

HOBOKEN ZONING BOARD OF ADJUSTMENT
CITY OF HOBOKEN

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 REGULAR MEETING OF THE HOBOKEN :
 ZONING BOARD OF ADJUSTMENT :October 20, 2015
 :Tuesday, 7:10 p.m.
 ----- X

Held At: 94 Washington Street
Hoboken, New Jersey

B E F O R E:

Chairman James Aibel
 Vice Chair Elliot H. Greene
 Commissioner Philip Cohen
 Commissioner Antonio Grana
 Commissioner Carol Marsh
 Commissioner John Branciforte
 Commissioner Frank DeGrim

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

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

PHYLLIS T. LEWIS
 CERTIFIED COURT REPORTER
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Board Business

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WITHDRAWALS:

314 Bloomfield Street

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710 Clinton Street

6

727-733 Clinton Street

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HEARINGS:

901 Bloomfield Street

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263 7th Street

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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 on the city
8 website. Copies were provided in The Star-Ledger,
9 The Record, and the also placed on the bulletin
10 board in the lobby of City Hall.

11 Could you please join me in saluting
12 the flag?

13 (Pledge of Allegiance recited)

14 CHAIRMAN AIBEL: Thanks, everybody, for
15 bearing with our short delay. We are at a Special
16 Meeting of the --

17 MS. CARCONE: Regular. I'm sorry.

18 CHAIRMAN AIBEL: -- okay.

19 Notwithstanding the notice, we are at a Regular
20 Meeting --

21 (Laughter)

22 MR. GALVIN: I was going to say it's
23 nice to know we're regular.

24 (Laughter)

25 MS. CARCONE: I know. That was just an

1 error on my agenda.

2 (Laughter)

3 CHAIRMAN AIBEL: -- on October 20th,
4 2015.

5 Could you give us a roll call, Pat?

6 MS. CARCONE: Commissioner Aibel?

7 CHAIRMAN AIBEL: Here.

8 MS. CARCONE: Commissioner Greene?

9 VICE CHAIR GREENE: Here.

10 MS. CARCONE: Commissioner Cohen?

11 COMMISSIONER COHEN: Here.

12 MS. CARCONE: Commissioner DeFusco is
13 absent.

14 Commissioner Grana?

15 COMMISSIONER GRANA: Here.

16 MS. CARCONE: Commissioner Marsh?

17 COMMISSIONER MARSH: Here.

18 MS. CARCONE: Commissioner Murphy is
19 absent.

20 Commissioner Branciforte?

21 COMMISSIONER BRANCIFORTE: Here.

22 MS. CARCONE: Commissioner Fisher is
23 absent. Commissioner McAnuff is absent.

24 Commissioner DeGrim?

25 COMMISSIONER DE GRIM: Here.

1 CHAIRMAN AIBEL: Great.

2 We are going to start with three quick
3 administrative matters.

4 MR. GALVIN: May I suggest we do them
5 as one vote?

6 CHAIRMAN AIBEL: That's fine. Thanks.
7 Pat, do you want to read off the
8 withdrawals?

9 MS. CARCONE: We have three projects to
10 be withdrawn: 314 Bloomfield Street, 710 Clinton
11 Street. 710 Clinton is on the agenda tonight, and
12 they withdraw today, and 727-733 Clinton Street.
13 All three projects are going to be refiled with the
14 Planning Board.

15 MR. GALVIN: And new escrows are going
16 to be posted, yes.

17 MS. CARCONE: Is that right, Bob?

18 MR. MATULE: Yes.

19 MR. GALVIN: Yes, because it is going
20 to sunset at the Zoning Board and start fresh at the
21 Planning Board. It's all new time limits, all new
22 resources.

23 MR. MATULE: If I might, just for the
24 record, I don't believe 314 is going to be filed
25 with the Planning Board.

1 MS. CARCONE: Okay. It's as of right?

2 MR. MATULE: I think it is going to
3 proceed as of right, just so the record is correct.

4 MS. CARCONE: Okay, sorry.

5 MR. GALVIN: Sure. I'm not requiring
6 you to go there. I'm just saying for purposes of
7 the Zoning Board.

8 (Laughter)

9 MS. CARCONE: Okay.

10 CHAIRMAN AIBEL: So do we need a motion
11 to approve those withdrawals?

12 MR. GALVIN: To accept those
13 withdrawals, yes.

14 COMMISSIONER COHEN: Motion to accept
15 the three withdrawals.

16 COMMISSIONER GRANA: Second.

17 MS. CARCONE: Do you want to vote or
18 all in favor?

19 MR. GALVIN: All in favor I think.

20 CHAIRMAN AIBEL: All in favor?

21 (All Board members answered in the
22 affirmative.)

23 MR. GALVIN: Anybody opposed?

24 CHAIRMAN AIBEL: Nay.

25 MR. GALVIN: Sure, adding some color,

1 right?

2 (Laughter)

3 CHAIRMAN AIBEL: All right. So this
4 evening what we are going to do is we do have three
5 matters on the agenda.

6 We have 901 Bloomfield, 263 7th Street,
7 and 26 Willow Terrace. I am very eager to get to
8 those last two applications for various reasons, so
9 we are going to ask the 901 Bloomfield matter to
10 come forward, Mr. Matule, and be expedient and as
11 expeditious as you can.

12 (Continue on the next page)

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HOBOKEN ZONING BOARD OF ADJUSTMENT
CITY OF HOBOKEN

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RE: 901 Bloomfield Street :
APPLICANT: 901 Bloomfield St., LLC :October 20, 2015
Minor Site Plan Review and C & D :Tuesday 7:15 pm
Variances :
(Carried from 7-14-15) :
(Continued from 8-11-15) :
----- X

Held At: 94 Washington Street
Hoboken, New Jersey

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1 MR. MATULE: Good evening, Mr.
2 Chairman, and Board members, Robert Matule appearing
3 on behalf of the applicant.

4 This is a continuation of the hearing
5 for 901 Bloomfield. We were here on August 11th.
6 We presented the testimony of our architect, Dean
7 Marchetto, our historic consultant, Carl Dress, and
8 our planner, Ken Ochab.

9 Just for the record, I don't know, I
10 don't have the transcript in front of me, if we have
11 any Board members here tonight who were not here
12 last time.

13 COMMISSIONER COHEN: I wasn't, but I
14 read the transcript.

15 MR. MATULE: Thank you, Mr. Cohen.

16 COMMISSIONER MARSH: Me, too.

17 MR. MATULE: Thank you, Ms. Marsh.

18 COMMISSIONER BRANCIFORTE: This is only
19 the second hearing, right?

20 COMMISSIONER MARSH: Yes.

21 MR. GALVIN: Did you sign a
22 certification?

23 COMMISSIONER COHEN: And I have signed
24 the certification.

25 MR. MATULE: Thank you.

1 MR. GALVIN: It's critical.

2 COMMISSIONER MARSH: Are you going to
3 ask me?

4 MR. GALVIN: What's that?

5 COMMISSIONER MARSH: Are you going to
6 ask me if I signed the certification?

7 MR. GALVIN: All right. Did you?

8 COMMISSIONER MARSH: Yes.

9 (Laughter)

10 MR. GALVIN: Okay. Then let the record
11 reflect that Carol Marsh did as well.

12 MR. MATULE: During the course of the
13 direct testimony, and I believe we finished our
14 direct testimony pretty much on the 11th, but
15 several questions or inquiries came up, one of which
16 was we were requested to update the zoning table.
17 Even though the planner testified as to the specific
18 variances we were asking, we did update the zoning
19 table. I have a handout here I could give the Board
20 members tonight, or if you just want one copy for
21 the record, either way.

22 Our last exhibit was A-7, so I could
23 mark this A-8, and I will give this to the Board
24 Secretary, and she can pass the extra copies around.

25 (Exhibit A-8 marked.)

1 The other thing we were asked to look
2 at at the hearing was a shadow study, which we have
3 done, and I have Mr. Stieve here to present that to
4 the Board.

5 We also prepared a massing model of an
6 as-of-right building versus what we are proposing on
7 the site. And when I say "as of right," I mean it
8 in the loosely based sense that it is core based
9 zoning. Obviously we still have to go through the
10 process of site plan approval.

11 So with that opening remark, I would
12 like to call Mr. Stieve up and have him sworn.

13 CHAIRMAN AIBEL: He has been sworn
14 before, or is this --

15 MR. STIEVE: No.

16 CHAIRMAN AIBEL: -- the first time for
17 Mr. Stieve?

18 MR. MATULE: Pardon?

19 MR. STIEVE: For this application.

20 MR. MATULE: For this application, but
21 not before this Board.

22 CHAIRMAN AIBEL: Understood.

23 Dennis, are you going to do the honors?

24

25 Would you administer the oath to Mr.

1 Stieve?

2 MR. GALVIN: Yes, sir.

3 Raise your right hand.

4 Do you swear to tell the truth, the
5 whole truth, and nothing but the truth, so help you
6 God?

7 MR. STIEVE: I do.

8 B R U C E S T I E V E, AIA, CNU, Marchetto,
9 Higgins, Stieve, 1225 Willow Avenue, Hoboken, New
10 Jersey, having been duly sworn, testified as
11 follows:

12 MR. GALVIN: State your full name and
13 spell your last name.

14 THE WITNESS: Bruce Stieve,
15 S-t-i-e-v-e.

16 MR. GALVIN: Mr. Chairman, do we accept
17 Mr. Stieve's credentials as an architect?

18 CHAIRMAN AIBEL: We do.

19 MR. GALVIN: You may proceed.

20 THE WITNESS: Thank you.

21 MR. MATULE: Mr. Stieve, you are
22 familiar with this application? Mr. Marchetto
23 testified in August concerning the direct case.

24 THE WITNESS: Yes, I am.

25 MR. MATULE: And you were requested to

1 This is a shadow study for the spring/fall equinox,
2 and what we have done is we have modeled existing
3 conditions on the left side of the board and the
4 proposed conditions on the right side of the board.

5 The way we achieved this shadow study
6 is we geo located our sketch up model, and that
7 links it with Google Earth, and it has the ability,
8 you enter the date, the time, and the year, and it
9 produces the shadow study for us.

10 What you can see is that the existing
11 building casts a shadow at two p.m., and we did it
12 at two p.m. In the morning, the entire rear of the
13 property is this in shadow, because the sun is
14 coming up from the east, and then again in the
15 evening, the entire rear of the property is in
16 shadow because the sun is coming there. So we did
17 sort of mid afternoon, 12 o'clock, the shadows are
18 almost directly straight, so this seemed to be the
19 best representation to show the Board.

20 So what you can see here on the
21 existing shadow study at two p.m., the shadow
22 extends slightly into the rear yard of the
23 properties immediately north of the project.

24 On the proposed project, you will see
25 that there is a slight shadow cast on top of the

1 building to the north, and that the shadow extends a
2 little bit further to the north in the rear yard,
3 and that is for the duration, you know, for a short
4 duration of time.

5 In the summer, if -- for the summer
6 solstice, which is the longest day of the year in
7 the summer, at two p.m., again, you see the shadow
8 is reduced. It is smaller, and then on the proposed
9 building it is slightly larger, but not
10 significantly.

11 So we believe that the impacts of the
12 shadow are negligible between the two solutions and
13 again for the duration of the period of time that
14 the sun is traveling through the sky, we think that
15 that is a reasonable dispersion of the sun.

16 MR. MATULE: Okay.

17 And did you also prepare a massing
18 model?

19 THE WITNESS: Yes.

20 One of the things that we were asked to
21 do was to calculate or compare the volume of the
22 existing building with the proposed building, and we
23 again mathematically did it. We did it based on the
24 modeling information that we have, and it was
25 determined that the cubic feet volume of the

1 existing structure is 207,298 cubic feet, and then
2 the volume of the proposed building is 222,271 cubic
3 feet. It is about a 7 percent increase involved.

4 That was one question that was raised
5 at the last hearing.

6 In addition, we have prepared -- let me
7 enter this as an exhibit.

8 MR. MATULE: All right. So we are
9 going to mark this Exhibit A-11, and just describe
10 for the record what that is.

11 (Exhibit A-11 marked.)

12 THE WITNESS: Existing A-11, the top
13 image is the proposed building. This is a rendering
14 that was actually included as part of the submission
15 package on drawing C1.

16 Then underneath that, what we have is
17 we did an analysis of the allowable zoning envelope
18 on this site, and we did that as a comparison to
19 show that if we were to take the site area of this
20 site, which is 5,057 square feet times the 60
21 percent lot coverage, which we are permitted, you
22 end up with a footprint of 3,032 square feet.

23 If we take the 3,032 square feet, we
24 are permitted to build 40 feet above average
25 elevation, average grade. In that area we could

1 adjusted it to include the roof decks based on the
2 new approved zoning ordinance prior to this when we
3 submitted this package.

4 Originally it was based on the zoning
5 ordinance at the time. The new adoption takes into
6 account, it changed the building height from being
7 three floors to being 40 feet above average
8 elevation or design flood elevation, and also it
9 permits roof appurtenances and roof decks, and so we
10 have adjusted the zoning table to indicate those.

11 MR. MATULE: And with respect to the
12 lower roof decks, which are, if you will, on top of
13 the cylinder that are accessible from the upper
14 units --

15 THE WITNESS: Right.

16 MR. MATULE: -- we are requesting a
17 variance because they are located in the front yard,
18 if you will, because of the fact that we are on the
19 corner, and we have two front yards?

20 THE WITNESS: That's correct.

21 I am going to refer to the submission
22 package of zoning drawings, and I am going to refer
23 to Sheet A-3.

24 Sheet A-3 shows the fourth floor plan,
25 where the roof terraces are located, and again,

1 those are considered lower roof terraces because
2 there is a higher roof level up above, and those
3 terraces, because we are located on a corner lot, we
4 end up having three of those terraces in the front
5 yard, which they are not permitted to be, and one in
6 the side yard, that is located within -- it's closer
7 than three feet to the property line, so we need to
8 request a variance for those.

9 MR. MATULE: It hasn't changed, but the
10 variance for residential fenestration is being
11 generated primarily because we are keeping the
12 existing opening for the stained glass windows?

13 THE WITNESS: Yes.

14 We don't want to alter any of the
15 existing masonry openings. We want to use those --

16 MR. GALVIN: That hasn't changed since
17 the last time, so we are really covering the same
18 territory.

19 THE WITNESS: That's correct. We're
20 not covering that.

21 MR. GALVIN: We don't want to do that.

22 MR. MATULE: All right. Fine.

23 THE WITNESS: The only new stuff we
24 have is what I just testified to.

25 MR. GALVIN: I'm sorry. I don't want

1 to interrupt, but --

2 MR. MATULE: That's fine.

3 That is all of the testimony I have.

4 CHAIRMAN AIBEL: Good.

5 Board members, questions for Mr.

6 Stieve?

7 COMMISSIONER GRANA: No questions.

8 CHAIRMAN AIBEL: Would you mind putting
9 up the shadow study again?

10 THE WITNESS: The summer or spring?

11 CHAIRMAN AIBEL: I guess the first one,
12 the spring.

13 Can you show me how the existing 78
14 foot tower casts its shadow?

15 THE WITNESS: It's primarily -- in this
16 instance, it's primarily casting a shadow on itself.
17 It is casting a shadow on the building site itself.
18 It is along here, and it is along here.

19 CHAIRMAN AIBEL: And the lantern tower,
20 where does that cast --

21 THE WITNESS: The lantern tower is
22 casting a shadow right in here, and then in this
23 instance, we don't have a lantern tower, but you see
24 that actually the roof form itself is casting a
25 shadow right here.

1 CHAIRMAN AIBEL: Great. Thank you.

2 Anybody else?

3 John?

4 COMMISSIONER BRANCIFORTE: But you
5 didn't do a study comparing it to as of right, did
6 you?

7 You didn't do a shadow study for the
8 as-of-right building?

9 THE WITNESS: Yes. The as of right is
10 on the left-hand side.

11 COMMISSIONER BRANCIFORTE: Oh, okay.
12 I thought that was existing.

13 MR. MATULE: Wait a minute.

14 COMMISSIONER COHEN: No. It's as is --

15 THE WITNESS: Oh, the as of right, no,
16 I did not do that.

17 CHAIRMAN AIBEL: Any other questions,
18 Board members?

19 Professionals, anything?

20 MR. MARSDEN: Quick question.

21 When you first started, you said in the
22 a.m., I think it was one side is in all in shadow
23 and then --

24 THE WITNESS: Right. The sun is coming
25 from this direction, so the buildings on Washington

1 Street cast a shadow over the entire rear yard.

2 MR. MARSDEN: Oh, okay.

3 CHAIRMAN AIBEL: Okay. Let me open it
4 up to the public.

5 Does anybody wish to ask questions of
6 Mr. Stieve?

7 Please come forward.

8 MR. GALVIN: State your name for the
9 record.

10 MS. HEALEY: Leah Healey, 806 Park.

11 You mentioned the massing study, the as
12 of right. I am assuming that the hundred percent
13 lot coverage goes away in the as of right?

14 THE WITNESS: That's correct.

15 MS. HEALEY: And do you know how that
16 would affect the shadow?

17 THE WITNESS: We did not do a shadow
18 study for the as of right. We did it as a
19 comparison only for this location.

20 MS. HEALEY: Okay.

21 And I wasn't sure I understood the
22 answer to the last question, but how much of the
23 impact of this shadow on this spring/fall equinox is
24 due to the extension of this building upwards?

25 THE WITNESS: Again, the best way I can

1 compare it is this is the shadow as cast by the
2 existing building, and this is the shadow that's
3 cast by extending the building.

4 MS. HEALEY: So the height of the
5 building is what is causing the shadowing?

6 THE WITNESS: Yes, the height of the
7 addition to the building.

8 MS. HEALEY: Thank you.

9 CHAIRMAN AIBEL: Please come forward.

10 MR. MEYERINK: Good evening.

11 Sorry.

12 Christopher Meyerink, M-e-y-e-r-i-n-k.

13 You're showing --

14 MR. GALVIN: Street address. Sorry.

15 MR. MEYERINK: Sorry?

16 MR. GALVIN: Street address.

17 MR. MEYERINK: 925 Bloomfield.

18 MR. GALVIN: Thank you.

19 Go ahead.

20 MR. MEYERINK: You are showing us an
21 equinox at two p.m.

22 What is the five, because shadows are
23 much longer at that point?

24 THE WITNESS: At five p.m. they are
25 very deep.

1 MR. MEYERINK: Yes. Much deeper?

2 THE WITNESS: Right.

3 MR. MEYERINK: Especially during the
4 spring and fall, and even in the fall, it's much
5 deeper, so as the day goes on, everybody on the
6 other side of the block, I believe, and I am not an
7 expert on this, but those houses will be in the
8 complete darkness?

9 THE WITNESS: These buildings on this
10 block cast a shadow on this block only. This
11 building casts a shadow on this block.

12 At five and six in the evening in the
13 spring and fall, the shadow is very long. The
14 entire rear yard is in shadow already.

15 MR. MEYERINK: Okay. Thank you.

16 CHAIRMAN AIBEL: Please come forward.

17 MR. TUZMAN: Gail, G-a-i-l, Tuzman,
18 T-u-z-m-a-n. 161 9th Street.

19 I know you presented here two p.m. Did
20 you do studies at different times?

21 THE WITNESS: We looked at all
22 different times, yes, and this was the best
23 representation of the effects of the shadow into the
24 yards.

25 Again, early in the morning, the rear

1 yards are mostly in shadow. Later in the afternoon,
2 the rear yards are mostly in shadow.

3 MS. TUZMAN: Did you look at the effect
4 further down the block?

5 THE WITNESS: This is the extent that
6 the shadow goes. That is as far as the shadow
7 extends.

8 MS. TUZMAN: And in the mornings when
9 the sun comes up in the summer --

10 THE WITNESS: This entire rear yard is
11 in shadow already.

12 This entire -- these buildings on
13 Washington Street are casting shadows over the
14 entire rear of the yard.

15 MS. TUZMAN: What about the buildings
16 down the block? I mean, I think that -- I know it
17 is not opinion time.

18 MR. GALVIN: Correct. It is not
19 opinion time.

20 (Laughter)

21 I have a feeling that it will be
22 shortly.

23 MS. TUZMAN: Yes.

24 My other question, I don't know that it
25 is for you, if you build it as of right, that means

1 taking down the whole building?

2 THE WITNESS: Again, the comparison
3 that we were doing is merely to show that the square
4 footage being proposed on this project is very
5 comparable to what you would be permitted to do, if
6 this site was a vacant site.

7 MS. TUZMAN: And if it was a vacant
8 site, building it all up again, what other
9 requirements would there be?

10 Would there be requirements for parking
11 on site?

12 THE WITNESS: No.

13 Again, a building could be built here
14 completely within the zoning and still require
15 approvals, but it's still completely within zoning.

16 MS. TUZMAN: And in all of the
17 different times that you tried, were you able to see
18 a time -- when at this time a backyard was not or a
19 front yard as well because the sun --

20 THE WITNESS: The only time that there
21 would be no shadows cast by this building is in the
22 summertime when the sun is at its highest.

23 MR. MATULE: Is that your other
24 exhibit?

25 THE WITNESS: Yes.

1 MS. TUZMAN: Well, that I understand.

2 MR. GALVIN: Well, we don't need to see
3 that, though.

4 MS. TUZMAN: But --

5 THE WITNESS: It has the most -- the
6 least impact in the summer.

7 MS. TUZMAN: -- I'm just interested if
8 in all of the views that you did of the shadows, if
9 you could tell at what point, at what hour a
10 neighbor's yard would be completely in shade in the
11 current condition versus in the new conditions, the
12 proposed conditions both in the morning when the sun
13 is going up, and in the afternoon when the sun is
14 going down.

15 THE WITNESS: I believe what I was
16 trying to say is that in every instance when that
17 happens, it is because of the other buildings on the
18 block. This building or this building, it is going
19 to be casting.

20 This is the worst case scenario that I
21 could show you, where the shadow is different.

22 This is the worst case, so this and
23 this were the worst case running all of our shadow
24 studies, this is the biggest difference that I could
25 find, and that is why I brought this one.

1 MS. TUZMAN: Was there anything done in
2 terms of light and air from different views for
3 people who live and view this -- the roof of that
4 building?

5 THE WITNESS: Again, I believe that
6 testimony was given at the last hearing.

7 MS. TUZMAN: I don't know if there was
8 light and air.

9 MR. MATULE: I'm not aware --

10 MR. GALVIN: I don't want to go back
11 over old territory, if we've already covered it.

12 They are trying to convince the Board,
13 so they either have or they have not, you know.

14 MS. TUZMAN: Okay. Thank you.

15 MR. GALVIN: You're welcome.

16 MR. MATULE: My only comment was I
17 think that that was the whole point of the shadow
18 study, it's about light and air.

19 MR. GALVIN: Okay.

20 CHAIRMAN AIBEL: Any further questions?
21 Please come forward.

22 MR. GALVIN: Is this your last witness?

23 MR. MATULE: It is.

24 CHAIRMAN AIBEL: So pretty soon we are
25 going to be able to just take comments, so --

1 MS. TORRES: Gail Torres, 915

2 Bloomfield Street.

3 MR. GALVIN: I'm sorry. Did we get
4 your name and your spelling?

5 THE REPORTER: Gail Torres, 916
6 Bloomfield.

7 MR. GALVIN: Okay. Please proceed.
8 Could you speak up? I can barely hear
9 you.

10 MS. TORRES: Sure.

11 I heard it was a short duration, and
12 you believe. I just need some absolutes, and I need
13 some time frames.

14 You don't give any specific time frames
15 as to when these shadows will be cast.

16 So is there anything more hard you
17 could give us or present to us or in writing that we
18 can refer to and look back on especially in regard
19 to how you actually do these studies?

20 It appears that these are just
21 simulations, because you're unable to get into the
22 backyard area itself and do a real time study
23 observation.

24 Is there anything like that?

25 I'm sorry. Excuse my ignorance. I

1 don't know. I'm just speaking my mind.

2 THE WITNESS: I know of nothing where
3 you can generate real time shadow unless you
4 instruct the buildings and see --

5 MS. TORRES: Or follow what goes on
6 currently in the backyard.

7 Because we know in the morning, we have
8 plenty of sun at that end of the backyard donut, so
9 I guess, you know, it would be nice to have some
10 kind of frame of reference, or at the very least,
11 some time frames, if you could provide some hard
12 time frames.

13 THE WITNESS: Well, again, what I am
14 trying to testify to is we looked at those time
15 frames, and this was the worst case scenario.

16 MR. GALVIN: And he has already
17 explained that.

18 MS. TORRES: And for how long? I just
19 want to know. Can you tell me?

20 THE WITNESS: Well, this is a moment in
21 time. It looks like it's capturing a snapshot at
22 two o'clock in the afternoon.

23 MS. TORRES: So we don't know for how
24 long --

25 COMMISSIONER COHEN: But it won't be

1 worse than that.

2 COMMISSIONER MARSH: Sorry?

3 COMMISSIONER COHEN: That's what a
4 shadow study is. It is the maximum sunlight
5 exposure.

6 COMMISSIONER MARSH: Did you ask him
7 that?

8 COMMISSIONER COHEN: That's what he
9 testified to.

10 MR. MATULE: I believe the testimony
11 was that this is -- they studied it over the arc of
12 time, and this was the worst case scenario in the
13 context of what is being generated by this building.

14 MS. TORRES: But it's not --

15 MR. GALVIN: Whoa, whoa, stop. Too
16 many voices. Even in the audience, I hear too many
17 voices.

18 I still hear voices. Let's try it
19 again.

20 MS. TORRES: All I want to know, I
21 understand then that that is the point in time when
22 you did that, but I want to know the arc of time you
23 are referring to specifically.

24 THE WITNESS: At two p.m. on the spring
25 and fall equinox.

1 MS. TORRES: Until two p.m.? Until what
2 hour of the day or how many hours?

3 THE WITNESS: This shadow is again a
4 momentary capture of that time and that is it.

5 MS. TORRES: And that's it.

6 THE WITNESS: Again, what you would be
7 asking for is more of an animation --

8 MS. TORRES: Right.

9 THE WITNESS: -- which is significantly
10 different than a shadow study.

11 MS. TORRES: Thank you.

12 MR. GALVIN: Let me ask you this
13 question.

14 From when it is at two o'clock, is it
15 like that? Is it close to that -- when you hit that
16 point, the sun is moving, right?

17 Everyone agrees the sun is moving, so
18 there is never going to be a continuous point. But
19 how long was it, around that two o'clock, was it
20 from like one o'clock to three o'clock that it was
21 close to that or --

22 THE WITNESS: No. Believe it or not,
23 it is a dramatic change over that period of time.
24 Between two and four o'clock, by four o'clock
25 everything starts to become long shadows.

1 MR. GALVIN: But I am saying, where you
2 have the maximum point, is it close to that from
3 like 1:45 to 2:15?

4 THE WITNESS: I would say yes, within a
5 20-minute window, even a 15-minute window.

6 MR. GALVIN: It may be hard to tell the
7 difference one way or another, but beyond twenty
8 minutes you can tell the difference?

