

HOBOKEN ZONING BOARD OF ADJUSTMENT  
CITY OF HOBOKEN

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REGULAR MEETING OF THE HOBOKEN : Tuesday, 7 pm  
ZONING BOARD OF ADJUSTMENT : February 17, 2015  
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Held At: 94 Washington Street  
Hoboken, New Jersey

B E F O R E:

- Chairman James Aibel
- Commissioner Phil Cohen
- Commissioner Michael DeFusco
- Commissioner Antonio Grana
- Commissioner Carol Marsh
- Commissioner Diane Fitzmyer Murphy
- Commissioner John Branciforte
- Commissioner Tiffanie Fisher
- 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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1           A P P E A R A N C E S:

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## I N D E X

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1                   CHAIRMAN AIBEL: Good evening.

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

10                   We are at a Regular Meeting of the  
11 Hoboken Zoning Board of Adjustment on Tuesday,  
12 February 17th.

13                   If you would all join me with a salute  
14 to the flag.

15                   (Pledge of Allegiance recited)

16                   CHAIRMAN AIBEL: Thank you.

17                   Pat, do the roll call.

18                   MS. CARCONE: Commissioner Aibel?

19                   CHAIRMAN AIBEL: Here.

20                   MS. CARCONE: Commissioner Greene is  
21 absent.

22                   Commissioner Cohen?

23                   COMMISSIONER COHEN: Here.

24                   MS. CARCONE: Commissioner DeFusco?

25                   COMMISSIONER DE FUSCO: Yes.

1 MS. CARCONE: Commissioner Grana?  
2 COMMISSIONER GRANA: Here.  
3 MS. CARCONE: Commissioner Marsh?  
4 COMMISSIONER MARSH: Here.  
5 MS. CARCONE: Commissioner Murphy?  
6 COMMISSIONER MURPHY: Here.  
7 MS. CARCONE: Commissioner Branciforte?  
8 COMMISSIONER BRANCIFORTE: Here.  
9 MS. CARCONE: Commissioner Fisher?  
10 COMMISSIONER FISHER: Here.  
11 MS. CARCONE: Commissioner McAnuff is  
12 absent.  
13 Commissioner DeGrim?  
14 COMMISSIONER DE GRIM: Here.  
15 CHAIRMAN AIBEL: Did we say it right?  
16 COMMISISONER DE GRIM: Yes.  
17 CHAIRMAN AIBEL: So it is our pleasure  
18 to welcome Mr. DeGrim.  
19 MR. GALVIN: Should I swear him in?  
20 CHAIRMAN AIBEL: I think that the next  
21 order of business is to get you officially sworn in,  
22 so --  
23 MR. GALVIN: Please stand and raise  
24 your right hand.  
25 Do you -- state your name --

1 COMMISSIONER DE GRIM: Frank DeGrim.

2 MR. GALVIN: -- solemnly swear that you  
3 will support the Constitution of the United States  
4 and the Constitution of the State of New Jersey, and  
5 that you will bear true faith and allegiance to the  
6 same and to the governments established in the  
7 United States and in this state under the authority  
8 of the people, and that you will faithfully,  
9 impartially and justly perform all of the duties of  
10 the office of alternate to the Hoboken Zoning Board  
11 of Adjustment, so help you God?

12 COMMISSIONER DE GRIM: I do.

13 MR. GALVIN: Congratulations. Welcome  
14 aboard.

15 COMMISSIONER DE GRIM: Thank very much.

16 (Applause)

17 CHAIRMAN AIBEL: We are going to give  
18 you a lot of practice in the next couple of months  
19 because we probably are going to be meeting at least  
20 three times in the next couple of months.

21 That was for everybody's benefit.

22 A couple of administrative matters: We  
23 would like to do the review and adoption of minutes.  
24 Pat has previously circulated them. They are  
25 9/16/2014, 9/23/2014, September 30th, 2014, and

1       October 14th, 2014, October 21st, 2014, and  
2       11/18/2014.

3                   I guess we should entertain a motion to  
4       adopt the minutes of those dates.

5                   MR. GALVIN:   Sounds like a good idea.

6                   CHAIRMAN AIBEL:   Okay.

7                   Anybody willing?

8                   COMMISSIONER GRANA:   Motion --

9                   COMMISSIONER BRANCIFORTE:   Motion to  
10       adopt.

11                   COLMMISSIONER GRANA:   -- John.

12                   CHAIRMAN AIBEL:   Can I have a second?

13                   COMMISSIONER GRANA:   Second.

14                   CHAIRMAN AIBEL:   Can we do all in  
15       favor?

16                   MR. GALVIN:   You can do all in favor.

17                   CHAIRMAN AIBEL:   Okay.   All in favor?

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

20                   CHAIRMAN AIBEL:   Anybody opposed?

21                   Good.

22                   We have previously circulated the local  
23       rules of the Zoning Board.   I think we need a motion  
24       to adopt them with a potential change.

25                   Thanks, Mr. Cohen.

1 COMMISSIONER COHEN: Yes.

2 So the Chairman brought to my attention  
3 one modification. So if you look under the heading  
4 Applications, Hearings, Rules of Evidence and  
5 Decisions, under Applications in the second  
6 paragraph there was a clause that should be added to  
7 the sentence that begins "Such proof of notice shall  
8 be submitted to the Board Secretary at least five  
9 days prior to the hearing for review, and the Board  
10 Secretary" and the following is the new language:  
11 "In consultation with the respective Board  
12 professionals and any applicable municipal  
13 commissions, commissions and administrators," and  
14 then it continues on. And this conforms the  
15 language with the municipal ordinance where the  
16 Chairman had identified a discrepancy. But  
17 otherwise, the language as circulated is the same  
18 language that was adopted last year as part of the  
19 reorganization, and it is the best practice for the  
20 Board to adopt the rules governing the body every  
21 year.

22 CHAIRMAN AIBEL: Would you do the  
23 honors? Give us a motion.

24 COMMISSIONER COHEN: I would like to  
25 make a motion that we adopt the Rules of Procedure

1 of the Zoning Board of Adjustment of the City of  
2 Hoboken as amended.

3 COMMISSIONER BRANCIFORTE: I just need  
4 to discuss one thing here, though.

5 One thing that those don't cover, and I  
6 have a feeling it may be a problem, or it may not be  
7 a problem in the future, but is when Board members  
8 run for office. I'm not sure quite how to handle  
9 that.

10 Should we require a Board member to  
11 step down once he starts his campaign, or --

12 CHAIRMAN AIBEL: Well, let me sort of  
13 shorten it because we have a good heavy agenda  
14 tonight, so let me suggest --

15 COMMISSIONER BRANCIFORTE: That we put  
16 it off?

17 CHAIRMAN AIBEL: -- that we do this  
18 offline until you have discussions with --

19 COMMISSIONER COHEN: Oh, I mean --

20 CHAIRMAN AIBEL: -- because I think  
21 we --

22 COMMISSIONER COHEN: -- let me just say  
23 this. I mean, we had this circulated for about a  
24 month and a half. We adopted it last year. I mean,  
25 we do this annually. I mean if --

1 MR. GALVIN: Let me just say this.

2 Just let me get this out.

3 COMMISSIONER COHEN: Yes.

4 MR. GALVIN: Our bylaws, it is great  
5 that we have them, not all Boards have them, and I  
6 think it is intelligent to have them. They are  
7 guidelines more than a rule. Nobody can use it  
8 against us, and if we want to bypass the bylaws, we  
9 can do it pretty much at any time we want as long as  
10 we have a majority vote, but they are still a good  
11 guideline for us, and we should be looking at them.

12 I think John's point is one that is not  
13 touched in anybody else's bylaws. I don't know if  
14 there is any law that would require people not to  
15 serve while they are in an election cycle, but it is  
16 an interesting topic, and I think it should be at  
17 least kicked around, and we should talk about it.

18 The other thing I wanted to say is if  
19 we were to come up with some great new idea for the  
20 bylaws, we could always amend them at any time we  
21 want during the course of the year.

22 CHAIRMAN AIBEL: Good. Thanks.

23 COMMISSIONER BRANCIFORTE: I will leave  
24 it up to you, Mr. Chairman.

25 CHAIRMAN AIBEL: Okay.

1                   COMMISSIONER FISHER: Can I -- I just  
2 want to -- I'm not going to debate it. I just want  
3 to throw it out there.

4                   The one thing that I raised last year  
5 is I still think we should add The Hoboken Reporter  
6 to who we put notice. I know it is not an approved  
7 or required circulation, et cetera, but it happens  
8 to be the one periodical that people in Hoboken  
9 read, and so right now where we notice is not in  
10 documents --

11                  MR. GALVIN: I think that that should  
12 be discussed with the governing body --

13                  COMMISSIONER FISHER: -- which is fine.  
14 I just wanted to -- if we're raising issues --

15                  MR. GALVIN: -- because they should  
16 make it one of the official newspapers. I think if  
17 we tried -- recently we tried, the governing body  
18 tried to require that 200-foot notice went to  
19 everybody, all of the condominium unit owners, and  
20 there was push-back on that, because the law doesn't  
21 require that. The law only requires notice to go to  
22 the association.

23                  If we try to make notice to a paper  
24 that is not an official newspaper, I think they will  
25 be pushed back on that also as not complying with

1 the MLUL, so I think we need to go by the numbers.

2 So the first step would be if we wanted  
3 The Hoboken Reporter to be one of those papers, then  
4 we have to see if they meet the qualifications.

5 COMMISSIONER FISHER: They don't.

6 MR. GALVIN: Oh, well, that is the  
7 problem. But I think if we tried to make notice to  
8 them, that that might run against the MLUL, and I  
9 would have to take a closer look at it.

10 CHAIRMAN AIBEL: Let's go. Let's keep  
11 pluming forward here.

12 MR. GALVIN: I'm sorry.

13 CHAIRMAN AIBEL: That is all right.

14 We have two resolutions scheduled for  
15 memorialization tonight, and they will be deferred.

16 MS. CARCONE: Are we adopting --

17 COMMISSIONER GRANA: We need to vote --

18 MS. CARCONE: -- yeah --

19 COMMISSIONER GRANA: I will second the  
20 motion.

21 CHAIRMAN AIBEL: My apologies. I am  
22 eager to get going.

23 COMMISSIONER COHEN: Okay.

24 MR. GALVIN: We are all good.

25 CHAIRMAN AIBEL: Want to do an all in

1 favor?

2 MR. GALVIN: Yes.

3 CHAIRMAN AIBEL: All in favor?

4 (All Board members answered in the  
5 affirmative.)

6 CHAIRMAN AIBEL: Anybody opposed?

7 Great.

8 MS. CARCONE: Phil, can you send me a  
9 copy of those changes?

10 COMMISSIONER COHEN: Yes.

11 CHAIRMAN AIBEL: So we are going to  
12 defer the memorialization of resolutions on 720  
13 Clinton and 808 Washington.

14 The final administrative matter for the  
15 record is an application for 624 Hudson, Block  
16 217.01, Lot 19 has been withdrawn by email, dated  
17 November 13th, 2014.

18 And with that, is there any other  
19 business, Board members?

20 Seeing none.

21 (Continue on next page.)

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HOBOKEN ZONING BOARD OF ADJUSTMENT  
CITY OF HOBOKEN

----- X  
 RE: 830-834 Park Avenue :  
 APPLICANT: Gene Super : February 17, 2015  
 C & D Variances : Tuesday 7:30 p.m.  
 Continued from 1-20-15, Carried from :  
 2-4-15 :  
 ----- X

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## I N D E X

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WITNESS

PAGE

DEAN MARCHETTO

17 &amp; 116

KENNETH OCHAB

55

## E X H I B I T S

EXHIBIT NO.

DESCRIPTION

PAGE

A-6

Overlay sketch

22

A-7

Photo Board

56

A-8

Photo Board

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1                   CHAIRMAN AIBEL: Mr. Matule, 830-834  
2 Park Avenue.

3                   MR. MATULE: Good evening, Mr.  
4 Chairman, and Board members.

5                   Robert Matule appearing on behalf of  
6 the applicant.

7                   We were here on January 20th, at which  
8 time Mr. Marchetto gave his testimony, his  
9 architectural testimony.

10                  Based on feedback from some of the  
11 Board comments, the matter was carried, and Mr.  
12 Marchetto has made some revisions to those plans. I  
13 would like to recall him to testify to those  
14 revisions, and then we will bring up Mr. Ochab to go  
15 through the revised planning testimony.

16                  So, Mr. Marchetto?

17                  MR. GALVIN: You are already under  
18 oath, so you may proceed.

19                  MR. MARCHETTO: Good.

20                  D E A N   M A R C H E T T O, having been previously  
21 sworn, testified further as follows:

22                  MR. GALVIN: But the new plans have to  
23 be marked.

24                  Do you know what we are up to?

25                  THE WITNESS: The new plans were

1 submitted.

2 MR. GALVIN: No, no. I'm saying if you  
3 introduce any new exhibits, they have to be marked.

4 THE WITNESS: The only exhibits are the  
5 plans itself, if you want me to mark them.

6 MR. GALVIN: No. We will consider them  
7 as submitted.

8 THE WITNESS: Okay.

9 MR. MATULE: I will check my notes.

10 MR. GALVIN: But if you don't have  
11 anything new, that is fine. I am trying to be on  
12 top of it.

13 (Board members confer.)

14 MS. CARCONE: Frank, can I borrow your  
15 transcript for 830-834 Park?

16 COMMISSIONER DE GRIM: Yes. There you  
17 go.

18 MS. CARCONE: I knew I saw it on the  
19 table.

20 We are up to Exhibit A-6.

21 MR. MATULE: A-6 would be the next  
22 exhibit?

23 MS. CARCONE: Yes.

24 THE WITNESS: Should I do a brief  
25 summary of what the project is?

1 MR. MATULE: Yes.

2 THE WITNESS: Just to recap, as you  
3 recall, the nature of the project we presented, it  
4 has changed slightly. But if you recall, this is  
5 the site. It is located at 830-834 Park Avenue, and  
6 it is a site that has some residential buildings  
7 that are set way back into the rear of the site,  
8 into the backyard area.

9 CHAIRMAN AIBEL: Dean, you can move  
10 through this very quickly. We have all read it, and  
11 we are right up to speed with you, so you can take  
12 us through this quickly.

13 THE WITNESS: Yes. I was trying to do  
14 that.

15 So here is the site here. The plan we  
16 presented at the last meeting was shown in this  
17 block elevation. It is a five-story building. It  
18 has parking on the ground floor and four residential  
19 floors up above.

20 There are eight three-bedroom  
21 residential units in the building, and at the last  
22 meeting a concern was raised about the lot coverage  
23 on the ground floor. So this board is the set of  
24 drawings that we submitted as a revised set of  
25 drawings that were submitted to the Board --

1 MR. MATULE: We are going to mark that  
2 as A-6.

3 MR. GALVIN: No. It's already -- it is  
4 up to you.

5 MR. MATULE: I think it is already in  
6 the record.

7 MR. GALVIN: Don't worry about it. It  
8 is in the record. I just wanted you to have it to  
9 be ready.

10 MR. MATULE: Okay.

11 THE WITNESS: So on Page A-2 is the  
12 ground floor plan. You see here our lowest level,  
13 which is the garage.

14 The building used to have a 70 percent  
15 lot coverage, and it was 70 feet back from the front  
16 yard. The revised plan pulls the building back, so  
17 the garage level is coincident with the back of the  
18 residential building up above.

19 The residential building is 60 percent  
20 lot coverage, which is what is permitted, and the  
21 garage now is consistent with the back wall of the  
22 residential building.

23 There still is a three percent lot  
24 coverage requirement being requested because, as you  
25 may recall, we pulled the upper floors back to save

1 a light well for the neighbor's window.

2 So if you look at the residential  
3 building layout here, you see there is a notch  
4 pulled out of the residential floors. That notch is  
5 about three percent, and it allows the window to  
6 become a window in the shaft of the neighbor, so  
7 that is why we need a variance on the three percent  
8 parking deck, three percent lot coverage variance.

9 We also included in the revised plans  
10 electric car charging stations, and we pulled the  
11 stoop back, so that we had a clear six foot sidewalk  
12 between the tree plantings and the railing that is  
13 in front of the building and the stoop, because one  
14 of the suggestions from my reading, so now we have a  
15 six foot clear.

16 The only other discussion on this is  
17 the discussion of the base -- oh, one more thing.

18 Our roof coverage variance went up  
19 because there was a question, I think it was  
20 Commissioner DeFusco asked if we could increase the  
21 size of the green roof on the green roof.

22 Well, we increased it, and so the roof  
23 coverage variance has gone up to increase the size  
24 of the green roof. Believe it or not, you need a  
25 variance to put a green roof on, so to accommodate a

1 green roof, I had to increase my variance size.

2 So the only other thing again with the  
3 discussion on the BFE regarding the height of the  
4 building, so I prepared this little overlay sketch,  
5 and you can see it here, on top of the elevation on  
6 page A-6.

7 MR. MATULE: Flip that over. We are  
8 going to call that A-6.

9 (Exhibit A-6 marked.)

10 MR. MATULE: Again, if you could just  
11 describe for the record what it is.

12 THE WITNESS: This is an overlay sketch  
13 showing the difference between what is allowed and  
14 what is proposed, so I just wanted to explain this  
15 again. This is with regard to the height of the  
16 building. We are requesting a variance for the  
17 height.

18 You can see on the block long elevation  
19 of the rendering how the building fits into context,  
20 but this overlay sketch shows where the base flood  
21 elevation is. The base flood elevation at this  
22 location is four foot six above the ground.

23 Then you have one foot above the base  
24 flood elevation. You get to the bottom of your  
25 structure, and then the structure itself is a foot

1 thick. So before I start building any habitable  
2 floors, I am up six foot six, six foot six before I  
3 start my first floor.

4 The site, as you know, has parking  
5 spaces on it now. We are up six foot six before my  
6 first floor. By raising the building up several  
7 feet further, I am able to use that ground floor to  
8 accommodate the cars that are already on the site  
9 and take them off the parking lot and put them  
10 underneath the building.

11 So if I don't do that, I have a  
12 building that starts at six foot six up in the air  
13 with an empty space down below, something that is  
14 unusable. It is in the flood zone. By doing it  
15 with parking, I take those seven cars off the  
16 street, and I am able to use that parking garage as  
17 a reservoir for flood waters to come in and out. It  
18 will be wet flood proof.

19 So this red line shows what is  
20 permitted. This is a building that is 44.6 feet  
21 tall. We are asking for a building that's 50 feet  
22 tall, so it is an additional five foot six above  
23 what is allowed. By doing so, it gives us a floor  
24 that enables us to use three-bedroom units.

25 We now have eight three-bedroom units.

1       They are about 1400 square feet each one, and all I  
2       am saying is that to get the building up another  
3       five foot six, you get parking off the street in a  
4       situation where it is already there, and you get to  
5       have all large family-sized units.

6                   When you look at the elevation, which  
7       is our proposed rendering here, you see that the  
8       building fits in nicely in the context of the block,  
9       and in my opinion, there is no detrimental effect in  
10      granting that variance when you look at it in the  
11      context of the block.

12                   Again, all of the parking spaces are  
13      underneath, and they are concealed. Right now they  
14      are --

15                   MR. GALVIN: We are up to speed now,  
16      right?

17                   THE WITNESS: Yes.

18                   MR. MATULE: Just one other question  
19      just for the record, Dean.

20                   When we presented the plan last time,  
21      we had eight with the 70 foot deep building, you had  
22      eight parking spaces inside?

23                   THE WITNESS: Yes.

24                   MR. MATULE: As a result of pulling the  
25      building back ten feet, you are down to seven

1 parking spaces?

2 THE WITNESS: Seven parking spaces.

3 MR. MATULE: Again, just for the  
4 record, the lot coverage is now 63 percent on the  
5 ground floor, and 60 percent on the upper floors?

6 THE WITNESS: That is right.

7 MR. MATULE: And the roof coverage has  
8 now gone up to 60 percent because of the expansion  
9 of the additional green roof and taking away those  
10 decks that were out in the back on the ten foot  
11 extension, correct?

12 THE WITNESS: That's correct.

13 MR. MATULE: I have no further  
14 questions.

15 CHAIRMAN AIBEL: Board members,  
16 questions for Mr. Marchetto.

17 COMMISSIONER GRANA: Mr. Marchetto,  
18 just to clarify, so it is 63 percent lot coverage on  
19 the ground floor.

20 THE WITNESS: Yes.

21 COMMISSIONER GRANA: The ground floor  
22 is now flush with the rest of the building?

23 THE WITNESS: Yes.

24 COMMISSIONER GRANA: I know you were  
25 describing the style of the light. Would you just

1 explain what causes the three percent variance?

2 THE WITNESS: Okay. I have it. Here  
3 is the building, Commissioner.

4 The building is back 60 feet, but  
5 because we have a little recess taken out for the  
6 well, the building goes back 61 foot six and still  
7 maintains a 60 percent lot coverage. So it is 61  
8 foot six with a cutout for the well, so even though  
9 it is 61 foot six back, it is only 60 percent lot  
10 coverage because of this hole.

11 Now, when you take this building and  
12 you drop it all the way down, so that the back is  
13 flush, it becomes 61.6 foot lot coverage.

14 But then in order to get out in the  
15 rear yard, there is a little stair and a stoop, a  
16 little lamp that comes down. That adds another 1.5  
17 percent that makes it 63 percent lot coverage.

18 COMMISSIONER GRANA: Okay. Thank you.

19 COMMISSIONER BRANCIFORTE: Dean, what  
20 kind of safety -- you have a school across the  
21 street, so I am really concerned about cars exiting  
22 the garage --

23 THE WITNESS: Yes, there will be --

24 COMMISSIONER BRANCIFORTE: -- you have  
25 to discuss the safety plan there.

1           THE WITNESS: -- there will be an  
2 audio/visual device on the door that would signal  
3 when the door is opening or closing, so it would be  
4 a beeping sound with a flashing strobe type of  
5 light.

6           Now, on the block, John, there is  
7 two -- besides this one that is an existing parking  
8 lot, there are two other curb cuts, one to the right  
9 and one to the left. So the opening here for the  
10 garage is not atypical to the block. In fact, the  
11 parking lot that is there now has a very wide curb  
12 cut to get into those parking spaces. By putting  
13 them in the garage, you have a single door opening,  
14 and you actually will gain a parking space on the  
15 street as well.

16           COMMISSIONER BRANCIFORTE: Okay. I  
17 understand where you are coming from, but do you  
18 have a photo of the block, that side of the block?

19           You have that board I think A-5 -- you  
20 had another one, too, I think. I was going to say  
21 if you could pass it over.

22           But you have just the one garage to the  
23 right, I suppose, to the north.

24           THE WITNESS: There is a garage right  
25 here, and there is one to the left over here.

1 COMMISSIONER BRANCIFORTE: Okay.

2 THE WITNESS: You can see it in the  
3 elevation, if you would like.

4 Do you want to see it?

5 COMMISSIONER BRANCIFORTE: Yes.

6 What page is it on?

7 THE WITNESS: I believe it is the last  
8 page. There is the entire block excavation, and you  
9 have a garage here, and you have a parking spot  
10 right in here.

11 COMMISSIONER BRANCIFORTE: Yeah, I see  
12 that now. Thanks.

13 THE WITNESS: They both have curb cuts.

14 You can see it in this rendering, too,  
15 John. There is the one garage to the right, and  
16 this is a gate here, and you can pull right into a  
17 parking space.

18 There is actually a gap in the block.  
19 There is a space wide enough, 20 feet wide. It's a  
20 lot that doesn't have a building on it, and they use  
21 it as a parking space.

22 COMMISSIONER GRANA: I have another  
23 question.

24 THE WITNESS: Sure.

25 COMMISSIONER GRANA: Across the street,

1 so this would be directly across Park --

2 THE WITNESS: Yes.

3 COMMISSIONER GRANA: -- I am looking at  
4 several of the lots that are actually -- with the  
5 exception at the corner of 9th, those lots are  
6 primarily five stories in height.

7 THE WITNESS: They are all five  
8 stories. The school as well as all of the  
9 buildings, it is a very consistent five-story block.  
10 They are approximately 55 foot tall, and it is  
11 unusual to see a block that is that consistent.

12 You can see in this elevation, this is  
13 directly from standing back in the site, where the  
14 existing buildings are looking out towards Park  
15 Avenue, and you can see the school and the  
16 residential buildings all have a very consistent  
17 height of five stories.

18 COMMISSIONER GRANA: Those buildings  
19 are in fact 55 feet?

20 THE WITNESS: 55 feet.

21 CHAIRMAN AIBEL: Mr. Cohen?

22 COMMISSIONER COHEN: Mr. Marchetto, we  
23 talked about I think in our recent meeting about how  
24 some of the parking areas, garages, could also have  
25 LED lighting in the sidewalk to make it even clearer

1 than the flashing light at a high level and the  
2 advantage being that for a property near the high  
3 school, thinking that maybe children might be more  
4 likely to see something flashing on the ground as  
5 well as up at the higher levels. Is that something  
6 that you considered doing for this garage as well?

7 THE WITNESS: Sure, absolutely.

8 COMMISSIONER COHEN: That is all I  
9 have.

10 CHAIRMAN AIBEL: What is the permitted  
11 number of stories in the zone?

12 THE WITNESS: Three over base flood.

13 CHAIRMAN AIBEL: I am looking at your  
14 A-6, and I guess I am comparing the building  
15 heights, and it looks like the prevailing height in  
16 the middle of that block with the exception of maybe  
17 a couple buildings at each end seems to be three  
18 stories at 35 feet at the highest.

19 So I guess part of my question is, you  
20 know, the mass of your building sitting in the  
21 middle of the street is certainly not contextually  
22 at least to my immediate eye apparent --

23 THE WITNESS: I think that if you look  
24 at the block, you will see there is a variety of  
25 heights on the block, and they range from three,

1 four, and five stories in height. So I would say  
2 that the five-story building wouldn't be the tallest  
3 building on the block, but it is not inconsistent  
4 with the variety of heights on the block.

5 Like I said earlier, the block across  
6 the street is completely five-story across the whole  
7 thing. So when you are in the space of the street,  
8 I don't think that you will find that the building  
9 five stories at this height is out of context in  
10 that space.

11 CHAIRMAN AIBEL: I guess what I am  
12 reacting to is the width of this building. It is  
13 still reading a single building, and it is one thing  
14 to have a 55 foot, you know, 30 foot wide building,  
15 and it's another thing to have it be twice as wide,  
16 so I am just asking is there any reason that can't  
17 be --

18 THE WITNESS: Well, we can vary the  
19 color of the brick on the building, so that it reads  
20 more like these buildings, if you like.

21 You know, this is all consistent. They  
22 have three different colors. It feels like three  
23 different buildings. Maybe that could manipulate  
24 the scale for you.

25 You can see what we have done with the

1 design of the building, we tried very carefully to  
2 create a building design that was not modern, but  
3 was more contextual, and it has double hung windows.  
4 It has heads and sills. It's got a cornice.

5           You see that we have a detail that  
6 separates the facade with the three panels, but we  
7 can further delineate the differences between them  
8 by changing the brick colors, and that would maybe  
9 help reduce the scale and make it feel more in  
10 proportion to all of these painted facades. That is  
11 something that we could do and are willing to do as  
12 well, so if that is something that the Board would  
13 request.

14           Now, remember, we have a stoop on the  
15 left and a stoop on the right, so there is an  
16 attempt made to get the building to fit into the  
17 look and the feel of the row house, the brick row  
18 house style.

19           COMMISSIONER FISHER: Are the stoops on  
20 the left and right -- are they fake? They actually  
21 go into something at that level?

22           THE WITNESS: Yes. The one on the  
23 right goes into the egress stair, and the one on the  
24 left, it's just there. It doesn't go anywhere.  
25 It's just there. It was requested by the planner

1 for a little context.

2 COMMISSIONER BRANCIFORTE: So, Dean, if  
3 you lost the top floor, what would be the height of  
4 the building at that point?

