 certainly consistent with all of that.

4           It is too bad we have this big  
5 five-story monster, but we do. It is a thing of the  
6 past, and there's not much we can do about it.

7           But as we move up and down, I couldn't  
8 capture all of it, but as we move up and down Court  
9 Street, on Fifth we have a series of buildings that  
10 are typically 20 feet to 25 feet, three-story. All  
11 of them have unique designs, you know, similar to  
12 this, but there are certainly others, that the  
13 garage doors are not -- they're not just garage  
14 doors. They are made of wood. They are stained.  
15 They have unique hardware on them. They are all  
16 unique and, you know, marvelously designed pieces of  
17 art really that contribute towards what Court Street  
18 is.

19           The only maybe exception to that is the  
20 fraternity house, which is about to be -- where is  
21 the fraternity house -- this way. It's to the north  
22 of here, which is a long elongated brick structure.  
23 It has its own sort of character itself, including a  
24 series of chairs and things out on the Court Street  
25 side.

1           So I think you get my point. Here you  
2           have a unique environment. What we are doing,  
3           notwithstanding the variances, I think it is  
4           consistent with what the master plan and the city  
5           wants to achieve on Court Street, and I think the  
6           proofs bear that out with respect to the variances.

7           So I have a report that covers the  
8           other things. I don't need to go into that, because  
9           that speaks for itself. I will just leave it at  
10          that, and I'm happy to answer any questions.

11          CHAIRMAN AIBEL: Thank you, Mr. Ochab

12          Questions for Mr. Ochab?

13          VICE CHAIR BRANCIFORTE: May I?

14          CHAIRMAN AIBEL: Go ahead.

15          VICE CHAIR BRANCIFORTE: Why do we  
16          refer to this as an accessory apartment?

17          Why do we use the word "accessory"?

18          THE WITNESS: The ordinance actually  
19          uses accessory apartment, so I think that -- here's  
20          my own take on it.

21          They use accessory apartment because it  
22          was at the back of the property. The ordinance  
23          didn't -- already has a principal use, which is the  
24          principal structures which are out on Hudson Street.  
25          Those should be the principal use, because that is

1 the main thoroughfare. Court Street is the back  
2 alley, so to speak.

3 But nevertheless, whoever did the plan,  
4 the master plan and the zoning considered that  
5 the -- there could still be something great in the  
6 back of the properties along this narrow cobblestone  
7 street. So they made it an accessory building, and  
8 I think that is sort of an appropriate definition of  
9 what it should be.

10 VICE CHAIR BRANCIFORTE: Because when I  
11 think of the word "accessory," I think of something  
12 that, you know, comes later to compliment, you know,  
13 the original structure, or something that is  
14 necessary for the original structure to exist.

15 I mean, would that be off to say?

16 THE WITNESS: Sometimes -- sometimes it  
17 does, but particularly in the last couple of  
18 decades, we have been using the term "accessory  
19 apartment," for instance, for affordable housing.  
20 We're using accessory apartments since they are in  
21 the more suburban areas, not here, of course.

22 So "accessory" is just a word for me  
23 that means it's less intense. It's less of a  
24 large -- it is a smaller structure, but I think it  
25 is still appropriate here.

1                   VICE CHAIR BRANCIFORTE: Well, how many  
2 square feet is this apartment then?

3                   THE WITNESS: This was -- I forget.

4                   MR. MC NEIGHT: 1300 square feet.

5                   VICE CHAIR BRANCIFORTE: 1300 square  
6 feet?

7                   MR. MC NEIGHT: That is including the  
8 garage.

9                   VICE CHAIR BRANCIFORTE: Well, now I am  
10 curious how 1300 square feet for this apartment  
11 compares to the unit, the owner's unit on Hudson  
12 Street, and if this is actually bigger than the  
13 owner's unit or it's just the same size because then  
14 we are adding -- basically doubling the size of it,  
15 but --

16                   MR. MATULE: If I may interject, our  
17 ordinance defines "accessory apartment."

18                   It says: A single dwelling unit  
19 constructed above a one-story accessory residential  
20 garage with direct access from Court Street, subject  
21 to the regulations of the Court Street Overlay  
22 District.