9 THE WITNESS: Yes.

10 MR. GALVIN: Okay.

11 COMMISSIONER COHEN: Can I ask a
12 question?

13 MR. GALVIN: Yes. Ask the Chairman.
14 I'm not --

15 CHAIRMAN AIBEL: Go ahead.

16 COMMISSIONER COHEN: I just want to --
17 maybe I am misunderstanding this, and Commissioner
18 Marsh and I am not sure, if I am understanding this
19 correctly.

20 But when you are talking about the
21 equinox, it's because that is the point when the sun
22 is at a maximum angle to the property --

23 THE WITNESS: That's right.

24 COMMISSIONER COHEN: -- so that is why
25 you are doing a fall and spring equinox, and you

1 picked two o'clock in the afternoon because that is
2 height of the sun -- or high in the arc --

3 THE WITNESS: That's correct.

4 COMMISSIONER COHEN: -- on the day when
5 there is a maximum sunlight, so that the shadow that
6 would be cast would be the close to the maximum
7 shadow. It may not be the moment necessarily, but
8 it is essentially you are showing the maximum shadow
9 cast at that time, and that is the purpose of this
10 study that you have done. Is that correct?

11 THE WITNESS: That is correct.

12 COMMISSIONER COHEN: Okay.

13 MS. BANYRA: Can I just ask a follow up
14 to that, because I think I am understanding it
15 differently.

16 CHAIRMAN AIBEL: Okay.

17 MS. BANYRA: What you are basically
18 representing is the delta. You are showing the
19 change based on what you are doing, not the maximum
20 shadow because what your testimony was, as it moves,
21 it goes into darkness, correct?

22 THE WITNESS: Yes. I guess I should
23 clarify --

24 COMMISSIONER COHEN: Yeah, that's the
25 best --

1 THE WITNESS: -- that's the maximum
2 shadow at this moment.

3 MS. BANYRA: Okay.

4 Based on the changes that are
5 represented on the plan, that is the shadow that is
6 going to be at two p.m., but the balance of your
7 testimony said as it moves later on in the day, the
8 yards are in shadow.

9 Early in the morning the yards are in
10 shadow, and late in the day yards are in shadow.

11 THE WITNESS: Correct. This was the
12 biggest impact --

13 MS. BANYRA: Just -- right. I just
14 wanted to make sure it was clear.

15 THE WITNESS: Thank you.

16 MS. BANYRA: No problem.

17 CHAIRMAN AIBEL: Please come forward.

18 MS. ONDREJKA: Mary, last name
19 O-n-d-r-e-j-k-a, 159 9th Street.

20 I just want to clearly understand,
21 because I believe you spoke a bit later, the lot
22 coverage, you had a diagram showing the lot,
23 building that I saw. Okay. It has been said that
24 that would be the same amount of square footage as
25 the church. The church right now covers 97 percent

1 of the property.

2 THE WITNESS: That's correct.

3 MS. ONDREJKA: I thought that there was
4 60 percent lot coverage, and then you had a
5 backyard.

6 Are these hundred foot lots?

7 THE WITNESS: No. This is as per
8 zoning solution. This is 60 percent lot coverage,
9 and then four floors of residential.

10 MS. ONDREJKA: Is there backyards to
11 that?

12 THE WITNESS: Yes.

13 MS. ONDREJKA: That is this area beyond
14 here?

15 THE WITNESS: That's correct. There is
16 an area between the building on 9th Street and the
17 rear of our building.

18 MS. ONDREJKA: And let me clarify this.

19 Why in a non flood plain, and I am
20 still getting conflicting answers about this, is it
21 allowed to go up as though it were in a flood plain,
22 because I have been told only in the flood plain
23 area is it allowed to go up higher?

24 MR. GALVIN: Listen, I think it is a
25 valid question, and I'll tell everyone. I think

1 it's a valid question, because you were saying it is
2 compliant with the ordinance, so it kind of touches
3 on that. If you're showing us a flood compliant
4 building --

5 MR. MATULE: If I might, his testimony
6 was that the massing model is 40 feet above the
7 average grade of the property, which is what the
8 zoning ordinance permits.

9 MR. GALVIN: Okay. So then the flood
10 comment doesn't matter.

11 MR. MATULE: I --

12 MS. ONDREJKA: But that is above 40
13 feet, is that not so?

14 MR. MATULE: No.

15 MR. GALVIN: No, no, no. Stop, stop.
16 Let's get the answer.

17 THE WITNESS: There is an average grade
18 on the site, and the site has a slope to it.

19 MS. ONDREJKA: Correct.

20 THE WITNESS: The definition of
21 building height is from average grade or design
22 flood elevation. The average grade --

23 MS. ONDREJKA: What did you take it at,
24 average grade?

25 THE WITNESS: Average grade.

1 MR. GALVIN: Average grade.

2 MS. ONDREJKA: Which was in the
3 middle --

4 THE WITNESS: That's correct.

5 MS. ONDREJKA: That was pretty high up
6 then.

7 THE WITNESS: 11.29. That is the
8 average elevation. There are portions of the site
9 that are higher than that, and there are portions of
10 the site that are lower than that. So we strike a
11 line in the middle, and again, that is done as per
12 your ordinance.

13 We're permitted to go 40 feet above
14 that average elevation.

15 MR. GALVIN: All right. That is good.

16 MS. ONDREJKA: And then how high is
17 that building, this building right here?

18 THE WITNESS: This building is 40 feet
19 tall.

20 MS. ONDREJKA: From here to here, but
21 you got another five feet here.

22 THE WITNESS: The definition of
23 building height in your zoning ordinance is from the
24 average grade to the roof structure.

25 MR. GALVIN: So, yes, it would be -- if

1 you have it, where there is a tilt in the average
2 grade, there is going to be part of the building
3 that might be taller, but it technically complies.

4 MS. ONDREJKA: So it is actually higher
5 than 40 feet literally?

6 THE WITNESS: The building height by
7 definition is 40 feet.

8 MR. GALVIN: No, no, no. Let's stop.
9 Stop.

10 It might be higher in that section of
11 the building. However, what they are telling you is
12 they go down to the zoning office and pull permits
13 without coming here, I think, or they might go to
14 the Planning Board with a site plan, but we would
15 have to approve it at the Planning Board.

16 MS. ONDREJKA: Thank you.

17 THE WITNESS: Thank you.

18 CHAIRMAN AIBEL: Anyone else?

19 Please come forward, sir.

20 MR. TUMPSON: My understanding is
21 that --

22 THE REPORTER: I'm sorry. What is
23 your name?

24 MR. GALVIN: Stop.

25 MR. TUMPSON: Oh, I'm sorry. My name

1 is Dan Tumpson.

2 MR. GALVIN: Street address?

3 MR. TUMPSON: Address, 230 Park Avenue.

4 MR. GALVIN: And could you spell your
5 last name because I know you have a "U" in it.

6 MR. TUMPSON: T-u-m-p-s-o-n.

7 MR. GALVIN: Thank you.

8 MR. TUMPSON: My understanding of your
9 testimony is that you tried to choose a
10 representative time of day to investigate the
11 shadow.

12 THE WITNESS: We investigated the
13 shadow throughout the day. This was the best
14 representative of the delta between the shadow cast
15 by the existing and the shadow cast by the proposed
16 in its worst case.

17 MR. TUMPSON: Okay. This is the
18 question.

19 It seems to me, if you are doing shadow
20 study to see what the impact of changing from the
21 existing structure to the new structure is on all of
22 the properties that are affected by the shadow, then
23 you would do a cumulative study of the impact over
24 an entire day, say, spring and in the summer and so
25 forth, the cumulative impact in the sense of how

1 much shadow is increased over the entire day, for
2 example, on representative days for each of the
3 buildings that are affected. That would be a shadow
4 study.

5 What you are doing is picking one
6 particular day --

7 MR. MATULE: Is that a question?

8 MR. TUMPSON: -- no, no. I'm
9 describing what my understanding is.

10 MR. MATULE: You're testifying.

11 MR. GALVIN: I think -- don't
12 interrupt. Let's get it finished.

13 (Laughter)

14 MR. TUMPSON: I am asking a question.

15 It seems to me from the way you
16 presented this, that you picked and you even
17 specified a moment in time to use as an example for
18 your testimony, where as the thing that the -- the
19 shadow study should be doing is evaluating the
20 impact on the neighborhood of the change from one
21 structure to the other, the impact of shadow on the
22 neighborhood.

23 That would require accumulating the
24 impacts, I mean, ideally accumulating the impacts of
25 the entire year, but certainly over representative

1 days throughout the year, so that you could truly
2 evaluate the impact of the shadow by changing the
3 building.

4 Am I correct, that that was not done
5 here?

6 This was a very selective choice of
7 shadow.

8 MR. MATULE: Dan, you have to let him
9 answer the first question before you start another
10 one.

11 Thank you.

12 THE WITNESS: Yes. I believe what we
13 did was we did that. We did a review of the shadows
14 throughout the day, and what we did was pick a
15 representative of the worst, the biggest difference
16 between the shadows, so that we could present them
17 to you.

18 MR. TUMPSON: Okay. But that doesn't
19 make sense because there are different properties
20 and depending upon where their position is --

21 MR. MATULE: If you want to introduce
22 expert testimony, you are free to do that, but...

23 MR. TUMPSON: This is not expert
24 testimony. This is --

25 MR. MATULE: Well, you are giving an

1 opinion --

2 MR. GALVIN: Time out. Time out,
3 everybody.

4 Dan, what do you want to ask?

5 If you don't like the -- he has
6 explained himself as to why he picked that moment in
7 time, and he is trying to show us something from
8 that.

9 He thought it was a good way to present
10 their case, and you are disagreeing with how they
11 are presenting their case.

12 MR. TUMPSON: I agree that it was a
13 good way. That is why I am asking the question.

14 Would it not be a better way as far as
15 performing the purpose of trying to determine the
16 impact --

17 MR. GALVIN: Don't get me wrong, don't
18 get me wrong.

19 You are asking us if we want a
20 different study. I don't -- if the Board wants
21 that, they will ask for it.

22 MR. TUMPSON: Right, right.

23 MR. GALVIN: Right now we are just
24 questioning this witness, so you got to ask him
25 questions of what he did, and you are questioning

1 his methodology and why he did what he did, and I
2 think he has explained it two or three times
3 already.

4 MR. TUMPSON: He has explained what he
5 did.

6 MR. GALVIN: Yes.

7 MR. TUMPSON: He hasn't explained --

8 MR. GALVIN: And what he has presented,
9 and he has also told us -- and he's also told us
10 that he thought it made sense to him, to show us
11 this moment of time at two o'clock in the spring and
12 fall because he wanted to show what the biggest
13 change in the shadow was to help us to understand
14 maybe that there won't be an impact or not that
15 great impact from the shadow.

16 MR. TUMPSON: I understand that that is
17 the purpose. It's to make that conclusion.

18 What I am saying is it may be that
19 selecting the time of day and the time of year for
20 the shadow study and the particular lot that you are
21 looking at in that time is aimed at demonstrating
22 how it is not much of an impact, where as if you do
23 a proper cumulative study, then it would have --

24 MR. GALVIN: Let me just -- let me say
25 this. That is something that you could raise on

1 your comments, that you feel that the study was
2 inadequate. But at this point, he answered the
3 question as best he can.

4 MR. TUMPSON: That's fine.

5 Thank you.

6 CHAIRMAN AIBEL: Okay. Any other
7 questions for this witness?

8 Please come forward.

9 MR. EVERS: Michael Evers, 252 Second
10 Street, Hoboken, New Jersey.

11 This may be a dumb question for people
12 who weren't listening closely, but I heard you -- I
13 heard you testify that the height of this building
14 is the proper height allowable in the zone.

15 Yet, on the other hand, I am hearing --

16 MR. MATULE: I have to interrupt.

17 Let's define this building.

18 MR. GALVIN: No. He is talking about
19 the proposed alternate reality.

20 MR. MATULE: We showed in the massing
21 model, and the yellow building in the massing model
22 is, if you will, an as of right height building for
23 the R-1 zone.

24 Nobody is advancing a position that
25 what we are proposing -- as a matter of fact, we are

1 asking for a height variance --

2 MR. EVERS: I am asking because the
3 agenda says there is a type D height variance
4 involved.

5 MR. GALVIN: There is. But what they
6 are telling us is -- what they're suggesting is if
7 they --

8 MR. MATULE: He said 46.25 feet above
9 average grade.

10 The testimony was this massing model
11 was to show the difference of the square footage of
12 the residential space for an as-of-right building
13 versus what we are proposing, and it is a difference
14 of approximately 125 square foot.

15 MR. GALVIN: Plus the height
16 variance -- plus the lot coverage variance, right?

17 There are other variances that are
18 required --

19 MR. MATULE: The only purpose of this
20 is to show that what we are proposing with all of
21 the variances we are asking for only has 125 --

22 MR. GALVIN: 155.

23 THE WITNESS: 155.

24 MR. MATULE: -- 155 square feet more of
25 residential space than what an as-of-right building

1 with no bulk variances on the site would have.

2 MR. GALVIN: Thank you.

3 MR. EVERS: Thank you.

4 CHAIRMAN AIBEL: Anyone else?

5 MR. GALVIN: Yes, Ms. Marsh.

6 COMMISSIONER MARSH: I have a question.

7 Can you show on the building you are
8 proposing where that building -- the as-of-right
9 building is?

10 Where is the height there?

11 So that whole second -- not the top
12 box, but the one below it, is that about the height
13 or is it taller than that?

14 THE WITNESS: It is about the height of
15 this.

16 COMMISSIONER MARSH: Okay. Thank you.

17 COMMISSIONER DE GRIM: Could you show
18 that from the other side now?

19 THE WITNESS: Again, you could see
20 this. It is about the height of the --

21 COMMISSIONER DE GRIM: Okay. Thank
22 you.

23 THE WITNESS: That is very approximate.

24 COMMISSIONER DE GRIM: Understood.

25 MR. GALVIN: Either that or you have to

1 mark your finger into evidence.

2 (Laughter)

3 MR. MATULE: A-12.

4 (Laughter)

5 COMMISSIONER BRANCIFORTE: I'm sorry.

6 If you're done with that, just a quick question
7 while the architect is up.

8 How do we guarantee that the facade
9 renovations or restoration on the facade is going to
10 be protected?

11 I mean, how do we do a before and after
12 to make sure what we see today is what we are going
13 to have a year or two or three years from now?

14 MR. GALVIN: All I have is: The
15 building is to be constructed as described and shown
16 to the Board. In particular, the six identified
17 church windows are to be reused and repurposed as
18 explained, so if it deviates from that.

19 MR. MATULE: If I might, I also think
20 at some point in the testimony when Mr. Dress
21 testified, I think there was a question on
22 cross-examination about whether there would be any
23 objections to his report being an exhibit to any
24 resolution, his report that talked about the
25 restoration process. And the applicant agreed that

1 there was no objection to do that, so I only bring
2 that up in the context that that is a little more
3 objective evidence, if you will, than just saying we
4 are going to make it look nice.

5 COMMISSIONER GRANA: So that is an
6 amendment to the resolution.

7 MR. GALVIN: I'll add that.

8 And what was that called again? What
9 was his name?

10 COMMISSIONER COHEN: Mr. Dress,
11 D-r-e-s-s.

12 MR. MATULE: Carl Dress, who was our
13 restoration expert, I believe he had a report that
14 was attached to the Historic Commission approval,
15 and I believe Mr. Kratz asked that that somehow be
16 incorporated into any approvals, and we indicated we
17 would have no objection to doing that if that were
18 the case.

19 MR. GALVIN: Okay.

20 CHAIRMAN AIBEL: So let's move on.

21 Any further questions?

22 Please come forward.

23 MS. KELLY: Hi. Mary Kelly, 925
24 Bloomfield Street.

25 With respect to the current square

1 footage, you say on the proposed building, it is
2 12,255?

3 THE WITNESS: Right.

4 MS. KELLY: And that doesn't include
5 the tower room, correct?

6 THE WITNESS: That includes all of the
7 residential floor area of the building.

8 MS. KELLY: Okay. I thought that the
9 testimony at the last hearing was that there was a
10 tower space approximately 12 by 12, which could be
11 used as a studio or as a bedroom or something.

12 THE WITNESS: I did not testify --

13 MR. MATULE: Well, Dean testified, but
14 you calculated all of the residential space in the
15 building, right?

16 THE WITNESS: That's correct.

17 UNIDENTIFIED VOICE: What did you
18 include in that?

19 THE WITNESS: We included all of the
20 residential --

21 MR. GALVIN: No, don't do it. Don't do
22 it. Sorry, no problem.

23 UNIDENTIFIED VOICE: Sorry.

24 MR. GALVIN: No problem.

25 COMMISSIONER BRANCIFORTE: Ms. Kelly is

1 asking questions.

2 MS. KELLY: Okay. And then there was
3 also a discussion, I believe, at the last hearing of
4 adding a bike shed, and I am assuming that that was
5 not -- that obviously is not being included, because
6 you are saying this is purely a residential space,
7 correct?

8 THE WITNESS: That's correct.

9 MR. MATULE: Again, my understanding of
10 the record is Mr. Marchetto talked about putting
11 that outside. There was a little space in the
12 northeast corner of the yard, where a bike shed
13 could be put, so that wouldn't count as residential
14 space, no.

15 MS. KELLY: Okay. Yeah, the --

16 MR. GALVIN: Questions.

17 MS. KELLY: -- I'm sorry. Okay.

18 MR. GALVIN: Thank you.

19 MS. KELLY: Thank you.

20 MR. GALVIN: When you're done with this
21 witness, we're going onto comments very shortly.
22 I know we have an objector's case, but it shouldn't
23 take long.

24 COMMISSIONER MARSH: I have two
25 questions actually.

1 MR. GALVIN: Yes, sorry.

2 CHAIRMAN AIBEL: Go ahead.

3 COMMISSIONER MARSH: I just want to
4 make sure that I understood that. That tower, was
5 it calculated as part of the residential space?

6 THE WITNESS: There is one room in the
7 tower at the top. All of it was counted. All of
8 the residential square footage was counted in that
9 number.

10 COMMISSIONER MARSH: I think the
11 question is: Is that residential space -- is that
12 tower residential space or not?

13 THE WITNESS: Yes.

14 MR. MATULE: A portion of it is, yes.

15 THE WITNESS: A portion of it is.

16 COMMISSIONER MARSH: How much of it is
17 and how much of it isn't?

18 MR. MATULE: If you go to the drawing,
19 I guess you could look on the drawing, Bruce.

20 THE WITNESS: There is one room in this
21 location.

22 VICE CHAIR GREENE: It's square feet --

23 COMMISSIONER MARSH: It is square feet
24 so -- I see it.

25 VICE CHAIR GREENE: -- it's floor area,

1 it's not cubic.

2 COMMISSIONER MARSH: Fine.

3 Then my next question --

4 CHAIRMAN AIBEL: I think we are okay,
5 Mr. Stieve.

6 COMMISSIONER MARSH: -- yeah, I
7 understand.

8 The second -- the higher of the two
9 boxes, the top floors, how far are they -- at their
10 closest point to the lot line, how far are they from
11 the lot line on all four sides, so -- about? It
12 doesn't have to be --

13 THE WITNESS: On the north side, it is
14 about --

15 COMMISSIONER MARSH: The north side is?

16 THE WITNESS: -- six and a half to
17 seven feet.

18 COMMISSIONER MARSH: Seven feet from
19 the lot line to the --

20 THE WITNESS: To this piece of the
21 building.

22 On the east side, it is 11 foot four.

23 On the south side, it is approximately
24 ten -- it is about 12 feet.

25 And from the west side, it is

1 approximately 13 feet.

2 COMMISSIONER MARSH: So it is a 13 foot
3 setback essentially, and how high is it from the --
4 from the -- the top of that second set is about 45
5 feet, right?

6 THE WITNESS: The roof is 46 feet three
7 inches above average elevation.

8 COMMISSIONER MARSH: Can you point to
9 where you're saying the roof is?

10 THE WITNESS: It's here. Above.

11 COMMISSIONER MARSH: Okay. So it's
12 about six feet up, and it's --

13 THE WITNESS: It is about ten feet
14 below that.

15 COMMISSIONER MARSH: -- and then seven
16 feet in.

17 Okay. Thank you.

18 CHAIRMAN AIBEL: Board members, any
19 further questions for this witness?

20 Please come forward. You are getting a
21 twosie, as our counsel would say.

22 MS. ONDREJKA: I'm sorry about this.

23 Can I ask you this question, and you
24 can answer an architect's question --

25 THE WITNESS: Of what I testified to.

1 MR. GALVIN: Of what he has testified
2 to.

3 MS. ONDREJKA: -- well, I just wanted
4 to know --

5 MR. GALVIN: Well, maybe Mr. Matule
6 will answer you.

7 Why don't you ask the question?

8 MS. ONDREJKA: I will.

9 I just wanted to know how high the
10 windows in the tower were, those long thin -- there
11 is two east and west, north and south, three.

12 What was the height?

13 I didn't ask that question last time.

14 I forgot and --

15 MR. MATULE: If you can look at the
16 elevations and give an approximation.

17 MS. ONDREJKA: Yes.

18 How high is that from here to here?

19 What is the height?

20 THE WITNESS: It is about 14, probably
21 about 15 feet.

22 MS. ONDREJKA: That's even higher than
23 I thought,

24 Thanks.

25 15 feet, wow. Okay.

1 CHAIRMAN AIBEL: Okay. I see no
2 further questions.

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

5 COMMISSIONER GRANA: I second the
6 motion.

7 CHAIRMAN AIBEL: All in favor?

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

10 MR. MATULE: Okay. I'm going to save
11 my closing remarks until after public comment.

12 MR. GALVIN: Correct. That is what you
13 should do.

14 CHAIRMAN AIBEL: So I understand there
15 is an objector's case.

16 MR. HULING: Thank you, Mr. Chairman.

17 MR. GALVIN: Raise your right hand.

18 MR. HULING: Phil Huling. That's

19 P-h-i-l --

20 MR. GALVIN: Sorry.

21 Do you swear to tell the truth, the
22 whole truth, and nothing but the truth, so help you
23 God?

24 MR. HULING: I do.

25 MR. GALVIN: Now, state your name for

1 the record.

2 MR. HULING: Phil Huling, H-u-l-i-n-g.
3 I live at 938 Bloomfield Street.

4 MR. GALVIN: Okay. And this is your
5 case. You have an expert. You can call on the
6 expert, but he can't make a closing argument for
7 you, only you can.

8 MR. HULING: Okay. In the parlance of
9 the Land Use Law, whatever, I registered as an
10 objector.

11 MR. GALVIN: There is really nothing
12 special like that, but go ahead. Tell us what you
13 want to tell us.

14 MS. HULING: My point is that -- maybe
15 I am not entirely an objector. I have -- I want to
16 call a witness because I am concerned about how this
17 goes forward, and to that point I could make
18 comments, or I can call my expert witness. But if
19 you would like me to proceed with my comments now or
20 a little bit later, I can do that, otherwise I can
21 proceed.

22 MR. GALVIN: No. Why don't you --

23 CHAIRMAN AIBEL: Well --

24 MR. GALVIN: -- I am sorry, unless you
25 want to overrule me.

1 MR. MATULE: No. I am just going to
2 suggest in the interim --

3 MR. GALVIN: And by the way, let me say
4 this. In years of doing this, I never had an
5 individual non attorney present an expert witness in
6 opposition to a case, so we've covering new things
7 for me.

8 MR. MATULE: We're covering new ground.

9 What I was going to suggest based on
10 what I'm hearing is that Mr. Huling has some
11 concerns about, I am assuming, if this were
12 approved, the execution of the project.

13 All I was going to suggest is perhaps
14 he should express his concerns to the Board, and
15 then depending on what those concerns are, he can
16 either bring his witness up, if necessary, or not.

17 That's all.

18 MR. GALVIN: I think the way an
19 attorney would do it, though, is they would bring
20 his witness first and then cover it.

21 MR. MATULE: I understand.

22 MR. GALVIN: So that would be my advice
23 to you is let your witness go first.

24 MS. HULING: That's fine. My witness
25 is Allen Kratz.

1 MR. GALVIN: Raise your right hand.

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

5 MR. KRATZ: I affirm to tell the truth.

6 MR. GALVIN: Oh, I'm so sorry. I am
7 fine with that.

8 Do you swear or affirm that what you
9 are about to say is true?

10 MR. KRATZ: I affirm that what I am
11 about to say is true.

12 A L L E N K R A T Z, having been duly affirmed,
13 testified as follows:

14 MR. GALVIN: Okay. Good. I am sure I
15 got that wrong, too.

16 THE WITNESS: It's no problem.

17 My name is Allen, A-l-l-e-n,
18 K-r-a-t-z.

19 MR. GALVIN: Now, do you want to voir
20 dire the witness?

21 MR. MATULE: I guess the Board is going
22 to have to determine what his qualifications are and
23 in what capacity he is testifying. I, you know --

24 MR. GALVIN: Why don't you tell us what
25 you are testifying to, and what your qualifications

1 are?

2 THE WITNESS: I will testify to the
3 assignment that my client gave me, which was to
4 review the testimony from the last hearing and to
5 make suggestions about the conditions that could be
6 attached to an approval, if the Board were to voice
7 an opinion of approval and --

8 MR. GALVIN: But when you are going to
9 testify as an expert, you have to have an expertise
10 in something.

11 What is your expertise?

12 THE WITNESS: I was going to get to
13 that.

14 MR. GALVIN: Okay.

15 THE WITNESS: I am an attorney. I have
16 studied preservation law. I taught preservation law
17 to the Institute of Continuing Legal Education.

18 I have a certificate in historic
19 preservation from Drew University, and I have
20 testified before the State Review Board on
21 architectural history and the National Register of
22 Historic Places. I nominated two buildings to the
23 National Register of Historic Places, including this
24 one.

25 I am President of the Board of the

1 Hoboken Public Library, which is overseeing -- which
2 is undertaking a project, which is compliant with
3 the Secretary of Interior Standards for the
4 Preservation of Historic Properties, and those are
5 my qualifications.

6 MR. GALVIN: I have nothing. I think
7 the Board has to decide whether they accept Mr.
8 Kratz as an expert.

9 MR. MATULE: I just have two questions.
10 Have you ever testified before a Zoning
11 Board or a Planning Board in the State of New Jersey
12 in your capacity as an expert witness?

13 THE WITNESS: No.

14 MR. MATULE: Okay. Thank you.

15 COMMISSIONER BRANCIFORTE: But you did
16 say you gave some testimony in front of a state
17 board?

18 THE WITNESS: I testified in front of
19 the Newark Historic Preservation for my former
20 employer, New Jersey Transit, and I testified before
21 the Historic Preservation Commission also in that
22 capacity, not before the Zoning Board of approval.
23 I guess there is a first time for everybody.

24 COMMISSIONER BRANCIFORTE: So the
25 historic board accepted you as an expert then?

1 THE WITNESS: I don't know that they
2 have that level of -- of --

3 COMMISSIONER BRANCIFORTE: Right. I
4 understand what you're saying.

5 MR. GALVIN: I have a solution -- I
6 have a solution short of recognizing you as an
7 expert.

8 There is no reason why we can't listen
9 to the conditions as a citizen and a resident, so --

10 COMMISSIONER COHEN: But couldn't he do
11 that as -- with a comment with all of the other
12 citizens?

13 MR. GALVIN: He is here now, and he's
14 making a suggestion to the conditions, and everybody
15 should have a right to hear it rather than have
16 everybody else get up and then have the conditions.