5 THE WITNESS: It would be ten foot  
6 less. It would be 40 feet.

7 COMMISSIONER BRANCIFORTE: Would you  
8 still need a variance at that point?

9 THE WITNESS: We would.

10 MR. GALVIN: For stories, but not for  
11 height.

12 CHAIRMAN AIBEL: Board members?

13 COMMISSIONER DE FUSCO: Mr. Marchetto,  
14 if you were to -- this is a question I don't usually  
15 ask, but I have a new thought here.

16 If you were to raise the density to  
17 8.48 to what is allowed, right now it is at just  
18 under that, it is -- would you be able to get an  
19 extra unit in there?

20 I am thinking in terms of the  
21 affordable housing clause in the city.

22 THE WITNESS: Well, they would just  
23 have to be smaller units, yes.

24 COMMISSIONER DE FUSCO: Correct. But  
25 if you were to raise the density, so you still

1       comply, would you be able to introduce another  
2       dwelling unit in there and thus --

3                   THE WITNESS:  Let me look at the  
4       density.

5                   MR. MATULE:  Here.  I don't know if you  
6       can read it.

7                   THE WITNESS:  You can only go a half a  
8       unit, so what is a half a unit, okay --

9                   COMMISSIONER DE FUSCO:  A bedroom,  
10      bedroom and a half.

11                  THE WITNESS:  No, no, no.  I think if  
12      you have eight units, no matter how big they are,  
13      there are eight units.

14                  If you have nine units, no matter how  
15      small they are, it is still nine units.  I don't  
16      think you can get a half a unit --

17                  COMMISSIONER DE FUSCO:  I would be  
18      curious, you know, just maybe when we hear the  
19      planner and kind of go with this, maybe you can just  
20      do the quick calculation, because to me, if we can  
21      still not trigger a variance and still get a ninth  
22      unit out of this deal, and thus allow an affordable  
23      unit, I would view that to be a positive of the  
24      application.

25                  THE WITNESS:  It would require a

1 variance. It would.

2 MR. GALVIN: Which we can easily grant.  
3 I think sometimes, you know, they are not there.  
4 They are not offering it. But the fact that a  
5 variance is necessary doesn't mean that we can't do  
6 that.

7 COMMISSIONER DE FUSCO: Yeah. Let me  
8 just give you some thought process here.

9 This is the first time I am actually  
10 asking this, so maybe you guys can talk about it,  
11 because I do think that an affordable unit here  
12 would be a positive benefit to the community.

13 THE WITNESS: Well, if you would be  
14 willing to grant a variance for it, then I would  
15 consider it. We're trying to --

16 COMMISSIONER DE FUSCO: Well, I can't  
17 speak for the Board, but you know, maybe talk to  
18 your client and regroup.

19 THE WITNESS: Okay. I will do that.

20 COMMISSIONER DE FUSCO: Okay.

21 CHAIRMAN AIBEL: Board members,  
22 anything else?

23 MR. MATULE: If I might, what I will  
24 do, Mr. DeFusco, is while Mr. Ochab is giving his  
25 planning testimony, I can have Mr. Marsden have that

1 conversation with the applicant --

2 COMMISSIONER DE FUSCO: I appreciate  
3 it.

4 MR. MATULE: -- I mean Mr. Marchetto.  
5 (Laughter)

6 MR. MARSDEN: I will talk about it, if  
7 you'd like.

8 MR. GALVIN: Yeah, yeah, yeah.  
9 (Laughter)

10 CHAIRMAN AIBEL: Okay, Professionals?

11 MR. MARSDEN: Are you in receipt of my  
12 letter revised February 10th, 2015?

13 THE WITNESS: Yes.

14 MR. MARSDEN: Do you have any issues  
15 with addressing them?

16 THE WITNESS: No.

17 MR. MARSDEN: Thank you very much.

18 COMMISSIONER GRANA: One last question.  
19 There is a variance required for  
20 parking?

21 THE WITNESS: Yes. It's not a  
22 permitted use. It is prohibited in the R1 district.

23 COMMISSIONER GRANA: Oh, right. So is  
24 that --

25 THE WITNESS: It's a variance --

1                   MR. MATULE: We are requesting that  
2                   variance. There is a parking --

3                   COMMISSIONER GRANA: Existing  
4                   structure.

5                   MR. MATULE: -- an existing parking lot  
6                   operating there, but it is actually a licensed  
7                   parking facility.

8                   The intention here is for the parking  
9                   to be used by the residents of the building, and  
10                  consequently I have had this conversation with the  
11                  Board's planner that any, quote, unquote,  
12                  grandfathered rights go away because of the fact  
13                  that we are not continuing to operate that public  
14                  parking facility.

15                  We do think, however, it goes to the  
16                  impact on the neighborhood in light of the fact that  
17                  there has been parking there for 30 years, and we  
18                  are making the curb cut smaller.

19                  COMMISSIONER GRANA: Yeah. I guess I  
20                  was just trying to determine, does this trigger a  
21                  D1?

22                  MS. BANYRA: Yes. It is in my report,  
23                  yes.

24                  COMMISSIONER GRANA: Okay. I saw it  
25                  was actually in the testimony from the last meeting,

1 so I wanted to verify it,

2 Thank you, Mr. Matule.

3 COMMISSIONER BRANCIFORTE: How many  
4 cars are parked there right now in the existing lot?

5 THE WITNESS: Ten.

6 COMMISSIONER BRANCIFORTE: Ten.

7 Maybe this is a question for the  
8 planner, so I will hold off.

9 CHAIRMAN AIBEL: There is no way to  
10 improve the street scape to make it a little bit  
11 more street scape friendly, encourage the stoop life  
12 that the master plan apparently likes?

13 THE WITNESS: Well, we put in two  
14 stoops.

15 CHAIRMAN AIBEL: Well, three foot  
16 steps. Is there anything that would more  
17 approximate some of the stoops down the block, or  
18 some of the higher stoops?

19 I am not reading it maybe as clearly as  
20 you are suggesting it.

21 THE WITNESS: Yes.

22 The second floor, which is the  
23 residential floor, is way up about 11 feet off the  
24 ground. I think to get a stoop to go up that high  
25 would be a very long stoop.

1                   If you look at the building to the  
2 left, it looks like it is up about four feet off the  
3 ground, and the stoop could be less, so --

4                   MR. MATULE: They predate the new flood  
5 regulations?

6                   THE WITNESS: Yes.

7                   MS. BANYRA: Mr. Marchetto, I think we  
8 had this conversation before, and I think your  
9 office designed where, you know, if we use a  
10 hypothetical, if you wanted to include a stoop, that  
11 you could have the stairs continue in it and go up,  
12 correct?

13                   THE WITNESS: Yes.

14                   MS. BANYRA: So that you actually could  
15 have four foot on the outside and three foot on the  
16 inside or whatever. You have another few steps, so  
17 that it actually replicates a stoop if the Board  
18 were so inclined.

19                   THE WITNESS: You could do that, but  
20 you would lose a parking space, but you could do it.

21                   So the stair would have to come down in  
22 the garage halfway, and then pop out the facade  
23 halfway down. Do you know what I mean?

24                   In other words, the stair would come  
25 out of the apartment, down into this handicapped

1 parking space area, and then come down, and then  
2 when you get to a certain height, you could have a  
3 door that goes out, yes. It would encroach into the  
4 garage space.

5 MS. BANYRA: Thank you.

6 I think that is what the Chairman --  
7 does that address your concern?

8 CHAIRMAN AIBEL: Yes.

9 Seeing no more questions from the  
10 Board, let me open it up to the public.

11 Anybody have questions for Mr.  
12 Marchetto?

13 Please come forward, state your name  
14 and address for the record.

15 MR. ALMASI: My name is Peter Almasi.  
16 My address is 833 Willow Avenue.

17 Would you agree with the planner's  
18 report that cited the ability of the cars to enter  
19 the garage reverse direction, and then leave facing  
20 forward to be something that is equally possible now  
21 that you reduced the size of the garage?

22 THE WITNESS: Yes.

23 MR. ALMASI: Even though we are taking  
24 six foot off?

25 THE WITNESS: You are taking six feet

1 off the length, not the width. The width remains  
2 the same, so you can come in, pull in, back out, and  
3 then go forward out.

4 MR. ALMASI: Okay.

5 CHAIRMAN AIBEL: Anybody else wish to  
6 ask Mr. Marchetto a question, please come forward.

7 MS. ALMASI: My name is Laura Almasi,  
8 833 Willow Avenue.

9 So is there any architectural reason  
10 why the building needs to be four stories of  
11 residential space instead of three?

12 THE WITNESS: No. I did it so that we  
13 can have large family-sized units.

14 MS. ALMASI: Well, couldn't you still  
15 have large family-sized units on fewer floors?

16 THE WITNESS: It would be smaller.

17 MS. ALMASI: But can't they just be --

18 THE REPORTER: I'm sorry, but I can't  
19 hear you.

20 MS. ALMASI: I'm sorry.

21 THE WITNESS: Yes, but the site is  
22 zoned for eight units, so we wanted to build eight  
23 units.

24 MS. ALMASI: Oh, I see.

25 Thank you.

1 MS. HEALEY: Leah Healey, 806 Park  
2 Avenue.

3 MR. GALVIN: Could you spell your last  
4 name?

5 MS. HEALEY: H-e-a-l-e-y.

6 MR. GALVIN: Thank you.

7 MS. HEALEY: You testified about the  
8 coverage for three percent.

9 THE WITNESS: Yes.

10 MS. HEALEY: So it is your feeling that  
11 the coverage requirement should be varied for the  
12 sake of the building next door?

13 THE WITNESS: Oh, for the well, yes.

14 MS. HEALEY: Correct.

15 So even though the coverage requirement  
16 also is a benefit to the entire community, you feel  
17 that it should be varied for the building next door.

18 THE WITNESS: Can you put that in  
19 terms of a question?

20 MS. HEALEY: I did.

21 THE WITNESS: I didn't hear a question.

22 MR. MATULE: Well, if you don't  
23 understand the question --

24 THE WITNESS: I don't understand the  
25 question.

1 MR. MATULE: -- you can ask her to  
2 rephrase it.

3 MS. HEALEY: I understood your  
4 testimony to be that you were varying the lot  
5 coverage because of the cutout for the building next  
6 door.

7 THE WITNESS: Yes, that is correct.

8 MS. HEALEY: Do you ever understand lot  
9 coverage being deviated for that reason in other  
10 applications, have you ever had that happen?

11 THE WITNESS: This is the first time I  
12 built a well like this.

13 MS. HEALEY: And do you think lot  
14 coverage is something that is only to be looked at  
15 in connection with an adjacent building?

16 THE WITNESS: No. If we were to take  
17 this building and block up the neighbor's window, we  
18 wouldn't need a lot coverage variance. It is 1.5  
19 percent that we're asking for --

20 MS. HEALEY: Is there any other way to  
21 make up the three percent lot coverage in the  
22 building?

23 THE WITNESS: Yes.

24 MS. HEALEY: Hum, you indicated that  
25 the six foot six space below the building is

1 unusable.

2 THE WITNESS: Yes.

3 MS. HEALEY: Is it usable to park a  
4 bike --

5 THE WITNESS: It doesn't have the  
6 proper head room.

7 MS. HEALEY: -- to park a bicycle?

8 THE WITNESS: You need seven foot, six  
9 feet, to have a space that you can walk into.  
10 Otherwise, you have to duck your head.

11 MS. HEALEY: So it is not usable for a  
12 car either?

13 THE WITNESS: Correct.

14 MS. HEALEY: So is it usable for family  
15 storage?

16 THE WITNESS: No.

17 MS. HEALEY: You can't put a box down  
18 there?

19 THE WITNESS: You need to be able to  
20 have a corridor and a means of egress that meets the  
21 required height.

22 So if you were to go into that space,  
23 you would have to duck down. Do you know what I  
24 mean, so --

25 MS. HEALEY: So really the space is

1 usable in case there is a flood.

2 THE WITNESS: I don't know what you  
3 mean by that, "usable"?

4 THE WITNESS: It's a six foot six space  
5 usable to have flood waters go through it unimpeded?

6 THE WITNESS: Sure, so is the garage,  
7 however.

8 MS. HEALEY: Right. But if you are  
9 going to use a garage, and you are going to create  
10 more space, then you have room for bicycles.

11 THE WITNESS: Yes, correct.

12 MS. HEALEY: Hum, now, if you don't  
13 have a garage, would you have any conflict with the  
14 pedestrians on the sidewalk?

15 THE WITNESS: Conflict, no.

16 MS. HEALEY: Hum, you mentioned that  
17 there were two other curb cuts on the block.

18 THE WITNESS: Yes.

19 MS. HEALEY: Do you know when those  
20 curb cuts were made?

21 THE WITNESS: I do not.

22 MS. HEALEY: Do you know whether those  
23 curb cuts were made before or after 2002?

24 THE WITNESS: I do not.

25 MS. HEALEY: The five-story buildings

1           that you referred to on the block across the street,  
2           have you any idea when those five-story buildings  
3           were constructed?

4                         THE WITNESS:  They appear to be  
5           historic, so probably be turn of the century, early  
6           part of the last century.

7                         MS. HEALEY:  So they were built before  
8           2002?

9                         THE WITNESS:  Oh, yes.

10                        MS. HEALEY:  The five-story building  
11           you refer to directly north of the property, I  
12           believe there is one building that is one-story --  
13           no -- I am looking -- can you show me a photo of the  
14           existing buildings, not the buildings that you have  
15           drawn?

16                        THE WITNESS:  The entire block  
17           frontage?

18                        MS. HEALEY:  A-6.

19                        I am looking at the existing block that  
20           surrounds your building, so directly -- the north  
21           end of your property is a one-story building without  
22           parking, correct?

23                        THE WITNESS:  What is the question?

24                        MS. HEALEY:  This building is on your  
25           property, and it is one story without parking,

1 correct?

2 THE WITNESS: Yes.

3 MS. HEALEY: And this is the building  
4 that has parking.

5 THE WITNESS: Yes.

6 MS. HEALEY: Looks like it is two  
7 stories.

8 THE WITNESS: It is a three-story.

9 MS. HEALEY: So is this the five-story  
10 building, one of the five-story buildings you are  
11 referring to?

12 THE WITNESS: Yes.

13 MS. HEALEY: Do you know how that  
14 building was approved?

15 THE WITNESS: I don't.

16 MS. HEALEY: So you are not aware of  
17 whether or not it was a Zoning Board variance?

18 THE WITNESS: I don't know.

19 MS. HEALEY: Do you know whether the  
20 building was owned by the Chief of Police when the  
21 zoning variance was given?

22 THE WITNESS: No, I don't.

23 (Laughter)

24 MR. MATULE: I am going to ask at this  
25 point what the relevance of all of this questioning

1 is in the context that the planner's testimony is  
2 what the context of the block is, and that is what  
3 Mr. Marchetto's testimony is, not that we are  
4 entitled to have one because somebody else got one,  
5 so I just don't know where we are going.

6 MR. GALVIN: He answered the question,  
7 so your objection is late, so --

8 MR. MATULE: No. I just think it was  
9 asked and answered enough times now. Now, we are  
10 testifying about the police chief and --

11 MR. GALVIN: I thought her questions so  
12 far were really, really good. That is why I didn't  
13 interrupt her.

14 MR. MATULE: Okay. Yes.

15 MR. GALVIN: I think they were relevant  
16 to the testimony that was given.

17 We always give a lot of latitude to the  
18 architects, and they are kind of also giving us  
19 planning testimony, and they are not planners, and I  
20 agree, so he doesn't have the chops to talk about  
21 the D1 variance, but the other variances an  
22 architect can speak to, and I think it is fair.

23 MR. MATULE: Okay.

24 MR. GALVIN: You know, I don't know  
25 about the police chief thing, but --

1 (Laughter)

2 MS. HEALEY: If you come to enough of  
3 these meetings, you know these things --

4 THE REPORTER: I can't hear you.

5 MR. GALVIN: It was undescrivable for  
6 the record. Nobody heard it.

7 MS. HEALEY: I heard the attorney  
8 testify to this --

9 MR. GALVIN: Attorneys don't testify.

10 MS. HEALEY: -- no. I heard the  
11 attorney comment that the parking is used by the  
12 residents of the building. I believe, it will be  
13 used by the residents of the building. Is that the  
14 attorney or the architect --

15 MR. MATULE: No. That was the proffer  
16 that is the proposed plan of the applicant, that the  
17 people who live in this building would park in this  
18 parking space.

19 MS. HEALEY: Mr. Marchetto, do you know  
20 how many of the people that are parking in that  
21 parking lot right now live in those buildings?

22 THE WITNESS: I do not.

23 MS. HEALEY: And if the proffer is that  
24 the building will be parking for just the residents,  
25 is it likely that all of the people that are parking



1 this. Everybody is like, it must be like the cold  
2 weather, it's just sucking it out of us. Okay?

3 Everyone has to speak up a little  
4 louder, okay?

5 (Laughter)

6 I am directing that at everybody, not  
7 one individual

8 MS. ANHTO: I just like the project  
9 very much. I think it looks -- it is very  
10 harmonious, and it fits right in, and it looks like  
11 it has been there forever.

12 I mean, I heard what your commenting  
13 about that building --

14 MR. GALVIN: Wait. Time out, time out.

15 CHAIRMAN AIBEL: Thank you.

16 COMMISSIONER BRANCIFORTE: Two things.  
17 What's her address by the way?

18 MR. GALVIN: What was your address?

19 MS. ANHTO: 914 Garden Street.

20 MR. GALVIN: At this point of the  
21 hearing what we do is we ask questions, so do you  
22 have a question of Mr. Marchetto?

23 If not, you can wait for the part of  
24 the meeting where you can comment, and then you can  
25 make a comment that you just made again.

1 MS. ANHTO: All right.

2 Thank you.

3 MR. GALVIN: You're welcome. Sorry.

4 CHAIRMAN AIBEL: Anyone have questions  
5 for the architect?

6 MS. BANYRA: I have one.

7 Mr. Marchetto, is it possible to lower  
8 the floor heights a little bit or lower the height  
9 of the garage?

10 It looks like the garage is nine plus  
11 feet --

12 (Board members talking at once.)

13 MS. BANYRA: -- and is it in the ten  
14 feet there is a foot of header --

15 THE WITNESS: There is a foot of  
16 structure, so it would probably be about an eight  
17 foot eight ceiling, eight foot eight, because the  
18 beams are about 12 inches, and then there's furring  
19 and there's a sheet rock ceiling, so the average  
20 interior of each apartment would be about eight foot  
21 eight tall.

22 MS. BANYRA: So is your testimony that  
23 you can't reduce the height at all by adding a  
24 couple of feet?

25 THE WITNESS: You can reduce about

1 eight inches out of each floor and you would have an  
2 eight foot ceiling, which is a little substandard  
3 today.

4 MS. BANYRA: I am reading your plans to  
5 say that the garage looks like it's, you know, nine  
6 feet --

7 THE WITNESS: We are showing that the  
8 floor to floor from the ground level to the second  
9 floor is ten feet.

10 I have a foot of structure in there,  
11 and then I have sprinkler pipes and beams and drops  
12 and light fixtures, and I have to get an eight foot  
13 two van in there, so it is about as low as I could  
14 make it to meet the code.

15 MS. BANYRA: Thank you.

16 COMMISSIONER BRANCIFORTE: By the way,  
17 you answered this question last time, but I forgot.

18 Once you cross a threshold of a certain  
19 number of spots, you have to add one handicapped  
20 spot, right?

21 THE WITNESS: I believe it's four.

22 COMMISSIONER BRANCIFORTE: Four. So  
23 four spaces, plus one handicapped?

24 THE WITNESS: Yes.

25 CHAIRMAN AIBEL: I'm sorry to make you

1 go back.

2 What is the height of the roof  
3 bulkhead?

4 THE WITNESS: The bulkhead?

5 CHAIRMAN AIBEL: The stair bulkhead.

6 THE WITNESS: Okay. It is one story.

7 It is the stairwell to the roof, so it is about nine  
8 feet.

9 CHAIRMAN AIBEL: That is on top of the  
10 50?

11 THE WITNESS: That is right.

12 COMMISSIONER BRANCIFORTE: I'm sorry.

13 On top of the 50 feet, 50 feet goes to  
14 the roof?

15 THE WITNESS: The roof.

16 COMMISSIONER BRANCIFORTE: They you  
17 have a parapet on top?

18 THE WITNESS: Yes.

19 COMMISSIONER BRANCIFORTE: Which is how  
20 much higher?

21 THE WITNESS: Three foot six.

22 COMMISSIONER BRANCIFORTE: Three foot  
23 six.

24 So if you drop a line from the top of  
25 the parapet down, it would be 50 --

1 THE WITNESS: 53-6.

2 COMMISSIONER BRANCIFORTE: 53-6.

3 CHAIRMAN AIBEL: Okay. Seeing no  
4 further questions from the public, can I have a  
5 motion to close the public portion?

6 COMMISSIONER COHEN: Motion to close  
7 the public portion for this witness.

8 COMMISSIONER GRANA: Second.

9 CHAIRMAN AIBEL: All in favor?

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

12 MR. MATULE: Mr. Ochab?

13 (Board members confer)

14 MR. GALVIN: How are you doing?

15 Raise your right hand, please.

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

19 MR. OCHAB: I do, yes.

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

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

24 THE WITNESS: Ken Ochab. That's  
25 O-c-h-a-b.

1                   MR. GALVIN: Mr. Chairman, do we accept  
2 Mr. Ochab's credentials?

3                   CHAIRMAN AIBEL: We do.

4                   MR. GALVIN: I really couldn't see your  
5 hand raised behind Tony, sorry.

6                   THE WITNESS: I will try this.

7                   MR. MATULE: Mr. Ochab, I see you have  
8 a couple of photo boards there. Can we mark them?

9                   MR. GALVIN: So now we need to know the  
10 number. We're up to A-6 --

11                   MR. MATULE: No. A-7.

12                   So I will mark the first photo board  
13 A-7.

14                   (Exhibit A-7 marked.)

15                   Can you just identify that for us, and  
16 if you took the pictures and when you took them?

17                   THE WITNESS: A-7 is a series of four  
18 photographs of the site and the surrounding area.  
19 These photographs were in my report, and they were  
20 taken actually last spring, the spring of 2014.  
21 They were all taken by me. They weren't cropped or  
22 modified in any way.

23                   MR. MATULE: And your other board, I  
24 will mark A-8.

25                   (Exhibit A-8 marked.)

1                   Could you just identify that also?

2                   THE WITNESS: Yes. A-8 is a series of  
3 three photographs, again, taken by me, showing the  
4 rear yard area on the site in question and also the  
5 one last photograph of the Park Avenue. Again, all  
6 taken by me, not cropped or modified in any way.

7                   MR. MATULE: Have you revisited the  
8 site since the pictures were taken?

9                   THE WITNESS: Yes.

10                  MR. MATULE: Do they still accurately  
11 depict the conditions shown?

12                  THE WITNESS: Yes.

13                  MR. MATULE: Thank you.

14                  So you are familiar with the zoning  
15 ordinance and the master plan of the City of  
16 Hoboken?

17                  THE WITNESS: Yes.

18                  MR. MATULE: And you are familiar with  
19 this project as presently amended?

20                  THE WITNESS: Yes.

21                  MR. MATULE: And you originally  
22 prepared a planner's report, dated August 4, 2014 --

23                  THE WITNESS: I did.

24                  MR. MATULE: -- and you have now  
25 revised that report as of February 6th, 2015?

1 THE WITNESS: Yes.

2 MR. MATULE: Revisions to reflect  
3 changes in the plans?

4 THE WITNESS: Correct.

5 MR. MATULE: Could you take us through  
6 your report and give us your professional opinion  
7 regarding the requested variance relief?

8 THE WITNESS: So with respect to  
9 zoning, I will try to get right into it, so I will  
10 spare the introductory things, which Dean did so  
11 well.

12 So with respect to zoning, in the  
13 initial application, we didn't project that we had  
14 an issue, a variance issue with parking because we  
15 had an existing situation.

16 It turns out that is not true. We do  
17 have an issue with parking, so the revised report  
18 basically talks about the variance with respect to  
19 parking on the site. And, of course, we know that  
20 parking, off-street parking in the R1 zone is not  
21 permitted, so that is understood.

22 However, we do have a situation here  
23 that is a little bit different than starting off  
24 with a blank lot, an empty lot, and planning for  
25 development based on an empty lot or vacant lot

1 situation. We have an existing use here, a number  
2 of existing uses, and the parking that is located on  
3 the site is a preexisting nonconforming use with  
4 respect to zoning.

5 I mean, there is a license, a parking  
6 license, which has been granted to the owner of the  
7 property. But as we know, and if we don't know,  
8 licensing doesn't supersede the zoning criteria. So  
9 with respect to licensing, we have permission to  
10 park. With respect to zoning, we have a preexisting  
11 nonconforming use, so it is a little bit tricky  
12 then. So in that respect, we need a D variance for  
13 parking.

14 We also need a D variance for height,  
15 as was discussed by Dean. We have five floors now  
16 instead of the three over BFE.

17 So we have 50 feet and five stories.  
18 Both of those are D variances as well.

19 We do not need a density variance here  
20 because eight units on a site that is 5600 square  
21 feet in size, where we wouldn't be required or  
22 allowed to have 8.4 or nine units, so we have eight.

23 So with respect to the parking, I had  
24 thought a lot about what we are looking at, and  
25 although initially I said, gee, we have a D1

1 variance here, because it is not permitted, but the  
2 more I looked at it, the more I said, well, this is  
3 an awful lot like Burbridge.

4 The Burbridge case had to do with the  
5 expansion of a nonconforming use, and although we  
6 are not really calling it a D2 variance, which would  
7 be an expansion of a nonconforming use, because we  
8 have other things happening, we have a complete  
9 elimination of the existing buildings on the site,  
10 and the new building being constructed, it is an  
11 awful lot like Burbridge, because in Burbridge a  
12 nonconforming situation in that case was being  
13 improved, being made better. It was being made to  
14 conform a little bit better to the zoning criteria  
15 and the performance design criteria of the zoning  
16 ordinance at that time, and that is what I think is  
17 happening here.

18 So my proffer in the report that I  
19 wrote, even though we are still calling it a D1  
20 variance, the same proofs are required, but with  
21 respect to how we look at it, how we perceive the  
22 variance, I think it is a little bit of a different  
23 situation.

24 So we have a preexisting nonconforming  
25 use, and if we look at the photograph on the upper

1 left, we can see that here is the parking lot, the  
2 building is in the back.

3 So we have nonconforming with respect  
4 to the design of the parking lot. We have  
5 nonconformities with respect to the number of  
6 buildings on the lot to the right, and the position  
7 of those building, which are set back against the  
8 rear property line. So we have all kinds of  
9 nonconformities that from a planning perspective and  
10 from the master plan perspective are completely --  
11 to what the plans are trying to achieve here.

12 With respect to design, again, just  
13 from a planner's perspective, we have a completely  
14 unsafe situation with the existing conditions.

15 We have a situation, where cars are  
16 parked almost out on the right-of-way. There is  
17 absolutely no place to turn around on the site, so  
18 each and every car needs to back out across the  
19 sidewalk out onto Park Avenue.

20 The parking area itself is not striped.  
21 There is no designation of where the parking spaces  
22 actually are. The aisle width between the two sets  
23 of rows is insufficient. There is about a ten to 15  
24 feet -- ten feet, and if you go deeper into the  
25 property, and 15 feet as you come back towards Park

1 Avenue, so we have a completely inefficient,  
2 completely nonconforming set of circumstances with  
3 respect to the use of the parking itself and also  
4 the design of the parking.

5 Now, how does Burbridge enter into any  
6 of this?

7 Well, the proposal here is to, of  
8 course, retain the parking, but to move it inside of  
9 the building, and also to eliminate the existing  
10 structures, put a new structure on the street line.

11 You saw Dean's plan, so I don't have to  
12 describe that. But one thing that it will do  
13 certainly is to take the parking, it is going to  
14 basically reduce the number of parking stalls. I  
15 think there are nine here now, and believe me, they  
16 are tucked in behind the building and in a position  
17 that I don't even know how to get out.