23                   It also describes an accessory use  
24 structure or a building as a structure, building or  
25 use including off-street parking subordinate to the

1 principal use of the building on the same lot and  
2 serving a purpose customarily incidental to the use  
3 of the principal building.

4 It goes on to talk about subject to  
5 regulations in wireless telecommunication, et  
6 cetera, but my point is that the ordinance defines  
7 what an accessory structure is. That it is a use.  
8 An accessory use is a use that's subordinate to the  
9 principal use, which is the main building on Hudson  
10 Street.

11 VICE CHAIR BRANCIFORTE: All right.

12 MR. MATULE: As far as the size, the  
13 ordinance very specifically calls out parameters for  
14 the structure, for the gross form of the structure.

15 You can't have more than 20 percent lot  
16 coverage. You can't be more than 30 feet high, so  
17 when you take that box, you get what you get. I  
18 mean, I think the ordinance calls it out.

19 VICE CHAIR BRANCIFORTE: Okay.

20 You talked about the character of  
21 Hudson Street, and I spoke to Mr. McNeight about  
22 that also, about, you know, they used to be carriage  
23 houses, and I am afraid that in the last few  
24 applications we have heard here, and you referred to  
25 them, and now you are referring to more that we are

1 going to see in the future, at least three more that  
2 you are working on, that we are going to see more of  
3 the same.

4 So I know we are supposed to go with  
5 each application as individual, that stands on its  
6 own, you know, reasons, but I am afraid, and I want  
7 your opinion on this, I am afraid that we are moving  
8 away from what is a historic character that the  
9 master plan wants us to protect towards two stories  
10 over one.

11 Now, do you think that if you got rid  
12 of the second story and made it into a loft, like I  
13 mentioned before, would it get rid of the D  
14 variance, you know, and you could still have a  
15 bedroom up top, but it would be a loft rather than a  
16 second story?

17 Would that work?

18 Would that get rid of your D variance?

19 THE WITNESS: It wouldn't get rid of  
20 the D variance because we would still have a use  
21 issue with respect to the ordinance.

22 It would only resolve one of the C  
23 variances --

24 VICE CHAIR BRANCIFORTE: Number of  
25 stories?

1 THE WITNESS: -- for the number of  
2 stories in the building.

3 VICE CHAIR BRANCIFOTE: Oh, okay. I  
4 thought it was --

5 MR. GALVIN: Let me stop you for a  
6 second.

7 We wanted accessory apartments on Court  
8 Street to be a conditional use and have zoning  
9 criteria that regulates them, but somebody messed up  
10 30 years ago and never created the criteria.

11 What we pointed out to Mr. Matule in  
12 the last two years, or what we all divined is there  
13 is case law that says, when you got a conditional  
14 use that doesn't really have conditions, we treat it  
15 as a nonpermitted use.

16 VICE CHAIR BRANCIFORTE: So a D  
17 variance?

18 MR. GALVIN: A D variance.

19 So although we know that we want it to  
20 be a conditional use, and we want it to be -- the  
21 way you are describing it, a garage with one  
22 residential floor above it, we have to treat it as a  
23 D variance because there is no criteria. It needs  
24 to be spelled out. Hopefully we will fix it in the  
25 next six months or a year.

1 VICE CHAIR BRANCIFORTE: Okay.

2 MR. MATULE: If I could, just one more  
3 point, Mr. Branciforte.

4 I asked Mr. McNeight to clarify the  
5 actual apartment size as opposed to the total square  
6 footage of the three floors of the building.

7 The gross square footage, you know,  
8 from wall to wall, front to back, on two floors,  
9 it's about 860 square feet.

10 VICE CHAIR BRANCIFORTE: Well, you  
11 know, we have had this discussion in the past about  
12 micro apartments. Why does every apartment have to  
13 be, you know, 800 square feet?

14 Why can't we have apartments,  
15 especially along Court Street, that would serve  
16 Stevens' students, grads, students that only need  
17 six or 700, 400 square feet to live? They need a  
18 kitchenette, a bathroom and a bed and a desk.