17 Are you guys okay with that?

18 VICE CHAIR GREENE: Yes.

19 (All Board members talking at once.)

20 MR. GALVIN: Mr. Matule, are you all
21 right with that decision?

22 We're not finding him to be an
23 expert --

24 MR. MATULE: Yes. I have no
25 objection --

1 MR. GALVIN: -- I am not saying that
2 you are not. I'm just saying we just haven't
3 reached that.

4 MR. MATULE: -- I have no objection to
5 Mr. Kratz' suggestions for whatever weight they
6 have.

7 MR. GALVIN: Yes.

8 THE WITNESS: Thank you.

9 And to be expeditious I do have a
10 report that I prepared, and I will present it, and I
11 don't know if you --

12 MR. GALVIN: You have to show it to Mr.
13 Matule.

14 THE WITNESS: Yes, of course.

15 MR. GALVIN: The other thing I would
16 say to you is how long have you had the report?

17 THE WITNESS: I had this report since
18 Monday.

19 MR. GALVIN: Okay.

20 MR. MATULE: I don't know how you want
21 to mark it. O-1?

22 MR. GALVIN: No. N-1.

23 MR. MATULE: We have some Ns.

24 MR. GALVIN: We are going to mark it as
25 N.

1 MR. MATULE: I think N-3.

2 MS. CARCONE: N-3

3 MR. GALVIN: N-3 for neighbor.

4 MR. MATULE: So we will let you mark
5 it, Mr. Kratz.

6 MR. GALVIN: Why don't we let Mr.
7 Matule take a look at it for a second.

8 All I'm going to say -- it is not going
9 anywhere, though, not until Mr. Matule tells me he
10 doesn't have an objection.

11 MR. MATULE: Well, I have to take a
12 second look at it.

13 MR. GALVIN: Well, take your time.

14 The other thing I am going to say to
15 you is every once in a while, you come here. If you
16 have a report that you prepared, I expect reports to
17 be given to everybody as soon as possible, so
18 everybody has a fair chance to consider them.

19 THE WITNESS: With all due respect, I
20 attempted to do that. At the August 11th hearing, I
21 was told that was not the case, so I would have done
22 that, if I figured that it was the case this time,
23 and with all due respect, I tried to follow that by
24 leaving cards face up in full disclosure and giving
25 things ahead of time, and I would have done that,

1 had I known.

2 MR. GALVIN: Okay. Just for future
3 reference, you might want me to contact me, and I'll
4 figure out if it's something that should be
5 distributed or not.

6 THE WITNESS: My client had contacted
7 you I think.

8 MR. MATULE: I just looked at it very
9 quickly. I see there are a lot of, if you will,
10 excerpts from the testimony about certain physical
11 conditions, and for example, the size of the window
12 openings and things of that nature. I have no
13 objection to that.

14 My big concern is there is a section
15 here that talks about sufficient financing, and I
16 think that is getting beyond the purview of the
17 Zoning Board of Adjustment.

18 MR. GALVIN: That's right. We
19 shouldn't be considering that.

20 MR. MATULE: You can certainly address
21 in your conditions, that the project be executed as
22 presented to the Board, but I don't think -- this is
23 not like we are applying to be a designated
24 developer, and we have to show our financial
25 wherewithal and our building experience, if you

1 will.

2 So in that context --

3 MR. GALVIN: Can it be excised? Is
4 there a page that can be removed or --

5 MR. MATULE: I don't know. I haven't
6 read the whole report.

7 All I'm saying is I sort of have a
8 continuing objection to that aspect of Mr. Kratz'
9 testimony.

10 As far as physical conditions, and you
11 know, the restoration of the building and the points
12 of restoration, you know, I am open to hearing what
13 he has to say about that. That's all.

14 THE WITNESS: May I respond on the
15 financial?

16 MR. GALVIN: No. He is absolutely
17 right. You can't bring it up. I know why you want
18 to, and I do think it is important, but it is not
19 something that my Board should consider.

20 THE WITNESS: I wasn't raising a
21 substantive question. I was raising a procedural
22 question.

23 MR. GALVIN: Sure. Go ahead.

24 THE WITNESS: The procedure is -- the
25 procedural matter that I wanted to mention is that

1 in 2007, this Board during two nights of testimony
2 on an application concerning the Church of the Holy
3 Innocence heard testimony from two competing
4 financial experts. The objective was not to figure
5 out if there was a hardship. That is disfavored by
6 the courts, as you said last time. It was not to
7 figure out if the developer was getting a profit.
8 You correctly said at the last hearing, quote, it's
9 to --

10 MR. GALVIN: Right --

11 THE WITNESS: -- for any
12 investigation --

13 MR. GALVIN: Thank you.

14 THE WITNESS: -- the sole purpose of
15 that was to determine if the giveback to the
16 community, in that case historic preservation of a
17 church, in this case the historic preservation of a
18 facade, was more than an illusory promise. If there
19 was sufficient financial backing to make sure that
20 the community giveback, the restoration of the
21 facade, we just heard Mr. Stieve refer to that once
22 again, the positive benefit is actually going to
23 come into fruition, at the same time as conversion
24 of the building into residential property. Both
25 need to be done at the same time. Otherwise, there

1 is not a sufficient balancing of equities.

2 (Applause)

3 MR. GALVIN: Well, you can clap, but I
4 am going to tell him no.

5 (Laughter)

6 Sorry. I don't agree. I don't think
7 that issue was presented in this case. I wasn't the
8 attorney in that hearing, and I don't agree with
9 whatever that attorney permitted. There might have
10 been good reasons at the time for allowing it. It
11 seems like both parties went into it, but I still
12 don't think that that is a necessary part of what a
13 Zoning Board has to do.

14 I mean, they have their own senses of
15 this structure, and does it have a value to the
16 community. That is why you have community
17 representatives on the Board, so I don't think that
18 there is a cost benefit analysis that we should be
19 making in this, and I don't think it is appropriate
20 for the Board to consider the financial data.

21 As you said, I think it is connected to
22 what I previously counseled the Board on.

23 So is there a way to delete the
24 financial component of your report?

25 THE WITNESS: Of course.

1 MR. GALVIN: Then if you can do that,
2 then I will allow the Board to have the rest of the
3 report, but make sure that Mr. Matule agrees with
4 you that it has been removed.

5 If you need a minute, I think we could
6 take a two-minute recess and let them chat.

7 VICE CHAIR GREENE: Since there is no
8 clock...

9 (Laughter)

10 CHAIRMAN AIBEL: Let's let them do it
11 now.

12 (Board members confers)

13 THE WITNESS: So Mr. Matule and I have
14 conferred over the substance of the report, and we
15 have come to an agreement that the portion of the
16 report that says conditions considered at the August
17 11th hearing and new conditions that could be added,
18 both of those are an appropriate subject for the
19 Board to hear. He may have a comment about some of
20 them, but we agreed that these pages, Pages 8 to 16
21 in the report, are admissible.

22 MR. MATULE: With my noting an
23 objection to several paragraphs.

24 Paragraph 11, which talks about
25 providing resources for finding a contractor and

1 trades qualified for historic work, and I will let
2 Mr. Kratz respond to that.

3 And Paragraph 14, which talks about a
4 reserve fund, and Paragraph 15, which talks about a
5 performance bond.

6 With those qualifications, the other
7 conditions that are being proffered here, I think we
8 essentially agreed to already, and we have no
9 objection to them.

10 MR. GALVIN: All right.

11 THE WITNESS: So I have now pulled off
12 the first seven pages, and I guess we should mark
13 that as N-1 or N-3.

14 (Exhibit N-3 marked)

15 THE WITNESS: I have a couple of these
16 revised versions here.

17 MR. GALVIN: Can you guys get that?
18 The court reporter can't get it.

19 THE WITNESS: Watch out for the sample.
20 Would you like another?

21 MR. GALVIN: No, no. We're fine.
22 Let's talk and let's move on. We want to get to the
23 other applications tonight.

24 THE WITNESS: Basically I can do this
25 in a very quick fashion and say that the conditions

1 that you considered, you had considered on August
2 11th, the Board to adhere to the historic
3 preservation's conditions for recommending approval.

4 You agreed or you heard testimony that
5 seemed to indicate that you would seek Historic
6 Preservation Commission review of any new and
7 material changes. That is good. I advised my
8 client.

9 There was testimony about preserving
10 the size of the existing windows. Again, I advised
11 my client that that was very good.

12 Confining lighting in the form of bell
13 tower to standard residential lighting. I advised
14 my client that there was testimony here last time
15 that that was underway, and that would be considered
16 as a condition.

17 Permitting only very limited removal of
18 existing character-defining material was another
19 condition that had been mentioned, and the architect
20 agreed with that.

21 MR. GALVIN: Let me stop you there.

22 Basically what I have so far is I have:
23 The building is to be constructed as described and
24 shown to the Board, in particular, the six
25 identified church windows are to be reused and

1 repurposed as explained.

2 In addition, the building is to be
3 constructed in accordance with the Dress report.
4 The Board's decision was based largely on the
5 promised preservation of the church facade and the
6 restoration of the bricks. In the event of any
7 change to the plans for any reason, this approval is
8 void.

9 THE WITNESS: Yes, and that's noted in
10 the report here. It's in a very positive fashion
11 that a lot of testimony was given and accepted that
12 this would be done in that fashion.

13 This is simply a recitation of those
14 conditions for including any variance approval, any
15 variance relief.

16 One of them was obtaining assurance of
17 structure stability. Another was to --

18 MR. GALVIN: Time out for a second.

19 I have: The applicant is to provide a
20 geotechnical report for the Board's Engineer for his
21 review and approval.

22 THE WITNESS: Right. That was Page 110
23 of the transcript.

24 The reserving of -- requiring a reserve
25 for future repairs was something that we could

1 certainly put language in that was said at the
2 hearing.

3 Imposing restrictions on future
4 changes, there was a colloquy between you and Mr.
5 Matule on that, that was very positive.

6 Then the real substance of the report
7 is the recommended additional conditions of
8 approval, which were not testified to at the hearing
9 on August 11th, and those very quickly are to
10 provide resources for finding a contractor and
11 trades qualified for historic preservation.

12 As President of the Board of the
13 Library, with a project that is on the National
14 Register and using public funds in that case, we are
15 required to hire experts who are qualified to work
16 on historic buildings.

17 This is simply a recommendation that
18 the owner of a private property here could consult
19 with the library and find out who those qualified
20 trades were, so that it would be some sort of
21 assurance that the work would be done in a
22 respectful manner according to the secretary's
23 standards. This is prefatory, not mandatory.

24 MR. MATULE: And we are objecting to
25 any such conditions.

1 a process, and there are people who are supposed to
2 be looking at that.

3 MR. GALVIN: But sometimes they have to
4 interpret what I wrote, and maybe I didn't do a good
5 enough job of writing it down to give them enough of
6 a guideline, you know, so you got to take some of
7 the bricks out to replace the bricks. I don't know
8 how many he's going to have to --

9 MR. MATULE: We have the Historic
10 Commission approval, which has very specific
11 call-outs in it as to what is to be done.

12 MR. GALVIN: So the applicant must
13 follow the Historic Commission's comments.

14 MR. MATULE: Make it an exhibit to any
15 resolution. We have no objections to that.

16 And I'm not saying that my client and
17 Mr. Marchetto may not wish to have those
18 conversations. I am just questioning the propriety
19 of having it being a mandatory condition in the
20 resolution.

21 MR. GALVIN: Well, the Board will
22 decide.

23 MR. MATULE: Yes.

24 MR. KRATZ: Another recommendation,
25 again, it's a recommendation that the applicant

1 utilize the latitude and the rehabilitation sub code
2 of New Jersey for historic properties, again citing
3 the example of the library. We went to the
4 construction office. We got three waivers from the
5 historic -- from the historic rehab sub code.

6 We don't have to adhere to the stair
7 riser tread ratio. It's ADA compliant.

8 MR. MATULE: No objection.

9 THE WITNESS: We don't have to extend a
10 railing into the sidewalk to comply with ADA, and
11 we're allowed to have third inward swinging
12 ornamental front doors instead of outward swinging
13 doors. We got all of those approved by the
14 construction office, and it is an example of how a
15 building can be preserved using the latitude, and we
16 would encourage the -- I recommended to my client
17 that the condition be that the applicant be
18 encouraged to utilize those, where it is
19 appropriate.

20 MR. GALVIN: Yes. I would say I
21 understand where you are coming from, and I think
22 that was good for the library, but in this instance,
23 the plan is the plan. They have to build this in
24 accordance with the plan that they are showing us
25 right now.

1 THE WITNESS: This is to simply respond
2 to the questions that may come up during
3 construction.

4 MR. GALVIN: I think if there is any
5 material change in these plans, they have to alert
6 the Board, and let the Board make a call on it.

7 THE WITNESS: Very good.

8 The other recommendation was that
9 inasmuch as the public benefit here is the
10 restoration and preservation of the historic facade,
11 the applicant forego the need to plant shade trees
12 at full crown which would block views of the very
13 public benefit. So here, again, the library got a
14 waiver from this --

15 MR. GALVIN: Well, that is up to the
16 Board. I don't know what it is going to be with
17 that.

18 THE WITNESS: We got a waiver from
19 the --

20 VICE CHAIR GREENE: How many trees are
21 proposed?

22 MR. MATULE: Four, I believe.

23 THE WITNESS: Three more.

24 Requiring a performance bond --

25 MR. MATULE: I object.

1 THE WITNESS: -- making a temporary
2 certificate of occupancy conditioned upon completion
3 of restoration. This would ensure that the historic
4 preservation work gets done in conjunction with the
5 conversation to a residential facility.

6 And, finally, it was my recommendation
7 to my client that the -- any approval clearly cite
8 the Municipal Land Use Law and the historic -- the
9 master plan's historic preservation section to
10 really codify why we are doing this project. Those
11 were the conditions.

12 MR. GALVIN: I assure you that if this
13 gets an approval, I will reference to -- I think it
14 is H of the Land Use Law on preservation of historic
15 structures.

16 THE WITNESS: Thank you.

17 That is my testimony.

18 MR. GALVIN: Okay.

19 So Mr. Huling, do you have anything
20 else you want to add now that your witness
21 concluded?

22 MR. HULING: No. Actually it would
23 just be an opinion.

24 MR. GALVIN: Okay. That is nice of
25 you. Thank you.

1 We are going to go on to the next
2 witness then. Okay.

3 Mr. Chairman, we are available now for
4 the other objectors.

5 CHAIRMAN AIBEL: That's right.

6 We are now going to open it up for
7 comments from the public.

8 MR. GALVIN: For or against.

9 CHAIRMAN AIBEL: Now is the time to say
10 yeah or nay and the reasons why.

11 Anybody wish to comment from the
12 public?

13 COMMISSIONER COHEN: Can I just ask a
14 question of Mr. Matule before they start, Mr. Chair?

15 CHAIRMAN AIBEL: Yes.

16 COMMISSIONER COHEN: Just with respect
17 to the shade tree question, if there were no shade
18 trees put in, would the applicant make a donation to
19 the Shade Tree Commission or whatever the cost of
20 those trees would be or --

21 MR. MATULE: In lieu of more shade
22 trees?

23 COMMISSIONER COHEN: In lieu of --
24 yeah.

25 MR. MATULE: Sure, I am sure.

1 COMMISSIONER BRANCIFORTE: And just
2 going back to the question I brought up before, and
3 maybe this is a good question that might be good now
4 that we have Mr. Kratz up, I am just going to throw
5 this out there and then we'll discuss it.

6 Years and years ago, when I was
7 traveling in Italy, I met an architect, and his job
8 for the regional government was to go out before any
9 restoration started on these historic buildings and
10 take pictures. The pictures went to the city. And
11 if the building wasn't rebuilt according to the
12 original pictures, if there was any deviations from
13 the pictures, there was a problem.

14 You know, in the past we have had
15 problems because we have no physical evidence of
16 exactly what the building looks like. We have to go
17 by the renderings and photos that have been
18 submitted as evidence by the planner and the
19 architect.

20 I would rather have a proper set of
21 pictures taken of that building submitted into
22 evidence or submitted to whoever, that is going to
23 be watching us to make sure that the facade looks
24 like it does today, and the bricks are not
25 rearranged for whatever purpose.

1 I mean, is that something that has been
2 done before or something that can be done?

3 MR. KRATZ: I can respond to that.

4 COMMISSIONER BRANCIFORTE: I leave it
5 up to you guys.

6 MR. KRATZ: As part of nominating this
7 building to the National Register, I took black and
8 white photos. That's a requirement, and I have
9 exterior photos that show conditions as of April of
10 2005.

11 MR. GALVIN: Do you have them right
12 now?

13 MR. KRATZ: I do.

14 MR. GALVIN: Show them to Mr. Matule.

15 MR. MATULE: They are ten years old,
16 though. I mean --

17 MR. GALVIN: Then we are going to get
18 updated pictures --

19 MR. MATULE: On the --

20 MR. GALVIN: -- let me just say this.
21 I think that's brilliant that we would take
22 pictures, so we know exactly what we bought, you
23 know.

24 MR. MATULE: And the applicant -- I
25 just asked Mr. Stieve, if it would be possible to do

1 a photo catalog, if you will, of the outside of the
2 building and the --

3 MR. GALVIN: To present to the Board at
4 the time of the memorialization to be attached as
5 Exhibit C.

6 MR. MATULE: If you will, I don't want
7 to say a montage, but a photo record of --

8 MR. GALVIN: I don't really want them
9 posted on a board. I think that they should be --

10 MS. BANYRA: It should be a photo
11 inventory, so somebody can look at the different
12 facades --

13 MR. MATULE: Of the exterior.

14 MS. BANYRA: -- of the exterior --

15 MR. MATULE: Yes, because we're not
16 going to get --

17 MS. BANYRA: -- windows, doors --

18 MR. MATULE: -- of the interior --

19 COMMISSIONER MARSH: All sides.

20 MS. BANYRA: -- all sides.

21 MR. MATULE: Yes. We can do that. We
22 can submit it digitally also.

23 COMMISSIONER MARSH: Mr. Chairman, may
24 I?

25 CHAIRMAN AIBEL: Yes. One second --

1 MR. KRATZ: The Federal Government has
2 a standard that's called the Historic American
3 Building Survey, and it has the requirements for how
4 photos are taken and displayed. The Department of
5 the Interior also has requirements of how one does
6 photos for the National Register nominations, and
7 those would be industry standards that you can
8 follow.

9 MR. MATULE: Can you provide those to
10 me, Mr. Kratz, if you would --

11 MR. KRATZ: I will.

12 MR. MATULE: -- and I will provide them
13 to Mr. Marchetto, and I'll see to what extent he can
14 provide them and present them in that package --

15 MR. GALVIN: To the best of their
16 ability.

17 MR. MATULE: -- for example, if it
18 calls for them to be mounted, like yours are
19 mounted, we wouldn't do that because the Board says
20 they don't want us to do that.

21 MR. GALVIN: Right. I want to have
22 them, so we can attach it to the resolution, so that
23 in the future they will be able to go outside and
24 look and see what's there, and they will have the
25 photo right attached to the resolution.

1 MR. KRATZ: Very good. I will provide
2 that information.

3 MR. MATULE: Thank you.

4 MR. GALVIN: I'm sorry, Ms. Marsh, are
5 you waving to me?

6 No.

7 COMMISSIONER MARSH: I am just looking
8 for attention.

9 (Laughter)

10 CHAIRMAN AIBEL: You have it now.

11 Do you have a question?

12 COMMISSIONER MARSH: Thank you.

13 I am still thinking through this whole
14 material change thing, and I am going to ask this
15 bad, because I don't know how to ask it well.

16 But what -- I mean, I saw a picture of
17 a building, and it had, you know, 15 or 20 bricks on
18 the ground, and then the whole thing was down before
19 anybody had a chance to say, you know --

20 MS. BANYRA: There was a material
21 change.

22 COMMISSIONER MARSH: -- that was a
23 material change. And when it was built back up, it
24 was built back up with bricks that were, quote,
25 close to it, as close as they could come.

1 And as close as they could come isn't
2 this facade --

3 MR. GALVIN: No, but I think --

4 COMMISSIONER MARSH: -- it's these
5 bricks or it's a material change --

6 MR. GALVIN: No. I think Mr. Dress
7 testified --

8 COMMISSIONER MARSH: Okay.

9 MR. GALVIN: -- I have to go back to
10 what Mr. Dress testified to. But he was showing us
11 pockets of bricks that were not good, and he was
12 going to repair and replace them --

13 COMMISSIONER MARSH: I understand --

14 MR. GALVIN: -- I don't know that he
15 wasn't going to put other material there --

16 COMMISSIONER MARSH: -- I am not saying
17 that he can't replace broken bricks with new bricks.

18 I am saying that we are not going to
19 tear down this facade and build it back up with
20 bricks that almost look like it.

21 MR. MATULE: No --

22 MS. BANYRA: I think if I could just --
23 my question when we get to the -- you really want to
24 know what is the material --

25 COMMISSIONER MARSH: Yes.

1 MS. BANYRA: -- what is the material
2 change, so I think that it would be, and maybe now
3 is not the time. I thought maybe when we get to the
4 resolution --

5 MR. GALVIN: If we can go into the
6 closing --

7 MS. BANYRA: -- yes. And then let's
8 talk about what material is and kind of identify
9 some of those parameters because a material change
10 to one person is not a material change to somebody
11 else.

12 MR. GALVIN: Well, I used 50 percent in
13 that one building, and then it was more than 50
14 percent, right?

15 COMMISSIONER MARSH: Right. So
16 obviously there was a judgment call that I don't
17 want to have again.

18 MR. GALVIN: And I did my best. I was
19 trying to do anything short of me standing out there
20 and watching them do it.

21 (Laughter)

22 COMMISSIONER MARSH: You did.

23 MS. BANYRA: So I'll define that maybe
24 at the closing.

25 MR. MATULE: We also agreed to supply a

1 geotechnical engineering report as one of the
2 conditions --

3 MR. GALVIN: I have that.

4 MR. MATULE: -- and I think that will
5 go a long way in addressing that concern.

6 MR. GALVIN: No. What we are talking
7 about is when they get out there, when you can't
8 control them. Like I already said, they go out
9 there, and when they are starting to do it, the next
10 thing you know the thread has been pulled, and the
11 entire wall is down or something, you know, and that
12 is not what we were promised.

13 MR. MATULE: If that happens, we have
14 to come back here. I mean, clearly we understand
15 that and --

16 COMMISSIONER MARSH: When? When do you
17 have to come back here?

18 MR. MATULE: In the event something
19 like that occurs, immediately.

20 MR. GALVIN: As soon as the zoning
21 officer goes out there and tells them to stop work.

22 COMMISSIONER MARSH: Before they tear
23 down the building or after they tear down the
24 building?

25 (Laughter)

1 MR. GALVIN: When. Guys, tell me how
2 to do a better job of enforcing it, and I will do
3 it.

4 COMMISSIONER MARSH: That is why I
5 hired you.

6 MR. GALVIN: I am doing every trick I
7 know.

8 MR. KRATZ: If I might, hiring
9 qualified trades people --

10 MR. GALVIN: No. Stop. We will take
11 that under advisement.

12 MR. KRATZ: Thank you.

13 CHAIRMAN AIBEL: Okay. Are there any
14 takers? Anybody wish to comment?

15 Please come forward.

16 MR. EVERS: I actually came for the
17 second -- do I have to do my name again?

18 MR. GALVIN: Yes, unfortunately.

19 MR. EVERS: Michael Evers, 252 Second
20 Street.

21 MR. GALVIN: Do you swear to tell the
22 truth, the whole truth, and nothing but the truth,
23 so help you God?

24 MR. EVERS: Yes.

25 MR. GALVIN: You may proceed.

1 MR. EVERS: I actually planned to
2 testify for this, and I was waiting for the next
3 hearing. But the issue that was just raised is
4 really important. It is chronic, and since you are
5 looking for suggestions on how to deal with this
6 recurring problem of people making representations
7 or getting permissions and then not following
8 through on them, I would suggest that you simply
9 state that you clearly define what the material
10 conditions are. Make a list of them. Make
11 pictures, okay?

12 In fact, I would suggest that you
13 grant -- if you grant an approval, that you grant an
14 approval conditional on first the applicant or
15 somebody being charged with submitting an entire set
16 of current photos before any work begins --

17 MR. GALVIN: No. We agreed. We are
18 going to do that.

19 MR. EVERS: -- no, before any work
20 begins --

21 MR. GALVIN: Yes. We agreed with that.
22 They are going to do it right now.

23 MR. EVERS: And if there is any
24 material departure, they would be required to appear
25 before this Board, if only for an interpretation,

1 nothing --

2 A VOICE: One-one.

3 MR. GALVIN: -- okay. One-one.

4 (Laughter)

5 CHAIRMAN AIBEL: Please come forward.

6 MR. GALVIN: Raise your right hand.

7 Do you swear to tell the truth, the
8 whole truth, and nothing but the truth, so help you
9 God?

10 MR. LAGANO: I do.

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

13 MR. LAGANO: Steve Lagano, 931
14 Bloomfield Street.

15 MR. GALVIN: Spell your last name.

16 MR. LAGANO: L-a-g-a-n-o.

17 MR. GALVIN: Thank you.

18 MR. LAGANO: Sorry for the shoutout
19 before.

20 MR. GALVIN: Oh, you're fine. I want
21 to keep control.

22 MR. LAGANO: Cool.

23 So anyway, I live on the block. I've
24 been there for 25 years, and I have to say, I am a
25 professional engineer by training, and I have to say

1 I was pretty impressed with the 3-D graphic that the
2 architect showed.

3 But then I actually went out, and I
4 actually, for like maybe two or three days looked at
5 the building from all of these different angles.
6 And I think that I highly recommend that nobody
7 makes a decision until you really go out there and
8 look at the building because it's a gigantic
9 building, beautiful building, but you know, it is so
10 out of scale with the block, and I know the
11 volumetric analysis. I think the net difference was
12 7 or ten percent, but I have to tell you, 7 or ten
13 percent on something so big of such scale in that
14 neighborhood is very, very significant.

15 I highly recommend that people go out
16 and look, because I think the rendering was a little
17 misrepresented. I don't think the architect did it
18 intentionally or anything like that. But I don't
19 think that that was really indicative of what you
20 will see when you go out there.

21 And just my suggestion is: Don't make
22 a decision until you actually go out and look at
23 that space.

24 Thanks.

25 CHAIRMAN AIBEL: Anybody wish to

1 comment?

2 Please come forward.

3 MR. GALVIN: Raise your right hand

4 Do you swear to tell the truth, the
5 whole truth, and nothing but the truth, so help you
6 God?

7 MS. RANA: I do.

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

10 MS. RANA: Rana, R-a-n-a. And my first
11 name is Roseanne.

12 I live at 919 Bloomfield Street.

13 MR. GALVIN: You may proceed.

14 MS. RANA: My comment is that kind of
15 what Steve is alluding to.

16 Ninth and Bloomfield is a very
17 residential area. We have many, many little
18 children that live on that block.

19 One of my concerns is that in the
20 August meeting, we were told there has not been a
21 structural analysis as to whether this building can
22 sustain this type of massive renovation,
23 rehabilitation, whatever.

24 So my concern is for those children who
25 may be passing by, and let's say something happens

1 inside of that building, an old problem that perhaps
2 would all of a sudden present itself, and in August,
3 what they said was when they discovered a problem,
4 they would address it immediately.