18 But, first of all, the building facade  
19 will be on the street line. There will be one  
20 garage door, which leads to the interior of the  
21 site, and the site plan shows how that parking will  
22 be designed. The parking design will have a  
23 sufficient number of square footage per space,  
24 sufficient parking, backup areas, and one  
25 handicapped stall, and it will allow the vehicles to

1 pull into the parking garage underneath and also to  
2 back out into the aisle space and pull directly out  
3 on to Park Avenue.

4 The safety components of the access  
5 system were described by Dean, and with respect to  
6 all of that, certainly there is an improvement here  
7 that I don't think anybody can deny that this new  
8 design will certainly improve the access and safety  
9 with respect to converting this parking into  
10 something more adequate.

11 So with that in mind, that is actually  
12 what Burbridge and in my view does. It takes a  
13 nonconforming situation, which is poorly designed,  
14 it improves that situation, and it makes it better.

15 It doesn't remove the nonconformity,  
16 because I mean, we don't have an application if we  
17 don't get approval, of course, the parking lot can  
18 remain, and we may come back with something else, I  
19 don't know. But certainly there is no impetus to  
20 remove this situation as it is today without, you  
21 know, building something relative to what the  
22 application has shown.

23 Certainly the other aspect of the  
24 nonconforming situation is to remove the buildings  
25 in the rear, and again, you could look at the

1 photographs on A-8, the upper two photographs on A-8  
2 show the rear yard center block of this.

3 Now, the upper photograph is taken by  
4 me at the rear of the adjacent building, which you  
5 can see on the center photograph.

6 So basically standing just on the  
7 parking area, this is the building to the south of  
8 the driveway. This is the building that is in the  
9 rear of the site, and I am basically looking between  
10 the two. So this is the view from the parking lot,  
11 where you just have a corridor back to the center  
12 block, and this is the center block a little closer  
13 up.

14 One of the things that will, of course,  
15 occur is to remove the buildings that are in the  
16 open space area of the center block and move all of  
17 that building space up to the front of the property,  
18 and then open up some 38 feet of area between the  
19 rear yard line and the back of the building, which  
20 of course, is not there today.

21 So we have a number of benefits here  
22 with respect to how we view the D1 or the D2 parking  
23 variance anyway you want to look at it.

24 So, first of all, with respect to how  
25 the site is particularly suited for the use, what

1 will happen is the site is 56 feet in width, so 56  
2 feet in width is an ideal width that allows us to  
3 have parking under normal circumstances in the R2,  
4 R3, we have a 50 foot lot. We could have parking at  
5 the grade level, and 50 feet is a requirement, so  
6 that we can have double stacked parking on either  
7 side, a sufficient aisle width, and the likelihood  
8 to design it properly. In this case we have a lot,  
9 which has 56 feet of width in order to do that.

10 There is no other property on this  
11 block, which has that lot width, not to say that it  
12 would be available in any case because most of, if  
13 not all of the block, is completely developed, but  
14 this is the only lot where that situation can exist.

15 So with respect to how the site is  
16 particularly suited, certainly we think taken  
17 together with the nonconforming improvements and the  
18 design components of the ordinance, we can have a  
19 site which continues to provide parking.

20 There are three other driveways in the  
21 immediate area. On the upper right photograph, the  
22 adjacent building to our north has an existing  
23 garage at the grade level.

24 Again, I have not seen people  
25 maneuvering in and out, but it doesn't look to me

1       like there is any room to turn within that building  
2       because it is 20 feet in width, so it looks like  
3       they pull in and back out or back in or pull out,  
4       whichever, and the same on the lower photograph on  
5       the lower left, the building to our south has a  
6       driveway, an open driveway on the south side of that  
7       building, which appears to be maybe eight to ten  
8       feet wide, and again, the curb cut, pull in, back  
9       out or vice versa.

10               Also, across the street from us is, of  
11       course, the Grant School, the middle school, and  
12       right under the canopy at the southern most end is a  
13       driveway, which leads into an inner court of the  
14       school.

15               So we do have curb cuts in the area,  
16       and again, my view is that these curb cuts, although  
17       they probably don't have the volume that we have are  
18       not designed appropriately with respect to the fact  
19       that they have to back in and out of the driveway.

20               Notwithstanding the building elevation,  
21       I understand what Dean was getting to, which was we  
22       have to elevate the building six and a half to seven  
23       feet above grade. We have existing parking. Why  
24       not keep the existing parking, so that we can  
25       provide for additional spaces for at least the

1 residents of the building to park, because  
2 otherwise -- and we see this all of the time. As  
3 you know, we see six to seven feet of space under  
4 the first floor elevation of the building, which we  
5 really don't know what to do with. We use it for  
6 storage or other uses, but we don't really use it  
7 for parking in most cases.

8 Here, if we elevated the building just  
9 slightly, we can have the advantage of keeping this  
10 parking again for the residents and reducing the  
11 parking demand on the street for vehicles for other  
12 residents in the area.

13 I say that because of two reasons:  
14 One, we have the school across the street. There is  
15 a parking restriction on parking in front of the  
16 school during certain hours, so that means that  
17 during certain hours of the day, there is no parking  
18 on this street frontage, which is about a hundred  
19 feet or so from the corner. So that means there is  
20 an additional stress on the parking demand with  
21 respect to the fact that they can't park here.

22 You can see this photograph, these  
23 photographs of the upper two on A-7 were taken  
24 during the middle of the day, so you can see that  
25 this parking lot is almost full, and so is the other

1 photograph.

2 MR. GALVIN: Can I stop you for a  
3 second?

4 I think I have a condition here that  
5 says only people who live in the building can use  
6 the building -- parking. We really don't know if  
7 the photo that you are showing us right now and the  
8 cars that are there, that that has any -- it could  
9 be for anybody, and it wouldn't necessarily have to  
10 be for the building.

11 THE WITNESS: What I am trying to say  
12 here is that even though during the middle of the  
13 day, and people traditionally may be working or  
14 wherever they may be, there is still obviously a  
15 demand for parking spaces because the cars are  
16 there, so there is obviously a demand for parking.

17 MR. GALVIN: Okay. That is your point.  
18 Fine.

19 THE WITNESS: These will go away  
20 obviously when and if the building is --

21 COMMISSIONER FISHER: If there is a  
22 demand --

23 CHAIRMAN AIBEL: Make it a question.

24 THE WITNESS: -- the other interesting  
25 thing, when you look at the block, look at the block

1 on the opposite side of Park, we have the school,  
2 then we have a series of buildings. They are all  
3 five-story buildings. There is like eight lots in a  
4 row. There are ten units for each building, so that  
5 is 80 units that there is no parking at all for any  
6 of those 80 units.

7 Now, I know one of the questions is:  
8 How many of those people drive at all and maybe --

9 MR. GALVIN: Well, no, the ordinance  
10 says that there is not supposed to be any parking in  
11 those buildings, so people must have figured it out  
12 before they moved in there, right?

13 THE WITNESS: Well, the point is that  
14 there hasn't been any parking since the early 1900s,  
15 because that is when those buildings were built, but  
16 that is not to say that there is not a parking  
17 demand for on-street parking for some of them, so  
18 what this does also to some extent is relieves the  
19 extra burden of putting all of those cars on the  
20 street as well.

21 MR. GALVIN: Do you have anything else?

22 MR. MATULE: Do you want to talk about  
23 the height variances?

24 THE WITNESS: Yes.

25 With respect to height, here again,

1 Dean has done a profile of the street. The plan is  
2 on your -- it's incorporated within your plans.

3 Again, it is a D variance. There are  
4 at least four other buildings on the west side of  
5 Park that are five stories and 50 feet. There's two  
6 to the north, and two to the south.

7 It is clear that the balance of the  
8 building heights are mixed, and again, we are  
9 proposing again a four-story building over parking,  
10 but I think the parking situation has some  
11 uniqueness to it, as I just explained, and our  
12 density is at eight, which doesn't exceed the  
13 density of the proposed or --

14 MR. GALVIN: Just to help you out or to  
15 make it clear and to make the record fair, I know  
16 with the last witness we were -- one of the  
17 witnesses was asking about when -- about when these  
18 buildings were created, and you are saying the  
19 buildings across the street, they predate the  
20 current zoning, right?

21 THE WITNESS: Yes, they do. There is  
22 no doubt, yes.

23 MR. GALVIN: Okay.

24 THE WITNESS: But in my view, that's  
25 part of the character of what this neighborhood is,

1 and I understand the reason for the question.

2 MR. GALVIN: Right.

3 If you are pointing to them to show as  
4 an example of, look, there is another five stories  
5 probably not such a good argument, but if you are  
6 saying it is consistent with this neighborhood, then  
7 I --

8 THE WITNESS: That is all I am saying.

9 MR. GALVIN: Okay. Cool. Let's move  
10 on.

11 THE WITNESS: So I think that does it  
12 with respect to variances, other than the minor lot  
13 coverage variance, again, caused by the cutout for  
14 the window on the adjacent building to the south and  
15 also to provide access to the rear yard.

16 But the benefit of doing the  
17 development, of course, is to remove the rear  
18 buildings and open up all of the open space in the  
19 rear as is consistent with the master plan's  
20 recommendation.

21 So, Mr. Chairman, I will stop there.

22 Thank you.

23 CHAIRMAN AIBEL: Thank you, Mr. Ochab.

24 Open it up, Board members.

25 MR. GALVIN: Go ahead.

1                   Then we will just carry the last one  
2                   tonight. That's all.

3                   COMMISSIONER BRANCIFORTE: I'm sorry.  
4                   Do you need to --

5                   MR. MATULE: That is okay.

6                   MR. GALVIN: No, no. I am trying to  
7                   move the hearing along without, you know, but let's  
8                   make sure that you get all of the testimony that you  
9                   have to get. So if you have other questions to ask  
10                  Mr. Ochab, ask him.

11                  MR. MATULE: I just have a theoretical  
12                  question because there was a discussion about an  
13                  affordable unit, so I wanted Mr. Ochab's  
14                  professional opinion in the context, if the  
15                  applicant were to offer to put an affordable unit in  
16                  the building vis-a-vis the fact that we would then  
17                  need a density variance for roughly half a unit, if  
18                  you will, I mean, we don't round up or down anymore.

19                  So, in your professional opinion, do  
20                  you think the negative impact, if any, of having a  
21                  ninth unit in the building would be off set by  
22                  providing an affordable unit?

23                  THE WITNESS: I do think that it would  
24                  be off set, based on the fact that it would be an  
25                  affordable unit, and also by the fact that our

1 density calculation is about a half a unit away from  
2 the ninth unit in any case.

3 MR. MATULE: Thank you.

4 I appreciate it.

5 MR. GALVIN: I'm sorry. I can't win on  
6 that. You know, I just want to move things along.

7 CHAIRMAN AIBEL: Come on. Let's go.

8 COMMISSIONER BRANCIFORTE: Mr. Ochab,  
9 we're talking about the characteristics of the  
10 neighborhood and the buildings across the street,  
11 the units here, each unit in this building is 1740  
12 square feet I think --

13 COMMISSIONER FISHER: 1450 --

14 COMMISSIONER BRANCIFORTE: -- 1450 --

15 COLMISSIONER FISHER: -- 1470, 1412 --

16 COMMISSIONER BRANCIFORTE: -- 1400.

17 But I mean, I know the neighborhood  
18 pretty well. I live not too far from there. The  
19 apartments in that neighborhood characteristically  
20 are not 1400 square feet, are they?

21 THE WITNESS: I wouldn't believe so,  
22 no.

23 COMMISSIONER BRANCIFORTE: So you are  
24 saying the height is characteristic -- the height of  
25 this building would be characteristic of the height

1 of the buildings across the street, but the actual  
2 units themselves would be out of character with the  
3 rest of the neighborhood?

4 THE WITNESS: Well, the units are built  
5 to try to conform to the other zoning requirements.

6 So with respect to the building, we  
7 have 60 percent coverage, and we have four stories  
8 of actual residential building space, and eight  
9 units, so we are trying to build within the confines  
10 of what the R1 allows us the build.

11 COMMISSIONER BRANCIFORTE: So you  
12 couldn't -- so could you make the unit -- let's say  
13 we take a floor off. Now it is three over one, I  
14 guess, and then we keep eight units in the building,  
15 it wouldn't be uncharacteristic for the neighborhood  
16 to have one or two or three smaller units in that  
17 building, and it would still be in character with  
18 the rest of the neighborhood, true or false?

19 THE WITNESS: I suppose that that could  
20 be an option.

21 COMMISSIONER BRANCIFORTE: Okay. I  
22 think that is all I have.

23 CHAIRMAN AIBEL: Any other Board  
24 questions, Mr. Cohen?

25 COMMISSIONER COHEN: Mr. Ochab, looking

1 at the photograph that shows the properties that are  
2 on Willow, I guess, if you look straight back, those  
3 are --

4 THE WITNESS: No. This is to the south  
5 actually.

6 COMMISSIONER COHEN: -- so if you look  
7 across the donut to what exists on the other side,  
8 they look to be four stories above grade. I don't  
9 know.

10 Can you tell me what the height looks  
11 like on those properties?

12 THE WITNESS: They are pretty much all  
13 five stories.

14 COMMISSIONER COHEN: And is that  
15 uniformly across the back?

16 THE WITNESS: They are in the  
17 southernly direction, and in the northerly  
18 direction, I think that is also true, but I am not a  
19 hundred percent certain.

20 CHAIRMAN AIBEL: Well, A-1 basically  
21 shows west of the building, directly west of the  
22 building, there is a three-story, a two-and-a-half  
23 story, a three-and-a-half story and a  
24 three-and-a-half story.

25 COMMISSIONER MURPHY: Right behind this

1 thing.

2 COMMISSIONER BRANCIFORTE: I  
3 understand. On Willow.

4 COMMISSIONER MURPHY: That is also the  
5 R2 District.

6 MR. GALVIN: But it goes to the  
7 question of, you know, where you are talking about  
8 is it consistent with the neighborhood or not, even  
9 though it is an adjacent neighborhood.

10 COMMISSIONER BRANCIFORTE: I have to  
11 ask this question.

12 I'm sorry, Mr. Cohen. Are you done?

13 COMMISSIONER COHEN: Not quite.

14 COMMISSIONER BRANCIFORTE: Okay.

15 COMMISSIONER COHEN: So just to  
16 understand, if you are looking across the donut I  
17 guess to the left, they're uniformly five-story, but  
18 directly across as the Chairman points out, it is  
19 two and a half, three and a half, three and a half,  
20 and then to the right there are five, five and five  
21 and a half stories. Is that correct?

22 THE WITNESS: Yes.

23 COMMISSIONER COHEN: I guess it is  
24 accurate to say that most of the block, that the  
25 part of the donut on the opposite side of the street

1 is five stories with some variation.

2 THE WITNESS: That is the way I would  
3 describe it.

4 COMMISSIONER COHEN: Okay.

5 Yeah, go ahead, John.

6 COMMISSIONER BRANCIFORTE: Thanks.

7 Why should we be more concerned about  
8 the building heights on Willow Street and the  
9 building heights on the east side of Park?

10 Why aren't we just concerned with the  
11 building heights along the west side of Park, where  
12 this building is going?

13 What is the importance of looking at  
14 these other buildings?

15 COMMISSIONER COHEN: Before you answer  
16 that, he didn't testify to that at all. It was my  
17 question.

18 COMMISSIONER BRANCIFORTE: Well, no, I  
19 am asking why should we be concerned with what is  
20 going on behind and across the street.

21 COMMISSIONER COHEN: Okay.

22 COMMISSIONER BRANCIFORTE: From a  
23 planner's perspective, should we be more concerned  
24 with what is on that side of the block?

25 COMMISSIONER COHEN: I am not arguing,

1 but that is not his testimony. It was my  
2 question --

3 COMMISSIONER BRANCIFORTE: Well, it's  
4 my question.

5 THE WITNESS: If you answer, you have  
6 to get up here.

7 (Laughter)

8 COMMISSIONER COHEN: He's just asking  
9 about my question.

10 MR. MATULE: So have you heard Mr.  
11 Branciforte's question?

12 THE WITNESS: I think so.

13 I was concerned with the rear of Willow  
14 Street buildings and how they affect the openness of  
15 the, again, the hole in the donut.

16 MR. GALVIN: I just want to jump in.  
17 We are always asking for them to give  
18 us photos in the back, right?

19 COMMISSIONER BRANCIFORTE: Right.

20 MR. GALVIN: And this time we got  
21 photos in the back. We just didn't get the photo of  
22 the houses that were immediately behind us.

23 COMMISSIONER BRANCIFORTE: But I guess  
24 my question is, you know, should we be more  
25 concerned with what is going on in the facade of

1 that block, the west side of Park?

2 I mean, we have not really discussed  
3 it --

4 MR. GALVIN: Let me just --

5 COMMISSIONER BRANCIFORTE: -- what  
6 happens when you start building there --

7 MR. GALVIN: I think you should  
8 recharacterize the question. I think that it is  
9 your decision whether or not it does that.

10 You might want to ask him, does it  
11 affect his planning testimony or his view of the  
12 variance or something in the context of the height  
13 variance.

14 COMMISSIONER BRANCIFORTE: Well, I  
15 don't know how else to put it.

16 In the context of the height variance  
17 and the number of stories, the variance for the  
18 number of stories, why is it important that we  
19 consider the buildings across the street, the  
20 buildings behind us, and why is it important that we  
21 consider the buildings on the west side of Park?

22 THE WITNESS: Well, it is always  
23 important that we consider the buildings on the  
24 block face, so that would be the west side of Park,  
25 and even though we have a clear mix of building

1 heights, again, this is not the only building that  
2 is five stories and 50 feet. It is at least four  
3 others that I see from the profile that has been  
4 developed.

5 The opposite side of Park on the east  
6 side of Park, I think I have always felt is  
7 important as well, because it sets the context for  
8 the street, for the street scape in totality, not  
9 just on one side or the other side, and I know  
10 sometimes we pay attention to that, and sometimes we  
11 don't. But I do think in this case it is important  
12 because of the fact that there are pretty much all  
13 five-story buildings on that side, which set an  
14 example of what that street scape should be like.

15 I am not saying change everything on  
16 the west side, but the fact that we are consistent  
17 with that I think is important to how we view the  
18 street, the block street of Park Avenue.

19 To the rear, I think how the rear sets  
20 up towards the open space is also important, so my  
21 view with respect to that is that there is some  
22 value in looking at that. I don't think it is as  
23 critical as the street frontage, but there is some  
24 value in looking at that as well to see what that  
25 relationship is.

1                   COMMISSIONER BRANCIFORTE: But do you  
2 think it is more critical to look at the west side  
3 of Park, and the building heights and the number of  
4 stories on the west side of Park, where this  
5 building is going?

6                   To me, it would be more critical to  
7 look at it that way.

8                   Now that's true for a planner, too?

9                   THE WITNESS: I would say the west side  
10 and the east, again, from my perspective, not so  
11 much to the rear.

12                  COMMISSIONER DE FUSCO: Mr. Chair?

13                  CHAIRMAN AIBEL: Go ahead.

14                  COMMISSIONER DE FUSCO: So if this  
15 building were built as of right, three over one, in  
16 my estimation this would be studios, one-bedrooms,  
17 maybe two two-bedrooms,

18                  My question being: Are these smaller  
19 units family-friendly in your planning opinion?

20                  THE WITNESS: I don't think they would  
21 be in this case, no.

22                  COMMISSIONER DE FUSCO: Is it your  
23 opinion that the master plan indicates that  
24 family-friendly is a positive benefit?

25                  THE WITNESS: It absolutely is. I

1 think that is what the initial project was trying to  
2 achieve based on the eight units.

3 COMMISSIONER DE FUSCO: I mean, you are  
4 not the architect, but this would be a very valid  
5 question for the architect, which is: What could we  
6 get out of this, if you guys built as of right, and  
7 my fear being that it is not going to be  
8 three-bedroom apartments that could accommodate a  
9 growing family in Hoboken, but that is not really a  
10 question for you.

11 Thank you, Mr. Chair

12 CHAIRMAN AIBEL: Ms. Fisher?

13 MS. BANYRA: Mr. DeFusco, can I just  
14 make a correction?

15 I think you used a terminology with  
16 this as of right it would be three over one, and  
17 that is actually not correct. I am sorry --

18 (Everyone talking at once.)

19 MS. BANYRA: -- my bag is -- so that is  
20 not actually correct in the R1 Zone.

21 So what we allow in the R1 Zone is 40  
22 feet and three stories.

23 In the R2 Zone, we allow four stories,  
24 three over one -- three residential over parking,  
25 both 40 feet, but there makes a distinction that

1 30 -- three stories in the R1, but it's not over  
2 parking, so just --

3 COMMISSIONER DE FUSCO: But they would  
4 still be permitted eight units.

5 MS. BANYRA: It's 660 divided by --  
6 yes.

7 COMMISSIONER DE FUSCO: So even more so  
8 to my point, that these would be incredibly small,  
9 micro apartments if they built as of right.

10 MS. BANYRA: As of right, it is three  
11 stories, and you mean if they got the proper -- if  
12 they maximized the number of units?

13 COMMISSIONER DE FUSCO: Which a builder  
14 is going to do.

15 MS. BANYRA: But without a variance,  
16 they are only allowed three stories. So you have a  
17 taller unit, so you would have less units, so maybe  
18 you would have a bigger family-friendly.

19 But in terms of -- you are giving on  
20 something, so if they are doing it as of right, it  
21 is 40 feet and three stories, and it is a division  
22 by 660 on the lot area, which is 2000 --

23 MR. GALVIN: You know, the suggestion  
24 is that the units would be smaller.

25 MS. BANYRA: You won't probably get

1 three stories --

2 MR. MARCHETTO: I could explain --

3 MS. BANYRA: -- yeah, you may not get  
4 three stories --

5 MR. GALVIN: Wait. The planner is  
6 responding to Mr. DeFusco.

7 MS. BANYRA: -- you know, I guess the  
8 question is yes. I guess the answer is yes, but may  
9 or may not get that.

10 If you are going to try to get  
11 family-friendly, three stories, and divide it and  
12 get eight, then you would have to have smaller units  
13 without getting the -- yeah --

14 COMMISSIONER DE FUSCO: Which to me is  
15 negative.

16 MS. BANYRA: -- it is a different  
17 point --

18 COMMISSIONER FISHER: Can I just --

19 CHAIRMAN AIBEL: Ms. Fisher?

20 COMMISSIONER FISHER: -- just kind of  
21 taking that --

22 (Everyone talking at once.)

23 CHAIRMAN AIBEL: Okay. We are getting  
24 a question.

25 COMMISSIONER FISHER: -- seeing what

1       they are talking about, similar -- the first  
2       question is: Do you think that a building has to  
3       have all three bedrooms to be consistent with the  
4       master plan in this area?

5                   Do they all have to be family-friendly?

6                   THE WITNESS: Well, generically no, but  
7       in this case, here is my view on it:

8                   If we are providing parking, if we are  
9       going to provide parking, it should be for families  
10      because families are the units, the social units  
11      that would demand parking, because they have  
12      children and the like, and they will need to go back  
13      and forth as opposed to a studio or one-bedroom  
14      which won't have as many or any children in which  
15      case you have individuals who may not have a demand  
16      for parking.

17                  COMMISSIONER FISHER: Hum, I guess  
18      my -- I will save my comments on that. I have a  
19      different view given --

20                  MR. GALVIN: That's awesome, but  
21      something I want to point out to the Board --

22                  COMMISSIOENR FISHER: -- but --

23                  MR. GALVIN: -- let me just put this  
24      commercial in here. Hold your question.

25                  I think we have to be careful -- I want

1 everyone's attention. I think we have to be careful  
2 not to try to deliberate when we get towards the end  
3 of these hearings.

4                   What we want to do is we want to get  
5 Mr. Ochab to answer things that you have as  
6 legitimate questions about the building, the  
7 product, his planning testimony, but I think when we  
8 are getting close to the end, you all have different  
9 views, and Mr. Ochab may or may not share that. But  
10 remember that as a Board member, your opinion is  
11 absolute, so if you don't agree with him, that is  
12 fine. When you get into deliberations, you just  
13 say, Mr. Ochab said this, but my opinion is that, or  
14 I agree with what Mr. Ochab said.

15                   But that's all. I just think you guys  
16 need to think about that when you are asking these  
17 questions, so that we could get -- I would like to  
18 see us get into deliberations faster and have this  
19 discussion than trying to do it through the  
20 questioning of the witness, if that helps anybody.

21                   COMMISSIONER FISHER: It does.

22                   One point of clarity I just wanted to  
23 insert into the conversation between Commissioner  
24 DeFusco and Eileen is we were talking about a four  
25 over one and a two over one, and so the question is:

1 Can you still accommodate family-sized apartments in  
2 a three over one, where the height isn't necessarily  
3 so high. It is still a variance because it is not  
4 three stories total, but four stories total, still  
5 be able to achieve eight units, and instead of  
6 11,600 square feet, you would have close to 9,000  
7 square feet.

8 Can you accommodate at least a  
9 family-sized and maybe a few slightly smaller one  
10 and two-bedrooms?

11 CHAIRMAN AIBEL: That was your  
12 question.

13 COLMMISSIONER FISHER: Uh-huh.

14 THE WITNESS: And the answer is you can  
15 do it, but I don't know what the mix would be  
16 because you need Dean to answer that question.

17 COMMISSIONER FISHER: Yeah.

18 CHAIRMAN AIBEL: Anybody else, Board  
19 members?

20 COMMISSIONER GRANA: I have a couple of  
21 questions.

22 Mr. Ochab, would you agree that it is  
23 the recommendation of the master plan that where  
24 parking is constructed, that it is hidden underneath  
25 the building?

1 THE WITNESS: Yes, I would agree.

2 COMMISSIONER GRANA: Did you catch  
3 that?

4 Okay. So what in your professional  
5 opinion -- why is parking not permitted in the R1  
6 District?

7 THE WITNESS: The R1 District is  
8 established as in its purpose to provide for the  
9 historic development of the city, i.e., row houses  
10 without breaks in the sidewalk for driveways and  
11 things like that, to set up a street system or a  
12 street scape, if you will, visually and physically  
13 that has sidewalks and stoops, and so it is an  
14 unbroken sidewalk of flow, if you will.

15 So the key element in not allowing  
16 parking would be to protect that, which is why I was  
17 pointing out that, of course, that there are others  
18 in the area and, of course, we have this existing  
19 nonconformity issue to deal with --

20 COMMISSIONER GRANA: So, in your  
21 opinion, there is not a negative impact by  
22 introducing the curb cut on this particular block in  
23 this particular location?

24 THE WITNESS: Not in this particular  
25 case, and I want to be very careful to say this is a

1 very unusual and particular case, where we have an  
2 existing situation that again we are going to  
3 improve, but I think that the improvement would be  
4 beneficial, have beneficial attributes to the public  
5 as well as the city with respect to that --

6 COMMISSIONER GRANA: Thank you.

7 CHAIRMAN AIBEL: Anybody else, Board  
8 members?

9 Professionals?

10 Let me open it up to the public.

11 Anybody have questions for Mr. Ochab?

12 Please come forward. State your name.

13 MR. ALMASI: Peter Almasi.

14 MR. GALVIN: Street address again?

15 MR. ALMASI: A-l-m-a-s-i.

16 You acknowledge that the cars will be  
17 able to turn around in the new -- or the architect  
18 acknowledged that the cars will able to turn around.

19 Would you agree that given the  
20 elementary school across the street, it would be  
21 safer than if there were no parking in this  
22 particular building, given there would be an  
23 improvement, as you stated, but in general --

24 THE WITNESS: Yes --

25 MR. ALMASI: -- and did you also

1       acknowledge that while we would be improving the  
2       situation, we would still be increasing  
3       nonconformities of the existing situation and  
4       therefore, not have an impressive right to retain  
5       parking?

6                   THE WITNESS: Well, we would be  
7       decreasing the nonconformity aspects of the site.

8                   MR. ALMASI: But increasing  
9       nonconformity in terms of size by expanding the  
10      existing nonconforming --

11                  THE WITNESS: True. There would be a  
12      minor expansion because of the physical design of  
13      the new parking lot, but all of that would basically  
14      go back to public safety.