19 Why can't we do that here?

20 Why can't we have a smaller apartment  
21 that would serve a very special niche of a -- either  
22 as a petra tera or for a graduate students at  
23 Stevens?

24 THE WITNESS: Well, I would just submit  
25 to you that that is not what the market is here, and

1       that 800 square feet is not an unusually large  
2       apartment, even considering it is on two floors, so  
3       I don't think it damages the character of what is  
4       happening on Court Street.

5               Court Street is more I think, for me,  
6       about the design of the individual buildings, and  
7       the unique design of each building as it comes in,  
8       more than whether it's worrying about whether it is  
9       two stories or not.

10              CHAIRMAN AIBEL: Can I jump in?

11              VICE CHAIR BRANCIFORTE: Thanks.

12              Sure, I am done.

13              Thanks.

14              CHAIRMAN AIBEL: And I don't have a  
15       problem with the use. I think it is fine.

16              I disagree respectfully with John about  
17       the apartments that would be accommodated in a  
18       20-by-20 foot structure at 30 foot high.

19              What I do find a little bit unsettling  
20       is the density.

21              And I am looking at your chart, Mr.  
22       Ochab, with the exception of a couple anomalies, you  
23       know, a 29-unit building, there is no -- I don't  
24       think there is any other four-unit permitted  
25       building with an accessory apartment allowed, so I

1 am looking at your chart, which says you have three  
2 units permitted. We already have four and one  
3 accessory, and you have a 33 percent deviation.

4 But if I go down to the fourth row from  
5 the bottom, Lot 216.01/31, you have four apartments  
6 with three permitted, no accessory, and it is still  
7 a 33 percent deviation, so there is a little  
8 something wrong with the math there.

9 The accessory apartment that we granted  
10 a couple houses away, I guess it was 506 -- excuse  
11 me -- 526, I believe was a one-family principal  
12 structure, where two would have been permitted and  
13 one accessory was granted.

14 So I guess my concern in sum is that  
15 the number of units, total units five, exceeds the  
16 density by two full units, and that is not a modest  
17 rounding, so I am not sure how you can tell me I  
18 should feel comfortable with making that kind of an  
19 approval.

20 THE WITNESS: Okay.

21 Well, I am trying not to let the  
22 density calculation here cloud my judgment on  
23 whether or not there should be an accessory  
24 apartment. And because Hudson Street is very  
25 unusual, I think, because what we found in some of

1 the other applications that we have done is that  
2 some of the units have been reduced in the principal  
3 building.

4 In one or two cases we actually have a  
5 single-family unit in that principal building than  
6 building an accessory apartment, and obviously you  
7 know that is not a typical application for Hoboken.  
8 Hoboken is usually pushing the envelope on the  
9 density to some degree in some cases.

10 So it is a very unique situation, plus  
11 in the rest of Hoboken, if -- we don't have any  
12 provision for accessory apartments in any case.

13 Here we have a very unique set of  
14 circumstances, where just the pattern of density  
15 here is being to some degree reduced in the  
16 principal building, but the master plan and zoning  
17 ordinance are still encouraging accessory  
18 apartments.

19 I think you need to sort of -- for me,  
20 at least, I got past the fact that we have four  
21 units in the building because what is going to  
22 happen on Court Street is far more important from a  
23 planning perspective than dealing with the issue as  
24 to whether or not there is one unit more in the  
25 principal building or not.

1                   The other factor here is that, of  
2                   course, when we have a rental building, it is easy.  
3                   You eliminate one unit in the rental building, and  
4                   we are back to four units. But here we have a  
5                   condominium situation, and that would be difficult  
6                   to reconcile here.

7                   But the density was all over the place,  
8                   and even, you know, I tried to do the Washington  
9                   Street side, too, which was completely impossible  
10                  because of the commercial and retail units in those  
11                  buildings, we had to calculate, but it was  
12                  impossible to do.

13                  So just know that from my perspective,  
14                  the density is not the principal driver here of  
15                  whether or not it should be approved.

16                  And if you look at the tax map I  
17                  included on Page 6, there is at least four lots or  
18                  so that are -- the lots themselves on Court Street  
19                  are 600 square feet and 700 square feet. That just  
20                  means that at some point somebody actually  
21                  subdivided the Court Street parcels, where the  
22                  accessory apartments sat off from the main parcels,  
23                  which makes the density calculation crazy because of  
24                  the fact that we've got 600 square foot lots.