5 My concern is we would like to be
6 proactive and not have it occur.

7 MR. GALVIN: Let me say just a couple
8 things real important -- two things real quick.

9 We are going to have something that is
10 going to have our engineer review the geotechnical
11 report before they even touch the building, okay?

12 And number two: The building codes are
13 beyond what the building department would do to
14 secure the property, to make everyone safe is beyond
15 what the Zoning Board does, but they have very
16 strict orders for whenever anything is being
17 constructed. So I think you should feel relatively
18 safe.

19 It is not like anything that the Zoning
20 Board should be doing to protect the safety of
21 pedestrians. That will be done by other parties.

22 MS. RANA: Thank you.

23 MR. GALVIN: You're welcome.

24 CHAIRMAN AIBEL: Please come forward.

25 MR. GALVIN: Raise your right hand.

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

4 MR. ROHTER: I do.

5 MR. GALVIN: State your full name for
6 the record and spell your last name.

7 MR. ROHTER: William L. Rohter,
8 R-o-h-t-e-r.

9 MR. GALVIN: Street address?

10 MR. ROHTER: I moved into 904
11 Bloomfield Street. That's directly across from the
12 church in the spring of 1985.

13 My adult daughter's earliest memory is
14 of a stained glass window, which she saw from her
15 bedroom window, and even today I can see the church
16 from my own bedroom window, from my home office and
17 from my living room. So whether I like it or not, I
18 am in the position to observe what goes on.

19 In order to make sure that the Board
20 has an accurate -- excuse me -- idea of the building
21 situation, I wanted to correct some of the
22 misstatements that Mr. Marchetto made in his
23 presentation in August.

24 Early on, he stated that the building
25 has been, quote, out of commission for many years

1 now.

2 That is incorrect. In reality, 901
3 Bloomfield was until 2013 the home of the Seventh
4 Day Adventis Church with a flourishing congregation
5 of Spanish-speaking immigrants.

6 As working class newcomers to this
7 county, they may not have had the know-how of
8 architects or planners or engineers, but they were
9 devoted to that building, always doing their best to
10 care for it and doing a pretty good job. They were
11 also wonderful neighbors.

12 They had their worship services on
13 Saturday morning and Wednesday night and sang their
14 hymns at those services, but never so loud as to
15 disturb the rest of us.

16 In addition, they ran a sort of soup
17 kitchen out of the basement on Wednesday nights,
18 distributing food to the needy. All of this
19 contributed to the character and fabric of the
20 neighborhood.

21 So why did they leave?

22 I asked that question of the church
23 pastor, Reverend Fonseca, after the move to a new
24 site up on Bergenline Avenue was announced. He told
25 me that they wanted bigger quarters, but that the

1 main problem was parking, as it always is in
2 Hoboken.

3 Now, you are being asked to approve a
4 transformation of that building to create six
5 apartments, and in all likelihood a permanent need
6 for at least six more parking spaces on a street
7 that is already congested. That's a pretty large
8 footprint.

9 In addition, the city has just
10 completed its new traffic and safety installations
11 at the corner of 9th and Bloomfield, and that has
12 permanently eliminated three parking places on each
13 side of 9th Street. So as currently planned, the
14 modification of 901 Bloomfield to create six
15 apartments will only exacerbate this situation.

16 At the previous hearing, Mr. Marchetto
17 also said that the building, quote, has been
18 deteriorating for a long time.

19 That, too, was incorrect. The building
20 was in perfectly adequate condition, so long as the
21 Seventh Day Adventis owned it. As I already noted,
22 maintenance of the building was a labor of love for
23 the members of the congregation.

24 I recognize that the building has
25 fallen into some disrepair, but that is the result

1 of neglect on the part of the new owner. Since the
2 sale of the church to him, it has been impossible
3 not to notice the change. The church members picked
4 up trash and bring it out on a weekly basis.

5 The new owner allows all kinds of junk
6 to accumulate and sends somebody to pick it up once
7 in a blue moon.

8 This morning, for example, I noticed
9 that there is now a sapling, a tree knee high,
10 growing out of the concrete on the front steps, a
11 sure sign that the building is not being cared for.

12 In addition, with the building
13 unoccupied, those front steps have become a magnet
14 for vagrants, drunks and mental patients and rowdy
15 teenagers, who sit there for hours at a time. I
16 have seen one of them urinating on the street in
17 front of the church, and that same man once
18 threatened my wife when he saw her on Washington
19 Street.

20 On weekends, teenagers sit there and
21 drink or make noise well past midnight, and what has
22 the new owner of the building done?

23 Aside from putting up a "No
24 Trespassing" sign in a couple of places, nothing.

25 So while he may talk about this being

1 a, quote, a very special building, to use Mr.
2 Marchetto's phrase, his stewardship thus far does
3 not inspire confidence.

4 It may well be that, as Mr. Marchetto
5 says, the building is at a tipping point, but that
6 is the fault of the current owner, not the previous
7 owner.

8 Walking my dog one recent morning, I
9 noticed that the door to the basement of the church
10 on 9th Street was open. Clearly visible inside were
11 cans of paint, some of them open, as well as wooden
12 pallets and a painter's cloth. It was a mess down
13 there, a safety hazard, that I worry could lead to a
14 fire that would destroy the building and put an end
15 to the need for this process.

16 So this kind of systematized neglect
17 belies the new owner's claim that he really wants to
18 preserve this wonderful building. If that is the
19 case, start by taking care of it now when it is not
20 yet generating a profit.

21 There is one other issue that I would
22 like to mention in relation to the good faith of the
23 developer, and that has to do with the notice of an
24 earlier hearing this summer. Several of us living
25 on the 900 block of Bloomfield received what was

1 described as a second notice of that meeting in
2 July, when we had never received a first notice, and
3 curiously the second notice only arrived the day
4 after the scheduled date of that meeting. That did
5 not happen just to me. It also happened to several
6 of my neighbors.

7 Now, I thought about this issue long
8 and hard, trying to decide what I think is best for
9 the building and the neighborhood.

10 Of course, I wish the Seventh Day
11 Adventis had never been -- felt forced to leave, but
12 they are gone now and won't be coming back, and
13 neither will any other church unless it can get some
14 sort of a parking variance.

15 I am not philosophically opposed to the
16 building being converted into apartments, but six is
17 too many. It will be too disruptive to the life of
18 the neighborhood. It will worsen the parking
19 situation that is already troublesome.

20 Because the location has been made
21 unavailable for a church, it may be true that an
22 apartment development is now the only option, but if
23 so, it must be scaled back.

24 Thank you for your attention.

25 CHAIRMAN AIBEL: Thank you.

1 Anybody else wish to comment?

2 Please come forward.

3 MR. GALVIN: Raise your right hand.

4 Do you swear to tell the truth, the
5 whole truth, and nothing but the truth, so help you
6 God?

7 MS. TORRES: Yes.

8 MR. GALVIN: State your full --

9 MS. TORRES: Gail --

10 MR. GALVIN: -- go ahead.

11 MS. TORRES: -- Torres, 915 Bloomfield.

12 MR. GALVIN: Spell your last name.

13 MS. TORRES: T-o-r-r-e-s.

14 MR. GALVIN: Thank you.

15 MS. TORRES: I just want to backup
16 whatever the gentleman previous to me said, and I
17 agree with everything that he said.

18 I just wanted to add one more piece of
19 information.

20 At the last meeting we asked that if a
21 noise study had been done, and that had not been
22 done. So I asked an environmental specialist to
23 come from the Hudson Regional Health Commission, and
24 he did do a decibel reading in our backyard to
25 measure the ambient air at about seven o'clock at

1 night.

2 I'm still waiting for that official
3 report from him, but in the meantime, I would like
4 you to know that both my husband and I witnessed the
5 test, and it came out reading 55 decibels, so I just
6 want you as a Board to consider that it wouldn't
7 take much to increase that range to 65 decibels,
8 which is not permissible in the outdoor, you know,
9 setting --

10 MR. GALVIN: That's --

11 MS. TORRES: -- and we're going to
12 be -- they also didn't answer. I don't know what
13 type of HVAC units will be then present on this new
14 structure and how many. I believe it was six or
15 eight, so I don't think it will take much to
16 increase the decibel level from 55 to 65, and so
17 that is one of my concerns, and that is why I also
18 presented this. It still has a marking from the
19 last meeting, so --

20 MR. GALVIN: We should have it, if it
21 is marked.

22 MS. TORRES: Yes. And these are all of
23 the --

24 MR. GALVIN: No, no, no. Stop, stop.
25 How do you have it, if it is a marked

1 exhibit?

2 MS. TORRES: I don't know. Somebody
3 gave it to me at the end of the meeting last time.

4 MS. CARCONE: I didn't give it to
5 anybody.

6 (Laughter)

7 MS. CARCONE: Is that N-4?

8 MS. TORRES: I'm sorry?

9 MS. CARCONE: What is that marked?

10 MS. TORRES: It says N-1 and it has the
11 date from --

12 MR. GALVIN: We should have it.

13 MS. CARCONE: No. I think I have that.

14 MS. TORRES: Somebody just kind of
15 handed it to me. I found it in my bag, and here it
16 is.

17 MR. GALVIN: Why don't you submit it?
18 Give it to Pat, okay?

19 MS. CARCONE: I think I have it
20 already.

21 MS. TORRES: Well, the main point is
22 that there is six industrial HVAC units in our
23 backyard, so adding more huge HVAC units back there
24 will definitely increase the decibels, so I really
25 respectfully urge the Board to take a look at the

1 noise level and possibly the air flow and the light.

2 I have some aerial views that I think
3 are very telling, very different from the rendering,
4 which the architect has offered.

5 Nothing that was presented shows the
6 backyard perspectives or even aerial views, and I
7 think that this really, you know, gives more of a
8 sense of the scale of what currently exists.

9 And to Steve Lagano's point, you know,
10 what it's going to look like once that huge addition
11 is added. I mean, we just kindly ask that you drop
12 back the scale of this project. It is really too
13 huge.

14 In terms of density, we know that six
15 units are allowed, but that doesn't really take into
16 account the number of individuals who will actually
17 inhabit each of these units, so we would also like
18 you to consider that, if possible.

19 MR. GALVIN: What are we up to N-wise?

20 MS. CARCONE: We are up to N-4.

21 MS. TORRES: Oh, I can give you this.
22 This is from information about -- it's from the
23 noise ordinance, you know, with the decibel levels.

24 MR. GALVIN: No. We are acquainted
25 with the law. We don't need that.

1 MS. TORRES: Okay.

2 MR. GALVIN: The three pictures you
3 have will be N-5, N-6 and N-7.

4 (Exhibits N-5, N-6 and N-7 marked.)

5 Mr. Matule, do you have any objection?

6 MR. MATULE: No.

7 MR. GALVIN: Who took the pictures and
8 when were they taken?

9 MS. TORRES: I got these from Mr.
10 Kratz, the lawyer who spoke previously.

11 MR. HULING: Here these are labeled.

12 MS. TORRES: Thank you.

13 MS. CARCONE: Are these the same
14 things?

15 MS. TORRES: Yes. I just printed them
16 out earlier.

17 MR. GALVIN: So we will take the
18 glossies, and they will become the N-5, N-6, and 7.

19 MR. MATULE: Could we have that
20 question answered, though, when were they taken?

21 MR. GALVIN: Mr. Kratz, when were those
22 photos taken, ten years ago?

23 MR. KRATZ: Yes. They were taken in
24 April of 2005.

25 MR. GALVIN: Is there a substantial

1 change since then?

2 MR. KRATZ: I haven't been up on the
3 roof to test that --

4 MR. GALVIN: All right. That's why we
5 are getting current. Okay.

6 MS. TORRES: I just wanted to give you
7 a sense of what is back there because we don't
8 really have anything that's been represented by --

9 MR. GALVIN: No. We never do get those
10 back pictures, you are right, in any case.

11 Raise your right hand.

12 Do you swear or affirm that what you
13 are about to say is true?

14 MR. TUMPSON: I do.

15 MR. GALVIN: Mr. Tumpson, spell your
16 last name.

17 MR. TUMPSON: Daniel Tumpson,
18 T-u-m-p-s-o-n.

19 230 Park Avenue.

20 MR. GALVIN: Remember, she has to do
21 every single person, so it's hard --

22 MR. TUMPSON: Do you want me to do my
23 address?

24 MR. GALVIN: Yeah, go ahead.

25 MR. TUMPSON: 230 Park Avenue.

1 MR. GALVIN: It makes it easier for
2 her. She doesn't have them all memorized.

3 Mrs. Healey, I think she has got
4 memorized.

5 (Laughter)

6 MR. TUMPSON: Okay.

7 First of all, I want to remark that
8 when I heard that the church was closing, I did go
9 in. I never was inside the church before, and the
10 beautiful spacious cylindrical worship space, it is
11 very, very beautiful in there with the stained glass
12 windows very high up, very high ceiling. It's a
13 tremendous space, and I know that it is a historical
14 structure. It has been there a long time, but aside
15 from that, it is an extremely beautiful space.

16 What I recommend that you do is that
17 obviously this plan is to convert that existing
18 historical, beautiful worship space into condos, and
19 I would like to suggest an alternative, which is to
20 preserve the space, keep that historical structure
21 just as it is and use it for other public purposes,
22 for example, a meeting space, a performance space, a
23 place where people can go and contemplate and
24 experience the beauty that has been there, special
25 events, that kind of thing, public purposes.

1 And obviously, the first step towards
2 doing that is not to give special variances to
3 depart from the existing zoning law. Deny the
4 variances, that is what I am suggesting that you do,
5 because of the fact that what the conversion -- I
6 mean, aside from the fact that they violate the law
7 and they are asking for variances to violate the
8 law, that what it's turning the building into is
9 something that has fallen below what the building is
10 now.

11 And I think that the city, the state,
12 other concerned citizens should investigate the
13 possibility of using that space for a proper public
14 purpose. I already mentioned a few of those public
15 purposes.

16 You have the power to deny the
17 variances, because I think this is going to be
18 something that is going to -- I mean, that's the
19 other point that people were trying to make is they
20 are concerned that the changes are going to
21 negatively impact them, and I did already testify --
22 or not testify -- but asked questions -- sorry -- I
23 asked questions that were leaning towards the fact
24 that you were not getting enough information about
25 the negative impacts on the neighborhood, such as

1 the light and lights that would come from the
2 windows and that kind of thing. So you really don't
3 have enough information to give the variances
4 anyhow.

5 But I am saying just if you had seen
6 the inside of that church, and you have seen the
7 outside of that church, you would know that the
8 changes that are being proposed, where they may be
9 profitable to the owner, they are a negative to the
10 neighborhood, and there are other options that
11 should be investigated.

12 So since you have the power to deny the
13 variances for all kind of good reasons, I recommend
14 that you do so.

15 CHAIRMAN AIBEL: Thank you.

16 Anybody else wish to comment?

17 Please come forward.

18 MR. GALVIN: Do you swear to tell the
19 truth, the whole truth, and nothing but the truth,
20 so help you God?

21 MS. TUZMAN: I do.

22 MR. GALVIN: State your full name for
23 the record.

24 MS. TUZMAN: Gail Tuzman, 161 9th
25 Street.

1 MR. GALVIN: Spell your last name.

2 MS. TUZMAN: T-u-z-m-a-n, and the first
3 name is G-a-i-l.

4 MR. GALVIN: You may proceed.

5 MS. TUZMAN: Okay.

6 First, I concur with the gentleman who
7 was talking about the mass, how big that building is
8 and encouraging you to look at it and see it.

9 You know, it is large as it is, and my
10 biggest concern is even though the roof over I guess
11 what was the sanctuary will be lower than the
12 existing but smaller roof, cupola, it is going to
13 raise -- it seems like it is going to raise the
14 mass, and I think that -- I don't know, but you
15 didn't have evidence about the worst case scenario
16 in terms of the shadow studies, which would be the
17 winter solstice, that is the least sun, and the sun
18 is lowest in the sky, and I really think before
19 making a judgment on this, you should really look at
20 what point in time during the day and in the morning
21 will there be a difference between what there is now
22 and the proposed building in terms of the backyards
23 and the front yards, the front buildings where sun
24 is at a premium.

25 I think that the light and air that

1 speaks to the mass, I think that is going to be cut
2 down, and also I am not seeing the public good. In
3 granting variances, there should be some public good
4 obtained.

5 I don't see it as a big parking
6 situation that somebody else also mentioned, so I
7 concur with the man who just spoke, and that you
8 should deny the variance.

9 CHAIRMAN AIBEL: Thank you.

10 Please come forward.

11 MR. GALVIN: Raise your right hand.

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

15 MS. HEALEY: I do.

16 MR. GALVIN: State your full name for
17 the record.

18 MS. HEALEY: Leah Healey.

19 MR. GALVIN: And your street address?

20 MS. HEALEY: 806 -- I didn't think I
21 had to say that, but 806 Park.

22 MR. GALVIN: You probably didn't have
23 to say that either, right.

24 (Laughter)

25 MS. HEALEY: My principal concern here

1 is that what we are preserving, because I have been
2 to this Board a couple of times, and I realize that
3 a lot of times it has to do with how good your
4 conditions are.

5 It also has to do with what happens
6 after your conditions are imposed and what the city
7 government does with those conditions, and as we
8 have seen, that failed pretty substantially in the
9 past.

10 So I agree with the comment earlier,
11 that if the conditions are not met, I am not waiting
12 for a zoning officer to decide if they were met. I
13 think it is the obligation of the applicant to
14 figure out what those conditions are. They were
15 here, and you were here, so you are the two people
16 that best understand what those the conditions.
17 It needs to be the applicant's obligation to come
18 back to this Board. Otherwise, there is a
19 revocation of those approvals. That may be a
20 nuanced approach, but it may be necessary, because I
21 don't know that iterations of plans, other than the
22 plans that are presented to this Board, necessarily
23 reflect all of the conditions that this Board has
24 by the time the plans reach the zoning officer and
25 the construction office, so you have to be careful.

1 I don't think it is a mystery how to do
2 this. I think it is done in New York City, and I
3 think you just have to look into how it is done in
4 other places where it does stick.

5 Material change means absolutely
6 nothing to me. If you want something to be
7 preserved, you better state it down to the bricks
8 and mortar. And here is what really comes out at me
9 on this, and I know this isn't necessarily -- the
10 notice that went out from the Board is not
11 necessarily completely reflective of the whole site
12 plan, but it talks about reusing -- reuse of the
13 existing church building. The exterior walls of the
14 building will remain intact.

15 Now, if those are your conditions, we
16 are going to end up where we were before because
17 those conditions don't do it.

18 One of the things that you know from
19 this testimony is that a lot of what is being used
20 to justify the additional height on this building,
21 those units that go out through the top of this
22 building, is that the sanctuary is oddly shaped. So
23 if you don't have a condition that preserves that
24 sanctuary, then you may end up with a totally
25 different building that no longer justifies going up

1 to get your additional square footage on the roof
2 that they claim to lose by the odd shape of this
3 building below it.

4 So I wonder whether or not if you don't
5 have an interior condition, that they still meet
6 their proofs with respect to this project, and for
7 some reason that sanctuary goes away. In what
8 fashion that sanctuary goes away, I don't know.

9 The tower space, I think you better get
10 a little bit specific about that tower space. Right
11 now it is partially being used.

12 How do we know that it is not going to
13 be used by other -- once the building is built, how
14 do we know how it is going to be used? I think that
15 is something that we need to make sure, that it
16 doesn't turn into additional residential square
17 footage that nobody bothers to check later on.

18 One of the things that I think also is
19 going to be a concern is if you wait until you get a
20 geotechnical report after you have imposed the
21 conditions in this resolution, what do you do with
22 that geotechnical report, if you have to change the
23 conditions of the approval?

24 Are you going to amend the resolution
25 because of something that you found in that

1 geotechnical report, or are you just going to hope
2 that something else happens?

3 MR. GALVIN: Well, no, let's be fair.
4 If the engineer says the geotechnical report is not
5 good, then that is going to void this approval,
6 because it needs his review and approval.

7 MS. HEALEY: Okay. So that will void
8 the approval --

9 MR. GALVAIN: Well, he won't be able
10 to --

11 MS. HEALEY: -- after it has been
12 approved, it will revoke it?

13 MR. GALVIN: -- what is going to happen
14 is if they can't satisfy Jeff, they have a problem.
15 So they either have to come up with a solution, or
16 they have to come back to the Board. They are not
17 going to be able to build it if we don't get the
18 geotechnical, it's not going to go forward. I'm
19 sorry.

20 MS. HEALEY: And the last thing I
21 wanted to say is this building is a hundred percent
22 lot coverage, so we already know that the building
23 itself is a nonconforming structure that causes an
24 impact to this residential neighborhood because it
25 negatively impacts the otherwise required rear yard

1 setback. If a building is going to do that, what is
2 the benefit to the community of allowing a hundred
3 percent lot coverage?

4 Now, the applicant says, well, at least
5 when we get up to a certain height, we bring it back
6 to 60 percent. But that is an enormous lot coverage
7 and an enormous building. And although the
8 testimony you heard tonight of here is the building
9 we could have built as of right, well, I'll tell you
10 something. That is a building that makes a big
11 impact positively on the backyards of the people
12 that are there right now, if you have to pull that
13 building back to 60 percent lot coverage, so there
14 is a benefit there.

15 And the question I have is for you:
16 When you approve a building of a hundred percent lot
17 coverage, and the benefit to the community is
18 supposed to be the church is going to be there, then
19 you better make sure that church is there because
20 that is the only benefit that this community is
21 getting out of it is that the structure remain, and
22 it doesn't just remain with some bricks on the
23 outside. It is a church building, and the inside of
24 this building has a lot to do with how the outside
25 of this building looks. So please take the time on

1 I can't repeat that enough. You go up to it. It is
2 massive. It is huge. It is so huge, it is out of
3 scale. Anything done to it will affect everybody.
4 It is fantastically huge.

5 Going up -- this structure going up two
6 more stories, it is overkill. It is too much. It
7 needs to be brought down, four apartments, not six.
8 We can't handle it.

9 The parking situation, just last week,
10 they put barber shop type poles, and they lost, as
11 that gentleman said, three parking spaces, and then
12 you are going to add in six units there, when just a
13 couple of years ago, they added units at the Vestry,
14 which is on the same side a few doors south, which
15 by the way, this church will block the triplex that
16 was paid a lot of money for and the Vestry as the
17 realtor showed the view from the Vestry window on
18 their site to look out, and you see the tower, and
19 you see the open space, that would be blocked by
20 these two new floors, so they are going to get
21 screwed, not only anyone else around it.

22 Now, the other thing, it is interesting
23 they get to go up higher because it is not in the
24 flood plain. It is actually a very -- from my
25 viewing of it through the years, a very sound

1 structure. Very few bricks have fallen, very few,
2 and if you look at it, you really have to look at
3 it. It is not that much, and I would be concerned
4 as to how much is being retained in the original
5 structure because once it -- you don't have control
6 over it, once you approve it, they kind of do what
7 they want and they come back, well, we changed this.

8 The sanctuary, as Leah Healey says, is
9 an odd-shaped structure. It is circular, which
10 makes it harder actually for realtors to sell, but
11 it requires more space because they have quite a bit
12 of square footage on the units.

13 I have been inside of it when it is
14 closed, and it is quite stunning, and I think
15 everybody on this Board should be inside it to see
16 it before you approve or disapprove, as well as the
17 exterior.

18 And you will see there is buttressing
19 that has been used to construct the sanctuary roof
20 area. To do the kind of construction he is talking
21 about will destroy that and will also destroy the
22 walls because buttressing used in cathedrals was
23 used to reinforce each other upon a central area, so
24 it stands without holes in the middle. There aren't
25 holes in the middle as far -- no -- so I don't know

1 how he is going to do that.

2 And I would have to say that Dean
3 Marchetto was actually very honest when I asked him,
4 "Won't this fall down when they start demolishing
5 it?"

6 He said: I honestly can't say nay or
7 yea to that.

8 So I respect that answer because it's
9 true, because of that buttressing, I don't know how
10 that circular lateral area will be destroyed at the
11 rooftop to go up square.

12 In the end, I'm sure he probably
13 will -- if it falls down, he would have to go up
14 square anyway, so how much of the church is being
15 retained?

16 There are four entrances to this
17 building, the two stairs, the two sides -- there's
18 one on the side that is on the basement -- street
19 level. That will now be all illuminated with lights
20 because obviously it is somebody's home. The area
21 will now be much more lit up. Not only that, as far
22 as I remember the testimony, there would be two
23 floors that would use that tower. The tower, as the
24 gentleman said today, the windows which face east
25 and west, there is two 15-story facing east, two

1 west, three facing south and north.

2 Somebody flips on a light, and you will
3 have an unusual circumstance in this town. You will
4 have Hoboken's first and only lighthouse.

5 (Laughter)

6 MR. GALVIN: There shall be only
7 standard residential lighting in the tower.

8 MS. ONDREJKA: It doesn't make any
9 difference because today, one of the trends is like
10 in the Vestry. I guess people want people to see
11 what they own because there is no shades or window
12 treatments, and I can just go right up and see,
13 okay, they've got this, this, this and this. That's
14 exactly what will happen here.

15 There won't be any coverings because no
16 one is going to look up that high to see anything,
17 but it will throw light out in my direction, north,
18 south, east and west, so that is a big impact. This
19 is a massive building that is so unusual for any
20 building in this town to go condo. All of the other
21 churches, they knocked down, or the Vestry was
22 square, they could do something with it. This is
23 massive, massive, massive --

24 MR. GALVIN: Okay.

25 MS. ONDREJKA: -- I just want to make

1 sure you understand that.

2 (Laughter)

3 MR. GALVIN: Yes, I know. I usually
4 stop people after the third --

5 MS. ONDREJKA: All right. I'm almost
6 done.

7 MR. GALVIN: Okay.

8 You know I have the no twosie rule, and
9 I have, you know, repeat yourself three times, I
10 stop you.

11 MS. ONDREJKA: Okay.

12 (Laughter)

13 Now, as Leah said, what occurs on the
14 inside of the building, it is true that is how the
15 outside looks because of that particular circular
16 sanctuary.

17 I am also concerned about the decks.
18 Because that deck will be on the north side, it will
19 be facing the residents on Bloomfield on the west --
20 four people on the west and the east, so -- and I
21 have a problem it will be too impacted by that, but
22 who knows. But it will be quite an unusual thing
23 because it will be up to the street because there is
24 no setback. It's just the nature of the size of the
25 building, the nature of the design of the building.

1 It was a church.

2 So in closing, I wish -- it is so nice
3 inside, it would have made a great theater. It is a
4 pity our city did not buy that building to use for
5 the public good because we as a citizen group will
6 not benefit in one way by this.

7 Sure, they will maybe fix up the
8 bricks, sort of, sort of, like it is supposed to be.
9 They will take out all of the stained glass windows,
10 and all of those windows will illuminate.

11 It is going to be all lit up because as
12 residents live there, you are not allowed, like at
13 Stevens, you have to turn the lights out at ten
14 o'clock, we cannot do that. So that corner is going
15 to light up the whole area quite vividly.

16 If you look at it now, it's dark. When
17 the church was there, it was still dark at night.
18 It's going to be lit up, and that is a big problem
19 for me, who suffers from migraines, and I can't have
20 light, so obviously that will impact me. But the
21 whole corner right now is pretty dark.