15                  MR. ALMASI: Thank you.

16                  You cited three existing curb cuts on  
17      the block.

18                  THE WITNESS: Correct.

19                  MR. ALMASI: Are you aware of what is  
20      the number of existing curb cuts on Park Avenue, on  
21      the block immediately south to the block in  
22      question?

23                  THE WITNESS: No.

24                  MR. ALMASI: If the answer were zero,  
25      and given the fact that one of the three curb cuts

1 in this area of Park is a delivery alley for the  
2 public school, would you continue to argue that the  
3 two curb cuts between 8th and 9th Avenue define the  
4 character of the neighborhood as having curb cuts  
5 given that it is possible that there are only zero  
6 curb cuts on the block to the south?

7 THE WITNESS: Yeah. My analysis of the  
8 immediate neighborhood is the 800 block, not further  
9 north and not further south.

10 MR. ALMASI: Thank you very much.

11 CHAIRMAN AIBEL: Thank you.

12 Anybody else, questions for Mr. Ochab,  
13 please come forward.

14 MS. ALMASI: My name is Laura Almasi,  
15 833 Willow Avenue.

16 So I think there was a question before,  
17 but I just wanted to clarify.

18 This property in question is in what  
19 zoning district?

20 THE WITNESS: R1.

21 MS. ALMASI: R1.

22 And you were talking about the  
23 buildings on Willow Avenue that back up into the  
24 rear of that property. What district are those in?

25 THE WITNESS: R2.

1                   MS. ALMASI: Hum, I read your report,  
2                   the revised report that you submitted. Your report  
3                   says, and this is a quote: No significant problems  
4                   can be identified by the additional building height.  
5                   The adjacent building is to not have roof decks or  
6                   outdoor areas that are affected by the additional  
7                   height, end of quote.

8                   Did you consider any of the following  
9                   when you wrote that sentence: Sunlight access for  
10                  the backyards of the property in the area in the  
11                  rear, sunlight access for the windows of the  
12                  surrounding buildings across the street and behind  
13                  the property or the views from the windows of the  
14                  buildings across the street on Park Avenue or  
15                  sunlight access for pedestrians on Park Avenue?

16                  THE WITNESS: Okay. Hum --

17                  MS. ALMASI: I can read them  
18                  individually.

19                  MR. GALVIN: Yes. You know, my  
20                  experience is you have to ask one question at a  
21                  time.

22                  MS. ALMASI: Okay. Well, I can  
23                  generalize it, if that's easier.

24                  MR. GALVIN: No, no, no. Don't  
25                  generalize it. You did perfect. Go back to the

1 first question and ask him again, and he will answer  
2 it.

3 MS. ALMASI: Did you consider any of  
4 the following when you wrote that sentence: One,  
5 sunlight access for the backyards of the properties  
6 in the rear of the building?

7 THE WITNESS: Yes.

8 Since we are moving the building up to  
9 the street line and preserving 38 feet of open area  
10 between the back of the building to our rear  
11 property line, it is my view that there won't be any  
12 significant impact with respect to the sun blockage.

13 MS. ALMASI: How tall are the existing  
14 buildings on the property -- the one in the rear,  
15 this one?

16 THE WITNESS: Yes. They are  
17 two-stories.

18 MS. ALMASI: And it's supposed to be  
19 going up to five stories, but you don't think that  
20 the additional height would increase the sunlight or  
21 shadows thrown from the new structure?

22 THE WITNESS: Right. I don't believe  
23 that is the case, because we are moving the building  
24 up to the street line.

25 As a matter of fact, those two

1 buildings existing probably have more of an impact  
2 to the adjoining rear yard than the building --

3 MS. ALMASI: And what about sunlight  
4 access for the windows of the surrounding buildings  
5 both across the street and behind the property?

6 THE WITNESS: Here it's the same  
7 effect.

8 Across the street on the east side of  
9 Park, we have five-story buildings. They are going  
10 to be looking out at our building, so it is a street  
11 scape of circumstance. I don't believe there is any  
12 impact relative to that --

13 MS. ALMASI: But in the second half of  
14 the day in the afternoon, when the sun is setting,  
15 you don't think that there will be a much larger  
16 shadow cast due to the additional height in the  
17 front of the property?

18 THE WITNESS: No, because we have gone  
19 through this before.

20 The sun is from southeast to southwest.  
21 The streets are north and south. So the sun comes  
22 around from the east side of Park and around on the  
23 southerly access, and it never actually gets to a  
24 totally westerly exposure, which would be the  
25 exposure, which would be the exposure that would

1           then cast a shadow from the proposed building  
2           directly across the street.

3                       MS. ALMASI: Did you consider the views  
4           from the windows of the buildings across the street?

5                       THE WITNESS: Hopefully they will be  
6           looking at a new building, much better than the  
7           existing conditions, so a parking lot and  
8           nonconforming buildings.

9                       MS. ALMASI: But they wouldn't be able  
10          to see as far.

11                      THE WITNESS: That's correct.

12                      MS. ALMASI: If there are shorter  
13          buildings behind, that there are like three-story  
14          buildings behind that building on Willow, and then  
15          behind that property, and then I believe across from  
16          that is actually a parking lot, and beyond there is  
17          like an upward slope, so there is probably a view  
18          from the entire floor to that building, so that --

19                      THE WITNESS: The only thing they are  
20          looking at now is the backs of the buildings on  
21          Willow. I don't think there is a view of any  
22          openness or open space, so again, the view that they  
23          have directly in front of them is a parking lot.

24                      MS. ALMASI: Hum, okay.

25                      Your report says that almost a full

1 floor of space is needed to meet the base flood  
2 elevation requirements, so therefore, the applicant  
3 would like to add a few additional feet and convert  
4 the space to a parking garage.

5 If we suppose that that variance is  
6 granted, then I can understand why the applicant  
7 might request a variance to go from three floors to  
8 four, as discussed here. However, I didn't see  
9 anything in your report to address the request for a  
10 fifth floor.

11 Can you show me a section of the report  
12 that addresses that part of the application?

13 THE WITNESS: There is a whole section  
14 that deals with the height variance issue --

15 MS. ALMASI: Right. But that height  
16 variance is going from 40 feet to 50 feet.

17 MR. MATULE: If I might, could you let  
18 him finish answering the questions before you start  
19 asking the next question?

20 MS. ALMASI: I'm sorry. I haven't done  
21 this before, so --

22 MR. MATULE: I realize that you don't  
23 do this professionally, but we are here every month  
24 and --

25 MS. ALMASI: Yeah, right --

1 (Ms. Almasi and Mr. Matule speaking at  
2 the same time)

3 MR. GALVIN: I missed something, so--

4 THE WITNESS: Well, there is a whole  
5 section that deals -- I'm sorry.

6 MR. GALVIN: No, no. I missed it.  
7 Go ahead. If you guys worked it out, that's fine.

8 CHAIRMAN AIBEL: If you sorted it out,  
9 yeah, let's go.

10 THE WITNESS: This is a section that  
11 deals with the height variance, so that deals with  
12 the fifth floor with the number of stories and the  
13 physical height of the building, both in that  
14 section.

15 MR. GALVIN: See, I thought that was a  
16 good question. That is why I was leaning over to  
17 the Chairman.

18 Did you get a full response?

19 MS. ALMASI: Well, I don't really  
20 understand how the difference in the height, which  
21 from whatever the documents --

22 MR. GALVIN: No, but you were asking  
23 the question --

24 MS. ALMASI: -- it looks like there was  
25 two different variances --

1                   MR. GALVIN:  It's not two different --  
2                   okay, there you go.  There are two different  
3                   variances.  There is one for height and the one for  
4                   number of stories, but they both require a D6  
5                   variance.  We are the only community in the state  
6                   where you need a D6 variance for number of stories,  
7                   so, but yes, we are looking for the answer as to  
8                   both of them.

9                   Go ahead.  You're good.

10                  MS. ALMASI:  So I don't really -- I  
11                  guess my other understanding is that there is an  
12                  onus on the applicant to show the positive criteria  
13                  and the negative criteria for a variance  
14                  application.

15                  I guess, could you explain what the  
16                  positive criteria are for adding the fifth story or  
17                  the fourth and fifth stories, I guess, how does that  
18                  positively impact the neighborhood?

19                  THE WITNESS:  That is a good question.

20                  When it comes to height variances,  
21                  there is a little bit different criteria.  In the  
22                  report, I would have talked about the Grasso case or  
23                  Conventry, and that criteria doesn't necessarily  
24                  mean that we have to show the typical use variance  
25                  positive criteria issues.  We don't have to address

1 those issues.

2 What we need to address is whether the  
3 additional height can be accommodated or the  
4 problems associated with the additional height can  
5 be accommodated by the site and also the  
6 relationship of our height to the surrounding area.

7 That is why I spent a lot of time  
8 talking about buildings on the east side, buildings  
9 on the west side and Willow Avenue, and also the  
10 fact that, you know, when we have the fifth floor,  
11 the fifth floor is not abhorrent to the entire  
12 neighborhood. That is what is called the Grasso or  
13 the Conventry criteria, and that is basically in my  
14 report as well.

15 MS. ALMASI: Okay. So you are arguing  
16 or you're stating, I am not sure which it is, that  
17 there is no additional onus to show a positive  
18 criteria for the particular application.

19 THE WITNESS: I wouldn't put it that  
20 way.

21 (Laughter)

22 It's just that the criteria is  
23 different. The criteria to show the -- to allow the  
24 Board to grant the variance --

25 MR. GALVIN: Just let me jump in.

1 MS. ALMASI: I am just not quite  
2 following.

3 MR. GALVIN: I know.

4 On that particular point, I agree with  
5 Mr. Ochab, that the object is for a D6. Based on  
6 Grasso, we can't hold them to the higher standard of  
7 a Medici variance, so what they have to do is they  
8 have to show us that they can accommodate the  
9 deviation from the height standard, and Mr. Ochab  
10 thinks he has done that, but it is for the Board to  
11 decide whether he did or he didn't.

12 MS. ALMASI: Is it possible to look at  
13 either a drawing or -- I think it was a drawing in  
14 A-6 of the entire block?

15 MR. GALVIN: Isn't it right there?

16 MS. ALMASI: That's only half of the  
17 block. It was a --

18 CHAIRMAN AIBEL: A-6.

19 MR. MATULE: Maybe it was A-5 on the  
20 plans.

21 MS. ALMASI: Thank you.

22 So can you point out the existing  
23 buildings that are taller than 40 feet?

24 THE WITNESS: So one second from the  
25 corner on 8th, the fourth from the corner on 8th,

1 and then this is the corner of 7th, the first two on  
2 the corner of 7th --

3 MS. ALMASI: I think this is 9th --

4 THE WITNESS: Oh, I'm sorry. This says  
5 8th --

6 COMMISSIONER COHEN: No, it is 8th --

7 MS. ALMASI: -- I am pretty sure --  
8 okay --

9 COMMISSIONER COHEN: It should be 8th.

10 THE WITNESS: -- it should be 9th.

11 MS. ALMASI: This is 8th and this is  
12 9th.

13 MR. GALVIN: Let the report reflect  
14 that neighbor has correctly identified that.

15 (Laughter)

16 THE WITNESS: Well done.

17 MS. ALMASI: Thank you.

18 So when I read the ordinance, my  
19 understanding was that there is kind of an exception  
20 to the height requirement granted for -- not  
21 granted -- but more allowed -- more allowable for  
22 the buildings on either end of the block. Do you  
23 agree with that interpretation?

24 THE WITNESS: Yes, I do.

25 The zoning ordinance speaks to corner

1       lots, and although it doesn't specify how intense  
2       those lots can be, it basically says that they  
3       should be developed to the maximum extent possible.

4               MS. ALMASI:  And for interior lots,  
5       what is the general -- well, do you agree that --

6               THE WITNESS:  Well, the general rule  
7       would be then whatever the height requirement is and  
8       the number of stories.

9               MS. ALMASI:  Also, can you confirm  
10       there is also a requirement that if the two adjacent  
11       buildings are below the maximum, that any new  
12       building must match -- can only be as tall as the  
13       higher of the two adjacent buildings?

14              THE WITNESS:  Well, there's a couple of  
15       things there.  It could match the lower or the  
16       higher of the two, or if both buildings adjacent are  
17       taller than what is proposed, it could match the  
18       lower of the two --

19              MR. GALVIN:  But we don't have an  
20       adjacency situation here, so we don't need to go  
21       into that.

22              THE WITNESS:  Right.  I am just  
23       answering.

24              (Laughter)

25              MR. GALVIN:  I know, I know.  Sorry.

1 MS. ALMASI: Well, okay. So you were  
2 talking earlier about how this will not be the only  
3 50 foot plus building on the block, but it seems to  
4 me that the majority of the existing buildings, you  
5 know, the quote, police chief's building  
6 notwithstanding are really towards the end of the  
7 block and the interior of the block is primarily a  
8 smaller conforming height, do you agree with that  
9 assessment?

10 THE WITNESS: No, I don't. I mean, it  
11 is what it is. You see what it is.

12 But certainly there is a consideration  
13 here that other circumstances, which weigh into what  
14 the height of the building is, and those  
15 circumstances have to do with the existing parking  
16 condition on the site and also the notion that we  
17 want to try to provide family units, and we can do  
18 that by providing parking for them, and that our  
19 density does not exceed what the zoning will allow  
20 us to do. So taking all of that together, we think  
21 that this is the best program, and it is not  
22 inconsistent with the block face here with respect  
23 to the height --

24 MS. ALMASI: Do you know if the  
25 applicant considered building a conforming

1 structure?

2 THE WITNESS: I wouldn't know that.

3 MS. ALMASI: And is there any reason  
4 why they can't build a conforming structure?

5 THE WITNESS: Well, it's always a --  
6 again, the set of circumstances that exist, how to  
7 deal with those circumstances, and then looking at  
8 the zoning and projecting how many units are  
9 possible, how to configure those units, size and the  
10 width of the property, all of that goes into it, so  
11 it is not just an easy question of, well, let's just  
12 build to the zoning because there are issues and  
13 circumstances with each site that are particular to  
14 those sites, which then result in whatever the  
15 program is going to be.

16 MS. ALMASI: Thank you.

17 CHAIRMAN AIBEL: Thank you.

18 Anyone else in the public?

19 State your name and address.

20 MS. HEALEY: Leah Healey, 806 Park.

21 I think you said you looked at the 8th  
22 Street block, right, the 800 block?

23 THE WITNESS: Well, the 800 block.

24 MS. HEALEY: Did you go south at all on  
25 Park Avenue or north at all on Park Avenue in terms

1 of looking at the character of the neighborhood  
2 or --

3 THE WITNESS: No. For me, the  
4 neighborhood is the block.

5 MS. HEALEY: Do you have any idea, do  
6 you know how many stop signs there are between 4th  
7 Street and 10th Street on Park Avenue?

8 THE WITNESS: I do not know.

9 MS. HEALEY: If I told you there was no  
10 stop signs between 4th Street all the way to the  
11 first site on 10th street, and you are now  
12 introducing the curb cut and allowing -- or allowing  
13 a curb cut to remain, and cars to come in and out of  
14 it, across from the school, on a road that goes six  
15 blocks with no stop signs, do you think there is any  
16 detriment to either pedestrians or the neighborhood  
17 to introduce or allowing this situation to continue?

18 THE WITNESS: Well, I think there is a  
19 tremendous benefit here with respect to what we are  
20 proposing to do as contrasted with leaving the  
21 existing condition alone and not doing anything.

22 With respect to efficiency of the land  
23 use, with respect to the maneuverability of vehicles  
24 coming in and out of the site and public safety, I  
25 think what we have here is again a tremendous

1 benefit. I don't see any detriment with respect to  
2 the circumstances of the site that we are dealing  
3 with, which is dealing with an existing  
4 nonconforming use, which is allowed, as you know, to  
5 remain, if we don't do nothing, it is allowed to  
6 remain under the existing condition and existing  
7 design.

8 MS. HEALEY: So you said it's public  
9 safety. What about this is contributing to public  
10 safety?

11 THE WITNESS: Well, under the existing  
12 condition, you have a totally unruly situation with  
13 cars forced to back out across the sidewalk on Park.

14 Under the new condition, first of all,  
15 the cars will be away from -- inside the building,  
16 so they wouldn't be visible, so you have esthetics,  
17 certain benefits there, but also the cars will be  
18 able to maneuver inside of the building and pull out  
19 of the building.

20 The architect has designed a system  
21 that will alert people on the street that a car is  
22 coming out, and again, I am not a traffic expert, so  
23 again, you know, I am just the planner.

24 So I believe that having vehicles pull  
25 out under a situation, where they can see in both

1 directions, there is sufficient warning and notice  
2 to the pedestrian public that a car is coming out is  
3 a far way better than what we have today.

4 MS. HEALEY: So you see no public  
5 safety issue --

6 THE WITNESS: I do not.

7 MS. HEALEY: -- with a car, multiple  
8 cars pulling out mid block on a block that doesn't  
9 otherwise have parking on it?

10 THE WITNESS: When you compare it to  
11 what is existing today, no, I don't.

12 MS. HEALEY: Is there anything to  
13 prevent the existing situation from being improved?

14 THE WITNESS: Yes --

15 MS. HEALEY: Is there any reason why --

16 THE WITNESS: -- no, no, no, let me  
17 answer the question --

18 MS. HEALEY: -- is there any reason  
19 why --

20 THE WITNESS: -- I want to answer your  
21 question.

22 MS. HEALEY: Go ahead.

23 THE WITNESS: -- yes, there is because  
24 the existing buildings prevents any redesign of the  
25 existing parking area.

1 MS. HEALEY: Do you have any knowledge  
2 of the history of this parking lot?

3 THE WITNESS: Somewhat.

4 MS. HEALEY: Are you aware that this  
5 parking lot used to be a parking lot with fewer  
6 spaces in it and striped differently?

7 THE WITNESS: I am aware that it has  
8 been a parking lot for a long, long time, but I'm  
9 not familiar with the design of the lot itself.

10 MS. HEALEY: So you are not aware that  
11 there were tandem parked cars on the south end --

12 MR. MATULE: He answered that.

13 MS. HEALEY: -- and angled parked on  
14 the north end?

15 MR. GALVIN: I agree with that. I  
16 think he has testified he didn't know. He knows it  
17 has been a parking lot for a long, long time, but he  
18 doesn't know the configuration.

19 MS. HEALEY: I will move on.

20 Is there any public parking in the  
21 vicinity of this parking --

22 THE WITNESS: I believe there is --

23 MS. HEALEY: Where is it?

24 THE WITNESS: -- on the 900 block on  
25 Garden.

1 MS. HEALEY: How many spots are in that  
2 lot?

3 THE WITNESS: I can't tell you that  
4 exactly.

5 MS. HEALEY: And is it open to the  
6 public?

7 THE WITNESS: I believe it is.

8 (People in the audience talking.)

9 MR. GALVIN: Shush.

10 MS. HEALEY: So do you think it is  
11 safer from a public safety point of view to have  
12 cars that cross a sidewalk or no cars that cross the  
13 sidewalk?

14 THE WITNESS: Well, I think that is an  
15 unfair question, because we are not dealing with  
16 that. We are dealing with the existing situation  
17 versus the proposed situation, so --

18 MS. HEALEY: Hum, your -- a lot of your  
19 testimony relies on the master plan. I know we  
20 talked about this being the R1, but is there a  
21 specific area that this neighborhood is referred to  
22 in the master plan?

23 Is it called a particular neighborhood?

24 THE WITNESS: Not that I am aware of.  
25 It might be, but --

1 MS. HEALEY: So you are not aware of  
2 the central city neighborhood that's referenced in  
3 the master plan?

4 THE WITNESS: I am aware of it, but --

5 MS. HEALEY: And are you aware that  
6 that neighborhood, which this property is inside of,  
7 has specific goals and recommendations in the master  
8 plan?

9 THE WITNESS: I am aware of the fact  
10 that it does have goals and objectives, yes.

11 MS. HEALEY: Does it restrict curb  
12 cuts?

13 THE WITNESS: Yes, it does.

14 MS. HEALEY: Is there a reason given in  
15 the master plan for why it restricts curb cuts?

16 THE WITNESS: I think I answered that  
17 question about 20 minutes ago.

18 MS. HEALEY: Can you tell me  
19 specifically what the master plan says about  
20 restriction of curb cuts in the central  
21 neighborhood?

22 Do you know what that language is?

23 THE WITNESS: Well, I can't read it to  
24 you verbatim, because I didn't memorize the master  
25 plan, but basically it discourages curb cuts, but I

1 want to say that --

2 MS. HEALEY: Does it discourage it or  
3 prohibit them?

4 THE WITNESS: I don't know.

5 MS. HEALEY: Doesn't the master plan  
6 say that this prohibition on curb cuts helps  
7 maintain the uninterrupted wall of buildings along  
8 most streets and increases pedestrian safety by  
9 reducing conflict on sidewalks with motor vehicles?

10 THE WITNESS: I believe that is what it  
11 says, but --

12 MS. HEALEY: And does it go on --

13 MR. GALVIN: Whoa, whoa. Time out,  
14 time out.

15 Now you're being a little, you know --

16 MS. HEALEY: I'm sorry.

17 (Laughter)

18 MR. GALVIN: Go ahead.

19 THE WITNESS: Give me 30 seconds.

20 (Laughter)

21 THE WITNESS: But we are not -- if we  
22 were dealing with an empty lot, no use, or an old  
23 building would be taken away, I would agree a  
24 hundred percent with what you are saying, and we  
25 would have to conform with the master plan, but we

1 are not dealing with that.

2 We are dealing with an existing very  
3 unusual peculiar situation, where we have existing  
4 parking on the site, and we're trying to make it  
5 better. That is why I talked about the Burbridge  
6 case, which is right on point with this.

7 Does what we are doing get us closer to  
8 the goals and objectives of the master plan?

9 I think, yes, because we are improving  
10 the public safety aspects from where we are today to  
11 where we will be, you know, if the project is  
12 approved in the future.

13 MS. HEALEY: If the goals and  
14 objectives of the master plan don't talk about  
15 improving, but actually talk about prohibiting, how  
16 does that --

17 THE WITNESS: But the use --

18 MS. HEALEY: -- permit this --

19 THE WITNESS: -- but the use  
20 variance -- but the variance context takes the  
21 master plan and weighs into the decision-making  
22 process. The master plan is the guide, and it  
23 weighs that guide into the circumstances of the  
24 site, so I don't think it is fair to say that, well,  
25 all driveways should be prohibited, no matter what

1 the circumstance.

2 MS. HEALEY: Are you aware of whether  
3 or not this curb cut restriction is a matter of  
4 local ordinance?

5 THE WITNESS: Yes.

6 MS. HEALEY: Do you know when that  
7 local ordinance came into effect?

8 THE WITNESS: No.

9 MS. HEALEY: Are you aware of the  
10 master plan, pages and pages, that talk about  
11 alternatives with the use of cars in Hoboken?

12 THE WITNESS: Yes.

13 MS. HEALEY: And are you aware of the  
14 most recent master plan reexamination provision that  
15 actually says that it's aggressively seeking to  
16 forego car ownership --

17 MS. HEALEY: Yes.

18 MS. HEALEY: You testified about the  
19 driveway to the south. I think you said it was  
20 eight feet wide or so. Do you know if that driveway  
21 was there earlier than 2002?

22 THE WITNESS: Yes, I do. It was there.

23 MS. HEALEY: And is the same true of  
24 the driveway that is north of this property, the  
25 one-car garage driveway?

1 THE WITNESS: Yes, that is true also.

2 MS. HEALEY: Do the flood regs mention  
3 anything about -- and the provisions of the master  
4 plan mention anything about elevating buildings for  
5 purposes of adding parking?

6 THE WITNESS: Well, the zoning allows  
7 in certain zones the building to be elevated to  
8 allow parking.

9 With respect to the flood plain  
10 elevation, this is a more recent phenomenon, where  
11 the elevations have been raised to the point, where  
12 we have six to eight feet of space underneath the  
13 first floor of the building.

14 As I described to the Board, I don't  
15 think I have to go through it again.

16 MS. HEALEY: Okay.

17 Is there anything in the master plan in  
18 2004 -- of the master plan reexamination in 2014,  
19 that recommended the lifting of the parking  
20 prohibition in R1?

21 THE WITNESS: I don't believe so.

22 CHAIRMAN AIBEL: Thank you.

23 Any further questions for Mr. Ochab?

24 MR. GALVIN: Ms. Banyra has a question.

25 MS. BANYRA: No. I just have one

1 clarification.

2 Mr. Ochab, I think you testified that  
3 the property was a unique situation because of the  
4 size of the lot. But is it not true that you  
5 actually are assembling one additional property  
6 because there are two properties, and then there's a  
7 third property that's being added, correct?

8 THE WITNESS: That is correct --

9 MS. BANYRA: I just wanted to make --

10 THE WITNESS: -- there are three lots  
11 here --

12 MS. BANYRA: Thank you.

13 CHAIRMAN AIBEL: Okay.

14 Seeing no further --

15 COMMISSIONER COHEN: Motion to close  
16 the public portion for this witness.

17 COMMISSIONER MURPHY: Second.

18 CHAIRMAN AIBEL: All in favor?

19 (All Board members answered in the  
20 affirmative)

21 MR. MATULE: May I just bring Mr.  
22 Marchetto up, in response to the Commissioner's  
23 earlier inquiry about an affordable unit?

24 While Mr. Ochab was testifying, Mr.  
25 Marchetto has had quite a sufficient amount of time

1 to review those things and discuss it, so if I could  
2 just have him very briefly respond.

3 CHAIRMAN AIBEL: Is it going to be a  
4 proffer or --

5 MR. MATULE: Yes.

6 CHAIRMAN AIBEL: Yes.

7 MR. GALVIN: Yes.

8 D E A N M A R C H E T T O, having been previously  
9 sworn, testified further as follows:

10 THE WITNESS: So a couple of questions  
11 were asked about opportunities for modifications.

12 The LED lights, the safety lights, yes,  
13 we would include them.

14 Would we make it a 9-unit building, if  
15 one was affordable?

16 Yes, we would do that.

17 We will vary the facade colors, if the  
18 Board prefers a variety of colors of the brick.

19 We would also be willing to put the  
20 stoop into the garage and come up into the  
21 apartment, so the door is not a faux door, but it's  
22 a real apartment door right off the street, so the  
23 stoop would get a little taller.

24 We would be willing to rent the parking  
25 spaces, if the Board wanted to, to the general

1 public instead of just to the residents of the  
2 building.

3 Those are items that I think the Board  
4 made comments on. The answer is, if you prefer it,  
5 and you approve it with conditions as such, the  
6 owner would be happy to oblige.

7 CHAIRMAN AIBEL: Thanks.

8 Okay. Now is the time to open it up to  
9 the public for comment.

10 Is it a comment on this application?

11 MR. EVERS: Yes, it is.

12 CHAIRMAN AIBEL: Please come forward,

13 MR. EVERS: Yes.

14 Am I supposed to swear in at this time?

15 MR. GALVIN: Yes, sir.

16 Raise your right hand.

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

20 MR. EVERS: I do.

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

23 MR. EVERS: Michael Evers, E-v-e-r-s.

24 MR. GALVIN: Street address?

25 MR. EVERS: 252 Second Street, Hoboken,

1 New Jersey.

2 MR. GALVIN: Fire away.

3 MR. EVERS: Okay. This is a  
4 recommendation for the resolution, if it is  
5 approved, okay? I don't really have an opinion one  
6 way or another on this. I am always dazzled by Bob  
7 Matule's charm, so I can't objectively evaluate it.

8 (Laughter)

9 There is a project that you approved a  
10 number of months ago, okay, that had similar  
11 opposition by the community at 136 Park Avenue.  
12 Now, this is the point. This is why I brought this  
13 up.

14 Okay. You approved a two-family  
15 building with a studio apartment on the first floor,  
16 okay?

17 In fact, you very specifically state in  
18 the resolution, quite wisely, that the applicant  
19 shall be bound by all exhibits introduced, all  
20 representations made, and all testimony given before  
21 the Board at its meeting on June 18th.

22 Now, much to my surprise, and this  
23 brings me to this --

24 CHAIRMAN AIBEL: Please, Mr. Evers.

25 MR. EVERS: -- listen. It is worth it,

1       okay?