25                  So for me at least, I sort of said get

1 past that and try to determine whether what we are  
2 proposing is good for Court Street. Is it good  
3 planning, does it fit in with the character of what  
4 is happening there, and does it meet the intention  
5 of the master plan, and that is where I wound up  
6 standing here.

7 CHAIRMAN AIBEL: I take it you are not  
8 going to be able to testify as to how the unit will  
9 be used, either as a rental, a nanny apartment.  
10 because that may bear on my feeling of increasing  
11 the intensity on a lot that is already fully built.

12 THE WITNESS: I can't do that, but I  
13 have a feeling somebody is about to.

14 CHAIRMAN AIBEL: I don't know whether  
15 anybody else is interested in that, but --

16 VICE CHAIR BRANCIFORTE: No, I am.

17 COMMISSIONER MURPHY: I am.

18 COMMISSIONER COHEN: I am.

19 CHAIRMAN AIBEL: So let's finish up  
20 with Mr. Ochab.

21 Any questions?

22 Go ahead.

23 COMMISSIONER COHEN: Yes.

24 I just wanted to follow up on the  
25 density point. I mean, are we not looking at the

1 Hudson Street aspect of density?

2 Is this only a question for Court  
3 Street?

4 MR. GALVIN: No, negative.

5 COMMISSIONER COHEN: Because the  
6 property -- that is why I am sort of troubled by the  
7 testimony here, because it strikes me that it is  
8 only permitted to have three units legally, and it  
9 already has four, and you are talking about adding a  
10 fifth. And the character of Hudson Street is not  
11 very dense, and I recognize that you got the frat  
12 house there, although I am not aware of how many  
13 people are in that frat house. It is not like an  
14 enormous building,

15 But as the Chairman said, most of these  
16 properties are either single-family or two -- two --  
17 a few of them are three. But this, aside from the  
18 larger buildings, is really going to have the most  
19 heavy dense use, if we go from four to five.

20 So I mean, I get if we are only looking  
21 at this in the context of Court Street, I see your  
22 point. But I think we have to look at Hudson  
23 Street, too, and I think our counsel agrees that  
24 that is a legitimate view. So I mean, I think I  
25 shared the Chairman's concern about this, and I

1 think it would make a difference if it's being  
2 treated as, you know, a unit owner's additional part  
3 of his home, or if his family is going to be using  
4 it versus, you know, another property owner.

5 THE WITNESS: From a statutory  
6 perspective, if we were just here arguing the D-5  
7 density issue, we would be talking about Coventry  
8 criteria, which basically is what is being proposed  
9 consistent with the zoning it's prescribing, and the  
10 answer for me is yes.

11 The second criteria is can --

12 COMMISSIONER COHEN: And that's because  
13 of the accessory use?

14 THE WITNESS: Right.

15 And the second question with respect to  
16 density is: Can the use or the site accommodate any  
17 problems associated with the increase in the  
18 density.

19 And from that perspective, I don't see  
20 what the problems are. I don't see what the impact  
21 of the additional accessory apartment is. It just  
22 doesn't change the scale or the physical dimensions  
23 of the principal building, and yet, you know, I keep  
24 going back to the same zoning ordinance, which says,  
25 yes, the zoning wants to have accessory apartments

1 on Court Street.

2 So I think from that perspective, we  
3 would meet the statutory criteria.

4 COMMISSIONER COHEN: But I don't know  
5 that it anticipated having four units on the front  
6 with the accessory in the back.

7 I mean, when they were probably  
8 thinking about the accessory, they were probably  
9 thinking you had one unit in the front and an  
10 accessory in the back as opposed to, you know --

11 THE WITNESS: Well, the four exist, so  
12 I am saying, it is an existing situation, which  
13 Kristin rightfully says is a preexisting  
14 nonconforming expansion of that.