22 I don't see any benefit, and I believe
23 the current owner, he is bluffing. He is not going
24 to tear it down. He is not going to tear it down,
25 not at all. He can say what he wants, and he has

1 architects to say what they want, and anybody, but
2 he is not going to tear that building down.

3 So, therefore, if you deny the
4 variances, hopefully he could sell it to somebody
5 else that would not want condos.

6 I know that it needs to be used for
7 some purpose, but changing it to condos into the
8 structure would be extraordinarily difficult. It is
9 too many as it is now. It needs to be at least down
10 scaled, and that is what I have to say.

11 Thank you.

12 MR. GALVIN: Awesome. Thank you.

13 Next?

14 Raise your right hand.

15 Do you swear to tell the truth, the
16 whole truth, and nothing but the truth, so help you
17 God?

18 MS. KELLY: Yes, I affirm.

19 MR. GALVIN: State your full name --

20 I'm sorry.

21 Affirm is fine.

22 MS. KELLY: Mary Kelly, 925 Bloomfield.

23 MR. GALVIN: Spell Kelly.

24 MS. KELLY: K-e-l-l-y.

25 MR. GALVIN: Thank you. It's spelled

1 many ways.

2 Go ahead.

3 MS. KELLY: I know.

4 Initially, I would like to just clarify
5 my question earlier with respect to the tower room.

6 MR. GALVIN: Yeah.

7 MS. KELLY: The transcript at Page 33,
8 Mr. Marchetto advised that the tower room could be
9 used as maintenance for the tower or might -- or
10 maybe it could be used as a studio, or maybe a
11 baby's room or something. It is just a little room
12 here, probably about 12 by 12, and there is no
13 reason we shouldn't make use of that.

14 So clearly, there is --

15 MR. GALVIN: What I put is it's 144 --
16 limiting the use of the tower to 144 square feet of
17 residential space. Okay?

18 And the balance is supposed to be
19 unused.

20 MS. KELLY: Okay. Thank you.

21 You know, the purpose of the R-1
22 district is to conserve the architecture, scale and
23 grain of the residential blocks.

24 And in this particular matter, I want
25 to refer you to page A-5, the Bloomfield Street

1 elevation in the architect's rendering. On that
2 document, the first floor starts, and I put that in
3 quotes, because we keep talking about four stories,
4 but we really have five here because we have two
5 significant two-bedroom apartments and a basement.

6 The first floor actually starts at a
7 height that is midway up the doorways of the
8 properties adjacent thereto on Bloomfield Street.

9 The second floor then is midway through
10 our windows on our second floors.

11 The third floor begins midway through
12 our windows on our third floors.

13 The fourth story begins well above our
14 windows.

15 So in considering the scale,
16 particularly in a block such as ours, where we have
17 such short buildings, I think that this is an
18 unreasonably high -- an unreasonably high approach
19 to resolving the problem of having to take care of
20 the limited profit --

21 MR. GALVIN: Hey, guys, easy does it
22 with the paper shuffling there.

23 MS. KELLY: -- nonetheless, there seems
24 to be a number of folks who believe that this is
25 sensitive and modest. Mr. Marchetto testified to

1 that. This is a sensitive and modest alteration to
2 the brick building that is needed to preserve it.

3 That's at transcript page 35, and he
4 also referred to it as a minimal intervention. He
5 doesn't live behind it.

6 I want to briefly speak to the
7 planner's report. The planner stated that we go
8 under Grasso or the Coventry criteria, and this is
9 at page 161 of the transcript.

10 MR. GALVIN: Right. Because it's a
11 height variance, so Grasso is correct and the
12 Coventry standard is also correct.

13 MS. KELLY: Okay.

14 In which case we look at the proposed
15 height relative to the character of the
16 neighborhood.

17 So we have a tower, which is on the
18 corner at 78, and we are proposing 44 and a half, so
19 I think we do in this case meet the Grasso criteria,
20 but I pose to you that that is a kind of conclusory
21 statement because yes, there is a tower, but he
22 seems to have forgotten what is really happening
23 with respect to the addition of two stories.

24 Moreover, he testified on page 165 that
25 no other roof decks was he aware of because -- and

1 therefore, the impact of this was minimal. But
2 that's actually incorrect.

3 He also testified at Page 207 that he
4 didn't look at the interior of the donut, because he
5 didn't have access to the backyards. So he didn't
6 really have a full appreciation for precisely the
7 nature of our small block.

8 He did testify that a normal Hoboken
9 lot is a hundred feet and recognized that the church
10 is only 72 feet.

11 So I think that in light of his failure
12 to really take into consideration a lot of factual
13 information that is very site specific, that we have
14 to bring into question his conclusion that we have
15 met the Grasso criteria.

16 I know there has been a lot of
17 discussion here tonight about the structural
18 integrity, and there was testimony in August that
19 there shouldn't be significant concerns because this
20 has been done so many times before. It's been done
21 at the Vestry. It's been done at the Abbey. It's
22 been done at the Columbia Club and also at the
23 architect's office. However, all of those buildings
24 are alike, and they are square building, and here we
25 have a round and square.

1 He also testified that there, you know,
2 there would have to be some -- because of that,
3 there were going to be some different structural
4 concerns.

5 Nonetheless, the vast majority of the
6 discussions that have been taking place here relate
7 to the facade of the building and preserving the
8 facade of the building, and yet, if the sanctuary
9 caves in, then saving the facade is not going to
10 save us, and I recognize --

11 MR. GALVIN: You know, as I have
12 already said, we are going to have the geotechnical
13 report reviewed by our engineer. We don't live in a
14 perfect world. Even if the report says it is okay,
15 we could still have a problem.

16 If we have a problem, if the builder
17 has a problem, then he will have to come back to the
18 Board and tell us how he's going to deal with it,
19 and we may not grant him permission to reconstruct
20 it. We may require him to remove it completely and
21 put up a conforming building. I don't know.

22 MS. KELLY: And I do think -- I can't
23 speak for all of our neighbors --

24 MR. GALVIN: No. You can only speak
25 for yourself.

1 MS. KELLY: -- but with each of them
2 with whom I have spoken --

3 MR. GALVIN: You can't do that either.
4 Just tell us how you feel.

5 MS. KELLY: Okay. In any event I
6 think -- I think that saving this historic property
7 is an extraordinarily laudable role, and one which
8 should be seriously taken into consideration with
9 respect to any application that comes before the
10 Board because it really is a pretty special piece of
11 property.

12 And I love my neighbors and other
13 citizens for their comments today. I do think, and
14 I would like to reiterate --

15 MR. GALVIN: Sum it up because one of
16 the things the Board has to --

17 MS. KELLY: -- the conditions have to
18 have --

19 MR. GALVIN: -- let me just stop you.
20 Let me just stop you, so I can talk to everybody.

21 One of the things that is being
22 discussed or been said to me over the last couple of
23 applications is: Shouldn't we have a time limit
24 like the town council.

25 I really don't want to do that. I

1 don't do that at any Board that I service, but I
2 have to tell you, you guys have a lot more things to
3 tell me than some of my other towns, so I need you
4 to be concise when you are giving me this, so I can
5 hold off on time limits. Okay?

6 I want all the important information
7 into the record, but let's get to the point and get
8 on.

9 I'm sorry, Ms. Kelly.

10 MS. KELLY: Certainly. That is okay,
11 and my apologies, but we've been to --

12 MR. GALVIN: No, no. Tell me how you
13 feel about this case and let's finish and let's go
14 on.

15 MS. KELLY: We had this experience
16 before with zoning approvals in our backyards, where
17 conditions have been put in place and they have been
18 ignored. And the response at subsequent hearings
19 when this came to light was a shrug of the shoulders
20 and, well, they got to --

21 MR. GALVIN: I don't think that has
22 been the -- I mean, I am speaking out of turn here,
23 but recently there was a case where it exceeded the
24 requirement, and the Board said no, you are not
25 proceeding.

1 MS. KELLY: I would agree, this is old
2 history, and I agree things have changed.
3 Nonetheless, it is our experience.

4 MR. GALVIN: Let me just say this also,
5 and again, I apologize, Mr. Chairman, it is a very
6 difficult thing to do.

7 You have a lot of really unique
8 structures in Hoboken that probably merit some level
9 of preservation. But if we get into the field, and
10 they destroy them after they promised us that they
11 are going to preserve them, I am doing everything
12 that I possibly can do, short of saying, you know --
13 I am talking about these other cases. If we were to
14 say no, take it down, then you are going to lose
15 those structures. So it's like -- I have to find --
16 I am trying to do the best I can do to the alchemy
17 to make sure that we don't lose this structure.

18 If we were, I don't know what the Board
19 is going to do in this case.

20 MS. KELLY: And I do appreciate that,
21 and I'm sure that everyone here does.

22 MR. GALVIN: I am trying. That's all I
23 can say.

24 MS. KELLY: I'll wrap it up.

25 MR. GALVIN: Thank you.

1 MS. KELLY: I will sum up briefly.

2 Mr. Matule testified that he would
3 consider putting in various --

4 MR. GALVIN: Mr. Matule doesn't
5 testify. He comments, but that's okay.

6 MS. KELLY: -- Mr. Matule stated --

7 MR. GALVIN: Okay, cool.

8 MS. KELLY: Can we go there?

9 MR. GALVIN: Yeah, we're good there.

10 MS. KELLY: Stated that he believed
11 that we could -- that he would not have a problem
12 putting in various deed restrictions that would
13 perhaps alleviate some of our concerns, and we would
14 like to give that further consideration, and it
15 would be really fabulous if, you know, one of these
16 wealthy New York City families who comes here and
17 pays cash for everything comes in and have a nanny's
18 quarters and the grandparent's quarters and a great
19 big wonderful family home, and then I think we would
20 be very happy.

21 Thank you for your time and
22 consideration.

23 MR. GALVIN: Thank you.

24 CHAIRMAN AIBEL: Thank you.

25 MR. GALVIN: Yes, come up.

1 Raise your right hand.

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

5 MS. MURCKO: I do.

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

8 MS. MURCKO: My name is Susan, M, like
9 in Mary, u-r-c, like in Charlie, k-o.

10 I live at 157 9th Street catty corner
11 to 901.

12 I just want to say that I agree with
13 all of the comments made by the gentleman who lives
14 across the street from 901 Bloomfield, and with all
15 of the other neighbors who object to the height
16 variance. I never understood why -- what the need
17 is for this to go six units rather than four units
18 for all of the reasons previously stated.

19 I agree with Mr. Labano and others'
20 comments about light in the backyard.

21 I firsthand experienced what happens to
22 the donut in our little neighborhood, where 20 years
23 ago our kids were able to go outside into sunlight
24 and fresh air, but due to a small addition to the
25 back of the building, now the little girl who lives

1 next door has no sunlight all day long, no view of
2 the sky, and does not come outdoors.

3 What I have seen -- I'm sorry, my
4 throat is very dry -- over the years is a slow
5 diminishing of the quality and fabric of life every
6 time these developments go up, and they get more
7 units.

8 Thank you.

9 I am also concerned about the oversight
10 of this project.

11 I really do believe in the sincerity of
12 this Board, and I see it grappling with how to
13 structure the resolutions, and forgive me, I don't
14 know the jargon of these Boards, the vocabulary --

15 MR. GALVIN: No, you are fine.

16 MS. MURCKO: -- of trying to find the
17 language to grapple with this and see that its
18 instructions are followed.

19 I wondered if there is some way to
20 create a subcommittee to give oversight to this
21 project.

22 I don't believe in the sincerity of the
23 developer. This is a six foot tall plant that has
24 taken root in the roof. This was taken today. I'm
25 sorry. I'm not a photographer.

1 MR. GALVIN: Yes. We will make that --
2 do you have any objection to that, Mr. Matule?

3 MR. MATULE: No.

4 MR. GALVIN: We are going to make that
5 the next N number. Just give it to Ms. Carcone and
6 we'll put it into evidence.

7 (Exhibit N-8 marked.)

8 MR. GALVIN: That was already testified
9 to. Somebody mentioned it, so --

10 MS. MURCKO: Well, that was a different
11 plant.

12 (Laughter)

13 That was on one of the lower roofs, and
14 it is already taken root, and I can't believe that
15 that is not diminishing the fabric of whatever is
16 holding the structure together, and this is all new
17 under this owner, not under the church members who
18 took care of the property.

19 So I would ask you to really reflect on
20 the language that you use in whatever resolution you
21 come to and to not allow the two-story height
22 addition.

23 MR. GALVIN: Thank you.

24 Anybody else?

25 Come on up.

1 work over the years. He actually renovated our
2 kitchen. I think he does great stuff. I feel in
3 this case the addition and the materials to it are
4 going to have an enormous effect on the neighborhood
5 when you are coming up and when you're coming down
6 from 10th Street up from 8th Street, either way on
7 9th Street, and in this area where we have a new
8 Star Wars movie coming out at Christmas, I can't
9 help but think of like the metaphor of the death
10 star that this dark slate building, you know,
11 addition being a reminder at every given moment of
12 Hoboken, as it was to Hoboken, as it is as opposed
13 to Hoboken as it could be, and I believe that there
14 is an alternative to getting everybody what they
15 want.

16 That is all I have to say.

17 MR. GALVIN: Thank you.

18 Did we miss anybody?

19 Okay. Let's close.

20 CHAIRMAN AIBEL: Let's close the public
21 portion.

22 Motion to close the public portion.

23 COMMISSIONER COHEN: Motion to close
24 public portion.

25 CHAIRMAN AIBEL: Second?

1 COMMISSIONER GRANA: Second that
2 motion.

3 CHAIRMAN AIBEL: All in favor?
4 (All Board members answered in the
5 affirmative.)

6 CHAIRMAN AIBEL: Mr. Matule.

7 MR. MATULE: Thank you, Mr. Chairman.
8 Just a couple of comments, and I
9 realize that when taking public comment, it is a lot
10 of opinion as opposed to fact, so take it for what
11 it is worth.

12 MR. GALVIN: They are under oath. It
13 is their facts.

14 MR. MATULE: Just a couple of things in
15 light of all of the comments.

16 I mean, I think we should not lose
17 sight of the fact that we went through a long
18 process with the Historic Commission to get this
19 building approved as presented to you.

20 A lot of talk about the density under
21 the zoning ordinance, the site is permitted to have
22 seven units, and we only have six units.

23 Parking is not permitted in the R-1, so
24 I can only assume the city fathers made a decision
25 when they did that to not have the on-site parking,

1 and the building does not have a hundred percent lot
2 coverage right now. It is 90 percent lot coverage
3 right now.

4 But this building has been vacant for
5 quite a few years. After the church had it for sale
6 for a long time, and they were struggling, and the
7 building has not had any significant maintenance for
8 a long time. It is quite obvious when you look at
9 it.

10 I would suggest to you that this
11 proposal is probably the last best chance for this
12 building.

13 We believe under the circumstances, it
14 is a modest and architecturally sensitive proposal.
15 There is no question it is going to be something
16 other than what is there now, but we believe it is a
17 win-win situation.

18 The public good is that an
19 architecturally significant building will be
20 preserved, and the property gets repurposed as
21 residential units in a density that is certainly
22 within the permissible parameters and slightly less.

23 As usual, we have people who think that
24 we could do all of this or we could do that or we
25 could use it as a theater space or we could use it

1 for something else, but unfortunately, nobody has
2 stepped up to do that. The applicant that's before
3 you has stepped up. He has purchased the property.
4 He wants to renovate it, and this is, as the
5 architect testified, what has been presented here
6 makes it, and I don't want to get into financial
7 testimony, but I think we all know --

8 MR. GALVIN: No, no. You can't go
9 there. Don't go there. I don't want to go there at
10 all.

11 MR. MATULE: We don't have to go there
12 at all. I am not going there.

13 MR. GALVIN: I'm stopping the -- I had
14 stopped the neighbors from going into it, and I'm
15 not going to let you go into it.

16 MR. MATULE: All right.

17 Well, if a project that doesn't work on
18 this site can't work on this site, then the building
19 will come down. It is that simple. And quite
20 frankly, I think some people in the neighborhood
21 would probably prefer that and have, you know, Plan
22 B that Mr. Stieve showed us tonight.

23 But I guess what we are saying, and it
24 is a time war expression that, you know, let's not
25 sacrifice the good for the sake of the perfect. In

1 a perfect word perhaps, somebody could buy this
2 building and use it as a community space, but that's
3 not what's before you.

4 The requested variance relief I think
5 is quite modest considering what the applicant is
6 working with. There are a lot of physical
7 parameters we have to work with here. It is not a
8 square building, as has been testified. The
9 sanctuary inside is round. Those are supporting
10 walls, those rounds walls, and that is what we have
11 to work with.

12 I think we have been open to as many
13 conditions and parameters as you want to put on us
14 to build the building as we represented to you it
15 would be built, and I would urge the Board to
16 approve this with the conditions that give you the
17 comfort level that it will be executed as
18 represented, because frankly, the alternative could
19 be, you know, this building reaching a point where
20 it won't survive, and I think that would be a loss
21 for everyone.

22 Thank you.

23 CHAIRMAN AIBEL: Thank you, Mr. Matule.

24 Board members, time to deliberate.

25 Anybody wish to kick off the

1 discussion?

2 Don't everybody put their hands up
3 right away.

4 COMMISSIONER GRANA: I will go first,
5 Chairman.

6 CHAIRMAN AIBEL: Thank you.

7 COMMISSIONER GRANA: Thank you.

8 This is a -- it has been stated, this
9 is one of those applications that is challenging in
10 front of a Board like ours, because we are
11 balancing, you know, two different things. One is a
12 variance against the potential to preserve as per
13 our master plan, and I think the master plan
14 reflected the intent of the community, some portions
15 of our architectural past.

16 Can I comment on my site visit?

17 MR. GALVIN: Yes. I think it is
18 important that you do. When you obtain knowledge
19 outside of the record, you are supposed to put it on
20 the record.

21 COMMISSIONER GRANA: Okay.

22 I will simply add in terms of my site
23 visit, you know, I will not add that I actually used
24 to live near this property, but extensively
25 reviewing the outside, it is a large structure.

1 it's a large structure for the neighborhood, so I
2 think you have to decide whether or not -- there is
3 an impact. There's an impact now. It is
4 nonconforming, and there will be an impact by this
5 development.

6 Secondly, the interior space is a
7 beautiful space. Unfortunately, we don't see an
8 applicant in front of us to preserve that space, so
9 that in fact is going to be a loss, and that's
10 something we have to accept.

11 So I saw this in much more simple
12 terms. I understand the impact to the neighborhood,
13 but in fact the variances that are being asked for
14 don't have to do with the number of units that would
15 be allowed at the site, the amount of parking or
16 parking demand that would be generated at the site,

17 Any of the things about as of right,
18 that is not what this application addresses. It is
19 addressing taking a structure that does not conform
20 to its site and actually asking for additional
21 variances in height that are related to making the
22 property viable, and lot coverage, which cannot be
23 avoided because of the physical structure.

24 So to me, it really comes down to
25 whether or not, you know, as finding a way that six

1 units is worth saving this type of structure,
2 because you are going to get six units on the site
3 as a right, potentially maybe even more.

4 I do very much hear the concerns of the
5 community because I do think there will be some
6 impact, but that is the tradeoff in adaptively
7 reusing.

8 If this is a historic structure, and
9 the community has stepped up to purchase the
10 structure, that is an option. That's not what has
11 happened. This is a way to preserve a portion of
12 the structure.

13 I think it is worth it, and I intend to
14 vote in support of it.

15 Thank you.

16 CHAIRMAN AIBEL: Thank you.

17 Anybody else wish to comment?

18 Mr. Cohen, thanks.

19 COMMISSIONER COHEN: I generally concur
20 with Commissioner Grana. I do think, you know, the
21 height is a significant issue here, but we are
22 talking about a structure that is on the Historic
23 Register.

24 I think that the conditions are as
25 strong as we can possibly make them. I think the

1 applicant has agreed to put as stringent as we can
2 reasonably put in place with respect to this.

3 I want to -- you know, there has been
4 some discussion about the interior, but Mr. Matule
5 referenced the Historic Preservation Commission's
6 report, and I just wanted to go over that briefly,
7 that the conditions include, and this is going to be
8 attached to the application: "Six leaded stained
9 glass windows shall be carefully removed and
10 properly stored during construction. Windows shall
11 be cleaned and restored and then reinstalled in the
12 lobby corridor.

13 "Arched iron trimmed wood door from the
14 principal entrance, hinges and hardware shall be
15 removed during construction and properly stored."

16 There's a typo there. It says
17 "Stores," but I'm sure it means "stored."

18 "Doors shall be cleaned, restored,
19 damaged or missing components shall be custom
20 fabricated as needed. Restored doors shall be
21 reinstalled and maintained as need to remain
22 operable," and it continues through ten conditions
23 like this, all focused on preserving the Romanesque
24 exterior of a 19th century structure that is on the
25 Historic Registry. There's no reference to the

1 interior in the Historic Commission's work, and it's
2 extensive.

3 "All iron work, including gates, window
4 grates and fences shall be removed during
5 construction, properly stored, scraped, repaired,
6 primed and painted, then reinstalled prior to
7 completion.

8 "All decorative granite, stone and tile
9 work on the exterior of the building shall be
10 cleaned and restored."

11 This is not an insubstantial effort
12 that is going to be put into preserving what is a
13 gem, and it is a very large gem. But everything
14 that is being built is within the envelope of what
15 exists there now.

16 I understand the fears. I understand
17 the concerns, and I think they are completely
18 reasonable, but I think that the threat of losing
19 this structure is real, and I think there is a real
20 tradeoff here.

21 And also, there is also mention with
22 respect to cleaning, in requirement number nine,
23 "The least obtrusive methods of cleaning,
24 restorations and reconstruction shall be used in all
25 cases," which should be done sensitively to the

1 neighborhood, so I think it would be very sad if we
2 lost this structure.

3 We have spent a lot of time as a Board
4 worrying about structures a lot less significant
5 than this one, trying to save them. We made an
6 applicant go back and get bricks to restore what was
7 a 19th century movie house, which is basically a
8 small row house. This is a major structure with
9 major historic significance on the Historic
10 Register.

11 I think that this should be saved, and
12 I would vote for this application.

13 CHAIRMAN AIBEL: Anybody else?

14 COMMISSIONER MARSH: I still have
15 question about what kind of oversight we have.
16 Granted, we spent a lot of time talking about the
17 bricks in the movie house, but the fact of the
18 matter is that those bricks were individual bricks
19 that were on the ground, and this shouldn't ever
20 wind up on the ground.

21 I mean, and it's my understanding that
22 when something is on the Historic Registry, you are
23 preserving the outside. The only way to preserve
24 the inside is to have a public entity buy it, which
25 sadly they didn't do, so that isn't an option.

1 But how do we keep it from falling down
2 before we get to make a decision?

3 So let me just for the record here,
4 because the transcript came up before when we were
5 faced with this situation. I am not talking about
6 preserving the bricks themselves. I'm talking about
7 preserving the outside of the building, not fixing
8 it, not replacing it, not getting bricks that look
9 like it, the building.

10 So how do we make that happen?

11 I just want to put my intent on the
12 record very clear for anybody that is on this Board
13 after I am that has to make this decision.

14 MR. GALVIN: I have come up with the
15 best conditions I can come up with.

16 Then once the Board decides the case,
17 it goes to the building department and other people
18 and city hall, and it is beyond the control of the
19 Zoning Board unless somebody throws a red flag and
20 says, stop, you are not doing what you promised the
21 Board.

22 COMMISSIONER MARSH: So that's
23 something that the people in this room should have
24 heard loud and clear, correct?

25 If somebody throws up a red flag, it's

1 the six leaded stained glass windows should be
2 carefully removed, properly stored during
3 construction, those windows when they come out need
4 to have somebody watching them come out. The
5 building department is not going to be able to
6 handle this type of thing. So I think there's going
7 to need to be some other -- you know, in big
8 projects, we call it clerks of the works type of
9 thing. On a smaller project, you know, maybe it's
10 some preservation -- maybe an engineer that is
11 there, but they get called, and when they things are
12 happening relative to this, Mr. Galvin, maybe, you
13 know, we have an engineer such as the Board Engineer
14 or somebody else watching.

15 MR. GALVIN: Nobody else is going to do
16 it. So if we appoint somebody to do it, we can do
17 that. It has to come out of the escrow.

18 Is that a problem, Mr. Matule?

19 MR. MATULE: I can't say. I would have
20 to check with my client.

21 MR. GALVIN: Okay.

22 MS. BANYRA: Because each one of these
23 conditions basically assigns a task that probably
24 has to be observed, and that only goes to what the
25 Historic Preservation -- that doesn't go to maybe

1 the full extent of what the Board is, you know,
2 reviewing and evaluating tonight in light of what
3 has happened in the past, so my suggestion is maybe
4 we get Mr. Marsden's office to --

5 CHAIRMAN AIBEL: Let me jump in here
6 just for a second. I think we need to recognize
7 that five votes are needed for the approval tonight.

8 So my suggestion is let's continue the
9 discussions, bring it to a vote. If there is an
10 approval, we can then set a process for making sure
11 that this resolution --

12 MR. GALVIN: Correct.

13 VICE CHAIR GREENE: Can't we do that
14 before the approval?

15 CHAIRMAN AIBEL: Well, I think what we
16 need to understand is whether we are going to grant
17 this or not. Then I think any final decision would
18 be based on the agreement of the conditions in the
19 resolution, it would be subject to.

20 MR. GALVIN: Rather than have me tinker
21 with the --

22 CHAIRMAN AIBEL: Yeah. I think we are
23 going to spend hours on this this evening, whether
24 that's a bifurcation or just a process, that would
25 be my suggestion.

1 Anybody opposed?

2 COMMISSIONER GRANA: No objection.

3 CHAIRMAN AIBEL: So let's finish up the
4 deliberations and see if we can get this to a vote
5 of approval or denial.

6 Anybody else wish to comment?

7 COMMISSIONER DE GRIM: I will be brief.

8 I have gone to the building. I walked
9 around the building. I walked around the
10 neighborhood. I think it is a beautiful church.
11 It's well worth saving, and I am in favor of the
12 project.

13 CHAIRMAN AIBEL: Anybody else?

14 COMMISSIONER BRANCIFORTE: I am
15 honestly waiting to hear from everybody else before
16 I --

17 MR. GALVIN: Well, there isn't anybody
18 else.

19 (Laughter)

20 VICE CHAIR GREENE: At the risk of
21 repeating what others have said, I don't think it is
22 a perfect project, but I do think it is a good
23 project. I do hear the concerns of the neighbors.
24 But quite frankly, in virtually any project,
25 neighbors will have concerns.

1 kind of tied into each other in a strange way, and
2 it's ironic that the developer is saying, well, we
3 really like decks, because people like outdoor
4 space, and at the same time, they are saying, well,
5 give us more height, even though it blocks the light
6 to the neighbors.

7 So on the one hand, they're saying, oh,
8 outdoor space is great, and on the other hand, they
9 are saying, well, you know, the outdoor space that
10 the neighbors are going to lose light and air wise,
11 you know, it's minimal, so don't worry about it. So
12 that is sort of an irony for me.