2                   The fact of the matter is this building  
3       is not a two-family building, and it doesn't have a  
4       studio apartment on the second floor.

5                   I know this, because not even to check  
6       them out, one of my hobbies is going to open houses,  
7       okay?

8                   Now, my recommendation to you to  
9       consider, if you approve this project, and frankly  
10      any other future project, is not only that you  
11      include this excellent stipulation that they  
12      actually have to build what they say they are going  
13      to build in order to get the variance, but that you  
14      consider a clause that I'm sure Counsellor Galvin  
15      can fashion, so that it will be in conformity with  
16      the Municipal Land Use Law, et cetera, but in the  
17      event that the applicant substantially varies from  
18      the plans presented for the Board, that all  
19      variances granted by the Board are thereby revoked,  
20      because I think that would be an effective way of  
21      getting people to address what is apparently a  
22      chronic problem here, is that they get approvals and  
23      then they don't build what they said they were going  
24      to build.

25                   CHAIRMAN AIBEL: We appreciate your

1 suggestion.

2 Thank you.

3 Does anybody else have a comment?

4 Does anybody have a comment?

5 MR. PATEL: I do.

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. PATEL: I do.

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

13 MR. PATEL: Virat, V-i-r-a-t, Patel,  
14 P-a-t-e-l.

15 817 Park Avenue, Apartment 1, Hoboken.

16 MR. GALVIN: Sure.

17 MR. PATEL: The parking would be a  
18 great thing especially for our block, because it's  
19 really hard, you know, to find parking. Even though  
20 as of right now, I park in that lot, and it is a  
21 very, you know, a good benefit especially for people  
22 that live on the block, because it is really tough,  
23 you know, in that little area, so I would consider,  
24 you know, to keep at least less cars off the street  
25 for other people to park.

1 CHAIRMAN AIBEL: Great. Thank you.

2 COMMISSIONER COHEN: Can I ask him a  
3 question?

4 MR. GALVIN: Yes.

5 You are under oath, Mr. Patel.

6 MR. GALVIN: We have a question for  
7 you. Come on back.

8 MR. PATEL: Sure.

9 COMMISSIONER COHEN: Mr. Patel, one of  
10 the offers that the applicant made was to allow the  
11 lot, if it was approved, to be available to the  
12 public to rent as opposed to just the members --  
13 people who live in that building.

14 Is that something that you would like  
15 to see included in the resolution?

16 MR. PATEL: Sure.

17 COMMISSIONER COHEN: Thank you.

18 CHAIRMAN AIBEL: Anybody else have  
19 comments?

20 Please come forward.

21 It's time to get sworn.

22 MR. GALVIN: Raise your right hand.

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

1 MS. ALMASI: Yes.

2 MR. GALVIN: State your full name for  
3 the record and spell your last name.

4 MS. ALMASI: Laura Almasi, A-l-m-a-s-i.

5 MR. GALVIN: You don't need the street  
6 address, because you got it, right?

7 MS. ALMASI: What was that?

8 THE REPORTER: I can't put it in unless  
9 she says it.

10 MR. GALVIN: Street address?

11 MS. ALMASI: 833 Willow Avenue.

12 So I live at 833 Willow Avenue, which  
13 backs up -- our yard touches the corner of the  
14 backyard of this property, and my main issue with  
15 this is the additional height, because I really feel  
16 like the buildings immediately behind the property  
17 and also the vast majority of the rest of the block  
18 are still lower buildings that conform to the  
19 ordinance's height. I just don't see any compelling  
20 reason why this particular lot should merit an  
21 exception to that rule.

22 I just -- it seems to me that that will  
23 impede on the absence of light, air and open space  
24 to the neighboring properties, and I don't think  
25 that -- I would prefer to see a lower building on

1 the site.

2 I also think that the additional height  
3 really will disrupt the architectural scale and  
4 grain on the block for the reasons I mentioned  
5 earlier in my questioning, because currently the  
6 majority of the taller buildings on the block are  
7 concentrated on the ends, and if this building goes  
8 up, we are going to go from four nonconforming lots  
9 to seven.

10 Additionally, I actually met Mr. Super  
11 at the break during a meeting on January 20th, and  
12 he told me, and I realize this is just  
13 speculation --

14 MR. GALVIN: No, you can't do that.

15 MS. ALMASI: -- oh, I can't say that --

16 MR. GALVIN: That would be hearsay,  
17 right?

18 MR. MATULE: I would think.

19 MR. GALVIN: Are you about to object?

20 MR. MATULE: I was, yes.

21 (Laughter)

22 MS. ALMASI: Sorry. Well --

23 MR. GALVIN: No, don't be sorry.

24 MS. ALMASI: -- I am not trying to  
25 break the rules. I'm just not used to this --

1 MR. GALVIN: No. We are helping you.

2 You have done a good job questioning.

3 Keep going.

4 MS. ALMASI: But the ordinance -- if  
5 this building goes up to 50 feet, then the property  
6 in between could also choose to do the same thing  
7 and they wouldn't even need a zoning permit to go up  
8 50 feet --

9 MR. MATULE: Well --

10 MS. ALMASI: -- so there is a potential  
11 to have a full wall --

12 MR. GALVIN: She is using the adjacency  
13 argument.

14 MR. MATULE: -- I understand that, but  
15 in our ordinance they might not need a variance for  
16 height in feet, but they would still need a variance  
17 for height in floors --

18 MS. ALMASI: Right, but they could  
19 build --

20 MR. MATULE: -- which is a D1  
21 variance -- I mean a D6 variance --

22 MR. GALVIN: Unless we eliminate it  
23 within the next six months or so, which is what we  
24 are trying to do --

25 MR. MATULE: I understand. I'm just

1 saying, I think it is kind of a shaky premise --

2 MS. ALMASI: Well, I could -- I just  
3 want to point out that there is a potential  
4 exception to go not just from four lots to seven,  
5 but even potentially to eight without requiring any  
6 further opinion from the Board, so I just would like  
7 that to be considered.

8 MR. GALVIN: Well, Mr. Matule's  
9 argument is that there is a high probability that  
10 that building would have to come before the Board  
11 anyway, but you made a good argument about it. It's  
12 a good chess move thought, yes.

13 MS. ALMASI: Thanks.

14 (Laughter)

15 MS. ALMASI: I'm just trying to see --  
16 I don't think you wanted me to read my whole thing,  
17 so I'm just trying to --

18 MR. GALVIN: But, you know, we are  
19 trying to give everyone latitude to do what they  
20 have to do. I have tried really hard to move the  
21 hearing along, but I am trying to do it in a way  
22 where I'm respecting everybody to get their  
23 information out, so --

24 MS. ALMASI: Oh, and also in terms of  
25 the adjacency argument, I realize this doesn't quite

1 apply, I just wanted to point out that if this is 50  
2 feet instead of 56 feet wide, it actually would only  
3 be allowed to go up 35 feet -- so it's kind of -- I  
4 know it is not literally relevant. They are not  
5 subject to that rule, but I feel like it goes  
6 against the spirit of the ordinance.

7 And my only other -- my second to last  
8 point is just that I don't think that there has  
9 really been any compelling reason why they can't  
10 build a conforming property, and I'm not sure  
11 that -- I know that they want to improve the  
12 property that is there, but it doesn't seem to me  
13 that there is any compelling reason why this  
14 particular property should be granted an exception  
15 to the rule simply because they want to convert  
16 something that's nonconforming, because I am not  
17 sure that nonconforming to nonconforming is  
18 necessarily a strong enough argument

19 So lastly, I just wanted to present to  
20 the Board a petition.

21 MR. MATULE: I have to object.

22 MR. GALVIN: Yes. Petitions fall under  
23 the same category as saying what somebody else says.  
24 It's considered a hearsay thing.

25 How many signatures did you have in

1 that petition?

2 MS. ALMASI: I had 83 signatures,  
3 including 17 residents of Lots 170 and 183.

4 MR. GALVIN: Yes. I'm so sorry we  
5 can't accept it.

6 MS. ALMASI: Okay.

7 COMMISSIONER DE FUSCO: Mr. Chairman,  
8 can I ask Ms. Almasi a question?

9 MS. ALMASI: Okay.

10 COMMISSIONER DE FUSCO: First of all,  
11 thank you for your awesome questions. It is great  
12 to see the community come out and offer that. With  
13 that kind of perspective, it really helps to shape  
14 our decision, but I do want to ask you a question,  
15 and wonder if this changes anything.

16 If this Board votes this down, you do  
17 realize that they are able to build 40 feet above  
18 base flood elevation, right?

19 MS. ALMASI: Yeah.

20 COMMISSIONER DE FUSCO: Base flood  
21 elevation is something like five foot, so we are  
22 talking 45 feet, plus the parapet at the top, so  
23 they are already just shy of 50 feet without any  
24 intervention that the Board might introduce.

25 MS. ALMASI: I don't think that is true

1       because that is presuming that they go to five  
2       stories.

3                   COMMISSIONER DE FUSCO:  No.  They are  
4       allowed 40 feet over base flood, plus the building  
5       code allows a parapet at the top, something like  
6       three feet --

7                   MS. ALMASI:  Okay.  So that means that  
8       they are allowed to build three stories that are 40  
9       feet plus the parapet, so that may mean that they  
10      would be building, what is that, 13 foot ceilings?

11                   COMMISSIONER DE FUSCO:  Very close to  
12      it.

13                   MS. ALMASI:  So --

14                   COMMISSIONER DE FUSCO:  Would that  
15      change your --  I'm sorry.  Go ahead.

16                   MS. ALMASI:  -- I acknowledge that they  
17      are permitted to do that, but I just don't see any  
18      compelling reason to allow them to go to four  
19      stories given the thrust of the character of the  
20      rest of the interior of the block.

21                   COMMISSIONER DE FUSCO:  Okay.  Great.  
22      Thank you so much.

23                   MR. GALVIN:  Thank you.

24                   MR. MATULE:  If the Board is done, I  
25      just have a couple of questions for Ms. Almasi.

1 MR. GALVIN: The Board is done.

2 Go ahead.

3 MR. MATULE: You live at 833 Willow  
4 Avenue?

5 MS. ALMASI: Yeah.

6 MR. MATULE: How old is that building?

7 MS. ALMASI: It is new. I think it was  
8 probably -- we moved in in 2012. I'm not sure when  
9 the first owner moved in.

10 MR. MATULE: Okay. And how tall is  
11 that building?

12 MS. ALMASI: It's five stories.

13 MR. MATULE: Would you say it is 50  
14 feet high?

15 MS. ALMASI: Probably. I don't know.

16 MR. MATULE: What floor do you live on?

17 MS. ALMASI: I live on the top floor.

18 MR. MATULE: The fifth floor?

19 MS. ALMASI: Yes.

20 MR. MATULE: Do you know what the lot  
21 coverage of your building is?

22 MS. ALMASI: No, I don't. I didn't  
23 participate in the variance application at the time,  
24 and I was not aware of the zoning ordinance at the  
25 time.

1 MR. GALVIN: Just a simple no is good.

2 COMMISSIONER BRANCIFORTE: I have  
3 another question along those lines then --

4 MR. MATULE: That's all.

5 COMMISSIONER BRANCIFORTE: -- if the  
6 building is fairly new, wouldn't that building have  
7 needed a height story variance --

8 A VOICE: 832.

9 COMMISSIONER BRANCIFORTE: 832 Park?

10 MS. ALMASI: 832 Willow.

11 MR. GALVIN: It's in the R2 zone, but I  
12 don't know if it did or it didn't.

13 CHAIRMAN AIBEL: Thank you.

14 Ms. Healey?

15 MS. HEALEY: I live on this block --

16 CHAIRMAN AIBEL: You have to be  
17 sworn --

18 MR. GALVIN: Wait a minute.

19 Raise your right hand.

20 MS. HEALEY: -- I live at 806 Park  
21 Avenue, Leah Healey.

22 MR. GALVIN: Wait a minute. Raise your  
23 right hand.

24 Do you swear to tell the truth, the  
25 whole truth, and nothing but the truth so help you

1 God?

2 MS. HEALEY: I do.

3 MR. GALVIN: Spell your last name.

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

5 MR. GALVIN: Thank you.

6 Please proceed.

7 MS. HEALEY: I live on this block, and  
8 I have lived on this block for 30 years. This  
9 parking lot has been a problem since day one. Many  
10 people in the neighborhood - where are you - have  
11 used that parking lot, and most of the people that  
12 have been using that parking lot will end up back on  
13 the street, and then we will add some new cars  
14 because we will add more parking.

15 I've never seen anybody move to Hoboken  
16 or come from even another part of Hoboken, and say,  
17 oh, if I've got a garage, I am not going to bring my  
18 car.

19 The problem I have is I moved to this  
20 neighborhood knowing full well that there was not a  
21 lot of parking, and then in 2002, a unanimous City  
22 Council, not only downsized these buildings by  
23 lowering the amount of stories, but also inserted a  
24 curb cut prohibition, and the master plan  
25 reexamination has been tried to suggest that it

1 should be made even more strict by going from 50 to  
2 75 feet.

3 I am looking to protect the central  
4 neighborhood. We live there because you can walk  
5 down the block or your child can scooter down the  
6 block or bike down the block without having to worry  
7 about a car crossing across the sidewalk.

8 It is hard enough teaching a child to  
9 stop at a street intersection, and now we are going  
10 to be encouraging something that says, oh, watch for  
11 the bell and whistle that might be coming off of mid  
12 block, kids, because a car might be coming out at  
13 you.

14 I don't see anything in this master  
15 plan, anything in this zoning ordinance, or anything  
16 in the most recent reexamination report that should  
17 lead you to believe that you should be taking the R1  
18 and allowing it to be converted into the R2 and R3  
19 zone.

20 If you want a family-friendly building  
21 with parking in the bottom, you can either move to  
22 the suburbs or you can move to almost any other  
23 perimeter neighborhood in this city, and you will be  
24 accommodated, and they are building family-friendly  
25 units. They come before this Board all of the time.

1       Everybody is talking about them. But the  
2       interesting thing about the family-friendly language  
3       in the master plan is it doesn't talk about parking.

4               It talks about larger units. It talks  
5       about better schools, and it talks about more parks,  
6       and everything in this master plan says we want you  
7       to not bring your car or forego having a car and  
8       maybe even get rid of your car because we have  
9       alternate transportation.

10              Now, in my block, I am three blocks  
11       from a bus stop that could take me to southern city,  
12       anywhere, and can take me to New York. Two blocks  
13       in the other direction, the same thing, up and down  
14       Clinton Avenue.

15              I also have the Hop, and I understood  
16       from other buildings in this town we have a series  
17       of jitneys, so I'm looking for this Board not to  
18       undo the one place in this city that is historically  
19       in need of protection, where people with families,  
20       because there are families that live on my block,  
21       who don't insist on having parking underneath their  
22       building, because I believe that if you allow  
23       parking in this building, you will encourage cars to  
24       come to Hoboken. That is what happens when you  
25       offer parking. People bring their cars.

1                   What I am very concerned about, if you  
2 allow this application to happen in the name of  
3 flooding, lift the building up and put cars under  
4 it, I can see this happening all over the R1 zone.

5                   Now, this planner is testifying that,  
6 well, we have a nonconforming use now, so we should  
7 be allowed to continue it.

8                   I am not happy about living up to a  
9 nonconforming use, and the way I read your  
10 nonconforming use ordinance, it says you don't get  
11 to alter that use, extend that parking lot to  
12 another property.

13                   Your option is to leave it the way it  
14 is, maintain and repair it, or if you want to alter  
15 it, you bring it back into conformity of the use,  
16 and the conforming use in this zone is no parking.

17                   One of the things I am really concerned  
18 about is I'm seeing these four over one things  
19 popping up in the southern end of Hoboken in the R1  
20 District, and I imagine they're Zoning Board  
21 approvals, and I am asking you to consider not doing  
22 that, not creating what is on the perimeter of  
23 Hoboken in a central pedestrian protected area.

24                   You really have to decide how much of  
25 this town is it that we are going to create parking

1 for in the name of families, because there are some  
2 families in this town who think it is just all right  
3 to live here without having parking underneath their  
4 building.

5 So I would appreciate you voting down  
6 this application for the reasons I just stated, or  
7 in the alternative, do not give this building more  
8 parking than you would even require them to have in  
9 the R2 zone, where parking is permitted. You are  
10 going to have seven spaces in here.

11 In the R2 zone, you wouldn't have  
12 parking for the first five units, so you would have  
13 three parking spaces in this building. That is  
14 enough for three families to move into this  
15 building, and then I would have fewer people  
16 crossing across my sidewalk and the sidewalk of the  
17 children that go up my side of the sidewalk every  
18 morning to go to Grant School where they have  
19 three-year-olds, four-year-olds and five-year-olds,  
20 and I wasn't kidding when I talked about the stop  
21 signs.

22 You start from Park Avenue and 4th, and  
23 you don't have a stop sign or anything impeding your  
24 travel until you get to 10th, and then you got a  
25 school in the middle.

1                   So when you introduce eight cars coming  
2                   in and out of an avenue that has six blocks of  
3                   nothing that stops the speed of that traffic, you  
4                   are going to have a much bigger impact on my block  
5                   in terms of safety than almost anybody else's.

6                   Thank you.

7                   CHAIRMAN AIBEL: Thank you.

8                   MR. MATULE: Just one question, Ms.  
9                   Healey.

10                  Are there any crossing guards by the  
11                  school in the morning and in the afternoon?

12                  MS. HEALEY: Yes, there is.

13                  MR. MATULE: Okay. Thank you.

14                  CHAIRMAN AIBEL: Any further comments  
15                  from the public?

16                  Seeing none, can I have a motion?

17                  COMMISSIONER COHEN: Motion to close  
18                  the public portion.

19                  COMMISSIONER BRANCIFORTE: Second.

20                  CHAIRMAN AIBEL: All in favor?

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

23                  CHAIRMAN AIBEL: Mr. Matule.

24                  MR. MATULE: Thank you, Mr. Chairman.

25                  Obviously, there are differences of

1 opinion in the room.

2 I would have to say, and I think Mr.  
3 Ochab really went on quite extensively about it in  
4 the sense that we are not undoing anything. I mean,  
5 you have this nonconforming situation there, and  
6 that is the reality of what is there.

7 Would it be better if it wasn't there?

8 Perhaps so, but that is not what is  
9 before this Board.

10 What is before this Board is a piece of  
11 property that has multiple nonconforming conditions  
12 on it. It has three buildings on the rear property  
13 line. It's got one building on the front property  
14 line. It's got a nonconforming parking situation,  
15 which as Mr. Ochab testified, you know, it is a  
16 hodgepodge in terms of how cars get in and out of  
17 there.

18 Quite frankly, if the concern is for  
19 the safety of the children walking out on the  
20 sidewalk on this block, this is a much, much better  
21 alternative than what is there now, and that is  
22 really what is before this Board. Is what the  
23 applicant is proposing a better alternative than  
24 what is there right now?

25 I wasn't going to say we are not

1        requesting additional density, but now we are  
2        because the applicant has agreed to provide an  
3        affordable unit --

4                    MR. GALVIN:  Ms. Banyra has pointed out  
5        to me that maybe I might be making an error, that  
6        maybe we should have notice for that.

7                    MR. MATULE:  Notice for what?

8                    MR. GALVIN:  For going for density  
9        because it is a D5 variance.

10                   I was just thinking that any other  
11        variances or waivers that are required by the Board  
12        at the time of the hearing, I thought it might fall  
13        into that --

14                   MR. MATULE:  I --

15                   MR. GALVIN:  -- especially since it was  
16        an affordable housing unit that causes an increase  
17        in density --

18                   MS. BANYRA:  My thought on that is it  
19        is not a simple C variance that could be subsumed by  
20        a D variance.  It's a D variance which has its own  
21        testimony --

22                   MR. MATULE:  Well, I understand that,  
23        but I think under the circumstances that any other  
24        variances or any other waivers the Board requires  
25        covers it.

1                   MR. GALVIN: Or we could make any  
2                   approvals subject to you submitting a revised plan  
3                   and noticing for the density variance.

4                   You would have to revise the plan  
5                   anyway to show the ninth unit. We don't know where  
6                   the ninth unit is coming.

7                   MR. MATULE: Correct.

8                   And not vote tonight?

9                   MR. GALVIN: We could vote subject to  
10                  that, you know, subject to you -- like if you were  
11                  going to --

12                  MR. MATULE: Like a Whispering Woods  
13                  hearing?

14                  (Laughter)

15                  MR. GALVIN: No. But if you're going  
16                  to make it -- if after we left here, you said, I  
17                  want to amend this resolution and request this  
18                  variance, you know, like the steps were going to  
19                  come out, and it now required a variance that we  
20                  didn't deal with, I would have you notice and then  
21                  we'd have a hearing --

22                  MR. MATULE: We could certainly do  
23                  that.

24                  MR. GALVIN: -- rather than start the  
25                  whole thing over.

1 MR. MATULE: Right.

2 My point is, with all due respect, and  
3 I am sure the Board would prefer not to go through  
4 this whole procedure again in light of the pressures  
5 that are on the Board, but I have no objections to  
6 doing that, if that's the Board's pleasure.

7 MR. GALVIN: Well, we're uncertain. I  
8 have to be honest. I do this every night of the  
9 week, and I am saying that for the record, so  
10 whatever judge looks at this realizes that I do a  
11 lot of this, and I think this is a unique question,  
12 because it's a unique proffer, and I am uncertain.  
13 I'm sorry about that.

14 MR. MATULE: That's okay.

15 MR. GALVIN: So we will discuss it in  
16 deliberations, and if we get to the point where it  
17 looks like you are going to get a favorable result,  
18 we can come back for it and figure out the  
19 resolution.

20 MR. MATULE: Okay.

21 Again, I don't want to repeat all of  
22 the testimony, but the reality is with the flood  
23 regulations today, a conforming 40-foot high  
24 building would be, you know, not insignificantly  
25 lower than what we are proposing.

1           This as proposed to the Board opens up  
2           the hole in the donut. It also fills in the street  
3           line there, so I think it creates better security  
4           for the neighborhood, because now people can't get  
5           back into the backyards of the building. It  
6           substantially reduces the impervious coverage and  
7           water runoff. It is going to be a green building,  
8           have a green roof. There is really no substantial  
9           detriment in the context of the fabric of the  
10          neighborhood, and it is just a much better zoning  
11          alternative than what presently exists, and I think  
12          that is really what the Board has to weigh.

13                 I won't beat it to death. It has been  
14          a long evening.

15                 CHAIRMAN AIBEL: Thanks, Mr. Matule.

16                 Let me open it up to the Board.  
17          Anybody want to kick off a discussion?

18                 COMMISSIONER MARSH: I will.

19                 CHAIRMAN AIBEL: Thanks, Carol.

20                 COMMISSIONER MARSH: I hadn't really  
21          thought about this previously, but I do recall that  
22          the administration actually went to the State to ask  
23          for an exception from the RSIS standards to  
24          prohibit -- the State RSIS standards to prohibit  
25          parking in R1. And, you know, we talked a lot about

1 backyard creep and height creep, and I am thinking  
2 about parking creep.

3 Just for the record, on my particular  
4 length of my block, there is only one house that has  
5 parking, and they don't have kids, and there is a  
6 ton of families, and nobody has parking in their  
7 building, and in fact, kids play on the street all  
8 of the time, and everybody feels really good about  
9 it.

10 I know that there are parking places in  
11 between, but if I lived on that block, I would be  
12 concerned about the change -- just one member of the  
13 public said, that there is this change from R1 to  
14 R2, and it does have to do with parking underneath  
15 the building.

16 There was one other thing I wanted to  
17 add to that, which I can't remember, so if I can get  
18 back to it.

19 CHAIRMAN AIBEL: Anybody else?

20 COMMISSIONER MURPHY: I can go.

21 So a couple things that Mr. Ochab said,  
22 I agree with the idea that you don't have to have a  
23 family -- be a family to have cars, and that the sun  
24 in the summertime does set to the west completely,  
25 and so it would be in the back of those buildings.

1                   And I am also of the feeling that we  
2                   need to, you know, conserve what the R1 District is  
3                   about. And the parking, you know, the way the  
4                   parking is now, people in that neighborhood don't  
5                   like it, but when a car is pulling out of there even  
6                   backing up, it has a much wider view, so it could  
7                   probably see up and down the street a little bit  
8                   better. I can't say because I haven't really done  
9                   it.

10                   The way this design is, you have the  
11                   onus on the pedestrian, so with all of the kids  
12                   going back and forth, I just think it is a disaster,  
13                   and I am in agreement that it is like this parking  
14                   creep thing. And, you know, there is a reason why  
15                   that R1 and R2 is divided right there.

16                   And even though I know that the  
17                   building would still be substantially taller, I am  
18                   concerned about doing five stories. In that note,  
19                   this block is very much like the rest of the R1 with  
20                   three and four-story buildings in the middle of the  
21                   block, and having a five-story building in the  
22                   middle and moving it towards the middle of the block  
23                   is just kind of, you know, changing the whole scape  
24                   there. So at the moment, I am not thrilled with the  
25                   plan.

1                   CHAIRMAN AIBEL: Ms. Fisher?

2                   COMMISSIONER FISHER: I'll go.

3                   I would say I have similar view about  
4 the R1 and keeping the kind of the street scape  
5 consistent with what the spirit of what the R1 is  
6 supposed to be. So for me, it is just that extra  
7 story.

8                   You know, I think I asked the question,  
9 you know, we are finding ourselves in situations  
10 where we have height creep because we are trying to  
11 preserve density at a larger footprint of units, so  
12 when I asked the question about, can we accommodate  
13 still the same amount of density with maybe a few  
14 smaller and still have the three-bedroom and would  
15 that be consistent with the plan, that sounded like  
16 that could be acceptable.

17                   So it allows you to build something in  
18 conformance with more -- not in conformance -- but  
19 not as much of a variance or a deviation from the  
20 street scape and still be able to deliver something  
21 consistent with the master plan.

22                   Directionally one of the questions I  
23 have, and this is a little bit of my lack of  
24 knowledge, I don't know if this is a rental or a  
25 condo, but I don't know how you enforce in

1       affordable housing in a condo situation where you  
2       are selling a unit, and how that is maintained,  
3       because, is it, you know, somebody is unemployed  
4       with low income when they buy it, but yet they get a  
5       job the next day for \$2 million. You know, it's --

6                   MR. GALVIN: I think that goes to  
7       the -- that will be the responsibility of the city  
8       to develop a contract for that --

9                   COMMISSIONER FISHER: I understand --

10                  MR. GALVIN: -- and I think whenever we  
11       can pluck these affordable housing units, they are  
12       going to go through the system with Ms. Bishop, and  
13       we are going to figure it out. I agree, I don't  
14       believe we have it all figured out --

15                  COMMISSIONER FISHER: Right. So --

16                  MR. GALVIN: -- but we're going to --

17                  COMMISSIONER FISHER: -- as a result  
18       because we don't have it figured out and --

19                  MR. GALVIN: No, no. But I want you to  
20       be careful with that. I think that you should  
21       assume that we can make it work. I don't know how  
22       we are going to make it work. It's not my job to  
23       answer that, but I think you should assume that it  
24       would work. We would grant that unit that we would  
25       contract for it, that whether it's a condo or it's

1 an apartment, there would be that affordable housing  
2 unit at the disposal of the affordable housing  
3 program in Hoboken.

4 COMMISSIONER FISHER: So that  
5 potentially additional affordable housing with an  
6 uncertain outcome may justify a fourth story. I am  
7 sure if it justifies going to a fifth story and not  
8 the significantly increased height, so...

9 CHAIRMAN AIBEL: Thank you.

10 Mr. Cohen?

11 COMMISSIONER COHEN: For me, the fifth  
12 story on this one, I am sort of not sure.

13 I mean, I think my concept of this  
14 block, I think it is a close call. But I do want to  
15 talk a little bit about the family-friendly concept,  
16 because it came up a lot, and I have been thinking  
17 about it.