15 COMMISSIONER COHEN: Okay.

16 MR. GALVIN: You could create a garage  
17 and not create a residential unit.

18 VICE CHAIR BRANCIFORTE: I'm sorry,  
19 Phil. Tell me when you are done.

20 COMMISSIONER COHEN: That was it.

21 VICE CHAIR BRANCIFORTE: I have to go  
22 back to the question I asked before, though, because  
23 I think your answer differs from what our planner  
24 says in her report.

25 Kristin, you say that on Page 6, your

1 zoning table, you say: Accessory building height in  
2 stories, the maximum is two, and they're proposing  
3 three, which is a D variance.

4 Is that correct?

5 MS. RUSSELL: Oh, no. That should say  
6 C. Sorry. Bad habit there.

7 VICE CHAIR BRANCIFORTE: That is why I  
8 was thrown off. All right.

9 CHAIRMAN AIBEL: Anybody else,  
10 questions for Mr. Ochab?

11 Seeing none.

12 COMMISSIONER COHEN: Motion to close --

13 COMMISSIONER GRANA: Well, we need to  
14 open to the public --

15 CHAIRMAN AIBEL: Yeah, but we're --

16 MR. GALVIN: It's closed to Mr. Ochab.

17 CHAIRMAN AIBEL: We are opening it up  
18 to the public.

19 So seeing no public, motion to close  
20 public.

21 COMMISSIONER COHEN: Motion to close  
22 public.

23 COMMISSIONER GRANA: Second.

24 CHAIRMAN AIBEL: Thank you.

25 All in favor?

1 (All Board members answered in the  
2 affirmative.)

3 CHAIRMAN AIBEL: Thank you.

4 MR. MATULE: Just some closing  
5 remarks --

6 CHAIRMAN AIBEL: Unless we want to open  
7 it up to the public for comment first.

8 MR. MATULE: Okay. I'm sorry.

9 CHAIRMAN AIBEL: Seeing no public.

10 COMMISSIONER COHEN: Motion to close  
11 public portion.

12 COMMISSIONER GRANA: Second.

13 CHAIRMAN AIBEL: All in favor?

14 (All Board members answered in the  
15 affirmative).

16 CHAIRMAN AIBEL: Do you have another  
17 witness? I apologize. Did you care to put him up?

18 MR. MATULE: No.

19 I have the owner here. If you have  
20 questions, I could have him come up and talk about  
21 what his intentions may be for the use of the unit.

22 So, Mr. Kodak, why don't you come on up  
23 and get sworn?

24 MR. GALVIN: Raise your right hand.

25 Do you swear or affirm the testimony



1 Hudson Street, correct?

2 THE WITNESS: I do.

3 MR. MATULE: And at the time you bought  
4 your condo there, that was a four-family --  
5 four-unit building?

6 THE WITNESS: Yes, it was.

7 MR. MATULE: Okay. Could you just  
8 tell the Board going forward, assuming this is  
9 approved, what your intention is on how you would be  
10 using this building?

11 THE WITNESS: Sure.

12 I have two little kids, five and three,  
13 and my parents come up to Florida a lot, and they  
14 are getting older, so most likely it will be used  
15 for them.

16 They are actually coming up tomorrow to  
17 stay with my brother's in their basement, but this  
18 would suit them well.

19 MR. MATULE: Thank you.

20 CHAIRMAN AIBEL: Questions, Board  
21 members?

22 COMMISSIONER GRANA: None.

23 CHAIRMAN AIBEL: Thank you.

24 MR. MATULE: Do we have to open it up  
25 to the public again?

1 (Laughter)

2 CHAIRMAN AIBEL: We are closed.

3 MR. MATULE: Okay.

4 Just some remarks, because we are  
5 dealing with I guess the real state of flux with  
6 this ordinance and how it is evolving or being  
7 interpreted. But I just would like to remind the  
8 Board that residential use is the principal  
9 permitted use in the R-1 Zone.

10 As Mr. Ochab has testified and shown  
11 you in his photographs, there are numerous accessory  
12 apartments up and down Court Street. And while they  
13 are not specifically set forth in Article X of the  
14 ordinance, which talks about the conditions of  
15 conditional uses, the ordinance does in fact set  
16 forth a lot of parameters for accessory apartments.