13 I think the other comments that I've
14 heard tonight are right on. I mean, it is a big
15 building. It is bulky, and it's way out of
16 character with the rest of the -- in scale at least
17 from the rest of the neighborhood.

18 And I sat across the street, and I
19 looked at it, and I tried to imagine this addition
20 going on top, this cube, whatever -- however you
21 want to describe it going on top, and it is
22 certainly not going to help lower the look of the
23 its bulk.

24 So, again, though, it is not the
25 perfect solution, but I want to see it built, so I

1 am going to vote yes.

2 CHAIRMAN AIBEL: Ms. Marsh, do you wish
3 to comment?

4 COMMISSIONER MARSH: I mean, I wish
5 this were a perfect world. But I do appreciate that
6 the height is in the middle of the building, which I
7 think cuts down on the impact, and I do want to save
8 the building, and I don't have another builder, and
9 I don't have a public entity buying it, and I don't
10 have any of that, so I guess I am inclined to
11 support it, if we can preserve the building.

12 COMMISSIONER BRANCIFORTE: Well, I just
13 want to say one thing.

14 I am not willing to call -- sometimes I
15 am willing to call the developer's bluff on it,
16 saying, yeah, you know what, I am going to call your
17 bluff. I'm not going to give you -- knock it down,
18 if you want. But I am not going to do it here
19 because I think there is too much to lose here with
20 this building, and I don't want people walking
21 around for the rest of my time in life in Hoboken,
22 walking around and saying, who the hell -- why the
23 hell did they allow them to knock that beautiful
24 church down.

25 You know, I don't want to be walking

1 around with that on my head for the rest of my life,
2 so I'm sorry to interrupt, Carol.

3 COMMISSIONER MARSH: No. That's fine.

4 CHAIRMAN AIBEL: I think my colleagues
5 have basically said it all, and I think, as our
6 counsel might say, the record this evening would
7 allow him to support either a denial or an approval.

8 MR. GALVIN: That is true.

9 CHAIRMAN AIBEL: It is a very difficult
10 case, and to be candid, I have gone back and forth
11 listening to both the applicant's presentation and
12 the opinion of the public and the objector's case.
13 I wish it were one story lower in the addition.
14 That would in my view be a no brainer. I would be
15 in fully -- vocal support.

16 I understand fully that the mass is
17 going to increase, and it is going to be a very,
18 very significant addition to the community, you
19 know, with hope -- with luck, it will be done in an
20 incredibly sensitive way. There are a lot of
21 neighbors who will watch it.

22 I am hopeful that, you know, the
23 special reason for which we are inclined to grant
24 the D variance in particular, which is saving this
25 architectural significant building, will be

1 something that we execute well, and we protect by a
2 very well crafted resolution.

3 There will be no doubt that the facade
4 of this building will stay as it is or this
5 applicant will be back and have to seek new
6 approvals.

7 So, again, I think that the height can
8 be accommodated. The building is already very, very
9 massive. It is probably not unlike the Columbia
10 Club up on 11th and Bloomfield in terms of its scale
11 in relation to the neighbors. It is not a perfect
12 situation, but it has preexisted all of us, and I am
13 hopeful that this will be a decent solution in a
14 very, very difficult situation, so I think --

15 COMMISSIONER COHEN: Jim, can I just
16 make one last comment?

17 CHAIRMAN AIBEL: Sure.

18 COMMISSIONER COHEN: I would just like
19 to say that I would like to see the developer
20 immediately be a better neighbor. Honestly, I mean,
21 there was some concerning testimony about the fact
22 that there are derelicts on the stoop, that it is
23 not being properly maintained, and it is not really
24 that important what the applicant has done in the
25 past, but we all live in the neighborhood, and we

1 see the neighborhood, and you shouldn't wait until
2 construction begins to start being a better
3 neighbor. So I think that would be a message I
4 would like to send out.

5 COMMISSIONER BRANCIFORTE: Well, I am
6 going to wonder out loud.

7 Who would be the person at the city
8 hall that the neighbors would call to complain to
9 have the building secure, and to have the trees
10 removed from the steps? I mean, who is it, the
11 building department?

12 MS. BANYRA: Yes.

13 COMMISSIONER BRANCIFORTE: Construction
14 official?

15 COMMISSIONER GRANA: Construction
16 official.

17 MR. MARSDEN: Construction official or
18 the zoning officer.

19 MR. GALVIN: The zoning officer.

20 MS. BANYRA: Either one.

21 COMMISSIONER BRANCIFORTE: So if the
22 neighbors wanted the building secured and upkeep
23 better, they should be calling the zoning officer or
24 the construction office?

25 VICE CHAIR GREENE: Quite frankly, if

1 there was someone drinking on the stoop at midnight,
2 they should be calling the police.

3 CHAIRMAN AIBEL: Okay. Eileen?

4 MS. BANYRA: Yeah. So just relative to
5 the comments that, you know, Jeff and I were talking
6 about, but in light of what Mr. Branciforte said, I
7 didn't know if for some reason you wanted to vote on
8 the variances separately, and in particular, the
9 variance relative to the deck. The deck is on the
10 outside.

11 John, that's something that you raised.
12 I don't know if that is something that's of interest
13 to the Board or not. I don't know that you have to
14 take the whole package. You can take part of the
15 package, too, so I am just putting that out there.

16 COMMISSIONER BRANCIFORTE: I am not
17 saying I have an objection to the decks. I can go
18 either way on them.

19 MS. BANYRA: I'm only --

20 MR. GALVIN: No. What Eileen is
21 telling you is that you could separate that, now
22 that we know where we're at, and you're trying to
23 put the finishing touches on this. If that was a
24 concern of the Board, then you could probably
25 address that I think.

1 CHAIRMAN AIBEL: Anybody have a
2 substantial concern?

3 COMMISSIONER GRANA: Yes.

4 CHAIRMAN AIBEL: Yes, on the decks?

5 COMMISSIONER GRANA: No, not on the
6 decks.

7 I have a concern bifurcating the
8 application.

9 MR. GALVIN: You don't want to?

10 COMMISSIONER GRANA: I don't want to.

11 CHAIRMAN AIBEL: Because there was a
12 package presented.

13 COMMISSIONER GRANA: I think there has
14 been a package presented.

15 CHAIRMAN AIBEL: Okay. I'm inclined to
16 agree.

17 COMMISSIONER DE GRIM: I agree.

18 COMMISSIONER COHEN: I agree.

19 CHAIRMAN AIBEL: Okay.

20 So before we vote, Dennis, can we come
21 up with a process that --

22 MR. GALVIN: Well, let me read the
23 conditions.

24 CHAIRMAN AIBEL: Well, I am not sure I
25 am comfortable spending an hour crafting conditions

1 tonight, so is there some other way that we can say
2 there will be conditions along the following lines,
3 and that our vote of approval, if that's what it is,
4 will be subject to finalization of the conditions by
5 counsel?

6 MR. GALVIN: Yes, we can do that.

7 CHAIRMAN AIBEL: Thank you.

8 VICE CHAIR GREENE: But we need the
9 outline.

10 CHAIRMAN AIBEL: If you want to provide
11 the outline, I think that's great.

12 MR. GALVIN: The formal conditions are
13 to be adopted at the time of the memorialization.
14 That is number 14.

15 I have one that I am not sure we need
16 at all.

17 Jeff and Eileen, flood plain manager,
18 do we need anything there or not?

19 MR. MARSDEN: We have a letter from her
20 explaining that it doesn't fall under the
21 jurisdiction --

22 MR. GALVIN: It does not?

23 MR. MARSDEN: That is what her letter
24 says.

25 MR. GALVIN: So then we don't need it,

1 if it's something that -- if you covered flood in
2 your engineer's report, it is in your report.

3 MR. MARSDEN: My report disagrees with
4 Ann to some degree.

5 MR. GALVIN: All right. So we need to
6 have the applicant to submit their plan for the
7 review and approval of the flood plain manager.

8 MR. MARSDEN: Yes.

9 She sent a letter on it already, but I
10 think I just need to talk to her.

11 MR. GALVIN: I'm good. I got it.
12 Okay. Here we go. Here is my rough draft. I'll be
13 as quick as possible.

14 The applicant is to comply with the
15 reports of the Board's engineer and planner.

16 Two: The building is to be constructed
17 as described and shown to the Board, in particular
18 the six identified church windows are to be reused
19 and repurposed as explained.

20 In addition, the building is to be
21 constructed in accordance with the Dress report.

22 The Board's decision was based largely
23 on the promised preservation of the church facade
24 and the restoration of the bricks. In the event of
25 any change in the plans for any reason, this

1 approval shall be void.

2 Three: The applicant is to provide a
3 geotechnical report for the Board's Engineer for his
4 review and approval.

5 Four: There shall be only standard
6 residential lighting in the tower. That's a good
7 point.

8 Five: The applicant must follow the
9 Historic Commission's recommendation, which is
10 attached as Exhibit B.

11 Six: The applicant is to post a
12 performance bond -- this is a little -- is to post a
13 performance bond to ensure the preservation of the
14 church facade. The bond is to be released once the
15 work is complete and a certificate of occupancy
16 issues.

17 Seven: The applicant is to contribute
18 the value of four shade trees to the Shade Tree
19 Commission for the placement of trees in another
20 location in the city.

21 We wanted to keep the trees away, so
22 you can see the building, or do you want to take
23 that condition out, anybody?

24 COMMISSIONER DE GRIM: I'm fine with
25 that condition.

1 COMMISSIONER MARSH: I think you should
2 get leafier trees, but that's me.

3 COMMISSIONER GRANA: Can I ask what the
4 recommendation of the planner would be?

5 MS. BANYRA: Yeah. I would recommend
6 that you keep some trees, I mean, especially when
7 you have a building that is, you know, massive in
8 scale, anything that can kind of deflect it. The
9 view is not -- we don't care about the view from the
10 cars.

11 I care about when I am walking on the
12 sidewalk, and I could see a building. Across the
13 street is important, but there are different types
14 of trees you can get, so they're not going to
15 obscure it, but they would be able to soften it and
16 they take out the massing, so I don't necessarily
17 agree with Mr. Kratz on that, and there was no other
18 landscaping plan. In my report I identified that,
19 nothing relative to vegetation, so...

20 MR. GALVIN: So what do you want?

21 MS. BANYRA: I would prefer that we
22 allow the Shade Tree Commission to pick appropriate
23 trees in terms of height and scale, which is what we
24 normally do.

25 COMMISSIONER MARSH: And thickness,

1 right? The problem is those trees --

2 MS. BANYRA: Well, we get trees that
3 would be more appropriate. There are some that are
4 lighter and airier than --

5 COMMISSIONER MARSH: Yes. Plain trees
6 instead of Callogy Paris or whatever they are.

7 COMMISSIONER GRANA: I support our
8 planner's recommendation.

9 MR. GALVIN: So I am deleting that, and
10 I am changing it with the Shade Tree Commission is
11 to determine the appropriateness of the street trees
12 to be planted.

13 MS. BANYRA: Relative to -- I mean, I
14 think we have to give them some context, Dennis, so
15 something to --

16 MR. GALVIN: Well, we are not going to
17 do everything tonight.

18 CHAIRMAN AIBEL: Right.

19 MS. BANYRA: I'll work something out.
20 Thank you.

21 CHAIRMAN AIBEL: Thank you.

22 MR. GALVIN: Eight: At the time of the
23 memorialization, the applicant is to provide a photo
24 inventory as promised to the Board, which is to be
25 attached to the resolution as an exhibit.

1 COMMISSIONER MARSH: The complete
2 outside --

3 COMMISSIONER DE GRIM: Does it have to
4 be pursuant to --

5 MR. GALVIN: I didn't say that, but I
6 am counting on them to do that.

7 COMMISSIONER MARSH: I wouldn't count
8 on them to do that.

9 MR. GALVIN: Okay. Then tell me what
10 to write.

11 CHAIRMAN AIBEL: Okay. Not tonight.

12 MS. BANYRA: We will get the language.

13 CHAIRMAN AIBEL: We are going to
14 circulate this, and we'll take comments.

15 MR. GALVIN: Okay.

16 I'm sorry. I'm just waiting for
17 somebody else.

18 COMMISSIONER GRANA: Mr. Kratz knows
19 the standards. We can deal with that separately.

20 MR. GALVIN: The Board strongly
21 recommends that the applicant hire contractors
22 qualified to perform historic restoration.

23 I don't normally put unenforceable
24 conditions in a resolution, but I think it is a
25 recommendation, so if there is problem in the

1 future, we told them to do that. So if they come
2 back, and it doesn't, we're going to say did you
3 hire somebody.

4 If they say, no, then you are going to
5 give them less latitude if they say they did, okay?

6 Ten: The tower space is limited to the
7 use of 144 square feet. That limited area may be
8 used for residential purposes, but the balance of
9 the tower space is to remain vacant.

10 Eleven: The applicant is to preserve
11 the facade, the sanctuary space -- we are not
12 preserving the sanctuary space, right?

13 COMMISSIONER DE GRIM: No. Just the
14 exterior of the circular sanctuary, the --

15 COMMISSIONER COHEN: Yeah. The
16 exterior facade, because I don't want the facade to
17 just be a one facade. It should be considered --

18 MS. BANYRA: No, it is all sides.

19 COMMISSIONER DE GRIM: Dennis, do see
20 this circle here on the facade?

21 That's the sanctuary.

22 CHAIRMAN AIBEL: Okay. Keep going.

23 MR. GALVIN: I got it.

24 No, but I was thinking inside, guys.

25 (Board members confer)

1 CHAIRMAN AIBEL: Where was the report
2 that they submitted?

3 MR. GALVIN: The Dress report.

4 CHAIRMAN AIBEL: The Dress report, do
5 you have that?

6 MR. GALVIN: No.

7 CHAIRMAN AIBEL: We should have it.

8 MR. GALVIN: The applicant is to
9 preserve the exterior facade on all sides. We are
10 going to fix that condition.

11 For that reason, the Board is requiring
12 the recording of the resolution prior to the
13 issuance of a building permit and a copy of the
14 recorded documents to be provided to the Zoning
15 Officer, Zoning Board Secretary and the Zoning Board
16 Attorney.

17 I am just going to have them record the
18 resolution, so in the future people know that we
19 wanted this facade preserved.

20 Yes?

21 MR. MATULE: Can you have it prepared
22 in a recordable form where there is an
23 acknowledgement?

24 MR. GALVIN: You are going to have to
25 remind me.

1 MR. MATULE: Okay.

2 MR. GALVIN: I had that problem in
3 another county recently. Yeah, I got it.

4 They came back and said, you did it
5 wrong.

6 And I said, wow, wait a minute. It was
7 your job to record it.

8 Okay.

9 The applicant is to submit the plan for
10 review and approval of the flood plain manager.

11 Thirteen: The Board's engineering firm
12 is to supervise the construction of any element on
13 the Historic Commission list.

14 MR. MARSDEN: Supervise the
15 construction --

16 MS. BANYRA: Yes, we will work the
17 language out.

18 MR. GALVIN: Okay.

19 Then Fourteen: The formal conditions
20 will be adopted at the time of memorialization.

21 CHAIRMAN AIBEL: I am just inquiring
22 whether we forgot or purposely omitted the Heritage
23 Design Collaborative report?

24 MR. GALVIN: No. That is Mr. Dress'
25 report.

1 CHAIRMAN AIBEL: Dress.

2 COMMISSIONER COHEN: D-r-e-s-s.

3 MR. MATULE: That's his name --

4 CHAIRMAN AIBEL: That's included in
5 Exhibit A?

6 MR. MATULE: That's Exhibit A.

7 MR. GALVIN: I had "Druss." It should
8 be "Dress."
9 It could be -- what do you say it is,
10 Mr. Chairman?

11 CHAIRMAN AIBEL: Heritage Design
12 Collaborative --

13 MS. BANYRA: October 3rd.

14 CHAIRMAN AIBEL: -- dated October 3rd,
15 thank you, 2014.

16 VICE CHAIR GREENE: Did we include the
17 bicycle shed?

18 MR. GALVIN: No, that's not concluded.
19 So say it again. Somebody has to give
20 it to me.

21 VICE CHAIR GREENE: They proffered the
22 bicycle storage shed in the alley.

23 MR. GALVIN: There is to be one or it's
24 supposed to be removed?

25 VICE CHAIR GREENE: There is to be one.

1 MR. GALVIN: What's that?

2 VICE CHAIR GREENE: There is to be one.

3 COMMISSIONER DE GRIM: Bike storage in
4 the back.

5 COMMISSIONER MARSH: Can we do anything
6 about the noise?

7 MR. GALVIN: No.

8 VICE CHAIR GREENE: Not by ordinance,
9 right?

10 MR. GALVIN: No.

11 MS. BANYRA: Ms. Marsh, Jeff and I were
12 looking at the air conditioning, the HVAC, to make
13 sure it's below parapet or screening. We were
14 looking at that, so we'll --

15 MR. GALVIN: The HVAC is to be
16 relocated.

17 (Everybody talking at once)

18 MS. BANYRA: If it is down low enough.

19 COMMISSIONER DE GRIM: Behind the
20 parapet.

21 MR. GALVIN: The HVAC is to be
22 relocated at the direction of the Board's
23 professionals.

24 MS. BANYRA: Maybe. We are not sure it
25 has to be relocated. We are looking at it.

1 MR. GALVIN: But if you direct them to
2 do it, they have to do it.

3 If you don't direct them to do it, then
4 they are okay. That gives you power there to decide
5 it at your direction.

6 Anything else, guys, ladies, gentlemen?

7 COMMISSIONER MARSH: Is there anything
8 you can put in about lumens? Many towns -- the
9 amount of light that can be -- we put that on other
10 applications --

11 MS. BANYRA: It's under a dark sky
12 compliant thing.

13 MR. GALVIN: But I have standard
14 residential lighting.

15 Did you want to put no greater than a
16 hundred watts?

17 COMMISSIONER MARSH: This, no.
18 I am saying that some towns have
19 ordinances that restrict the amount of light that a
20 building can send out beyond their property line.

21 MS. BANYRA: No. We don't allow
22 property light off the property line --

23 MR. MARSDEN: Spillage.

24 MS. BANYRA: -- we don't allow off site
25 spillage, so to speak, other than in the front, when

1 you are walking on the sidewalk relative to that.
2 But we are getting revised plans, so we will look to
3 make sure that those lumens don't extend beyond the
4 property line. They have to have what they call
5 cutoffs. That is pretty standard. We do check
6 that, so -- and, you know, there are changes that
7 both Jeff and I need to look at. I know in looking
8 at my report, that need to be done to the plans, so
9 we will look at that.

10 COMMISSIONER MARSH: Okay.

11 COMMISSIONER BRANCIFORTE: The one
12 place especially is the northeast corner, and that
13 little corner spot or the six foot fences, you know,
14 I want to make sure there is no light spilling into
15 the backyards there.

16 COMMISSIONER GRANA: We're ready.

17 Are we ready?

18 CHAIRMAN AIBEL: I certainly hope so.

19 MR. GALVIN: Yes. That's the best I
20 could do. Sorry.

21 The lighting plan is to be reviewed by
22 the Board's professionals to ensure that there is no
23 light spillage.

24 CHAIRMAN AIBEL: Great. I think we are
25 ready to bring this to a close.

1 COMMISSIONER GRANA: I will motion it.
2 Motion to approve 901 Bloomfield with the included
3 resolutions and the completion of the process
4 described.

5 COMMISSIONER DE GRIM: Second.

6 MS. CARCONE: Who was the second,
7 Frank?

8 MR. GALVIN: Yes.

9 MS. CARCONE: Commissioner Greene?

10 VICE CHAIR GREENE: Yes.

11 MS. CARCONE: Commissioner Cohen?

12 COMMISSIONER COHEN: Yes.

13 MS. CARCONE: Commissioner Grana?

14 COMMISSIONER GRANA: Yes.

15 MS. CARCONE: Commissioner Marsh?

16 COMMISSIONER MARSH: Yes.

17 MS. CARCONE: Commissioner Branciforte?

18 COMMISSIONER BRANCIFORTE: Yes.

19 MS. CARCONE: Commissioner DeGrim?

20 COMMISSIONER DE GRIM: Yes.

21 MS. CARCONE: Commissioner Aibel?

22 CHAIRMAN AIBEL: Yes.

23 MS. CARCONE: Seven, it passes.

24 MR. MATULE: Thank you.

25 CHAIRMAN AIBEL: We are going to take

1 a -- it is ten o'clock. We are going to take a
2 ten-minute break, and then we're going to the 7th
3 Street application.

4 (The matter concluded at 10 p.m.)

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C E R T I F I C A T E

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

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

s/Phyllis T. Lewis, CCR, CRCR

PHYLLIS T. LEWIS, C.C.R. XI01333 C.R.C.R. 30XR15300
Notary Public of the State of New Jersey
My commission expires 11/5/2015.
Dated: 10/22/15
This transcript was prepared in accordance with
NJAC 13:43-5.9.

HOBOKEN ZONING BOARD OF ADJUSTMENT
CITY OF HOBOKEN

----- X
 RE: 263 7th Street :
 APPLICANT: Richard Alashaian :October 20, 2015
 C - Lot Coverage, front & rear yard :Tuesday 10:15 pm
 Setback (undersized lot) :
 ----- X

Held At: 94 Washington Street
Hoboken, New Jersey

B E F O R E:

Chairman James Aibel
Vice Chair Elliot H. Greene
Commissioner Philip Cohen
Commissioner Antonio Grana
Commissioner Carol Marsh
Commissioner John Branciforte
Commissioner Frank DeGrim

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

Eileen Banyra, Planning Consultant
Jeffrey Marsden, PE, PP
Board Engineer
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WITNESS

PAGE

JOHN NASTASI

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1 CHAIRMAN AIBEL: Okay. We are back on
2 the record.

3 Mr. Burke, we are up for 263 7th
4 Street.

5 MR. BURKE: Thank you, Mr. Chairman,
6 and Board.

7 Jim Burke, representing the applicant,
8 and I have only one witness tonight, Mr. John
9 Mastasi.

10 The Board heard this matter on February
11 15th. At the time the ordinance was different than
12 it is today. It included three C variances and one
13 D variance. Our argument was that the D variance
14 was simply because there was a storage floor that
15 did not constitute story under the definition of
16 "Story" --

17 MR. GALVIN: Let me stop you.

18 Let's get it all worked out. Let's
19 figure out what we are doing, okay?

20 MR. BURKE: Yes.

21 MR. GALVIN: You are really asking to
22 reopen the hearing, correct?

23 MR. BURKE: Correct.

24 MR. GALVIN: And the reason why we
25 reopened the hearing is because there is something

1 the case.

2 MR. GALVIN: So then Mr. Grana, Mr.
3 Cohen, Mr. Aibel, and Mr. Branciforte, that is only
4 four.

5 MS. CARCONE: Mr. DeGrim.

6 MR. GALVIN: No. He's not on that
7 list. He's not on the voting list.

8 COMMISSIONER DE GRIM: I had just
9 gotten appointed --

10 MR. GALVIN: And you were there, but
11 you didn't vote.

12 COMMISSIONER DE GRIM: -- well --

13 COMMISSIONER BRANCIFORTE: Ms. Murphy,
14 Ms. Fisher, and Mr. DeFusco aren't here, and they
15 voted.

16 COMMISSIONER MARSH: And I wasn't
17 there, right?

18 VICE CHAIR GREENE: I wasn't there
19 either, but I read the transcript for the record.

20 MR. GALVIN: Are only C variances being
21 sought or D variances?

22 MR. GALVIN: Only a C variance is now
23 being sought because the change in ordinance changes
24 it.

25 CHAIRMAN AIBEL: Well, let me just ask

1 this question: Apart from the change in ordinance,
2 is there any major change in what you are presenting
3 this evening? And I shouldn't even say "major."

4 What are the changes that you are
5 presenting this evening?

6 MR. BURKE: The changes, and I will let
7 John go into greater detail, but the changes are
8 comments that were made at the hearing regarding the
9 stairs and the facade. There is sort of changes
10 reflecting what we heard the Board say and try to
11 respect as far as integration to the other
12 properties on the street, specifically the
13 stairwell.

14 MR. NASTASI: Right.

15 MR. BURKE: And now because of the
16 change in the ordinance, there is a penthouse on top
17 of the building that is recessed.

18 And, John, you can go over the details
19 of that --

20 CHAIRMAN AIBEL: Yes. Before that,
21 John --

22 COMMISSIONER GRANA: Should we hear it
23 with four? Should we hear it with four?

24 CHAIRMAN AIBEL: I am raising this as a
25 possibility that this is significantly enough new

1 that we ought to just hear it out. I prefer to have
2 the full Board hear it.

3 MR. GALVIN: I got it. It's brilliant.
4 I mean it --

5 (Laughter)

6 CHAIRMAN AIBEL: Would somebody write
7 that down?

8 (Laughter)

9 MR. GALVIN: We are willing to hear
10 this. Rather -- to eliminate the procedural
11 complications since we have already voted to reopen
12 it, now we are going to give you the right to start
13 over, okay?

14 MR. BURKE: Okay.

15 MR. GALVIN: But you can do the
16 "Reader's Digest" version since there is not a huge
17 crowd out here, so --

18 MR. BURKE: Right, right. All right.
19 So in essence, the applicant --

20 MR. GALVIN: So you're okay with us
21 starting over?

22 MR. BURKE: I'm absolutely okay.

23 MR. GALVIN: And then everyone sitting
24 here can hear it.

25 VICE CHAIR GREENE: Thank you.

1 COMMISSIONER MARSH: It is new. I
2 don't have to testify that I read the transcript,
3 which I didn't read?

4 MR. GALVIN: No, you do not. We're
5 going to treat as new, so everybody can vote.

6 MR. BURKE: All right.

7 So the applicant is proposing two C
8 variances. We asked for a third, but it is not
9 required.

10 I looked at the ordinance, Z-350, which
11 changed the Hoboken ordinance, and regarding the
12 front yard dimension, the proposal is to be in line
13 with the other properties on the street, which is
14 now what the ordinance allows. The old ordinance
15 said it was I think zero or five feet, a minimum of
16 five feet. So we asked for three variances in our
17 application before you, and we are down to two,
18 okay? The rear yard setback and lot coverage.

19 It is an undersized lot. Presently
20 there is a two-story building in very bad shape.
21 There's also a basement apartment, and now because
22 of the flood zone, that is an issue, so that
23 building would be demolished and in its place would
24 be a one-family building instead.

25 Mr. Nastasi will go through the

1 details, and we hope we can present this in a very
2 short time.

3 MR. GALVIN: Do you swear to tell the
4 truth, the whole truth, and nothing but the truth,
5 so help you God?

6 MR. NASTASI: I do.

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

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

11 THE WITNESS: John Nastasi,
12 N-a-s-t-a-s-i.

13 MR. GALVIN: Mr. Chairman, do we accept
14 Mr. Nastasi's credentials?

15 CHAIRMAN AIBEL: Yes, we do.

16 MR. GALVIN: All right.

17 Fire away and keep it simple.

18 THE WITNESS: I will be short and
19 concise.

20 At the property, as we mentioned, the
21 existing structure has been damaged by Sandy. It's
22 leaning to the west about 18 inches and it needs to
23 be reconstructed.

24 Now, since we first presented it, the
25 zoning code has changed. This orange building is

1 the new zoning code that relates to this blue flood
2 line, so that the design flood elevation of 14,
3 everything get measured off of that.