18 I wanted to just, if the Board would  
19 indulge me, I looked at the recent article in the  
20 New York Times that was published December 31st,  
21 entitled, "Hoboken, New Jersey, Where Families Also  
22 Feel At Home," and it surveyed the landscape of  
23 Hoboken real estate, and it included a section about  
24 how people used to come to Hoboken, have babies and  
25 leave, and now they are quoting a local realtor who

1        says: It went from people leaving once they had  
2        kids, the minute they found out they were pregnant,  
3        they moved out of town, so now they are just moving  
4        into something bigger.

5                    Then another person who was interviewed  
6        in this story says, he predicts that more empty  
7        nesters might also be on their way, and he  
8        interviews Mr. McKow and his wife, who assumes they  
9        would end up in Manhattan after downsizing from  
10       South Orange, New Jersey, where they raised their  
11       children. But even with a large budget, the value  
12       just didn't seem to be there. The couple is buying  
13       a four-bedroom, 2700 square foot condo.

14                    The point that I want to make is that I  
15        think that the family-friendly unit is a true  
16        benefit, that by having people who would be moving  
17        out of our city instead to be more invested for the  
18        long-time in the future of our community to be  
19        invested in our institutions, in our schools, and  
20        the things about the school that we care about  
21        having permanent improvements for, people who are  
22        investing in their futures in our community will  
23        have an option that they don't have right now,  
24        and I think the fact that these three and  
25        four-bedroom units are available, it is a direct

1 result of some of the votes that we have had on this  
2 Board to change the face of our community for the  
3 better.

4 So I just wanted to say that some  
5 people have questioned on this Board the value of  
6 family-friendly units, and I want to say that I  
7 fully endorse them, and I think that is a true  
8 benefit to this project.

9 I also think it is possible to have  
10 affordable housing alongside of those  
11 family-friendly units, that it's good to have  
12 affordable housing that is also available in that  
13 context, so I think that is a benefit.

14 As far as the parking in the R1, I want  
15 to thank Ms. Healey for her comments. They are new.  
16 I served on the Zoning Board now since -- I guess  
17 going on seven years, and it is the first time I  
18 have heard an argument like that made, and I think  
19 it is a very important one. It is new to me, so I  
20 am sort of wrestling with that.

21 I heard testimony from somebody who  
22 lives on the block who uses that lot, who said that  
23 if we approve it, he would like to have it available  
24 to be able to continue to use it from someone who  
25 lives there. It is an existing use that is there

1 right now. I do think that if it continued there  
2 with LED lighting, which they agreed to have and  
3 flashing lights, which don't exist right now, it  
4 would be safer than what is there now.

5 But I do think there is a legitimate  
6 concern about creating permanent new parking in the  
7 R1 zone, and I think that is something that's worth  
8 consideration, so, you know. But as far as the --  
9 also adding extensive green roofing, where we have  
10 an impermeable pavement in a flood zone, I mean, I  
11 think there are true green benefits.

12 I also appreciate, instead of having a  
13 monolithic mass, that the applicant is willing to  
14 alternate the color structure, and I think that if  
15 we approved it, that is how it should be done.

16 Those are my thoughts.

17 COMMISSIONER DE FUSCO: Mr. Chair, I'll  
18 add just a couple things. I agree with Phil on  
19 this. I think he said it very well.

20 I will offer this, that the Board  
21 professionals have confirmed by right eight units  
22 are permitted here. They gave me some rough math,  
23 just under 1200 square foot a unit. That's not  
24 family-friendly.

25 Now, I understand, like, listen, if we

1 don't -- if we want to ignore that part of the  
2 master plan, let's just put it on the table and  
3 we'll ignore that part of the master plan in favor  
4 of something that I think Phil said best, which is  
5 establishing permanent parking, which quite frankly,  
6 Ms. Healey said it fantastic, and I never thought  
7 about it in that way, so thank you to her for that.

8 But I will also offer this, that there  
9 is permanent parking there, and if denied, I can see  
10 this parking staying for a very long time, and I can  
11 see these other buildings building as of right in  
12 their current footprint, and I see this as terrible  
13 planning and a terrible approval by default from  
14 this Board, if we let that go through -- forward.

15 We have no control over it after it  
16 leaves this table. We have it now. We are  
17 introducing a unit of affordable housing in a  
18 neighborhood that could use it, and I think the plan  
19 is very good with green infrastructure in a street  
20 that got four feet on the ground floor, and if we  
21 want to overlook all of these benefits in favor of  
22 one negative, I don't think we are doing our job. I  
23 think we are doing our job very poorly because our  
24 job is to take the positives and weigh them against  
25 the negatives. The positives outweigh the negatives

1 here.

2 That is all I have to say about that,  
3 but thank you for saying, you know, from the  
4 community down to everybody on this Board. This has  
5 been a tough application, and I think what we have  
6 here is an opportunity to make the right decision.

7 CHAIRMAN AIBEL: Do you want to say  
8 anything?

9 COMMISSIONER GRANA: Sure.

10 So I don't often get to deliberation  
11 struggling with an application. I admit I struggled  
12 with this one.

13 I would open by saying I think it is  
14 fantastic project, and while I think that there are  
15 concerns about the height, I understand the  
16 concerns. I do think there are -- I do think that  
17 there are intrinsic benefits to introducing larger  
18 units without increasing density in Hoboken.

19 I think that if you look down this  
20 street, I don't usually cite architecture as a  
21 benefit, I really don't, but I will say in this  
22 case, this is a very historically contiguous block,  
23 and what is being introduced architecturally really  
24 enhances that. I don't usually cite architecture,  
25 but I think you are going to look down the block and

1 see this structure, if it is approved, and say, you  
2 know, here we have a fairly contiguous block without  
3 really a significant change in the view.

4 I think that the lot -- you know,  
5 combining of the lots certainly accommodates the  
6 parking. I am not sure I accept the Burbridge  
7 versus Medici argument over D2 versus D1. It's a --  
8 you know, if we're saying it is -- it is an  
9 expansion of a nonconforming structure, if that is  
10 the argument, I am not sure I agree with it, because  
11 we are. We're tearing down all of the existing  
12 structures and replacing it. Is that --

13 MR. GALVIN: No, it's not. I need to  
14 help you there.

15 COMMISSIONER GRANA: Please.

16 MR. GALVIN: We are talking about use,  
17 not structure.

18 COMMISSIONER GRANA: That's my point.

19 MR. GALVIN: Right. It's not --

20 COMMISSIONER GRANA: But my point is  
21 that there is an argument that there is an existing  
22 use, and that we should accommodate that existing  
23 use in the approval of this application --

24 MR. GALVIN: The suggestion that he was  
25 using was to look at it as more as a D2 variance,

1       that it's an expansion of a nonconforming use as  
2       opposed to a new D variance.

3                   COMMISSIONER GRANA:   Right.

4                   What I am saying is I am not sure I  
5       accept the argument.  I think that the lot is being  
6       cleared and that this is a use variance --

7                   MR. GALVIN:   So then he has to meet the  
8       Medici standard --

9                   COMMISSIONER GRANA:   -- that has to  
10      meet the Medici standard --

11                  MR. GALVIN:   -- so there would have to  
12      be special reasons provided.

13                  COMMISSIONER GRANA:   Exactly, and  
14      that's why I struggle with this application because  
15      I don't see that that has been given.

16                  I do think that the contextual nature  
17      of preserving both the street scape, but the  
18      unbroken blocks of non curb cut blocks was intended  
19      in the master plan, and I think it is a D1 debate,  
20      so that, you know, rarely am I on the fence, but I  
21      admit I am on the fence with this application, this  
22      beautiful application.

23                  CHAIRMAN AIBEL:   Has everybody had a  
24      chance?

25                  COMMISSIONER BRANCIFORTE:   Well, I

1 don't know if I could add much more.

2           The only thing I could say is, you  
3 know, we point to the fact that there are four  
4 buildings I think on that -- four buildings at five  
5 stories on this block right now, but there is also  
6 13 buildings that are not at five stories on this  
7 block right now. So, you know, for me that argument  
8 kind of goes out the window.

9           This idea of family-friendly, you know,  
10 I got it. I have lots of friends that are married.  
11 I am not married, and I don't have children. I get  
12 it. I hear it from my friends all of the time.  
13 They're looking for places to buy and whatnot. I  
14 get that.

15           I also used to live in this  
16 neighborhood, and I know that the character of the  
17 neighborhood is one-bedroom and two-story units  
18 somewhere between I'd say 800 and 900 square feet.

19           So we are talking about staying and  
20 wanting this building to be part of the same  
21 characteristics of the rest of the neighborhood, and  
22 it is not, because the units are oversized for the  
23 rest of the neighborhood. There's parking.

24           I really appreciate Ms. Healey's  
25 comments and the neighbor's comments about the

1 height and about the parking. And, you know, more  
2 than anything else, I really appreciate the fact  
3 that the safety of the children going to school is  
4 going to be compromised, and anywhere else I would  
5 say, great, let's put up LED lights, let's put up  
6 warning systems, let's put up mirrors, which we  
7 didn't discuss. But when it comes to little kids,  
8 little kids are more fascinated by flashing lights  
9 than scared by them, so that doesn't work for me on  
10 this block. I think it is important that we  
11 preserve the no parking aspect of the R1.

12 That is all I have to say right now.

13 Oh, also, just one other thing.

14 Phil, I appreciate you saying that.

15 You know, I read the article, too, in The New York  
16 Times, but what you said was by bringing families to  
17 Hoboken, we were going to make it better, and as a  
18 single person that volunteers in this town and works  
19 every day to make it better, and a lot of my friends  
20 that are single that work to make this town a lot  
21 better, I don't appreciate this idea that by  
22 bringing families in, Hoboken is going to be a  
23 better place. I just don't get it.

24 COMMISSIONER COHEN: John, don't  
25 mischaracterize what I said.

1                   What I said was that for people to stay  
2                   and be invested in the city and invested in the  
3                   institutions that you care about, as well as the  
4                   ones that I care about, makes for a better city. I  
5                   don't say families make our city better. But to  
6                   have people being committed to our community for the  
7                   long term makes our city better.

8                   COMMISSIONER BRANCIFORTE: And we don't  
9                   necessarily need family-friendly units to make  
10                  people committed, new residents committed and invest  
11                  in this community. That's my point.

12                  COMMISSIONER COHEN: We disagree.

13                  MR. GALVIN: Okay. Respectfully.

14                  That's cool.

15                  CHAIRMAN AIBEL: Everybody got their  
16                  shot?

17                  I will try to sum up very quickly my  
18                  views, which probably will not surprise anybody.

19                  You know, moving from Mr. Grana's  
20                  comments, you know, I look at this very much as a D1  
21                  use variance. It has a higher standard. However we  
22                  cut it, I don't think calling units family-friendly  
23                  justifies jettisoning the existing zoning code. And  
24                  notwithstanding some of the comments, I think our  
25                  job is to apply the current zoning.

1                   You know, my view is that this  
2                   application insofar as it's seeking a use variance  
3                   is not unlike some of the other use variance  
4                   applications we have denied over the past couple  
5                   years. It is a function of the City Council to do  
6                   the legislation. The legislation today that we are  
7                   bound to apply does not provide for parking in the  
8                   R1.

9                   I think, you know, we can go through  
10                  the mass and the size and the impact on light and  
11                  density that light and air that this particular  
12                  building, you know, represents, you know, the lot  
13                  coverage issue and the reason for it, we can talk  
14                  about a lot of things.

15                  I agree with those who have said this  
16                  is a fine looking building, a good looking building  
17                  and an interesting plan, wrong place.

18                  You know, I really can't think that we  
19                  would as a Board be doing our job correctly if we  
20                  turned around and rewrote the zoning for the R1,  
21                  which prohibits parking. It is as clear to me as  
22                  that.

23                  Mr. Cohen said, you know, he hasn't  
24                  seen this type of application for a use variance for  
25                  parking, and I have been on the Board I guess a

1 little bit longer than Mr. Cohen. The reason we  
2 haven't seen it is because it is prohibited. We  
3 don't get those applications, and I don't think I've  
4 seen one like this in seven years. I wish we were  
5 talking about a different zone. We're not. I can't  
6 see anything in the proofs tonight that would  
7 support my approving this application.

8 MR. GALVIN: Mr. Chairman, I just  
9 wanted to circle you back to the Medici standard.

10 When you are making the comments that  
11 you are making, could you -- in the Medici standard,  
12 they have to show special reasons. In other words,  
13 you can't take the position that we would never  
14 grant a variance for parking, and you may have come  
15 off sounding like that --

16 CHAIRMAN AIBEL: Okay.

17 MR. GALVIN: -- so that is why I am  
18 testing you.

19 CHAIRMAN AIBEL: All right.

20 MR. GALVIN: It might be a case out  
21 there where you need circumstances that are  
22 presented or special reasons are presented, and they  
23 are able to reconcile the deviation with the master  
24 plan.

25 CHAIRMAN AIBEL: Okay.

1                   MR. GALVIN: So what you were talking  
2 to is the concept that we don't want to totally  
3 ignore what the governing body did or change the  
4 zoning. You know, there's a point where you have to  
5 respect the authority of the governing body, but at  
6 the same token, the Board has to balance that with  
7 our duty to do zoning.

8                   Do you have any additional thoughts on  
9 that?

10                  CHAIRMAN AIBEL: I have yet to hear a  
11 special reason. I don't think this is a unique  
12 situation. I don't think there's any reason we  
13 shouldn't do curb cuts in any other place in the R1,  
14 if we are going to allow a curb cut on this  
15 particular block.

16                  I certainly appreciate counsel's  
17 guidance in making a proper record. I don't intend  
18 to say that we never grant variances. That's what  
19 we are in the business of doing, but I see this as  
20 usurping the power of the City Council.

21                  MR. GALVIN: Okay. Thank you.

22                  CHAIRMAN AIBEL: So ready for a motion?

23                  COMMISSIONER BRANCIFORTE: Motion to  
24 deny.

25                  MR. GALVIN: Is there a second?

1 COMMISSIONER MARSH: Second.

2 CHAIRMAN AIBEL: We'll hear that and  
3 then if there's --

4 MR. GALVIN: Yes. We'll hold on for a  
5 roll call.

6 MS. CARCONE: Commissioner Cohen?

7 CHAIRMAN AIBEL: This is a motion to  
8 deny.

9 COMMISSIONER COHEN: Yes.

10 MS. CARCONE: Commissioner DeFusco?

11 COMMISSIONER DE FUSCO: No.

12 MS. CARCONE: Commissioner Grana?

13 COMMISSIONER GRANA: Yes.

14 MS. CARCONE: Commissioner Marsh?

15 COMMISSIONER MARSH: Yes.

16 MS. CARCONE: Commissioner Murphy?

17 COMMISISONER MURPHY: Yes.

18 MS. CARCONE: Commissioner Branciforte?

19 COMMISSIONER BRANCIFORTE: Yes.

20 MS. CARCONE: Commissioner Aibel?

21 CHAIRMAN AIBEL: Yes.

22 MR. MATULE: Thank you.

23 CHAIRMAN AIBEL: So we will take a ten  
24 minute break, and then we are going to move on.

25 (The matter concluded at 9:50 p.m.)

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, CRR, 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: 2/23/15  
This transcript was prepared in accordance with  
NJAC 13:43-5.9.

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HOBOKEN ZONING BOARD OF ADJUSTMENT  
CITY OF HOBOKEN

----- X  
RE: 409 Jefferson Street :  
APPLICANT: 409 Jefferson Street, LLC : February 17, 2015  
C & D Variances :Tuesday 10:10 p.m.  
----- X

Held At: 94 Washington Street  
Hoboken, New Jersey

B E F O R E:

- Chairman James Aibel
- Commissioner Phil Cohen
- Commissioner Michael DeFusco
- Commissioner Antonio Grana
- Commissioner Carol Marsh
- Commissioner Diane Fitzmyer Murphy
- Commissioner John Branciforte
- Commissioner Tiffanie Fisher
- 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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11                  Attorney for the Applicant.

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1 MR. GALVIN: We are doing 409 Hudson.

2 CHAIRMAN AIBEL: We are back on the  
3 record.

4 Mr. Matule?

5 MR. MATULE: Good evening, Mr.  
6 Chairman.

7 Robert Matule appearing on behalf of  
8 the applicant for 409 Jefferson Street.

9 It is my understanding that due to the  
10 late hour, we are going to carry that matter to the  
11 meeting of February 24th with no further notice.

12 The applicant consents to the time  
13 within which the Board has to act through that  
14 meeting and --

15 MR. GALVIN: Could you give me a waiver  
16 to March 24th?

17 MR. MATULE: We'll give you a waiver to  
18 March 24th.

19 MR. GALVIN: That's awesome, because  
20 the theory is we are moving them to next week, and  
21 we are going to have Stevens.

22 We expect Stevens to take the whole  
23 night. But if something goes wrong, we can have  
24 this application on, or if Stevens isn't going to  
25 take the whole night, let's say we find out that

1           they are only going to put up one witness or  
2           something crazy like that, then we can shift into  
3           Mr. Matule's other case.

4                     MS. BANYRA: We do have another  
5           application as well.

6                     MR. GALVIN: Well, what if Stevens goes  
7           off completely?

8                     MS. CARCONE: Then we have two  
9           applications now.

10                    MS. BANYRA: I'm sorry. What if they  
11           don't come, is that what you're saying?

12                    That's not even in the realm of  
13           possibilities is what they told me.

14                    (Laughter)

15                    CHAIRMAN AIBEL: Okay. I'm not sure  
16           what we're arguing here.

17                    MR. GALVIN: I am being corrected  
18           because there are two cases on that night, Stevens  
19           and another case, so it makes it that much more  
20           unlikely that Mr. Matule's case will be reached.

21                    But in the possibility that it does  
22           happen, if either one of those two other cases don't  
23           happen --

24                    MR. MATULE: I am aware we are  
25           overbooking, and I fully expect that we will really

1 wind up being heard on the 24th.

2 MR. GALVIN: That is why I asked for  
3 the waiver until the 24th.

4 MR. MATULE: Okay.

5 MS. BANYRA: Mr. Matule, that is at the  
6 Multi Use Center as well.

7 COMMISSIONER GRANA: What are we asking  
8 for?

9 MR. MATULE: We're asking for 409 to be  
10 carried to next week, February 24th, but I am  
11 consenting to the time within which the Board has to  
12 act through March 24th, because it is unlikely that  
13 we will actually get heard next week, so what I am  
14 asking the Board to do is carry the matter to next  
15 week with no further notice, and if we can't get  
16 heard next week, it will get carried to the 24th of  
17 March with no further public notice. There doesn't  
18 appear to be any public here anyway.

19 COMMISSIONER GRANA: Can I make a  
20 motion?

21 MR. GALVIN: Yes.

22 CHAIRMAN AIBEL: Please.

23 COMMISSIONER GRANA: Can I make a  
24 motion to carry it to next week, with the  
25 possibility of extending it to the 24th, as Mr.

1 Matule has so clearly stated for the record. That's  
2 my motion.

3 COMISSIONER MURPHY: Second.

4 MR. GALVIN: At the Multi Use Center.

5 MS. CARCONE: Multi Service Center.

6 CHAIRMAN AIBEL: All in favor?

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

9 CHAIRMAN AIBEL: Anybody opposed?

10 MR. GALVIN: Thank you.

11 (Continue on next page.)

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HOBOKEN ZONING BOARD OF ADJUSTMENT  
CITY OF HOBOKEN

----- X  
RE: 604 Hudson Street :  
APPLICANT: B&B Properties of Hoboken, : February 17, 2015  
LLC :  
C & D Variances :Tuesday 10:30 p.m.  
----- X

Held At: 94 Washington Street  
Hoboken, New Jersey

B E F O R E:

- Chairman James Aibel
- Commissioner Phil Cohen
- Commissioner Michael DeFusco
- Commissioner Antonio Grana
- Commissioner Carol Marsh
- Commissioner Diane Fitzmyer Murphy
- Commissioner John Branciforte
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11                  Attorney for the Applicant.

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## I N D E X

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1                   CHAIRMAN AIBEL: Mr. Matule, 604 Hudson  
2 Avenue.

3                   MR. MATULE: 604 Hudson Street.

4                   Good evening.

5                   Robert Matule appearing on behalf of  
6 the applicant, 604 Hudson Street.

7                   This is a rather unusual application.  
8 It is to construct a two-story accessory apartment  
9 above an existing garage at Court Street.

10                  It is unusual existing site conditions  
11 that Mr. McNeight will take us through, but  
12 basically we're asking for several variances. One  
13 is to have two floors for an accessory apartment  
14 within the 30 foot height envelope when we are  
15 normally allowed one floor, and the other is to have  
16 in excess of 20 feet of depth, and again, Mr.  
17 McNeight will go into more of the details behind  
18 that.

19                  We have been also asked to notice for,  
20 and we requested - I will leave it up to counsel and  
21 the Board to determine whether we need it or not - a  
22 variance for two principal structures on the same  
23 property.

24                  Typically we have accessory apartments  
25 on Court Street. I think the reasoning behind that

1 request was that because this is larger than we  
2 usually feel, that perhaps it falls into the realm  
3 of a second principal structure, and we have asked  
4 for that variance, so Mr. Ochab will talk to that in  
5 his testimony.

6 MR. GALVIN: Before you get started,  
7 let's let Ms. Banyra talk about that.

8 MR. MATULE: Okay.

9 MS. BANYRA: So Mr. Matule is correct.  
10 When the application was submitted, and as he  
11 indicated, it is not unusual to have a second  
12 building on Court Street on some of the buildings  
13 that front on Hudson Street.

14 The situation on this one is that both  
15 the principal building and the accessory building  
16 both have -- I believe it's 45 percent lot coverage,  
17 so at some point -- and then there is going to be  
18 two additional stories added.

19 So my take on that is at some point, it  
20 moves to a principal structure. I am not sure when  
21 you have a similar lot coverage, that it can be, you  
22 know, characterized as an accessory use anymore.

23 The testimony that you will hear  
24 tonight and the application is going to present what  
25 is happening up on top will be less than the 45

1 percent, but it still is, I believe, I want to say  
2 30 percent coverage --

3 MR. MATULE: 35.

4 MS. BANYRA: -- 35. Okay. So it is  
5 still both of them are, you know, I am going to say  
6 substantial structures, so I thought it was erring  
7 on the side of caution.

8 I did consult with Mr. Galvin on this  
9 in 2013, I think it came in, and so at that time we  
10 had discussed this, and it came up that we thought  
11 it was safer to call it two principal uses, so  
12 that's --

13 MR. MATULE: Okay. If we could have  
14 Mr. McNeight sworn.

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

18 MR. MC NEIGHT: I do.

19 J A M E S M C N E I G H T, having been duly  
20 sworn, testified as follows:

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

23 THE WITNESS: James McNeight,  
24 M-c-N-e-i-g-h-t.

25 CHAIRMAN AIBEL: We do.

1                   MR. GALVIN: We accept your credentials  
2 as an architect.

3                   MR. MATULE: Thank you.

4                   Okay. Mr. McNeight, again, if we are  
5 going to refer to any exhibits, other than the  
6 plans, we need to mark them for identification.

7                   THE WITNESS: This is just a blowup of  
8 the same drawing that's on the drawing --

9                   MR. MATULE: Okay. So we will mark  
10 that A-1, and that is a blowup of the proposed  
11 facade and the existing site condition.

12                   (Exhibit A-1 marked.)

13                   THE WITNESS: And this is a double  
14 sided board with existing photographs on one side --

15                   MR. MATULE: A-2 is site photos.

16                   (Exhibit A-2 marked.)

17                   MR. MATULE: Should I mark the other  
18 side A-3, or can we call it a --

19                   MR. GALVIN: Are you going to pull the  
20 board apart at some point?

21                   THE WITNESS: No, no. Actually these  
22 are just drawings from the real set that I just made  
23 a little larger --

24                   MR. MATULE: They are your plans. He  
25 just enlarged it and colorized it.

1                   MR. GALVIN: But if were to go to  
2 court, God forbid, we're going to --

3                   MR. MATULE: Let's mark it A-3.  
4 (Exhibit A-3 marked.)

5                   MR. MATULE: So A-3 is an enlarged and  
6 colorized of your axiometric volume study?

7 (Laughter)

8                   THE WITNESS: Correct.

9                   COMMISSIONER MARSH: Do you have a  
10 dictionary?

11 (Laughter)

12                   MR. MATULE: Okay. Thank you.

13                   All right. Mr. McNeight, would you  
14 please describe for the Board members the existing  
15 site and surrounding area?

16                   THE WITNESS: So let's start with these  
17 photographs.

18                   The planner will have these  
19 photographs, but just so you can acclimate yourself,  
20 this building is the second lot in off Sixth Street,  
21 north of Sixth Street.

22                   This is the Court Street side. It is  
23 this building here with the efflorescence on it  
24 that's the subject building. This one here.

25                   This is just showing the building

1       that's across Court Street, which is the back side  
2       of a gym, and it just shows that it is sort of an  
3       enclosed space back there.

4                 Later on we will see this. I am in the  
5       yard around the corner of this building that has  
6       these vertical panels on it.

7                 Just to show you, this white face with  
8       the black fire escape is the back side of 604 Hudson  
9       Street, and we are looking into what I call the  
10      concavity of the Union Club, which I will describe  
11      in a second, which is an important part of the  
12      design of this.

13                Let's just start with the actual  
14      drawings.

15                This particular site is 19 feet one  
16      inch wide and a hundred feet deep. It fronts on  
17      Hudson Street. It has a stoop, and it is a typical  
18      brick Hudson Street building, four stories tall.

19                The principal building is 45 feet deep.  
20      There's a ten foot yard between it and an existing  
21      one-story brick building. That is the garage that  
22      goes all the way back to Court Street.

23                Basically your principal building is 45  
24      feet deep. You have a ten foot open wide yard and a  
25      35 foot structure.

1                   What we would like to do is build a  
2                   two-story addition on top of that structure. We  
3                   have these two cars in the existing garage.

4                   What Court Street wants basically is a  
5                   situation, where you have 60 foot lot coverage for  
6                   the principal building, a 20 foot yard in between  
7                   the buildings, and a 20 foot accessory building.

8                   So this upper diagram on the Z-2  
9                   drawing shows the ordinance massing, I am calling  
10                  it, what the ordinance called for. So if I strictly  
11                  follow the ordinance, I could add -- stretch this 45  
12                  foot building out to 60 feet, leave a 20 foot gap  
13                  and build a building on top of the existing garage  
14                  that is 20 feet deep and 20 foot tall, but it would  
15                  only be one-story, so it would be this 20 foot by 20  
16                  foot by 20 foot cube basically.

17                  Because of the fact that we are up  
18                  against -- I will put this over here.

19                  Well, basically this is a blowup of  
20                  what I was describing on Z-2. So the orange up  
21                  there would be what the ordinance says is possible,  
22                  but what happens in this particular case is we are  
23                  up against a six-story building, and the inner  
24                  apartment of that six-story building depends on this  
25                  bite that is taken out of the building as a light

1 and air shaft. So as you can see, that orange  
2 blocks that shaft all the way up to the fourth or  
3 fifth story.

4 So the zoning argument here is I can  
5 maintain the 20 feet between the buildings. I could  
6 maintain that light shaft, and by utilizing a 35  
7 feet deep building, we get a usable two-story  
8 apartment back there.

9 CHAIRMAN AIBEL: Can I just ask a quick  
10 question because I don't know the answer.

11 MR. MATULE: Oh, sure.

12 CHAIRMAN AIBEL: Mr. McNeight sort of  
13 said he could build as of right. Is this a  
14 nonconforming lot or structures that would require a  
15 zoning C-2?

16 So I'm just not sure --

17 MR. MATULE: Let me just check the  
18 zoning table, but it may be because of its width a  
19 nonconforming lot.

20 MS. BANYRA: It is undersized.

21 MS. CARCONE: It's undersized, yeah.

22 THE WITNESS: Yeah --

23 MR. MATULE: It's nonconforming by  
24 now --

25 (People talking at once.)