17 In Section 196-14, they talk about the  
18 height not to exceed 30 feet. Lot coverage not to  
19 exceed 20 percent, that you have to have a 20 foot  
20 separation between the principal structure. The  
21 number of floors above the garage is one floor, and  
22 we're asking for a variance for that, to have two  
23 floors within that 30 foot envelope, and that you  
24 have to provide one parking space.

25 So, again, and I don't want to reargue

1 the Massaro (phonetic) case here, but in that case,  
2 the ordinance was silent, and basically what the  
3 Court said is every decision is an ad hoc decision  
4 because there is no parameters for the Board to look  
5 at.

6 I think we have a different situation  
7 here factually.

8 The height in floors is within the  
9 permitted 30 foot envelope, so I would submit that  
10 having two floors within that envelope versus one  
11 floor really has no negative impact.

12 The four units on Hudson Street are  
13 preexisting.

14 I know many of the units. We have  
15 another application. As a matter of fact, the other  
16 application was supposed to be on tonight. That  
17 originally was a four-family house that's being  
18 converted into a one-family house, the principal  
19 structure, and they're looking to put an accessory  
20 apartment on Court Street.

21 So I think it is fair to say, and I  
22 don't think anyone can argue, that the ordinance  
23 contemplates these accessory apartments on Court  
24 Street. It is certainly a substantial esthetic  
25 improvement, I would submit, and I just don't

1 really -- I think the density that is there is  
2 there. It doesn't seem to be creating a problem  
3 now, and I think one additional unit on Court Street  
4 would not have any negative impact, so I urge the  
5 Board to approve it.

6 CHAIRMAN AIBEL: Thanks.

7 Can I ask you a quick question, Mr.  
8 Matule?

9 MR. MATULE: Sure.

10 CHAIRMAN AIBEL: If we were to grant  
11 the application, could your client turn around and  
12 sell the interest in that Unit 5?

13 MR. MATULE: Absolutely, yes.

14 CHAIRMAN AIBEL: Okay. Well, I guess  
15 that is where I sort of bang my head against the  
16 meaning of an accessory apartment.

17 I feel somehow or another, it feels  
18 more comfortable to me that it would be connected to  
19 one of the principal units and/or building, so I am  
20 having a little --

21 MR. MATULE: Well, if that is a  
22 concern, I would be happy to poll the client and ask  
23 him if he would be willing to have some kind of  
24 restriction on that, either to incorporate it or  
25 make it appurtenant to Unit 1, so they would always

1 have to stay together --

2 COMMISSIONER DE GRIM: A deed  
3 restriction?

4 VICE CHAIR BRANCIFORTE: But then you  
5 would have to go back to the condo --

6 MR. MATULE: Pardon?

7 VICE CHAIR BRANCIFORTE: -- would you  
8 have to go back to the condo Board to get permission  
9 to do that?

10 MR. MATULE: I don't think so, because  
11 we own both units, and the association contemplates  
12 this as an accessory apartment.

13 The fact that the owner would agree to  
14 put in a restriction that says that they have to, if  
15 you will, go forward in life in tandem at this  
16 point, I don't think would in any way impair the  
17 intent of the condominium.

18 So if I could excuse myself for one  
19 second, I will ask him.

20 (Counsel confers with Mr. Kodak)

21 MR. MATULE: So you heard the  
22 conversation, and you don't have an issue with that  
23 in perpetuity?

24 Speak now or forever hold your peace.

25 MR. KODAK: Right.

1                   MR. MATULE: For the record, I posed  
2                   the question to the applicant, and he would have  
3                   absolutely no objections to a deed restriction that  
4                   would tie the ownership of this accessory apartment  
5                   condominium Unit 5 permanently to the ownership of  
6                   condominium Unit 1.

7                   So that if at some point down the road,  
8                   they decide to move to Florida and sell their condo  
9                   on Hudson Street, whoever bought it would also have  
10                  to buy the condo on Court Street, and that deed  
11                  restriction would run with the land. It would be  
12                  applicable to all successor owners.

13                  COMMISSIONER JOHNSON: Are we still  
14                  considering this a fifth unit then?

15                  MR. GALVIN: Well, I think we could --  
16                  you know, being intellectual, and we all want to go  
17                  home, but yes, I think we could argue it both ways.