4 So this is a new four-story building as
5 of right that relates to that blue flood line. It
6 becomes taller than that building, which I don't
7 think is that desirable, and I don't think it meets
8 with the neighborhood.

9 What we are proposing and requesting
10 two C variances for is to build less of a building,
11 to take some of this bulk off the allowable top, put
12 it in the back and align it with the neighbors, have
13 less of a buildout, require two variances, but
14 actually be a better building than what is as of
15 right.

16 So that if you take this as allowable,
17 this facade is what we are proposing. We are now
18 lower than the neighbor, and you can see that red
19 line, which is what we can actually build, and then
20 there is a setback partial floor there that stays
21 within the height variance.

22 I then take that bulk, and I move it to
23 the back with this diagram. And very simply by
24 removing that bulk and putting it here, aligning
25 with the neighbors to the east, I am actually

1 building 175 less square feet of a buildout, but I
2 get to align the neighbors, and I get to have a
3 front facade that's more in keeping with
4 neighborhood.

5 MR. BURKE: Two points.

6 When we say "as of right," I know Mr.
7 Matule had mentioned "as of right" before, but "as
8 of right" meant going back to a Board for site plan.

9 This would be totally as of right,
10 going to the zoning office and saying, I want a
11 first letter of zoning compliance and then taking
12 that to the building department --

13 MR. GALVIN: Right, because it is only
14 three units?

15 MR. BURKE: One unit.

16 MS. BANYRA: One unit.

17 MR. GALVIN: One unit.

18 MR. BURKE: Right. So there is no
19 minor site plan. There's nothing else involved,
20 so --

21 THE WITNESS: That is it.

22 MR. BURKE: -- what the applicant is
23 trying to do, to his credit, is make the building
24 mesh with the neighborhood versus of going higher
25 because of the change in the ordinance.

1 THE WITNESS: There are two more
2 concessions that we're making to relate to the
3 neighborhood.

4 Ms. Banyra and I think --

5 MS. BANYRA: Chairman Aibel

6 THE WITNESS: -- Chairman Aibel
7 suggested that we not try to get up to the first
8 floor from the stoop. I don't know if you remember.
9 So what we are doing is we are coming up below the
10 first floor, so that the stoop can face forward like
11 the rest of the neighbors, and then inside of the
12 house we're getting up to the actual design flood
13 elevation. And you can see here, that takes more
14 square footage away from the apartment, but I think
15 the impact on the street is significantly better
16 because now the stoops face forward.

17 The other consolation that I think also
18 helps this application is that in the rear addition,
19 we are not putting the rear addition, we are
20 aligning the faces of the rear addition, but we're
21 not bringing it to the property line.

22 We are actually pulling it three feet
23 two inches off the property line, and that allows
24 light to get into the back of the dry cleaners and
25 to the back of our neighbor, which is building

1 that's on 85 percent lot coverage or something like
2 that.

3 So we are actually pulling the side
4 wall in, too, so we are aligning, pulling this in,
5 and setting the front facade down. And I think
6 those kind of sculpted -- sculpted design moves just
7 make for a better building, but require two C
8 variances.

9 MR. BURKE: And the extension, if you
10 will, in the back is part of one building. It's not
11 an extension per se, but that back part, it also
12 helps to mitigate what could be considered a
13 nuisance, which is the active dry cleaner, that has
14 an exhaust fan blowing into the backyard of this
15 property.

16 THE WITNESS: Right.

17 Then I have one more diagram to show.

18 I think a lot of times people get
19 confused about the term donut. I do want to show
20 you what we are talking about. We are in I guess
21 the armpit of this block --

22 (Laughter)

23 -- where you have the back of the dry
24 cleaners and that empty spot --

25 CHAIRMAN AIBEL: Did they teach you

1 that at Harvard?

2 (Laughter)

3 THE WITNESS: -- and by filling that
4 spot in, you are actually filling in the actual
5 donut, but not the hole in the donut. So white is
6 donut, and green is the hole in the donut, and we
7 would be filling in an actual piece of the donut.
8 So we are not projecting into the hole of the donut.
9 We are just completing the donut.

10 (Laughter)

11 MS. BANYRA: What you're saying is that
12 the buildings are shorter, so the typical building
13 would be 60 foot long and then -- or the properties
14 would be a hundred feet long, so the buildings would
15 take up 60 feet coming from -- what street is
16 that --

17 COMMISSIONER GRANA: 7th.

18 MS. BANYRA: -- is it 7th -- all right.
19 So is that what you are saying, so you
20 are actually filling in the building?

21 THE WITNESS: We're filling in the
22 empty space.

23 As a matter of fact, when it comes to
24 lot coverage, we are 79 percent lot coverage on our
25 lot. But if it was a normal sized 2,000 square foot

1 lot, we'd only be 44 percent lot coverage, so it is
2 not a big building. It just happens to require lot
3 coverage because of the undersized lot, which is a
4 hardship.

5 MR. BURKE: Just to refresh the Board,
6 just maybe a little of the interior of what, you
7 know, the layouts and --

8 MR. GALVIN: We don't want interior
9 layouts.

10 MR. BURKE: You don't want interior,
11 okay.

12 MR. GALVIN: I mean, the Zoning Board
13 shouldn't be -- we are always asking because of FAR,
14 and sometimes we have to hear it because we get
15 these huge buildings, where we need to go over it.

16 Do you agree with that, Ms. Banyra?

17 MS. BANYRA: No. The only question I
18 have was there is no exterior access, and the
19 basement area is to be just uninhabitable storage
20 space, but then there is no way to get into that
21 storage space unless you come in from inside the
22 building or from the backyard. So to me, as a
23 storage space, there is a flood way, and water can
24 move through, but there's no -- under the stoop, you
25 know, specifically taken out,

1 And I guess the thought behind that
2 maybe is so that it doesn't create an extra
3 apartment, which everybody is afraid of the
4 apartment going below, you know, the ghost
5 apartment. But in my thought, I don't know how you
6 use it for storage. You have to carry -- if you had
7 a bike, you are going to bring your bike up all of
8 the steps, and then in the center you're bringing it
9 down through that, so, you know --

10 THE WITNESS: We would make access to
11 that storage floor however you would like to make
12 access to it.

13 (Laughter)

14 MS. BANYRA: Yeah. I am just wondering
15 how, you know, it could cut either way, I suppose.
16 But to me, you shouldn't probably access -- if
17 you're going to use it for storage, if it is only
18 used internally, then it becomes almost -- you can't
19 monitor the space maybe, maybe.

20 I don't know. So that is just my
21 thought when I looked at it. I could argue it
22 either way, but I thought maybe a door to the
23 outside for bike purposes then or for a carriage or
24 a stroller. Maybe that is a good idea, and if you
25 could do it underneath the steps where you don't see

1 it.

2 COMMISSIONER MARSH: It's a one-family
3 house, right?

4 THE WITNESS: Yes.

5 COMMISSIONER MARSH: I mean, so what if
6 they have a teenager sleeping down there?

7 MS. BANYRA: You can't.

8 COMMISSIONER MARSH: You can't. You
9 can't sleep down there.

10 MS. BANYRA: It is uninhabitable space,
11 so that's what I'm saying --

12 MR. GALVIN: Under FEMA, it can't be
13 used. In a storm, it is going to be a dangerous
14 place.

15 COMMISSIONER MARSH: So it can't be --
16 it can only be --

17 VICE CHAIR GREENE: Storage.

18 MS. BANYRA: But the only way to access
19 it from the center of the house as opposed to if you
20 wanted to use it for storage honestly, carrying your
21 bike up and carrying it down, I mean --

22 COMMISSIONER MARSH: I do that all of
23 the time. It is a total nightmare.

24 MS. BANYRA: Isn't that fun?

25 Yeah. So anyway, it's just my thought.

1 The Board can go either way.

2 The other thing is I think you actually
3 have three variances, and the third variance is
4 really for a preexisting nonconforming structure,
5 so, you know --

6 MR. BURKE: I thought the ordinance
7 changed that. That if it's simply because it's a
8 preexisting --

9 THE WITNESS: Well, the structure is
10 coming down.

11 MS. BANYRA: The structure is coming
12 down. Oh, this is brand new?

13 MR. BURKE: Yes, it's brand new.

14 MS. BANYRA: Oh, I guess I didn't
15 realize that.

16 THE WITNESS: Yes, because it is
17 leaning to the west.

18 The only thing I didn't mention is that
19 the roofs are, of course, green sedum roofs to
20 collect rainwater, reduce runoff and lower the
21 impact on the exterior property.

22 COMMISSIONER MARSH: So that building
23 to the west is just a dry cleaners?

24 THE WITNESS: It's that one-story dry
25 cleaners on the left. You can't miss it.

1 (Laughter)

2 COMMISSIONER BRANCIFORTE: What's that?

3 THE WITNESS: There's a one-story dry
4 cleaners on Willow.

5 CHAIRMAN AIBEL: Okay. So let me ask:
6 Have you finished your testimony with Mr. Nastasi?

7 MR. BURKE: Yes.

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

10 Name and address, please.

11 MS. HEALEY: Leah Healey, the huge
12 public.

13 Mr. Nastasi, can you bring up that
14 donut picture?

15 THE WITNESS: I brought this just for
16 you, Ms. Healey.

17 MS. HEALEY: Thank you.

18 The properties to the --

19 THE WITNESS: East.

20 MS. HEALEY: -- east that come back,
21 how many of those are nonconforming structures?

22 THE WITNESS: Well, each of those lots
23 on that street are nonconforming lots.

24 MS. HEALEY: Right. How many of them
25 are nonconforming structures?

1 MR. GALVIN: Time out a second.

2 You have to understand that at least --
3 I may be overstepping my bounds -- but you have to
4 understand that those buildings to the left of this
5 that are two stories in height, if they were more
6 than 50 percent destroyed, they are going to have to
7 be elevated above that 15 foot level, so there is a
8 good chance that the street scape that we see to the
9 left --

10 MS. HEALEY: I'm not concerned with the
11 street scape. I'm concerned with the donut.

12 MR. GALVIN: I'm sorry then. I
13 apologize.

14 MS. HEALEY: So I am going to point to
15 the exhibit.

16 You are indicating if you fill in this,
17 that it is going to complete the donut better.

18 My question is: How many of these
19 structures here that come back this far into the
20 donut are nonconforming structures?

21 THE WITNESS: I don't know the answer
22 to that, but I will tell you these are nonconforming
23 lots. These are all nonconforming lots by the
24 definition of lots in the Hoboken Zoning Ordinance.
25 So doesn't that make them all nonconforming?

1 MS. HEALEY: No. I'm --

2 COMMISSIONER MARSH: Any more than 60
3 percent lot coverage --

4 (Ms. Healey and Commissioner Marsh
5 speaking at the same time)

6 THE REPORTER: I'm sorry. What did you
7 say because someone else was talking?

8 THE WITNESS: And I would say the
9 existing structures would all be nonconforming
10 structures as they preexist.

11 MS. HEALEY: Okay.

12 So if the Zoning Board were not to
13 allow when any of these buildings come in in the
14 future, were not to allow them to take up as much of
15 the donut as you take up for nonconforming
16 structures, does your donut theory still work?

17 THE WITNESS: I think the question is a
18 rhetorical question because I don't know if those
19 buildings or any other in Hoboken are required to --

20 MR. BURKE: So it is not a donut
21 theory.

22 The purpose of this was to mitigate the
23 exhaust fan blowing into the backyard, which it is a
24 nuisance, and it's noisy, and it blows hot air into
25 the backyard. I can't say whether the fumes are

1 noxious or not. It is an annoyance at the very
2 least, so it is to counteract that more than
3 anything else. It is not a hole in the donut.

4 MS. HEALEY: Mr. Nastasi, do you think
5 that that is the only way to mitigate a noisy fan or
6 an exhaust fan?

7 THE WITNESS: I think that is another
8 rhetorical question.

9 MS. HEALEY: Okay. So but if a
10 nonconforming structure were denied in each one of
11 these three buildings --

12 THE WITNESS: But I think -- in all due
13 respect, I don't think you can say if every project
14 were to have to come to the Zoning Board, would it
15 be approved, because this is a century old
16 post-industrial city with existing urban fabric, and
17 these things preexist, so I don't know if you can
18 say that every one of these preexisting houses are
19 going to make their way to the Zoning Board. They
20 may never make their way to the Zoning Board.

21 MS. HEALEY: But you do understand that
22 if you have a nonconforming structure --

23 THE WITNESS: That doesn't mean you're
24 going to the Zoning Board.

25 MS. HEALEY: Under our zoning

1 ordinance --

2 THE WITNESS: You could renovate it for
3 the next hundred years and never go to the Zoning
4 Board, right?

5 If you renovated a nonconforming
6 structure and not changed the bulk, height, you
7 don't go to the Zoning Board.

8 MS. HEALEY: Correct, right.

9 THE WITNESS: So someone could live in
10 those houses for another hundred years --

11 MS. HEALEY: And maybe not.

12 THE WITNESS: -- but somebody can live
13 in a --

14 MS. HEALEY: But if --

15 COMMISSIONER COHEN: One at a time, one
16 at a time, one at a time.

17 Leah, Leah, let him answer your
18 question.

19 VICE CHAIR GREENE: This isn't a debate
20 here.

21 MS. HEALEY: I thought he did.

22 THE WITNESS: I just can't -- I
23 can't -- I can't project if an existing century old
24 house will make it to the Zoning Board for some
25 zoning modification. I don't know that answer,

1 because I don't know who lives in those buildings or
2 any other building in Hoboken, and what their
3 long-term --

4 MS. HEALEY: So my last --

5 MR. GALVIN: All right. So that's
6 sufficient.

7 MS. HEALEY: -- so my last question is:
8 If this Board approves you to come back into the
9 donut, then you may have established something that
10 will last forever and ever, and ever, too.

11 THE WITNESS: I think that is actually
12 inaccurate because --

13 MR. BURKE: Wait. That is a statement,
14 not a question, but more importantly --

15 MS. HEALEY: Is that correct?

16 (Laughter)

17 MR. BURKE: -- more importantly -- hang
18 on -- more importantly we are here for one
19 applicant, and we have addressed, and we are trying
20 to address an issue, which we brought before the
21 Board --

22 MR. GALVIN: Time out.

23 Any time we grant a variance, it
24 creates a nonconforming standard, which has the
25 right to continue indefinitely until it is either

1 abandoned or totally destroyed, okay, so you are
2 correct.

3 MS. HEALEY: Correct.

4 MR. GALVIN: On the other hand, nothing
5 that the Board does should be precedential. It is
6 we take each case on its own merits of the facts of
7 the case and the unique circumstances.

8 MS. HEALEY: Correct.

9 I only have one more question.

10 There was mention of a penthouse. Is
11 there a penthouse?

12 MR. BURKE: John?

13 THE WITNESS: I think Mr. Burke used
14 the term "penthouse," but it is actually an existing
15 allowable floor, a partial existing allowable floor.

16 MR. GALVIN: But it is not going to be
17 there. Let's be clear.

18 THE WITNESS: Mr. Burke used the term
19 "penthouse," but this is actually a partial
20 allowable fourth floor. We are just deciding not to
21 propose a full fourth floor, a partial floor --

22 MR. BURKE: How many square feet is
23 that, John?

24 THE WITNESS: That is 265 square feet
25 of an allowable 655 square feet.

1 MR. BURKE: How many rooms would that
2 be? Is that one room or two?

3 THE WITNESS: It's a bedroom, closet
4 and a bathroom.

5 MR. BURKE: Okay.

6 MS. HEALEY: Okay. Can you -- where is
7 it reflected on this drawing?

8 Where is it reflected on the drawing
9 from the street view, because I obviously didn't
10 know until he said that there was actually anything
11 on top of that building.

12 THE WITNESS: Here. That is it right
13 there.

14 The red dotted line is the allowable
15 height, and then that is the partial fourth floor
16 within the allowable height as of right. It's an as
17 of right floor.

18 MS. HEALEY: Okay. What does it look
19 like?

20 You have a box.

21 THE WITNESS: It is a box with gray
22 stucco and a window.

23 MR. BURKE: That is just -- I think
24 it's on the drawing --

25 MS. BANYRA: Mr. Nastasi, I think for

1 the Board's purposes, what are you going to see from
2 the street?

3 What will you see from the street?

4 You are giving us an aerial view. Show
5 us what you are going to see from the street as you
6 are walking down either side of the street, what are
7 you looking at?

8 THE WITNESS: This board shows from
9 across the street, an eye level view, looking up at
10 the front of the facade.

11 MS. BANYRA: So will you see the top,
12 the penthouse -- I'm going to call it a penthouse --
13 it's a partial fourth floor from across the street?

14 THE WITNESS: Not normal to the facade,
15 but I am sure if you are --

16 MS. BANYRA: Angled.

17 THE WITNESS: -- up or down the street,
18 you may see piece of it, but it is within the
19 allowable height and it's an allowable floor.

20 MS. BANYRA: Understood.

21 MR. GALVIN: What are the variances?

22 MS. BANYRA: Rear yard and lot
23 coverage.

24 THE WITNESS: Lot coverage.

25 MS. BANYRA: And preexisting -- a

1 nonconforming structure, so it is an expansion of a
2 nonconforming structure.

3 MR. GALVIN: No, it is new structure.

4 MS. BANYRA: Oh, it's being razed.

5 COMMISSIONER GRANA: It's being razed,
6 so it's really --

7 THE WITNESS: It's really a --

8 (Everyone talking at once.)

9 THE REPORTER: Everybody is talking at
10 once.

11 MS. GALVIN: Shush.

12 MS. BANYRA: Wait a second. So --

13 MR. GALVIN: That includes the planner.

14 MR. GALVIN: Shush, shush.

15 Okay. Go ahead.

16 MS. BANYRA: -- so if you are removing
17 going down to the ground basically, if you're
18 removing the entire structure, you are not
19 grandfathered on any of the variances for
20 preexisting conditions.

21 When you remove a building, you're --

22 MR. GALVIN: Correct, correct.

23 COMMISSIONER GRANA: That's right.

24 MS. BANYRA: John, unfortunately, I
25 didn't realize that the building -- I thought you

1 were opening this up and rehearing it, and I didn't
2 remember that we were taking the building completely
3 down, so you actually need a variance for any
4 preexisting condition, because once the slate is
5 clear, then you are in for technically every
6 variance.

7 THE WITNESS: Understood.

8 MS. BANYRA: Okay. Then it's more
9 than -- so it is the rear yard coverage. It's lot
10 area, width, and you are in for all of them.

11 MR. GALVIN: Right.

12 MS. BANYRA: I know, but that is not in
13 my report, and that's not in what they testified to,
14 because I didn't understand that the entire
15 building -- I knew that they were adding to it. I
16 knew it was tilting, and it says new construction,
17 but I didn't realize that it was coming down to the
18 ground. So if it's being removed, then you need
19 multiple variances, more than --

20 MR. BURKE: Well, when you say
21 "Multiple" --

22 MS. BANYRA: Lot area, lot width,
23 coverage -- area, width, coverage --

24 MR. GALVIN: And a rear yard setback.

25 MS. BANYRA: -- rear yard setback.

1 Let's see. Area, width, depth, rear yard setback,
2 lot coverage, yeah, because you lose your rights --

3 THE WITNESS: I'm --

4 MR. GALVIN: No, no, no. Let's stop.
5 Let's stop this.

6 MS. BANYRA: Okay. I --

7 MR. GALVIN: Let's stop. Yes, I
8 understand.

9 I think that we are okay. I think that
10 the notice covers -- we know this is a simple
11 single-family renovation -- this is where I am
12 coming from. This is not the typical building that
13 we have. This is a single-family renovation due to
14 the storm.

15 MS. BANYRA: I just wanted to clear on
16 the record in terms of the variances being
17 requested. I want to make sure that --

18 MR. GALVIN: You and I are going to go
19 over that and make sure that my resolution contains
20 all of that, if the Board was to see fit to grant
21 this --

22 MS. BANYRA: Yes, okay.

23 MR. GALVIN: -- we will make sure they
24 have it all. But the key element is that the change
25 in the ordinance allows them to go to the height

1 that they're saying --

2 MS. BANYRA: Yes.

3 MR. GALVIN: -- but the problem is
4 whatever they are adding on to the rear of this
5 because it is encroaching into 60 percent, and it's
6 encroaching into the rear yard setback, those are
7 the two most notorious variances, right?

8 MS. BANYRA: When you remove a
9 structure, you're in for -- you know, you're --

10 MR. GALVIN: But otherwise --

11 MS. BANYRA: -- yes.

12 MR. GALVIN: -- it's to claim the
13 property as a lot that the town is going to own.

14 MS. BANYRA: Exactly, yes. Technically
15 that is really the question. So the question is --

16 MR. GALVIN: I'm not saying they don't
17 need all of the other variances. But I'm talking
18 practical, not -- no -- I am not normally that
19 practical, but I am being a little bit more
20 practical than normal, but yes, we will get all of
21 the variances.

22 MS. BANYRA: Then the answer is yes.
23 Okay. The planner will be covered.

24 CHAIRMAN AIBEL: It's up to you guys.

25 COMMISSIONER GRANA: Are we still in

1 public?

2 MS. HEALEY: Can I ask my final
3 question?

4 MR. GALVIN: Sure.

5 MS. HEALEY: Now that I understand that
6 there is something on top of the red structure,
7 which is the gray box, which is a bedroom and a
8 bathroom or a bedroom and a closet --

9 THE WITNESS: Bedroom, closet and
10 bathroom.

11 MS. HEALEY: -- bedroom, closet and
12 bathroom.

13 So essentially what you have done is to
14 take the square foot that would have been on the
15 front of that top floor and have it installed in the
16 back.

17 THE WITNESS: Minus 175 square feet, so
18 we are building less than we would have, if we just
19 built the fourth floor.

20 MS. HEALEY: And why do you think that
21 it is a detriment to the community to have the
22 square footage on the front of the building when
23 eventually many of the houses in the area may in
24 fact do that same thing because of flooding?

25 THE WITNESS: As part of the code, we

1 are in the historic district, the central Hoboken
2 historic district. The facade character, the
3 historic fabric of the row houses are a major part
4 of the intent of the ordinance, and we tried to
5 develop a contextual and a historic facade that was
6 more in keeping with the scale and character of its
7 neighbors, and I think that is a pretty
8 straightforward answer to that.

9 MS. HEALEY: But you don't think that
10 applies to the back, to the character --

11 THE WITNESS: I am aligning with the
12 three neighbors. I am aligning with the three
13 neighbors, and I'm answering the question --

14 MS. HEALEY: Okay. Do you have any
15 pictures of the donut area, actual photos?

16 THE WITNESS: -- I'm aligning with the
17 three neighbors --

18 MS. HEALEY: Do you have any pictures
19 of the donut area, actual photos of the donut area?

20 THE WITNESS: This is a Google map
21 and --

22 MS. HEALEY: Okay, thanks.

23 MR. GALVIN: That is something that we
24 have to fix on our checklist. We have to get rear
25 yard photos in every application. It's something we

1 are always missing.

2 COMMISSIONER BRANCIFORTE: Can we close
3 the public session?

4 COMMISSIONER GRANA: Motion to close
5 the public portion.

6 COMMISSIONER BRANCIFORTE: Motion to
7 close -- second.

8 CHAIRMAN AIBEL: All in favor?

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

11 COMMISSIONER BRANCIFORTE: But I still
12 have questions for the architect.

13 MR. GALVIN: You can ask him.

14 COMMISSIONER BRANCIFORTE: I'm
15 concerned about the steps that lead into the
16 backyard. There is a light there. There's a sconce
17 that you show --

18 THE WITNESS: Yes.

19 COMMISSIONER BRANCIFORTE: -- and I
20 want to make sure that that light isn't going to
21 project into the rear of the building next door.

22 THE WITNESS: I think it is a good
23 question.

24 It will be the type of light that only
25 throws light down, and it will not throw light out

1 across the property.

2 COMMISSIONER BRANCIFORTE: And the top
3 floor, let's talk about all of the decks on this
4 building quickly.

5 There is no deck on the roof. It is
6 all green roof.

7 THE WITNESS: Green roof.

8 COMMISSIONER BRANCIFORTE: So that is
9 permanently going to be a green roof. Nobody can
10 walk on it because it is sedum, right?

11 THE WITNESS: It's a green roof.

12 COMMISSIONER BRANCIFORTE: So they have
13 no access out to that except to maintain the green
14 roof I guess?

15 THE WITNESS: Right. We are showing
16 green roofs on both the lower roof of the rear
17 structure and the roof of the fourth floor.

18 COMMISSIONER BRANCIFORTE: Okay. So
19 there's no roof decks then?

20 THE WITNESS: No. We do not have any
21 roof decks on this application.

22 COMMISSIONER BRANCIFORTE: Okay. And
23 the AC unit is at the front of the building, in
24 front of the master suite on the fourth --

25 THE WITNESS: The compressor will be

1 concealed on the roof and not visible from the
2 street --

3 MR. GALVIN: On the roof?

4 COMMISSIONER BRANCIFORTE: Well --

5 MR. GALVIN: Roof?

6 THE WITNESS: Yes.

7 COMMISSIONER BRANCIFORTE: -- no, it's
8 not on the roof technically. It is on that cutout,
9 so it is sort of level with the building next
10 door -- with the windows next door. It is right
11 there.

12 THE WITNESS: Here.

13 COMMISSIONER BRANCIFORTE: So this is
14 my worry, that compressor, that AC unit, is going to
15 be too close to the windows to the building next
16 door, and maybe it is best that you put it on top of
17 the --

18 THE WITNESS: That AC unit will be up
19 here. It will be above this level.

20 It will be exactly where there unit is,
21 which is up on their roof, so it will be up here,
22 just like theirs.

23 COMMISSIONER BRANCIFORTE: Okay. I
24 think that is it.

25 Oh -- no, that was it.

1 Thank you.

2 THE WITNESS: Thank you.

3 MS. BANYRA: Mr. Nastasi, is there a
4 reason why there is a sliding glass door to the
5 green roof as opposed to windows, if the roof isn't
6 going to be used?

7 It looks like a sliding glass door on
8 the third floor.

9 THE WITNESS: The fourth floor?

10 MS. BANYRA: Yeah, wherever the green
11 roof is. I am sorry. Yeah.

12 Just go back. I just saw it.

13 COMMISSIONER DE GRIM: Is that to get
14 to the HVAC unit?

15 THE WITNESS: Second floor --

16 MS. BANYRA: Second floor plan, sliding
17 glass --

18 THE WITNESS: That is to get out and
19 maintain, and these are all green trays, so it would
20 be for maintenance and access.

21 MS. BANYRA: Okay.

22 THE WITNESS: We could put a single
23 door there, if you'd like.

24 MS. BANYRA: It's just it looks -- I
25 didn't scale it, but it looks like it's about two

1 feet to step out maybe, and it just looked really
2 narrow, and that's one reason, because I didn't
3 expect that roof to be used.

4 THE WITNESS: It's really there for
5 maintenance.

6 MS. BANYRA: It's just for maintenance.
7 Okay.

8 MR. GALVIN: All right.

9 CHAIRMAN AIBEL: Questions for Mr.
10 Nastasi?

11 COMMISSIONER GRANA: None from me.

12 MR. GALVIN: Did you have a place that
13 you wanted -- the door to the basement -- did you
14 have a --

15 MS. BANYRA: I'm just calling it out
16 as -- you know, I would put it underneath the steps.
17 I don't think you should see it, so some place it
18 would be hidden.