1 MR. MATULE: -- three-quarters of a  
2 foot --

3 MR. GALVIN: So as of right, it's a  
4 little bit --

5 MR. MATULE: -- I think, and I will  
6 just make this proffer, I think we are talking about  
7 in terms of what the gross parameters of the zoning  
8 ordinance contemplates, you know, when it was  
9 written to have these accessory apartments, that  
10 that is what they were talking about, the 60, 60,  
11 20, 20 --

12 MR. GALVIN: The implication when you  
13 say as of right is that you could go pull a building  
14 permit into it --

15 MR. MATULE: No, that is --

16 THE WITNESS: I'm sorry. I misspoke --

17 MR. GALVIN: It's all right. It's all  
18 right --

19 THE WITNESS: -- I was talking about  
20 what the ordinance proposes.

21 CHAIRMAN AIBEL: Thank you.

22 THE WITNESS: One more point before you  
23 flip the page to look at the plans. This  
24 alternative, we needed a principal building alone  
25 and just building this 13,000 cubic foot two-story

1 addition is 30 percent less mass than if you follow  
2 the ordinance per se what I was saying before. So  
3 on that colored drawing, that orange mass is 30  
4 percent bigger than this yellow mass.

5 MR. GALVIN: Right. It would still be  
6 nonconforming. It would still have to come to the  
7 Board --

8 THE WITNESS: Yes.

9 MR. GALVIN: -- but that pretty much  
10 would be --

11 THE WITNESS: It wouldn't be as of  
12 right --

13 MR. GALVIN: -- as close to compliance  
14 with the ordinance as you could get.

15 MR. MATULE: Yes.

16 I will make this proffer just as we are  
17 going along.

18 The obvious intention here is because  
19 of the unusual site situation with our neighbor to  
20 the south is to in effect take some of that volume  
21 and shift it back here with the understanding that  
22 the principal structure up on Hudson Street is not  
23 going to ever be made any bigger.

24 MR. GALVIN: Right. You are preserving  
25 that light shaft.

1 MR. MATULE: Okay.

2 THE WITNESS: I will just go through  
3 Z-3, which is the floor plans and the facades.

4 Basically we have this 35 foot -- I'm  
5 sorry -- 45 foot deep garage existing. That is a  
6 two-car garage now. I am going to steal a little  
7 bit of space for it and make the garage door thinner  
8 to have a residential lobby that's going to take you  
9 upstairs into this duplex -- duplex apartment.

10 The second floor plan is an open  
11 living, dining and kitchen area with a small  
12 bathroom, and the rear end of this existing roof  
13 would be a deck for that dining room area.

14 The top floor is just front and back  
15 bedrooms and a bathroom in the center.

16 I have a blowup here of the facade.  
17 This is a half-inch scale.

18 We recently went to the Historic  
19 Commission and got a letter of appropriateness for  
20 this brick design.

21 Basically it picks up on some  
22 architectural artifacts of Court Street, namely,  
23 that reverse channel over the garage door with the  
24 rosettes on it, and it has double hung windows and  
25 sills and lintels made out of limestone and coral

1 brick at the top and a terracotta coping at the top,  
2 so that is the historic facade.

3 MR. GALVIN: And it is going to be  
4 built exactly like that?

5 THE WITNESS: Yes, sir.

6 MR. MATULE: We have submitted also,  
7 and just for the record, the Historic gave the board  
8 secretary a copy of the certificate of  
9 appropriateness.

10 THE WITNESS: I guess that is it.

11 MR. MATULE: And is it your  
12 understanding that one of the principals of the  
13 applicant is going to reside in this space?

14 THE WITNESS: Yes.

15 There are three sets of family members  
16 that are going to live in this building, the  
17 basement, the first floor of the principal building  
18 and the duplex apartment in the back.

19 MR. MATULE: And between the new second  
20 and third floor addition and the rear of the  
21 existing building, you are maintaining that 20 foot  
22 separation?

23 THE WITNESS: Correct.

24 MR. MATULE: And could you just  
25 clarify, you have on your Sheet Z-3 something called

1 a bridge fire escape. Could you just clarify what  
2 that is?

3 THE WITNESS: Yes.

4 There is an existing fire escape system  
5 as you saw in the photograph coming down the back of  
6 the principal building on Hudson Street.

7 Just as a safety factor, my client  
8 asked me if we could bridge from this existing -- I  
9 mean from what I am calling the deck here off of the  
10 existing garage over to that fire escape. A  
11 single-family house like this doesn't require two  
12 means of egress, but just as a point of safety, they  
13 would like to be able to go over to that existing  
14 fire escape system.

15 MR. MATULE: That is not meant to be a  
16 passageway into the principal structure on Hudson  
17 Street, is it?

18 THE WITNESS: No, no. It's simply for  
19 emergencies.

20 MR. MATULE: I mean, I just wanted to  
21 make it clear that this is not some kind of a, you  
22 know, a pedestrian bridge to walk back and forth  
23 between the two structures.

24 THE WITNESS: I didn't mention it, but  
25 we do have a warning light above the door. It is a

1 different situation than Park Avenue. It is nothing  
2 but garages basically on Court Street, but just in  
3 case it is going to have a warning light

4 MR. GALVIN: Pedestrians beware.

5 (Laughter)

6 MR. MATULE: And I just want to see,  
7 did you get a report from Mr. Marsden on this?

8 THE WITNESS: No, I did not.

9 MR. MATULE: Did you issue one, Jeff?

10 MR. MARSDEN: Yes. I sent it. It was  
11 sent 2/9/15.

12 MR. MATULE: When?

13 MR. MARSDEN: February 9th, email.

14 MR. MATULE: Okay. Let me just see if  
15 I have copy of it.

16 MR. MARSDEN: It is dated December  
17 10th, but it was emailed on February 9th.

18 MR. MATULE: Do you have a copy?

19 MS. CARCONE: Here is a copy.

20 MR. GALVIN: Good job.

21 MR. MATULE: Thank you.

22 Maybe what I could do is -- thank  
23 you -- is just while Mr. Ochab is testifying, have  
24 Mr. McNeight look this over, so he could testify  
25 that he has no issues addressing the comments.

1                   MR. MARSDEN: Can I just ask one point  
2 of clarification?

3                   Your plan says 13,412 square feet. I  
4 think it is 1300, the addition.

5                   THE WITNESS: Uh-huh.

6                   MR. GALVIN: Oh, no. We need a  
7 clarification on that. Jeff's right.

8                   MS. BANYRA: Mr. McNeight, can you just  
9 look at Z-2 is what he's referring to --

10                  MR. MATULE: It was cubic feet.

11                  Look at Z-2.

12                  MS. BANYRA: -- and just clarify  
13 that --

14                  MR. MARSDEN: Oh, it's cubic feet, not  
15 square feet.

16                  Okay. I stand corrected. I was wrong.

17                  MR. MATULE: Have you had a chance to  
18 look through Mr. Marsden's comments?

19                  (Witness reviews documents)

20                  (Counsel confer)

21                  MR. MATULE: So you had a chance to  
22 look through Mr. Marsden's letter and address the  
23 comments in there?

24                  THE WITNESS: Yes, I did.

25                  MR. MATULE: Thank you, Mr. McNeight.

1 I think that is it, pretty  
2 straightforward.

3 CHAIRMAN AIBEL: Any questions for Mr.  
4 McNeight?

5 COMMISSIONER GRANA: Just one point. I  
6 don't know, either him or Mr. Matule.

7 The structure is to be 40 feet in  
8 height. Is that correct?

9 MR. MATULE: 30 feet.

10 THE WITNESS: 30 feet.

11 COMMISSIONER GRANA: 30 feet in height.

12 So this is -- we are not seeking a  
13 variance for height, just stories?

14 THE WITNESS: Yes.

15 MR. MATULE: Yes, number of floors.

16 THE WITNESS: Just number of floors.

17 COMMISSIONER GRANA: Thank you.

18 Number of floors. Thank you.

19 That was my only question.

20 MR. MATULE: Because we are going to  
21 have two residential floors as opposed to the  
22 ordinance permitting one residential floor.

23 COMMISSIONER BRANCIFORTE: Mr.  
24 McNeight, the history of Court Street especially  
25 these streets where the garages are, correct me if I

1 am wrong, did they used to be carriage houses?

2 THE WITNESS: Yes. Primarily they were  
3 stables.

4 COMMISSIONER BRANCIFORTE: Stables.  
5 Yeah, stables.

6 So that meant I guess the horses and  
7 the carriages, whatever. The horses were on the  
8 first floor, and then the hay loft was on the second  
9 floor --

10 THE WITNESS: Correct.

11 COMMISSIONER BRANCIFORTE: -- which is  
12 why they needed so much height. It was only one  
13 story with the hay loft, the loft, you know the term  
14 loft, right?

15 THE WITNESS: Yeah.

16 (Laughter)

17 COMMISSIONER BRANCIFORTE: Okay.

18 So my point being is historically there  
19 has always been two stories, one -- if you want to  
20 stay within the character, yes or no, of the true  
21 horse street, you'd have the first floor as a  
22 garage, a parking area, and the second floor would  
23 be a high loft ceiling, yes or no?

24 I mean that would be characteristic of  
25 a loft.

1                   THE WITNESS: That is the way it was  
2 originally, right.

3                   MR. GALVIN: It was a lofty view.  
4                   (Laughter)

5                   COMMISSIONER MARSH: This is just a  
6 question.

7                   Is there something about this  
8 application that prevents you from doing that orange  
9 thing at some other time?

10                  THE WITNESS: That prevents -- I  
11 mean --

12                  COMMISSIONER MARSH: It precludes it?

13                  THE WITNESS: Yeah.

14                  MR. MATULE: If the Board were to  
15 approve this application, the applicant would have  
16 no objection if that were a condition of approval,  
17 that the principal building on Hudson Street could  
18 not be extended any deeper than its existing 45 feet  
19 without coming back to the Board or whatever, I  
20 mean --

21                  COMMISSIONER MARSH: I was just  
22 curious. I didn't under --

23                  MR. MATULE: Well, no, that was  
24 proper --

25                  (All Board members talking at once.)

1                   MR. MATULE:  -- because of this unusual  
2                   situation next door --

3                   COMMISSIONER MARSH:  Right.

4                   MR. MATULE:  -- basically we are saying  
5                   we won't extend the principal building any further,  
6                   but we want to take some of that volume we are  
7                   giving up and put it in the back.

8                   MR. GALVIN:  Even if we deed restrict  
9                   this one, it could still wind up coming to a future  
10                  Board and trying to expand --

11                  COMMISSIONER MARSH:  Right.

12                  MR. GALVIN:  -- I'm sorry, John.

13                  COMMISSIONER BRANCIFORTE:  Oh, no.  
14                  Just when you're done.

15                  My other question, too, is about the  
16                  light and air not to the south, the big building,  
17                  but to the north, I am afraid that this two-story  
18                  building -- the lot next door looks like it is about  
19                  the same width, less than 20 feet.

20                  All I can see on the exhibits, I can  
21                  only guess, because there's no -- so the lots there  
22                  are very narrow, long and narrow, and I am concerned  
23                  about your building throwing a shadow on the  
24                  neighbor to the north.

25                  THE WITNESS:  It won't throw a shadow,

1 because other than for maybe five minutes between  
2 11:30 and 11:45 when the sun comes down Court Street  
3 because of the six-story Union Club and because of  
4 these taller buildings in that photograph of the  
5 Washington Street side there.

6 So, you know, as far as casting  
7 shadows, it is not going to be a problem.

8 COMMISSIONER BRANCIFORTE: You don't  
9 happen to have a Google Earth view of this or -- do  
10 you?

11 MS. BANYRA: John, look in my report.

12 COMMISSIONER BRANCIFORTE: You know  
13 what? I don't have your report printed out.

14 MS. BANYRA: Here, and give it back to  
15 Pat when you are done.

16 COMMISSIONER BRANCIFORTE: Thanks.

17 COMMISSIONER DE FUSCO: Mr. Chair?

18 CHAIRMAN AIBEL: John, are you  
19 finished?

20 COMMISSIONER BRANCIFORTE: Oh, I'm  
21 good.

22 Thanks, Mr. Chair.

23 COMMISSIONER DE FUSCO: So a little  
24 question about the concavity and the bridge.

25 You testified that that was for safety,

1 but I am not connecting the dots to how this bridge  
2 is there for safety, because presumably the back of  
3 the structure facing Hudson Street has a means of  
4 egress, correct?

5 THE WITNESS: Yes.

6 One of my photographs, here is this  
7 white, which is the rear elevation of 604.

8 So it has this fire escape that comes  
9 down, and as you can see, this wall is between the  
10 rear yard of this building and that concave space.

11 COMMISSIONER DE FUSCO: Right.

12 THE WITNESS: So down from where you  
13 can't see in this photograph at the level of that  
14 basket, we simply want to bridge that ten foot gap  
15 so that in need of emergency, if somebody came out  
16 onto the deck off of the kitchen there, they could  
17 cross that bridge and get to this drop ladder.

18 COMMISSIONER DE FUSCO: I don't  
19 understand.

20 In case of a fire emergency, they would  
21 then go towards the other building?

22 THE WITNESS: Yeah, or just go into  
23 that yard.

24 COMMISSIONER DE FUSCO: Understood.  
25 I'm not quite sure I agree with the

1 concept of that, but I guess I will just follow up  
2 with one more question.

3 So this bridge crosses between the two  
4 buildings. If I am standing on the bridge looking  
5 towards the larger concavity, would I be able to  
6 look in that person's window from the bridge?

7 THE WITNESS: No. You would be at the  
8 level -- I mean, your head would be at the level of  
9 let's say that mullion in that window there --

10 COMMISSIONER DE FUSCO: Okay.

11 THE WITNESS: -- so you would be -- you  
12 would cross that bridge and you were looking south,  
13 you would just be looking at that white wall.

14 COMMISSIONER DE FUSCO: The other  
15 question I have, I've been -- the last meeting I was  
16 on this retention basin, you know, conversation, and  
17 I had a quick word with our Board Engineer.

18 And although North Hudson doesn't  
19 require anything here, the city doesn't require  
20 anything here, I don't see any retention basin as  
21 part of this plan obviously, right?

22 THE WITNESS: No. It's not in the  
23 flood zone, right.

24 COMMISSIONER DE FUSCO: Correct.

25 Interesting concept, though, that when

1       it rains at the highest point in town, the water  
2       would go to the lowest part of town, so I wonder --

3                   (Laughter)

4                   THE WITNESS:  Yes, that is interesting.

5                   COMMISSIONER DE FUSCO:  -- so I wonder  
6       if in a situation like this, and this just happens  
7       to be the first application that has come after I  
8       was edified on this, I wonder if you wouldn't  
9       consider putting in a retention basin.

10                  THE WITNESS:  It might be tough because  
11       it's on a solid lot, this neighborhood, because I  
12       did the Court Street Cafe on the corner of Sixth  
13       here, a long time ago, 25 years ago or more, and  
14       there is giant boulders underground.

15                  If you go down into the kitchen of the  
16       Court Street Cafe, there is a giant boulder that  
17       comes through the wall that looks like a blarney  
18       stone.

19                  (Laughter)

20                  COMMISSIONER DE FUSCO:  Great.  Thanks.  
21       Thank you, Mr. Chair.

22                  CHAIRMAN AIBEL:  Anybody else?  
23       Any professionals?

24                  MS. BANYRA:  Yes.

25                  Mr. McNeight, can you just indicate

1       what the coverage is on the back, because I can't  
2       see what is happening in the rear yard, and I think  
3       I posed a number of questions in my report regarding  
4       the zoning table.

5                   THE WITNESS:   Okay.  Let's look at the  
6       site plan here.

7                   MS. BANYRA:   So you have 45 percent  
8       coverage with each building, right?

9                   THE WITNESS:   Correct --

10                  MS. BANYRA:   And then what's --

11                  THE WITNESS:   -- currently now it's 45,  
12       45 and 90, and then there's a ten foot rear yard  
13       right here.

14                  MS. BANYRA:   Right.

15                  But is there a structure in there?  I  
16       can't tell --

17                  THE WITNESS:   There is a change in  
18       elevation if you notice on my section here.

19                  Court Street is lower than Hudson  
20       Street.  It is obvious when you are on the Sixth  
21       Street, it goes down dramatically.

22                  So when you go out the back of the  
23       lowest apartment in the principal building, there is  
24       a little depressed stairway that leads you down to  
25       the surface of that existing garage.

1 MS. BANYRA: Which is impervious, I'm  
2 guessing?

3 THE WITNESS: Ken has a wonderful  
4 photograph of this.

5 MS. BANYRA: Okay, great.

6 I don't know if you saw my report.

7 THE WITNESS: I did not see your  
8 report.

9 COMMISSIONER BRANCIFORTE: Here.

10 MS. BANYRA: John?

11 I'm not seeing my report now either.

12 COMMISSIONER BRANCIFORTE: I have the  
13 only copy.

14 (Everyone talking at once.)

15 MS. BANYRA: But I posed a number of  
16 questions in there relative to the zoning table.

17 So, you know, in terms of corrections,  
18 that probably should be noted, should the Board see  
19 fit to approve this.

20 Let me just see what else I have.

21 On your representation, you indicated  
22 that the board preservation, your elevation of your  
23 building appeared to be clapboard, but your  
24 testimony was that it is brick?

25 THE WITNESS: The -- I'm sorry, the --

1 MS. BANYRA: What you ended up -- yeah,  
2 your elevation on Court Street.

3 THE WITNESS: Yes, no, that's brick.

4 MS. BANYRA: That's brick, okay,  
5 because it is not identified, so that should be  
6 identified and qualified.

7 THE WITNESS: Okay.

8 MS. BANYRA: And can you give me an  
9 indication of what the distance between the  
10 backyard -- is it ten feet between buildings?

11 THE WITNESS: 20 feet.

12 MS. BANYRA: It's 20 feet?

13 THE WITNESS: Here it is on here.

14 MS. BANYRA: Okay. And --

15 THE WITNESS: Well, it is ten feet  
16 existing, but the reason I built -- I mean I  
17 designed the new building in addition to the 35  
18 foot, so we would maintain the 20 foot between two  
19 buildings.

20 MS. BANYRA: Okay. Preexisting is a  
21 ten-foot between structures --

22 THE WITNESS: Correct.

23 MS. BANYRA: -- on the ground floor,  
24 okay, where 20 is required.

25 But you are maintaining the 20 above is

1 what you are saying?

2 THE WITNESS: Correct.

3 MS. BANYRA: Okay.

4 And the number of units in the front  
5 building, it is a duplex, is that correct, on Hudson  
6 Street?

7 That is what my information has  
8 revealed. I think it's --

9 MR. MATULE: Let me confirm that with  
10 the applicant.

11 (Counsel confers)

12 MR. MATULE: Yes. The applicant --

13 MS. BANYRA: And this is proposed by  
14 one unit, correct?

15 MR. MATULE: One unit, correct.

16 CHAIRMAN AIBEL: Mr. McNeight --

17 MS. BANYRA: Okay. That's all I have.

18 CHAIRMAN AIBEL: -- is there any reason  
19 you can't provide some green element to the rooftop?

20 THE WITNESS: No, that is a  
21 possibility.

22 CHAIRMAN AIBEL: The windows are going  
23 to be looking down on the top of this structure, so  
24 I don't know if you want to give some thought to  
25 what could be done to create some greenery or green

1 roof.

2 THE WITNESS: Yes. That is a  
3 possibility. I have a large scuttle there that it's  
4 easy to get to the roof.

5 MR. MATULE: But --

6 COMMISSIONER BRANCIFORTE: I'm sorry --

7 CHAIRMAN AIBEL: Go ahead.

8 COMMISSIONER BRANCIFORTE: -- The  
9 bridge that runs between the two buildings, it is  
10 going to run along that opening where the windows  
11 are in the building?

12 THE WITNESS: Yes.

13 COMMISSIONER BRANCIFORTE: So do we  
14 want to discuss maybe putting some sort of a privacy  
15 glass there or something?

16 THE WITNESS: We had that discussion a  
17 few minutes ago.

18 I am peeking over the back fence here.  
19 The white building is 604 Hudson --

20 MS. BANYRA: Maybe you can turn it. I  
21 don't think he can see it.

22 COMMISSIONER BRANCIFORTE: No, I am  
23 good.

24 THE WITNESS: -- so when you walk  
25 across that bridge, you see this final ladder coming

1 down from this basket to this basket --

2 COMMISSIONER BRANCIFORTE: Yeah.

3 THE WITNESS: -- that basket is, you  
4 know, lower than we can see.

5 I was pointing out this mullion is  
6 pretty much eye level if you were standing on that  
7 basket, so this white wall that comes up and blocks  
8 that concave shape from this property, if you walked  
9 across that bridge and you were looking at the Union  
10 Club, you would be looking at that white wall. You  
11 couldn't look over the top of that wall.

12 COMMISSIONER BRANCIFORTE: Okay.

13 So are we counting that bridge as lot  
14 coverage or --

15 MS. BANYRA: I didn't know what to  
16 characterize. I couldn't tell what was happening.  
17 I think the planner is going to testify to that. I  
18 wasn't sure what was happening in the backyard.  
19 That is what my report indicates.

20 MR. MATULE: Any other questions for  
21 Mr. McNeight?

22 MR. GALVIN: If the application is  
23 approved, two things. This is what I have so far:

24 The facade is to be constructed as  
25 described to the Board at the time of the hearing.

1           Two: The Board granted the approval on  
2           the reliance on the representation that the building  
3           at 604 Hudson Street is never going to be extended  
4           into the rear yard in order to respect the concavity  
5           on the property located at the corner of Sixth and  
6           Hudson, unless you guys have some other way of  
7           identifying it.

8           This offer is to be reduced to a deed  
9           restriction. The deed restriction is to be reviewed  
10          and approved by the Board Attorney. It is to be  
11          recorded prior to the issuance of a building permit,  
12          and then the architect is to revise the plan to show  
13          the -- go ahead.

14          MS. BANYRA: Reflect the building  
15          materials on the proposed garage or the carriage  
16          house as represented as brick.

17          MR. GALVIN: Materials on what Eileen?

18          MS. BANYRA: The accessory slash second  
19          principal building on Court Street --

20          COMMISSIONER FISHER: The facade --

21          MR. GALVIN: The building on Court --

22          COMMISSIONER GRANA: The facade on  
23          Court Street --

24          COMMISSIONER FISHER: Yeah, the  
25          facade --

1 MS. BANYRA: Court Street facade --

2 MR. GALVIN: Should be building  
3 materials --

4 MS. BANYRA: -- it should be the  
5 materials should be spelled out on the plan as  
6 testified to.

7 MR. GALVIN: Oh, okay.

8 Well, why don't I do that in the first  
9 one, okay?

10 Facade is to -- and the plan is to be  
11 amended --

12 (Board members all talking at once.)

13 MS. BANYRA: The materials are not  
14 listed, right?

15 Does it say brick?

16 COMMISSIONER DE GRIM: It does say  
17 brick, but it is depicted as not a brick facade.

18 COMMISSIONER MURPHY: It's modular  
19 brick.

20 MS. BANYRA: The zoning table needs to  
21 be reflected to correct -- to note all of the  
22 variances?

23 MR. MATULE: If I could --

24 MR. GALVIN: I am trying to get to  
25 something else, guys. That's why. I read this, but

1 I was trying to go somewhere else.

2 MR. MATULE: -- if I can, just to  
3 clarify this whole issue, Ms. Banyra, I'll pass this  
4 over.

5 This is from the Board Secretary's  
6 file, but the Historic Commission's approval, and we  
7 can transpose this information to the drawings, but  
8 it specifically says what type of brick, the color,  
9 what color the Portland cement is going to be --

10 MS. BANYRA: Yeah.

11 MR. GALVIN: Here is what is going on.  
12 I thought we were just capturing it based on what  
13 Mr. McNeight said.

14 Eileen is kicking up and now she said  
15 she wants the plan revised --

16 MR. MATULE: Right.

17 MR. GALVIN: -- to spell that out, so  
18 that when it gets done, there isn't anybody going,  
19 "Oh, that wasn't really spelled out. We want it  
20 spelled out."

21 MS. BANYRA: Right.

22 COMMISSIONER FISHER: But you can --

23 MR. MATULE: We'll make the two things  
24 match.

25 MR. GALVIN: When Mr. Avery shows up,

1 bang, we got it exactly like he said.

2 (Laughter)

3 COMMISSIONER MARSH: I'm sorry.

4 Did we talk about a --

5 MR. GALVIN: I was trying to get

6 there --

7 COMMISSIONER MARSH: -- oh, okay,

8 sorry.

9 MR. GALVIN: -- but I failed.

10 COMMISSIONER MARSH: I'll shut up now.

11 MR. GALVIN: No, no, no. You just

12 helped me.

13 Thank you.

14 COMMISSIONER BRANCIFORTE: Hum --

15 MR. GALVIN: Wait, wait. I'm sorry. I

16 don't want anybody to be mad at me.

17 The architect is to revise the plan to

18 show building materials on the Court Street --

19 MS. BANYRA: Right, the Court Street

20 building --

21 MR. GALVIN: -- no, no. But we just

22 took care of that because that is the facade, right.

23 Then the architect is to revise the

24 plan to show the green roof, and we will just have

25 him submit that to you to review --

1 MS. BANYRA: It should be on the plans,  
2 right?

3 MR. GALVIN: No, but somebody has to --  
4 either the Board is going to review and approve the  
5 green roof or somebody else has got to do it.

6 MS. BANYRA: Sure.

7 MR. MATULE: We will submit the --  
8 assuming it is approved, we would submit --  
9 typically what we would do is get the revised plans  
10 from the architect and send them to Mr. Marsden and  
11 Ms. Banyra for their review before being presented  
12 for signature.

13 MR. GALVIN: How about we do for the  
14 Board's planner for her review and approval, because  
15 I don't want to give you two chefs to determine the  
16 outcome.

17 And if there is engineering questions,  
18 Eileen can defer to Jeff.

19 MS. BANYRA: And then correct the  
20 zoning table.

21 CHAIRMAN AIBEL: Are you finished with  
22 Mr. McNeight?

23 MS. BANYRA: Yes.

24 MR. GALVIN: Was that adequate on that  
25 end? Did you think that was adequate?

1 COMMISSIONER MARSH: Yes.

2 MR. GALVIN: Yes.

3 COMMISSIONER BRANCIFORTE: So this  
4 accessory building they're building on Court Street  
5 is going to you say be built for a family member,  
6 it's going to be not rented, and it's to be occupied  
7 by a family member you said?

8 MR. MATULE: It's to be occupied by one  
9 of the owners of the building.

10 COMMISSIONER BRANCIFORTE: So does the  
11 owner really need a two-bedroom?

12 I mean, is there any way we could set  
13 back the second story to keep the --

14 MR. MATULE: No. The client is saying  
15 they need a two-bedroom.

16 COMMISSIONER BRANCIFORTE: A  
17 two-bedroom apartment.

18 The building on Hudson Street, is it a  
19 one-family right now?

20 MR. MATULE: It's a two-family.

21 COMMISSIONER BRANCIFORTE: Two-family?

22 MR. GALVIN: To reflect the changes in  
23 the zoning --

24 CHAIRMAN AIBEL: Okay. Let's finish up  
25 with the witness.

1                   Is there anything more from Mr.

2                   McNeight from the Board's professionals?

3                   Let me open it up to the public.

4                   Anybody in the public have questions  
5                   for Mr. McNeight?

6                   Seeing none.

7                   MR. MARSDEN: Just one quick question.

8                   COMMISSIONER AIBEL: Let me just --

9                   COMMISSIONER GRANA: Motion to close --

10                  CHAIRMAN AIBEL: You need to ask Mr.  
11                  McNeight --

12                  MR. MARSDEN: Yes.

13                  CHAIRMAN AIBEL: Go on.

14                  MR. MARSDEN: You are not disturbing or  
15                  rebuilding the ground at the front of the garage,  
16                  correct, on Court Street?

17                  THE WITNESS: We're not disturbing the  
18                  right-of-way at all.

19                  There is an existing apron. That apron  
20                  is going to be maintained. It is just that this  
21                  garage door will be a little narrower.

22                  MR. MARSDEN: I would just like to have  
23                  a condition that says: Any disturbance of  
24                  cobblestones, they must be restored to the original  
25                  condition.