18                  I think I could say if it's a  
19                  mother-daughter and my mom is in that unit, and I am  
20                  going to see her on a regular basis, then maybe it  
21                  is one-family unit, and density is four. And if I  
22                  have to sell them together, but my mom is not really  
23                  around, and then I rent to some third person, but I  
24                  know that when I sell Unit 5, I got to sell Unit 5  
25                  and Unit 1 together, then it could be there's times

1 when density could be five.

2 So I don't know if it advantages  
3 them -- developers in future cases to recognize that  
4 this is four units or five units, or, you know --

5 MR. MATULE: I would submit that we  
6 still have to treat it as five units for occupancy  
7 purposes, because they are independent living  
8 quarters. It is not like having a nanny apartment.  
9 I shouldn't use that word.

10 (Laughter)

11 CHAIRMAN AIBEL: No, no. The walls  
12 have ears.

13 MR. GALVIN: You guys make the  
14 decision, not Dennis, so it's --

15 CHAIRMAN AIBEL: I personally can live  
16 with that condition or --

17 MR. GALVIN: What I wrote down is: The  
18 accessory apartment is to be used -- is to be  
19 used -- let's see -- the accessory apartment is to  
20 be attached to Unit 1 in the nature of a  
21 mother-daughter use, and when sold, Unit 5 and Unit  
22 1 must be sold together as one.

23 MR. MATULE: We will record a deed  
24 restriction.

25 MR. GALVIN: And if you think we can

1 improve that language, I'm open to it in this case.

2 MR. MATULE: They have to be in some  
3 form of a common ownership.

4 CHAIRMAN AIBEL: Deliberations?

5 COMMISSIONER COHEN: I like this  
6 change. You know, some people don't like making  
7 changes on the fly for a better application, but  
8 this is an example of doing that, and I think it is  
9 a better one because I think even if it may be  
10 legally five units, it feels like four to me,  
11 because you are talking about one family that is  
12 basically controlling both of the units, and one in  
13 the back yard and one in the front, which I think is  
14 appropriate.

15 I don't have a problem with the design.  
16 I don't have a problem with the extra floors within  
17 the 30 foot envelope. It is an accessory apartment,  
18 which is recognized in the master plan. I think it  
19 is a good application.

20 CHAIRMAN AIBEL: Anybody else wish to  
21 comment?

22 VICE CHAIR BRANCIFORTE: Well --

23 COMMISSIONER GRANA: I think -- well,  
24 John, you go first.

25 VICE CHAIR BRANCIFORTE: No. I stand

1 by my comments earlier where I think that these --  
2 well, for one thing, perhaps it is a question I  
3 should have asked earlier.

4 You know, would this really -- would  
5 this be considered zoning by variance now that we  
6 have given variances out to three or four accessory  
7 apartments on that block, we are starting to  
8 design -- we're starting to take the design and  
9 planning of this street away from the Planning Board  
10 and the City Council and doing it ourselves, so I  
11 have a problem with that.

12 I have no problem with them putting a  
13 garage there. I don't think that this building is  
14 going to help retain the character of Court Street,  
15 so I am going to vote no.

16 CHAIRMAN AIBEL: Yes.

17 I guess for what it is worth, I don't  
18 see this as an instance of zoning by variance.  
19 Basically it is an accessory apartment. It is a  
20 permitted use, as we all discussed for an hour, so I  
21 don't see that as being an issue.

22 To me, the density again was  
23 troublesome in a technical sense, and that has been  
24 cured, so I am in favor of the application.

25 Mr. Grana?

1                   COMMISSIONER GRANA: I essentially have  
2 no problem with the density actually because I think  
3 that it has no impact on the principal structure,  
4 and the particular site that this is located on, it  
5 will not -- it's not going to have any impact on a  
6 principal structure on Hudson Street.

7                   And it is located in the -- where this  
8 particular site is located is in the central part of  
9 Hoboken, where the most amount of pedestrian level  
10 of services and transportation are available. I  
11 don't see it impacting the density.

12                   You know, I understand the issue of  
13 stories, but again, we don't have a lot of criteria  
14 to work for -- to work with.