19 Whatever architecture -- you know, if
20 you were going to have access, hypothetically if you
21 wanted to put a bicycle in there rather than walk it
22 through your house, you know, I probably would go
23 underneath the steps, so you don't --

24 MR. GALVIN: Can you do that?

25 THE WITNESS: We would welcome that

1 suggestion.

2 MR. GALVIN: Okay.

3 CHAIRMAN AIBEL: Anything else for Mr.
4 Nastasi?

5 MR. MARSDEN: Just the addition on the
6 detail for the light to add a cutoff.

7 THE WITNESS: Yes.

8 CHAIRMAN AIBEL: Okay. Mr. Burke, any
9 closing comments?

10 MR. BURKE: Just taking you back to the
11 first hearing, we tried to address the concerns of
12 the Chairman and Eileen as far as the stairwell into
13 the building.

14 We tried to keep in mind -- I know
15 Commissioner Cohen made a comment about the height,
16 and because of the change in the ordinance, we could
17 actually fill in that front part of that additional
18 floor instead of having the recessed back part only
19 developed, and we thought, and this was the genesis
20 of the lot coverage request, that the mitigation of
21 the nuisance was important, and there is still a
22 backyard, little backyard, but that wall will block
23 what is a nuisance, and the project kind of revolved
24 around that.

25 So, you know, my client I think is

1 trying to do the right thing because, again, and I
2 will start -- I will finish the way I started, which
3 is he could go to the zoning office tomorrow and
4 say, you know, I want to build an additional
5 floor --

6 MR. GALVIN: No. Let me just stop you.
7 I think the answer is no.

8 MR. BURKE: Why?

9 MR. GALVIN: Because you don't have a
10 conforming lot. You have an undersized lot. I
11 don't think so.

12 MR. BURKE: Okay. Well --

13 MR. GALVIN: But you don't have to hit
14 that too hard. I don't think you have to hit that
15 so hard, guys.

16 MR. BURKE: Yeah. But I'm saying that
17 that is what we had believed, and yet despite that,
18 he was still trying to do something that made the
19 neighborhood work as well, not just for his own
20 profit.

21 COMMISSIONER BRANCIFORTE: John, could
22 you go to A-2.2?

23 So there in the front, you have the
24 two -- you have the HVAC and then you have ACCU?

25 What is the difference between those

1 two units?

2 THE WITNESS: The package unit is a
3 self-contained unit. It has an air handler and
4 compressor.

5 COMMISSIONER BRANCIFORTE: Does it make
6 noise?

7 THE WITNESS: It makes noise just like
8 everybody else's air conditioner makes noise.

9 COMMISSIONER BRANCIFORTE: Okay.

10 THE WITNESS: And then the air handler
11 is just -- the second unit is just the compressor,
12 while the air handler is inside the house.

13 So a package means they are both
14 together, and compressor is just a compressor.

15 COMMISSIONER BRANCIFORTE: And the ACCU
16 also make noise, as any other air conditioner would?

17 THE WITNESS: Right.

18 COMMISSIONER BRANCIFORTE: Okay.

19 Now, go to quickly 3.1, the next page,
20 A-3.1.

21 So you have the roof line. You have
22 the top of the parapet, and then you have the roof
23 line, and those two units sit on the roof line,
24 right?

25 They sit on the roof?

1 THE WITNESS: They sit on this line
2 right here.

3 COMMISSIONER BRANCIFORTE: Right.

4 And you are telling me that those are
5 higher? Those are just as high as the AC units next
6 to the east.

7 THE WITNESS: Well, I stand corrected.
8 They are sitting on this roof, and those are
9 probably sitting on that roof.

10 COMMISSIONER BRANCIFORTE: Yeah. See,
11 that's what I am worried about.

12 I'm worried that those two AC units
13 running at the same time are going to make so much
14 noise, that it's going to disturb the people living
15 next door, so how do we resolve that?

16 THE WITNESS: Well, I would suggest
17 that they meet all noise ordinances, right, if they
18 are new units, wouldn't they have to meet the noise
19 ordinance?

20 COMMISSIONER BRANCIFORTE: Look, I am
21 not an expert on AC noise.

22 I just know that if I am living in that
23 apartment --

24 MR. GALVIN: Are you guys working on
25 the AC unit or something else?

1 MS. BANYRA: We're working on the
2 basement.

3 COMMISSIONER MARSH: Can we talk about
4 the AC unit, please?

5 MS. BANYRA: Sure. Jeff?

6 COMMISSIONER MARSH: Jeff?

7 COMMISSIONER BRANCIFORTE: So, you
8 know, I am worried that those two units running at
9 the same time on a hot summer night, whatever, and
10 the person living next door is trying to sleep with
11 two units running outside, I don't know, ten or 15
12 feet away from his window.

13 THE WITNESS: We are putting it on the
14 roof of the fourth floor.

15 COMMISSIONER BRANCIFORTE: I don't
16 know. Can we?

17 Is it going -- do you think it's --

18 COMMISSIONER COHEN: That is where it
19 is.

20 COMMISSIONER BRANCIFORTE: -- going to
21 mitigate the noise problem?

22 COMMISSIONER COHEN: That's where they
23 are.

24 COMMISSIONER MARSH: No, they are not.

25 THE WITNESS: They are here now --

1 COMMISSIONER DE GRIM: He is talking
2 about putting them on top of the penthouse.

3 COMMISSIONER BRANCIFORTE: Do you think
4 that is going to work to mitigate any sort of noise
5 problem?

6 COMMISSIONER DE GRIM: Would it
7 mitigate the noise problem, just to put a barrier
8 around it?

9 THE WITNESS: I would recommend putting
10 an acoustic barrier, a visual and acoustic barrier.

11 MR. MARSDEN: That is probably best.

12 THE WITNESS: I think so, too, to
13 absorb the sound.

14 COMMISSIONER DE GRIM: Yeah, and direct
15 it upwards.

16 COMMISSIONER BRANCIFORTE: See, I don't
17 know about these things. You're an engineer, you
18 know, and John is an architect.

19 So if you feel like it's going to work,
20 then I am okay with it I suppose.

21 I mean, I would rather see it just
22 clearly on top of all of the roofs above everybody
23 else.

24 THE WITNESS: I think we would put them
25 wherever the Board feels better, but I do think the

1 engineer's recommendation of baffling the sound is
2 probably better to absorb the sound.

3 CHAIRMAN AIBEL: Go that way. We don't
4 like HVAC on bulkheads looking up at them.

5 COMMISSIONER GRANA: You will see them
6 from the street.

7 COMMISSIONER DE GRIM: Yeah, exactly.

8 THE WITNESS: I agree.

9 (Board members confer.)

10 CHAIRMAN AIBEL: Okay. Anything else?
11 Professionals?

12 MS. BANYRA: Yeah.

13 We just ascertained that you can't put
14 a door underneath the steps because of that landing
15 and everything. So you are going in, or you're
16 parking your bike outside.

17 THE WITNESS: Remember, your
18 recommendation at the last meeting was to lower the
19 stoop.

20 MS. BANYRA: No -- yeah, yeah, yeah.
21 It gives a better street scape, but you can't get
22 then into that space unless you come in and then go
23 down underneath the --

24 MR. MARSDEN: And you can't go down
25 because of the flood plain issue.

1 THE WITNESS: Because then you are
2 creating the problem of flooding.

3 MS. BANYRA: Yeah, I know. Never mind.

4 CHAIRMAN AIBEL: Okay. Are we ready to
5 have a conversation?

6 COMMISSIONER COHEN: Uh-huh.

7 CHAIRMAN AIBEL: Anybody want to start?
8 Have you finished?

9 MR. BURKE: Oh, I am, but public
10 questions and public comments.

11 CHAIRMAN AIBEL: My apologies. If
12 anybody in the public would like to comment.

13 (Laughter)

14 MS. HEALEY: Leah Healey.

15 MR. GALVIN: Do you swear to tell the
16 truth, the whole truth, and nothing but the truth,
17 so help you God?

18 MS. HEALEY: Yes.

19 MR. GALVIN: Thank you.

20 MS. HEALEY: I'm always trying to
21 defend the donut, and right on my street I have a
22 situation where a slew of three-story buildings,
23 three-story little ones, and then neighbors a couple
24 up the street are implementing a flood, and they are
25 going up to match some of the buildings that are

1 part of the north, so you have these pockets of
2 three-story buildings that I would like to protect,
3 but the new zoning ordinance is not protecting us
4 any more.

5 So if we are going to potentially see,
6 and I do believe we are going to see a lot of these
7 buildings raised up to that height, I would much
8 rather see the donut protected than the height
9 protected, and I don't think it is a good reason to
10 say we have a noxious situation because of the dry
11 cleaner, so let's fill in the donut to avoid that
12 noxious situation.

13 I don't think that is benefiting the
14 community. That may be benefiting this property
15 owner, but that's not a benefit to the community at
16 large, and I think it is creating a detriment.

17 So I really wonder whether or not this
18 is the right way to go in granting this application
19 the way it is structured now.

20 CHAIRMAN AIBEL: Thank you.

21 COMMISSIONER GRANA: Seeing no more
22 public comment, I'll motion to close the public
23 portion.

24 COMMISSIONER BRANCIFORTE: Second.

25 CHAIRMAN AIBEL: All in favor?

1 (All Board members voted in the
2 affirmative.)

3 CHAIRMAN AIBEL: Let me open it up for
4 deliberations.

5 Anybody want to kick off?

6 COMMISSIONER BRANCIFORTE: Well, you
7 know, it's unfortunate that we have this problem
8 with Sandy and all of these new FEMA regulations
9 that are going to kind of change the character of
10 the neighborhood. And, you know, Mr. Nastasi did
11 his best to try to keep somewhat of a roof line
12 height appearance that is not too obnoxious to the
13 character of the block.

14 So saving the donut, I am not buying
15 into this idea that we are somehow doing the donut a
16 favor by filling it in, that you mentioned, but you
17 know, I will wait to hear all of the other comments
18 before I decide how I'm going to vote.

19 CHAIRMAN AIBEL: Thank you.

20 Anybody else?

21 Mr. Grana?

22 COMMISSIONER GRANA: Well, I don't want
23 to say that my perspective is already said, but I
24 did vote on a similar application previously
25 provided by the applicant, so I did vote in favor,

1 and I did ask the question. I did ask the question:
2 Do you think the applicant has a hardship, and he's
3 testified in the affirmative.

4 I don't know if we covered that here,
5 but I do think that the applicant had a hardship
6 then and has a hardship now and is trying to
7 accommodate that undersized lot.

8 And I also think that we have an
9 applicant that has, you know, listened to the
10 comments and concerns that the last time they
11 appeared before this Board and have gone back to the
12 architect and tried to make several adjustments to
13 accommodate that.

14 That doesn't mean that we need to
15 approve that, but that is a single-family homeowner
16 with an undersized lot hearing and making
17 adjustments.

18 I do think that -- I would agree that
19 there is some building into the donut, but I do
20 believe it is an undersized lot, and it is the right
21 of this applicant to say, I have a hardship in
22 comparison to some of the other lots in the
23 neighborhood.

24 So given the location of this
25 particular site, I would approve the application.

1 CHAIRMAN AIBEL: Mr. Cohen?

2 COMMISSIONER COHEN: I thought it was a
3 close call last time. I was in favor of it. My
4 biggest concern was the fact that the height was
5 higher than the property to the west. That concern
6 has been addressed.

7 We are introducing green roofs to an
8 area that, you know, does flood, you know. Granted,
9 we are filling the donut somewhat, but it is really
10 squaring off the back wall that aligns with all of
11 the other properties. It is not like we are going
12 in in a way that is shadowing back on neighboring
13 properties. It's just squaring off what is already
14 aligned with the other neighbors.

15 So I mean, I think -- and, again, we
16 are talking about a structure that is tilting. It
17 was at 18 degrees, because I think it was 14 degrees
18 a few months -- when we heard it before.

19 I mean, you are talking about a
20 building that is going to fall down. I mean, it is
21 structurally unsound, and they are building it
22 consistent with FEMA regulations in a way that is
23 really attractive and setting a good standard for a
24 block. I mean, it is the kind of standard that you
25 want to have other buildings match, and they are

1 going to be matching in a way that's higher than the
2 corner, which was how it was originally proposed.

3 You are doing it in a way that is lower
4 than the corner and in a way that's consistent with
5 the typical Hoboken street scape, so I think that
6 you have taken a difficult situation with the FEMA
7 regulations. You got dead space below the flood
8 zone. You're are doing it in a way that is good for
9 the community, so it is not to say there isn't a
10 negative impact, there is, but I think the benefits
11 of this application far outweigh them, so I continue
12 to support it, but I don't think it is a close call
13 at this time.

14 COMMISSIONER GRANA: Can I add to my
15 comments?

16 CHAIRMAN AIBEL: Sure.

17 COMMISSIONER GRANA: Just quickly.

18 I would also like to say we talked
19 sometimes on this Board, now this is a personal
20 Commissioner's point of view, about the value of
21 architecture, and we struggle with architecture
22 being changed in what we tend to think as historic
23 blocks, even though they're preserved as such, and I
24 think that this applicant has taken pains to set a
25 very good standard to replace the existing structure

1 with a new structure that is very architecturally
2 harmonious with kind of the old Hoboken
3 neighborhood, so that's my comments.

4 VICE CHAIR GREENE: If I might add, I
5 think that the protection of the street scape is
6 very important, and I think it is done well here.

7 The incursion, if you will, into the
8 donut hole to me is relatively minor, particularly
9 given the location of this lot, and I will agree the
10 obnoxious neighbor, not that the neighbor is
11 intentionally obnoxious, but the use and rendering
12 that space virtually unusable as a green space, so I
13 would support this.

14 COMMISSIONER MARSH: I have not decided
15 yet. I am on the fence on this one. But I keep
16 hearing this whole hardship concept, and I am
17 calculating out these numbers, and this is -- you
18 can build say 18 by 60 as of right, right, even if
19 you tear down the building?

20 MR. GALVIN: No. We are not agreeing
21 with that any more --

22 COMMISSIONER MARSH: I'm sorry. The
23 building --

24 MR. GALVIN: -- because it's a
25 nonconforming lot --

1 COMMISSIONER MARSH: Now I have to redo
2 the math. Somebody else talk.

3 CHAIRMAN AIBEL: Finish your thoughts.

4 COMMISSIONER MARSH: No.

5 THE WITNESS: The undersized lot is 18
6 and a half by 60.

7 COMMISSIONER MARSH: I apologize.

8 But, okay. So as of right, you can
9 build something that is say 18 by 36. Is that
10 right, 6 percent of 60?

11 CHAIRMAN AIBEL: Yes.

12 THE WITNESS: Yes.

13 COMMISSIONER MARSH: So I rounded it up
14 to 20 because I am not that good, so that is 720
15 square feet times four stories is 2800 square feet
16 in the house, right?

17 THE WITNESS: 2880.

18 COMMISSIONER MARSH: 2800, 2880,
19 something like that. That doesn't sound like a
20 hardship to me. I am sorry.

21 You got a 2800 square foot house,
22 right?

23 I don't know where we got the concept
24 of hardship here.

25 MR. GALVIN: It's an undersized lot.

1 COMMISSIONER GRANA: Dennis, you got it
2 from me. I don't know if the applicant testified to
3 that --

4 COMMISSIONER MARSH: So I mean, it's
5 what you bought. I mean, you didn't buy --

6 MR. GALVIN: No, no. You are taking
7 the word "hardship" out of context -- there are two
8 different types of variances. There's a C1 and a
9 C2, so you could approve this just because --

10 COMMISSIONER MARSH: Is an undersized
11 lot defined as a hardship?

12 MR. GALVIN: It can be, yes.

13 COMMISSIONER MARSH: It can be by whom?
14 What do you mean, it can be?

15 MR. GALVIN: By the statute, due to the
16 uniqueness of the size, shape or topography of the
17 lot or due to the unique circumstances affecting a
18 lot. It could have a hardship for the development
19 of the lot. Not a hardship to the person, not a
20 hardship because they have twins. Not a hardship
21 because they bought it, and it's not working out for
22 them financially, but a hardship because of the
23 nature of the lot -- if they had a 50 by a hundred
24 lot, then they could build a house without having to
25 come to the --

1 CHAIRMAN AIBEL: But I think what
2 Ms. Marsh is saying is that how could it be a
3 hardship, if you can build a conforming --

4 MR. GALVIN: But I am just saying that
5 wasn't --

6 CHAIRMAN AIBEL: -- 2800 foot
7 structure --

8 MR. GALVIN: -- that wasn't their
9 argument. Their argument was a C2 variance that it
10 adds to the attractiveness of the neighborhood
11 because of the architectural design, and they are
12 maintaining the roof line and the look in this area.

13 So Mr. Grana has raised that it is a
14 hardship. I can see where some people could see it
15 that way because of the shape of the lot and also
16 the unique circumstances affecting the lot.

17 COMMISSIONER GRANA: I just wanted to
18 clarify.

19 I don't believe that the applicant
20 testified to it being a hardship. That was my
21 comment.

22 COMMISSIONER BRANCIFORTE: So I mean,
23 what it comes down to for me, either we save the
24 street scape and give up a little bit of the donut,
25 or we try to save the donut, and we lose the street

1 scape.

2 For me, I would rather save the street
3 scape and give a little bit -- lose a little bit of
4 the donut.

5 COMMISSIONER DE GRIM: And I concur. I
6 would rather save the street scape. I think the way
7 it is designed is very, very good in terms of
8 conforming with the rest of the neighborhood.

9 MR. GALVIN: Just so I don't want you
10 to be misled.

11 If they take the whole building down,
12 and they are going to build a new building, then
13 they would still need some variance relief, so you
14 could probably say no to the fourth floor, if you
15 wanted to on the concept of granting the variances.
16 But I still think they presented a good argument for
17 the street scape, you know, for maintaining the
18 street scape as part of their -- they are saying
19 they have an as of right to go to four stories. I
20 am not so sure.

21 They are saying, I don't know if I'm
22 not sure that it's completely removed, because they
23 will try to keep it then and go up, but it would
24 still require them to come here and get a variance,
25 right, because it is undersized.

1 CHAIRMAN AIBEL: Let me just make my
2 last comments, so we can get to a vote.

3 I disagree that this is an easy case
4 because I don't think any case that creates an
5 intrusion into the rear yard is an easy case these
6 days.

7 So I would have preferred to see the
8 extra bulk put on the fourth floor and kept more
9 open space in the rear.

10 That said, I think probably there are
11 good reasons for granting the application.

12 Let me get to a vote, somebody.

13 COMMISSIONER GRANA: I will make a
14 motion, if we are ready.

15 COMMISSIONER COHEN: Second.

16 COMMISSIONER GRANA: Do we have any
17 conditions that we need to hear, Dennis?

18 MR. GALVIN: I have five at this point.

19 As described at the hearing, the roofs
20 are to be green roofs and planted with sedum. Other
21 than maintenance of the HVAC, there is to be no use
22 of the roofs.

23 The Board Planner is to update the
24 variance list.

25 MS. BANYRA: The applicant is required

1 to also update the list on their plans as well. The
2 zoning table should be revised to reflect all of the
3 variances.

4 VICE CHAIR GREENE: And the access is
5 also to maintain the green roof and the air
6 conditioner --

7 COMMISSIONER MARSH: I was going to
8 say, you have to be able to maintain the roof.

9 COMMISSIONER GRANA: I think he said
10 it.

11 COMMISSIONER MARSH: No, he didn't.

12 MS. BANYRA: I think he said it.

13 MR. GALVIN: No. It is okay. We can
14 do that.

15 COMMISSIONER DE GRIM: And a sound
16 barrier around the HVAC?

17 MR. GALVIN: I didn't get there yet,
18 guys. I am sorry.

19 COMMISSIONER DE GRIM: Okay.

20 MR. GALVIN: The zoning table is to be
21 revised --

22 MS. BANYRA: To reflect all variances.

23 MR. GALVIN: -- and reviewed by the
24 Board's Planner prior to memorialization.

25 COMMISSIONER MARSH: I'm sorry.

1 MR. GALVIN: I am not done, guys. Just
2 give me a break here.

3 COMMISSIONER GRANA: I'm sorry.

4 MR. GALVIN: The HVAC is to be placed
5 on the roof of the penthouse with an acoustic
6 barrier.

7 COMMISSIONER GRANA: No.

8 VICE CHAIR GREENE: No. The third
9 floor.

10 COMMISSIONER GRANA: No. It's to
11 remain where it is with an acoustic barrier.

12 MS. BANYRA: Just have an acoustic
13 barrier is all they are saying.

14 MR. GALVIN: The HVAC is to be on the
15 roof of the third floor with an acoustic barrier.

16 Four: The basement is not to be used
17 for any purpose, other than storage.

18 Five: The lighting is to have a
19 cutoff, right?

20 COMMISSIONER GRANA: With said
21 conditions, I will motion to approve 263 7th Street

22 COMMISSIONER COHEN: I'll second.

23 MS. CARCONE: Commissioner Greene?

24 VICE CHAIR GREENE: Yes.

25 MS. CARCONE: Commissioner Cohen?

1 COMMISSIONER COHEN: Yes.

2 MS. CARCONE: Commissioner Grana?

3 COMMISSIONER GRANA: Yes.

4 MS. CARCONE: Commissioner Marsh?

5 COMMISSIONER MARSH: Yes.

6 (Laughter)

7 MR. GALVIN: You know, on the

8 transcript, it just says yes, right?

9 (Laughter)

10 COMMISSIONER MARSH: I am counting on

11 that.

12 COMMISSIONER BRANCIFORTE: If you want

13 to do that, you go like this, Carol. Yes.

14 MS. CARCONE: Mr. Branciforte?

15 COMMISSIONER BRANCIFORTE: Yes.

16 MS. CARCONE: Commissioner De Grim?

17 COMMISSIONER DE GRIM: Yes.

18 MS. CARCONE: Commissioner Aibel?

19 CHAIRMAN AIBEL: Yes.

20 MR. BURKE: Thank you very much, and

21 the Mets won.

22 (The matter concluded at 11:10 p.m.)

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C E R T I F I C A T E

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

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

s/Phyllis T. Lewis, CCR, CRCR

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PHYLLIS T. LEWIS, C.C.R. XI01333 C.R.C.R. 30XR15300
Notary Public of the State of New Jersey
My commission expires 11/5/2015.
Dated: October 22, 2015
This transcript was prepared in accordance with
NJAC 13:43-5.9.

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HOBOKEN ZONING BOARD OF ADJUSTMENT
CITY OF HOBOKEN

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REGULAR MEETING OF THE HOBOKEN :
ZONING BOARD OF ADJUSTMENT :October 20, 2015
:Tuesday, 11:10
p.m. ----- X

Held At: 94 Washington Street
Hoboken, New Jersey

B E F O R E:

- Chairman James Aibel
- Vice Chair Elliot H. Greene
- Commissioner Philip Cohen
- Commissioner Antonio Grana
- Commissioner Carol Marsh
- Commissioner John Branciforte
- Commissioner Frank DeGrim

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

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

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6 Attorney for the Board.

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1 MR. GALVIN: Back on the record.

2 MS. CARCONE: Are we back on the
3 record?

4 MR. GALVIN: Yes.

5 MS. CARCONE: Okay. We are going to
6 carry 26 Willow to next week's meeting on the 27th?

7 MR. GALVIN: Without notice.

8 MS. CARCONE: Without notice.

9 MR. GALVIN: Do we have a motion?

10 COMMISSIONER BRANCIFORTE: Motion to
11 carry 26 Willow Court to next week's meeting, the
12 27th.

13 COMMISSIONER GRANA: Second.

14 MR. GALVIN: All right. All in favor?

15 (All Board members answered in the
16 affirmative.)

17 MR. GALVIN: Here is the thing,
18 contingent on them extending the time.

19 COMMISSIONER BRANCIFORTE: Contingent
20 on them extending the time and no rennotice.

21 MR. GALVIN: No rennotice.

22 COMMISSIONER COHEN: Has Mr. Matule
23 been made aware that this was likely to happen
24 before he left the meeting?

25 CHAIRMAN AIBEL: Yes.

1 MS. CARCONE: He agreed to it.

2 MR. GALVIN: He knows that we're
3 probably going to carry it to another night.

4 MS. CARCONE: Yes.

5 MR. GALVIN: The other thing is -- did
6 you have anything else?

7 MS. CARCONE: I had cancelled the
8 meeting of 11/25, which is Thanksgiving week, and
9 I'm adding in a meeting on November 30th, which is a
10 Monday.

11 MS. BANYRA: 11/24?

12 MS. CARCONE: 11/24, November.

13 11/24 cancel, and add a meeting on
14 November 30th, which is the Monday after
15 Thanksgiving weekend. I don't know if that's a
16 great day for everybody.

17 MR. GALVIN: Can we have a motion?

18 COMMISSIONER DE GRIM: Can't we do
19 Tuesday?

20 MS. CARCONE: Tuesday we have the
21 Planning Board.

22 COMMISSIONER DE GRIM: Oh, okay.

23 VICE CHAIR GREENE: So the 24th is
24 cancelled?

25 MS. CARCONE: Yes. That wasn't a great

1 week for everybody.

2 COMMISSIONER DE GRIM: When is Stevens?

3 MS. CARCONE: Stevens is the 17th.

4 VICE CHAIR GREENE: November 17th?

5 MS. CARCONE: I mean, I will send an

6 email out --

7 COMMISSIONER DE GRIM: By the way, it's

8 fiancée now. It's not just a girlfriend.

9 MR. GALVIN: Congratulations.

10 COMMISSIONER DE GRIM: Thank you.

11 Thank you.

12 MR. GALVIN: Yeah. You don't want to

13 be sitting on that.

14 (Laughter)

15 COMMISSIONER DE GRIM: Yes.

16 So I am recused from the continuation

17 of Stevens.

18 MS. CARCONE: Okay.

19 COMMISSIONER DE GRIM: Just so you have

20 to drum up a quorum some other way.

21 MR. GALVIN: Thank you, though, for all

22 of your service. We appreciate that.

23 Do you need a vote for those two

24 things?

25 MS. CARCONE: Do we need a vote?

1 MR. GALVIN: Somebody make a motion to
2 cancel the meeting of the 24th and institute a
3 meeting on the 30th.

4 VICE CHAIR GREENE: So moved.

5 MR. GALVIN: Is there a second?

6 COMMISSIONER GRANA: Second.

7 MR. GALVIN: All in favor?

8 All Board members answered in the
9 affirmative.)

10 MR. GALVIN: Okay. We're good.

11 Motion to close.

12 VICE CHAIR GREENE: Motion to close.

13 MR. GALVIN: Second?

14 COMMISSIONER BRANCIFORTE: Second.

15 MR. GALVIN: All in favor?

16 (All Board members voted in the
17 affirmative)

18 (The meeting concluded at 11:30 p.m.)

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C E R T I F I C A T E

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

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

s/Phyllis T. Lewis, CCR, CRCR

PHYLLIS T. LEWIS, C.C.R. XI01333 C.R.C.R. 30XR15300
 Notary Public of the State of New Jersey
 Dated: 10/22/15
 My commission expires 11/5/2015.
 This transcript was prepared in accordance with
 NJAC 13:43-5.9.