15                   They are staying within the 30 foot  
16 envelope, so I think it really comes down to the D-1  
17 variance. All I can say is it's intended in the  
18 master plan that this be residential. The entire  
19 block is residential on both sides of Court Street,  
20 it is residential, and I think the use belongs here.

21                   I don't think we actually spent a lot  
22 of -- we had different views, just a personal  
23 opinion, we spent a lot of time on Mr. McNeight's  
24 proposed structure, but I think it's just a personal  
25 opinion, a very beautiful and historically sensitive

1 treatment to Court Street.

2 It has a total 19th Century style and  
3 stable oriented style, and I hope that it gets  
4 built, so that other people who decide they want to  
5 build on Court Street will follow this lead.

6 VICE CHAIR BRANCIFORTE: One  
7 question -- one condition, though, that I didn't  
8 bring up with Mr. McNeight. Do we need to have any  
9 sort of warning device on that garage when people  
10 are backing in and out?

11 MR. MATULE: It is called out on the  
12 plan --

13 VICE CHAIR BRANCIFORTE: Oh, is it?  
14 I didn't see it.

15 MR. MATULE: -- a flashing light.

16 COMMISSIONER DE GRIM: It's a red  
17 light.

18 VICE CHAIR BRANCIFORTE: Okay. I  
19 didn't see it.

20 Very good.

21 MR. MATULE: If I might, and I don't  
22 know where you are in the process here, but I just  
23 wanted to remind the Board that we also agreed to  
24 put a green roof on the --

25 CHAIRMAN AIBEL: Thank you. Thanks,

1 Mr. Matule.

2 And not to be disputatious at such a  
3 late hour, my concern about the density is less on  
4 the merits than it is on what our next application  
5 might be, and I think here we have demonstrated a  
6 good reason for the decision.

7 COMMISSIONER GRANA: Fair enough.

8 CHAIRMAN AIBEL: Thank you.

9 Okay. I think we are ready for a  
10 motion.

11 COMMISSIONER MC BRIDE: Motion to  
12 approve.

13 COMMISSIONER GRANA: Second.

14 MS. CARCONE: Okay. Commissioner  
15 Branciforte?

16 VICE CHAIR BRANCIFORTE: No, no.

17 MS. CARCONE: Commissioner Cohen?

18 COMMISSIONER COHEN: Yes.

19 MS. CARCONE: Commissioner Grana?

20 COMMISSIONER GRANA: Yes.

21 MS. CARCONE: Commissioner Marsh?

22 COMMISSIONER MARSH: Yes.

23 MS. CARCONE: Commissioner Murphy?

24 COMMISSIONER MURPHY: Yes.

25 MS. CARCONE: Commissioner McBride?

1 COMMISSIONER MC BRIDE: Yes.

2 MS. CARCONE: Commissioner Aibel?

3 CHAIRMAN AIBEL: Yes.

4 MS. CARCONE: Approved.

5 CHAIRMAN AIBEL: Thank you.

6 MR. MATULE: Thank you very much.

7 COMMISSIONER GRANA: Motion to close.

8 CHAIRMAN AIBEL: Thank you. Good idea.

9 COMMISSIONER MURPHY: Second.

10 CHAIRMAN AIBEL: Can I have a second?

11 COMMISSIONER GRANA: The second was

12 over there.

13 VICE CHAIR BRANCIFORTE: I would like a

14 roll call on that.

15 (Laughter)

16 (All Board members answered in the

17 affirmative)

18 MS. CARCONE: See everybody next

19 Tuesday.

20 CHAIRMAN AIBEL: I won't be here

21 because I can't vote on the application.

22 MS. CARCONE: Okay. John, you're the

23 Chairman next meeting.

24 (The meeting concluded at 11 p.m.)

25

C E R T I F I C A T E

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

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

s/Phyllis T. Lewis, CCR, CRCR

PHYLLIS T. LEWIS, C.C.R. XI01333 C.R.C.R. 30XR15300  
Notary Public of the State of New Jersey  
My commission expires 11/5/2020.  
Dated: 5/18/16  
This transcript was prepared in accordance with  
NJAC 13:43-5.9.