1 MS. BANYRA: Well, it looks like  
2 there's asphalt there now.

3 MR. MARSDEN: It might be on top of  
4 asphalt.

5 MS. BANYRA: Yeah. It should be  
6 restored.

7 THE WITNESS: Okay.

8 MS. BANYRA: Mr. McNeight, did the  
9 Historic Preservation talk about a carriage door as  
10 opposed to a garage door?

11 MR. MATULE: We have to go back to the  
12 Historic Commission and review it --

13 MS. BANYRA: Well, Historic is advisory  
14 to the planning -- to the Zoning Board --

15 MR. MATULE: Well, that's true. That's  
16 true.

17 MS. BANYRA: -- but I'm just curious if  
18 they discussed that, and whether or not -- because  
19 it looks like a nice typical, you know, historic  
20 building with a -- I'm going to say contemporary  
21 garage door.

22 THE WITNESS: Yeah. It was just a  
23 totally flat door similar to the one that is next  
24 door, but that is what they approved.

25 COMMISSIONER BRANCIFORTE: Mr. Matule,

1 can I see your notification mailings? Do you have  
2 them with you?

3 MR. MATULE: Yes, I should.

4 MS. CARCONE: I have it.

5 CHAIRMAN AIBEL: I'm determined to get  
6 this thing done.

7 Are we now finished?

8 COMMISSIONER DE FUSCO: So a motion to  
9 close the public portion.

10 COMMISISONER GRANA: Second.

11 CHAIRMAN AIBEL: All in favor?

12 (All Board members answered in the  
13 affirmative.)

14 CHAIRMAN AIBEL: Okay.

15 Mr. Ochab?

16 MR. MATULE: Mr. Ochab.

17 MR. GALVIN: Raise your right hand.

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

21 MR. OCHAB: Yes, I do.

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

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

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

2 MR. GALVIN: Mr. Chairman, do you  
3 accept Mr. Ochab's credentials?

4 CHAIRMAN AIBEL: We do.

5 MR. MATULE: Thank you, Mr. Chairman.

6 Mr. Ochab, you are familiar with the  
7 zoning ordinance and the master plan of the City of  
8 Hoboken?

9 THE WITNESS: Yes.

10 MR. MATULE: And you are familiar with  
11 the proposed project?

12 THE WITNESS: Yes, I am.

13 MR. MATULE: And you prepared a report,  
14 dated 4/29/13?

15 THE WITNESS: I did.

16 MR. MATULE: And could you go through  
17 that report for the Board members, point out the  
18 variances that are being requested, and give us your  
19 professional opinion regarding same?

20 THE WITNESS: Okay.

21 We are in the R1 CS zone, Court Street  
22 zone, CS, which obviously allows accessory  
23 apartments on the Court Street side.

24 In terms of the bulk requirements with  
25 respect to those accessory apartments, there is a 20

1 foot setback from the rear of the principal  
2 building.

3 We are at ten feet for the first floor,  
4 which is a preexisting nonconforming condition, and  
5 for the upper two floors we are at 20 feet, so we  
6 meet that requirement. We are allowed 20 percent or  
7 420 square feet of coverage.

8 We are existing at 45 percent, again on  
9 that lower level, and for the upper two floors we  
10 are at 35 percent, so we have a lot coverage  
11 variance with respect to an accessory building.

12 And with respect to height, that is the  
13 final requirement. In terms of accessory  
14 apartments, we are allowed one story over a garage  
15 or 30 feet, and we are proposing 30 feet, but three  
16 stories within the 30 foot envelope.

17 So we have two variances with respect  
18 to an accessory apartment, one for coverage and the  
19 other for height.

20 Also, we have, with respect to the  
21 entire project, a variance for two principal  
22 buildings on the site.

23 So here is what we have. So on the  
24 Hudson Street side --

25 MR. MATULE: Wait. Has that been

1 marked?

2 THE WITNESS: Oh, of course not.

3 MR. MATULE: So we will mark that A-4,  
4 and that's a photo board that you took?

5 THE WITNESS: Yes.

6 (Exhibit A-4 marked.)

7 MR. MATULE: And the other photo board  
8 is A-5, if you could just describe those for the  
9 record.

10 (Exhibit A-5 marked.)

11 MS. BANYRA: So, Mr. Ochab, you just  
12 have one other variance I think for exceeding 400  
13 square feet that is permitted 20 percent, and 400  
14 square feet that I think is permitted is the  
15 accessory. But since you are testifying as a  
16 principal use, you can go with that whatever way you  
17 want --

18 THE WITNESS: Oh, okay.

19 MS. BANYRA: -- but that is the other  
20 portion of the ordinance.

21 THE WITNESS: Okay.

22 MS. BANYRA: Thank you.

23 THE WITNESS: So with respect to A-4,  
24 the first upper photographs are photographs of  
25 Hudson Street, and the only benefit of showing these

1 is, of course, to look at the site, which is the  
2 middle building on the upper left, the pinkish brick  
3 color, but to show next door, 800 -- 600 Hudson,  
4 which is a seven-story building, I believe 39 or 40  
5 units, which extends back onto the Court Street side  
6 for that section.

7           And then to show in the northerly  
8 direction away from the site going up Hudson, again,  
9 a pretty standard three-story with a lower level  
10 residential development, so that is pretty much the  
11 standard that you see on Hudson.

12           From the Court Street side, I'm  
13 standing basically on Sixth looking north with the  
14 lower left photograph -- I am sorry -- I am not  
15 standing on -- I'm standing just north of the site  
16 looking south -- thank you.

17           So what we have is Court Street,  
18 cobblestones.

19           The left side is the middle building.  
20 The brick building is the property in question.

21           So we have the small brick building,  
22 and we have basically a two-story garage next to us  
23 on the northerly side, and just to the south again,  
24 is the seven-story building to the south of us  
25 looking at Sixth Street in the background.

1                   Then on the opposite side, this is on  
2                   the back of the Washington Street development, we  
3                   have two and a half to three-story buildings. These  
4                   in this area are not really residential. An office,  
5                   the back end of the commercial buildings, so that's  
6                   the setting that we are in.

7                   Then on the lower right photographs, a  
8                   little bit better of the --

9                   MR. GALVIN: Mr. Ochab, can I interrupt  
10                  the flow a little bit?

11                  I think that the Board is getting a  
12                  pretty good -- anyone can stop me.

13                  Does everybody have a pretty good  
14                  understanding of the site location, right, there's  
15                  no public?

16                  I think we need to zero --

17                  COMMISSIONER BRANCIFORTE: Well, the  
18                  only thing I think we need to point out is that  
19                  between this building that they're proposing the end  
20                  of the block to the north, it's all garages at one  
21                  story. I think that is important.

22                  MR. GALVIN: I think that is important  
23                  to understand, but those pictures are not going to  
24                  show you that.

25                  Were they?

1 THE WITNESS: No.

2 MR. GALVIN: Okay.

3 THE WITNESS: They are in my report,  
4 though --

5 COMMISSIONER BRANCIFORTE: Right. I  
6 thought you were showing the same pictures --

7 THE WITNESS: -- so if you have my  
8 report, it shows that view to the north --

9 MR. GALVIN: So what I think we need to  
10 focus on is the dual principal use, so we need to  
11 know the special reasons why -- you know, because I  
12 think the architect has laid out what is happening  
13 on the site, that the one building is not being  
14 changed.

15 It's just the building that's on Court  
16 Street that is being changed, and because we're  
17 treating it as a D variance, these other --if it can  
18 achieve the D variance standard, the other C  
19 variances fall in line with it.

20 So it is late, and that is where I  
21 think we are at, okay?

22 THE WITNESS: Okay.

23 MR. GALVIN: So I am bending things a  
24 little bit, but I think the proofs will be adequate  
25 if you can take us through the Medici proofs, yeah.

1           THE WITNESS: So with respect to the D  
2           variances then, certainly the site is R1 CS, so the  
3           CS zone, according to the master plan, encourages  
4           continuation of this type of development with the  
5           principal building on Hudson, accessory apartments  
6           on Court Street, and that is precisely what we are  
7           doing.

8           With respect to the distribution of the  
9           volume, I think the architect spoke adequately  
10          enough about why some of the volume is distributed  
11          more on the Court Street side as opposed to the  
12          Hudson side to protect the building to the south in  
13          terms of its indentation for access and light.

14          So if you look at it with the intent of  
15          what the master plan is, which is to encourage this  
16          type of development on Court Street --

17          MR. GALVIN: Ken, one second.

18          THE WITNESS: -- I'm sorry.

19          MR. GALVIN: Go ahead.

20          THE WITNESS: So with respect to the  
21          master plan, it speaks very highly about the  
22          continuation of this type of development to promote  
23          Hoboken's unique character, this unique setting in  
24          terms of having the cobblestone streets with the  
25          accessory apartments on Court Street, garages at the

1 base level and the residential above that.

2 And with respect to the setting,  
3 certainly the three stories is possible within the  
4 volume established by the 30 foot height  
5 requirement.

6 As a matter of fact, on the 500 block  
7 just to the south, we have at least three or four  
8 examples of three-story accessory apartment  
9 buildings that face Court Street, garages  
10 underneath. As a matter of fact, we did one, 526  
11 not long ago. It was a three-story, so there's  
12 clearly examples of that happening within this Court  
13 Street setting.

14 They look magnificent. They're well  
15 designed architecturally in that whole style with  
16 very unique character, and unfortunately, this  
17 hasn't happened yet to all of the Sixth Street --  
18 north of Sixth Street Court Street facades along the  
19 rear, mostly garages for now, but certainly I think  
20 that is going to be a pattern, which is going to be  
21 continued.

22 So with respect to the D variances,  
23 certainly this site is appropriate for the uses  
24 being proposed. It is not over-intensification of  
25 the use with respect to what we are doing, and I

1 think we meet the positive criteria.

2 With respect to the negative, again,  
3 the negative would be visually and light and air  
4 south of us, seven-story building, no impact  
5 whatsoever.

6 North of us, the neighbor to the north  
7 of us has a patio in the rear, which is at grade, so  
8 our building is going to be two stories above the  
9 existing garage. But I do agree with Mr. McNeight,  
10 that if you look at where the sun comes around,  
11 clearly the corner building, the seven-story  
12 building clearly dominating the environment at this  
13 end of the block. I don't think our building is  
14 going to have any substantial impact on that  
15 neighbor's light and air and openness.

16 So with respect also to the zone plan,  
17 again, the intent of the zone plan is to encourage  
18 this type of use, so I would say that there would be  
19 no substantial impairment to the zone plan, if the  
20 Board sees fit to grant the variances.

21 Thank you, Mr. Chairman.

22 CHAIRMAN AIBEL: Thank you.

23 Questions for Mr. Ochab?

24 COMMISSIONER DE GRIM: Yeah, I have a  
25 question.

1                   The expansive brick that you have over  
2                   the garage door, that is actually going to end up  
3                   being the first floor of the apartment, or is the  
4                   two stories of the apartment going on top of that  
5                   expansive brick?

6                   MR. MC NEIGHT: This expansion you're  
7                   talking about?

8                   COMMISSIONER DE GRIM: Correct.

9                   MR. MC NEIGHT: Well, I am going to  
10                  drop what is the roof line, where in the first 35  
11                  feet, so that this is basically I think it's nine,  
12                  ten, nine, if I am not mistaken, the floor to floor  
13                  height. So some of this brick is going to be  
14                  dismantled here because our new windows are going to  
15                  be like right along here.

16                  COMMISSIONER DE GRIM: That's fine.

17                  Thank you.

18                  MR. MC NEIGHT: That is why I used the  
19                  continuous band here, to break it up, so you  
20                  wouldn't visually connect the old brick to the new  
21                  brick, even though we picked the brick that is going  
22                  to match, you know, the multi colors of this  
23                  existing brick.

24                  COMMISSOINER DE GRIM: Okay.

25                  COMMISSIONER GRANA: Just a quick

1 question for Mr. Ochab.

2 If you could explain that -- Ms. Banyra  
3 tried to explain it -- but your testimony was very  
4 clear to me, and the C variances are very clear to  
5 me.

6 I'm not -- could you articulate what is  
7 triggering the D variance again?

8 THE WITNESS: What's triggering the D?

9 MR. GALVIN: Well, Ms. Banyra and I are  
10 triggering the D variance.

11 COMMISSIONER BRANCIFORTE: Okay.  
12 Should I turn around and ask it this way: What's  
13 triggering the D variance?

14 MS. BANYRA: That there are two  
15 principal uses on the lot, and the zoning ordinance  
16 permits one principal use. So my review of this is  
17 when you have two buildings that are similarly sized  
18 in terms of the footprint, and then you are going  
19 up, and you're exceeding the zoning ordinance, that  
20 there's a question as to whether or not you could  
21 count this two principal buildings.

22 COMMISSIONER GRANA: Okay.

23 MR. GALVIN: And at some point does the  
24 accessory become principal --

25 MS. BANYRA: Yeah.

1                   MR. GALVIN:  -- and there's a theory  
2                   that we employ, which is be a little bit more  
3                   conservative, and I think this is like somebody  
4                   could have looked at the same facts and said this is  
5                   just an accessory building with some bulk variances.

6                   COMMISSIONER GRANA:  Which is what I  
7                   kind of saw when I looked at the zoning table, so  
8                   thank you.

9                   That is my only question.

10                  COMMISSIONER BRANCIFORTE:  Mr. Ochab,  
11                  on page ten of your report, the photographs?

12                  The photograph on the bottom, you know  
13                  there is some sunlight hitting the roof of your  
14                  existing garage, so I am not convinced that the  
15                  six-story building knocks out all of the sunlight  
16                  assuming the neighbors' yards, and that is still my  
17                  concern as to whether or not -- I mean, am I wrong  
18                  when I say that?

19                  Do you see sunlight on that building in  
20                  the garage?

21                  THE WITNESS:  I see a little, the front  
22                  corner of that, but not anything else.  The front  
23                  corner is actually over the garage of the property  
24                  next door, and the patio is back off of that garage  
25                  between the garage and the principal building on

1 that side.

2 COMMISSIONER BRANCIFORTE: Very good.

3 THE WITNESS: Okay.

4 CHAIRMAN AIBEL: Mr. Ochab, from a  
5 planning perspective, would carriage doors be a more  
6 attractive alternative?

7 THE WITNESS: Absolutely.

8 CHAIRMAN AIBEL: Is there any reason --  
9 I'm sorry, this is really for Mr. Matule.

10 MR. MATULE: I am just checking with  
11 the architect and my client.

12 My client has no objections, if that is  
13 a condition, but I just want to make sure we are all  
14 talking about the same thing. An overhead door that  
15 looks like carriage doors as opposed to two doors  
16 that open side to side?

17 MS. BANYRA: Sure. I mean, it's more  
18 about -- we're getting a no over here. What is  
19 going on?

20 COMMISSIONER MARSH: I'm inclined to  
21 accept what the Historic Preservation Commission --

22 MS. BANYRA: I only asked a question  
23 before, so there's another question --

24 COMMISSIONER FISHER: We required it  
25 before. I think you are asking because we

1 required -- we had a couple where we asked --

2 MS. BANYRA: Yes.

3 CHAIRMAN AIBEL: We did another one  
4 down the street.

5 (Everyone talking at once.)

6 COMMISSIONER MARSH: I wasn't inclined  
7 to accept that this sort of preservation --

8 (Everyone talking at once.)

9 COMMISSIONER MARSH: -- but now I am --

10 MS. BANYRA: I believe it was Mr.  
11 Greene -- I think it was Mr. Greene that actually  
12 had asked and kind of hammered that on one of the  
13 other applications. So I raised it as a possible  
14 question, just so everybody knows, and I have this  
15 in my report that, you know, Historic, I think we  
16 should be guided in general by the Historic  
17 Preservation. However, they are advisory to the  
18 Zoning Board and the Planning Board, and the Zoning  
19 Board and Planning Board, I'm going to say, can  
20 overrule them, if they want, or change something  
21 that they recommended. But I think, you know,  
22 typically people are on the Historic Preservation  
23 Board because of their interest or skills or  
24 expertise, so in general, you should respect them  
25 for that.

1                   That being said, you can do whatever  
2           you want.

3                   (Laughter)

4                   CHAIRMAN AIBEL: Well, I am not looking  
5           to pick a fight or make a lot of extra burden  
6           here --

7                   MS. BANYRA: Right, exactly.

8                   CHAIRMAN AIBEL: -- but if, in fact, we  
9           are setting a precedent for development of the rest  
10          of the block, I guess I would be inclined to do our  
11          best to make this an attractive structure and set a  
12          good example for whatever comes next.

13                  MR. MATULE: And, again, the applicant  
14          has no objection, if it's the Board's pleasure, to  
15          put a door on that garage that has the appearance of  
16          a carriage door.

17                  They make them now, because as a  
18          practical matter, I'm sure you know people use  
19          electric door openers and everything, so you don't  
20          have to get out of the car and swing two doors open.  
21          So Mr. McNeight can revise the plans to show that,  
22          should it be the Board's pleasure.

23                  COMMISSIONER DE FUSCO: Mr. Chair?

24                  Mr. Ochab, so you testified that this  
25          was in line with the surrounding block frontage on

1 Court Street, but I am looking at a Google map, and  
2 that entire block seems to be one car length deep as  
3 opposed to this particular application, which is  
4 proposing basically two and a half car lengths, so I  
5 am wondering how that's in line with the pattern of  
6 that block.

7 THE WITNESS: Well, you know, at that  
8 level, you're not -- that base ground level, you are  
9 not seeing anything from the Court Street side  
10 except the garage door.

11 So the fact that this garage is deep,  
12 it is existing conditions. It is deep, so it can  
13 already support them.

14 COMMISSIONER DE FUSCO: I understand  
15 that, if you're going for a variance, so I would  
16 proffer that the concavity, the negative impact and  
17 just potentially respond to it is that this  
18 extension of an already nonconforming structure is  
19 blocking the light and air of that concavity and  
20 it's neighboring it, and we have an opportunity to  
21 let more light and air in there, so why wouldn't we?

22 THE WITNESS: Okay. I agree. I'm  
23 sorry. I didn't know where you were going.

24 COMMISSIONER DE FUSCO: Okay.

25 So you agree that this extension is

1 blocking the light and air of the concavity?

2 THE WITNESS: No, I don't.

3 (Laughter)

4 No, it is not because what you see  
5 at -- what you see currently doesn't -- on the  
6 accessory building doesn't extend as far as the  
7 concavity. Again, I don't see what you're looking  
8 at --

9 COMMISSIONER DE FUSCO: Yeah. I'm  
10 looking at just Google Maps because none was really  
11 provided in regards to this application so --

12 MS. BANYRA: Can I just make a comment  
13 relative to Google Maps?

14 Just relative to that, I think it is  
15 not a good practice for the Board members to be  
16 looking at something that is not being testified to.  
17 I don't know what that is. They are testifying, and  
18 they're making a case, and I think while we all can  
19 do that, I think that is a kind of a bad practice in  
20 general.

21 Dennis, am I correct on that?

22 MR. GALVIN: It is getting hard. It's  
23 getting hard to tell any of my Board members not to  
24 look at Google when it is so easy to do it.

25 I think what you have to do, though,

1 one of the general rules of evidence is that when  
2 you obtain evidence that is not in the record, you  
3 have to disclose -- if you are making a decision,  
4 and you are looking at Google Maps, you have to put  
5 that on the record that you are doing that, okay?

6 COMMISSIONER DE FUSCO: I already put  
7 it on the record that I am looking at Google Maps.

8 (Laughter)

9 So unless you have anything else that  
10 has an aerial view looking from above to show the  
11 extension of these carriage houses along Court  
12 Street, which I have not seen from this  
13 application...

14 THE WITNESS: With respect to this  
15 site, again, the lower right photograph on A-4, you  
16 see that the corner of the building to the south, we  
17 are eight feet to the street side of that.

18 So this new building will be up against  
19 this wall of this building from the top, but will  
20 not extend beyond that, beyond that corner.

21 COMMISSIONER DE FUSCO: So your  
22 testimony is that the new proposed structure, the  
23 first floor currently extends beyond that, but the  
24 upper two floors will then be recessed eight feet?

25 THE WITNESS: Correct, because the

1 lower floor is actually -- if you want to look at it  
2 in a more simplistic fashion, it is almost under,  
3 below grade, so you don't actually see it. It  
4 doesn't impede anything from --

5 COMMISSIONER DE FUSCO: And not to  
6 extend this because I think we all want to go home,  
7 what planning purpose does the bridge serve, in your  
8 opinion, and is it necessary to the safety of both  
9 buildings?

10 THE WITNESS: I can't speak to safety  
11 with respect to fire. I mean, accessibility between  
12 the two buildings is desirable, so just from that  
13 context alone, it is something good to have. I  
14 think it has a purpose, promoting the purposes of  
15 zoning, you know, it is a little bit of a stretch,  
16 but I think it is a desirable thing to have  
17 communication and ability to traverse between the  
18 two.

19 CHAIRMAN AIBEL: Okay.

20 Anything else for Mr. Ochab?

21 I'll open it up to the public.

22 Anybody in the public wish to --

23 MR. GALVIN: Seeing nobody from the  
24 public, Mr. Chairman.

25 COMMISSIONER COHEN: Motion to close

1 public portion.

2 COMMISSIONER GRANA: Second.

3 CHAIRMAN AIBEL: All in favor?

4 (All Board members answered in the  
5 affirmative.)

6 CHAIRMAN AIBEL: I'll open it up to the  
7 public for comment.

8 Seeing none?

9 COMMISSIONER COHEN: Motion to close  
10 public portion.

11 COMMISSIONER GRANA: Second.

12 CHAIRMAN AIBEL: All in favor?

13 (All Board members answered in the  
14 affirmative.)

15 CHAIRMAN AIBEL: Mr. Matule?

16 MR. MATULE: I know it is late and you  
17 heard the testimony, but I think what is driving  
18 this whole thing is the fact we have an unusual site  
19 situation with the Union Club next door. The  
20 applicant is trying to respect that concavity by  
21 shifting volume from the front building to the rear  
22 building, a potential volume.

23 As far as that fire escape bridge, we  
24 think it is a better thing to have it than not have  
25 it, but we are not wedded to it. If the Board feels

1 strongly about it, that it shouldn't be there, we  
2 would remove it.

3 As far as the other conditions that Mr.  
4 Galvin has mentioned in his potential conditions,  
5 the applicant has no issues with any of them.

6 CHAIRMAN AIBEL: Do you want to read  
7 the conditions?

8 MR. GALVIN: Yes. I'll try to be  
9 quick.

10 The facade is to be constructed as  
11 described to the Board at the time of the hearing,  
12 and the plan is to be amended to set forth these  
13 specifications, which are to be reviewed and  
14 approved by the Board's planner.

15 Two: The Board granted this approval  
16 in reliance on the representation that the building  
17 at 604 Hudson Street is never going to be extended  
18 into the rear yard in order to respect the concavity  
19 on 600 Hudson Street, which is located at the corner  
20 of Sixth and Hudson.

21 This offer is to be reduced to a deed  
22 restriction. The deed restriction is to be reviewed  
23 and approved by the Board's Attorney and is to be  
24 recorded prior to the issuance of a building permit.

25 Three: The architect is to revise the

1 plan to show the green roof and submit it to the  
2 Board's planner for her review and approval.

3 Four: The plan is to be revised to  
4 show an accurate zoning table.

5 Five: The asphalt is to be removed in  
6 front of the cobblestones, and the area is to be  
7 repaired and preserved. Any disturbance of the  
8 cobblestones is to be repaired.

9 Six: The garage door is to have the  
10 appearance of a wooden carriage house door. The  
11 Board's planner is to review and approve the garage  
12 door.

13 Anything else?

14 Everybody good?

15 COMMISSIONER MARSH: I am good with  
16 everything except the carriage doors.

17 MR. GALVIN: Duly noted.

18 COMMISSOINER MARSH: Thank you.

19 CHAIRMAN AIBEL: I don't want to really  
20 belabor the point.

21 Is there some way that a new carriage  
22 door could be shown as a matter of -- what is the  
23 word, our legal word -- accommodate -- Historical  
24 Preservation Board that this is what we were  
25 suggesting?

1                   MR. GALVIN: Do you understand what  
2 we're saying?

3                   Go to the Historic Commission and see  
4 if they have a problem with that, with the revised  
5 door.

6                   Is there a way to get an answer between  
7 now and a month from now when the resolution gets  
8 memorialized, or is that going to be --

9                   MR. MATULE: I think they usually meet  
10 the first Monday of the month. I could try to  
11 effectuate that.

12                  CHAIRMAN AIBEL: Thank you.

13                  Does that help a little?

14                  COMMISSIONER MARSH: A little.

15                  (Laughter)

16                  COMMISSIONER MURPHY: I think the whole  
17 point of it is we don't want a door that's like an  
18 aluminum door that's going up, and somebody just put  
19 a really nice wooden door on my block. It is not a  
20 carriage door, but it is dark wood, and it's really  
21 nice.

22                  MR. GALVIN: I am sure what we are  
23 proposing would look good in that area, like Mr.  
24 Greene said in the last case. But what we want to  
25 do is we don't want to disrespect the Historic

1 Commission, but it is a real possibility, guys,  
2 brace yourself, that they want it left exactly the  
3 way they approved it. So then what are you going to  
4 do, if you ask?

5 COMMISSIONER MARSH: Works for me.

6 COMMISSIONER GRANA: Accept it.

7 (Everyone talking at once.)

8 MR. MATULE: We will go back and ask  
9 them if they have any objections to modifying it.

10 CHAIRMAN AIBEL: Thank you.

11 I think we are ready for a motion --  
12 oh, excuse me. We haven't deliberated.

13 COMMISSIONER GRANA: I'll go.

14 CHAIRMAN AIBEL: Thank you.

15 MR. GALVIN: It can get a gentle  
16 deliberation.

17 COMMISSIONER GRANA: I would just say  
18 that, you know, really focusing on Mr. Ochab's  
19 testimony, I think that this is an applicant that  
20 wants to improve their property for the benefit of  
21 their family. It is a unique site condition, and  
22 they have come seeking relief to respect the  
23 neighbor to the south, that relief triggers their  
24 reconfiguration of the lot, triggered the D  
25 variance, but I really think this is about a unique

1 site and unique lot issues. I think in so doing,  
2 that they are going to improve Court Street, and I  
3 don't see any negative impacts.

4 When I walked through that site, there  
5 are many other 30 foot structures along that  
6 corridor, and I don't see negative impacts to light  
7 and air, particularly considering that there is a  
8 seven-story structure to the south, so I'm in  
9 support of the application.

10 CHAIRMAN AIBEL: Thank you.

11 Anybody else wish to comment?

12 COMMISSIONER BRANCIFORTE: Well, I'm up  
13 in the air. I'm not quite sure what to make of it.  
14 I'm not totally convinced that the light is being --  
15 won't be affected into the neighbors' yards.

16 And the other thing, too, I respect the  
17 Historic Commission's approval of this. If they  
18 think it is okay, then I feel it should be okay, so  
19 I'm up in the air.

20 That's all I can say.

21 COMMISSIONER DE FUSCO: I have to a  
22 agree with John. You know, like I'm surprised that  
23 we're not concerned about the infringement into some  
24 open space here, especially considering how close it  
25 is to the neighboring building that has this

1       concavity. You know, the only building on the block  
2       that is that deep on Court Street, and I am on the  
3       fringe of this, because I am concerned that this has  
4       a slippery slope for the rest of the block.

5                I think it is -- the flip side, I think  
6       that it is an odd-shaped lot, and that could also  
7       generate a hardship, so I would be eager to see what  
8       everyone else says about this, but I am actually on  
9       the edge on this one considering the depth of the  
10      lot.

11               COMMISSIONER MURPHY: Well, you are  
12      going by the depth, but it's a preexisting depth for  
13      the bottom, but the top two are substantially  
14      shorter, and they're, what, about a foot over what  
15      is already allowed even though the stories are, you  
16      know, it's two stories as opposed to --

17               COMMISSIONER DE FUSCO: They're still  
18      asking for a height variance.

19               MS. BANYRA: In stories.

20               COMMISSIONER MURPHY: In stories.

21               Right. So like the slippery slope of  
22      people building, you know, that people could build,  
23      you know, another -- one story, and still go 30  
24      feet, so it becomes a difficult thing I guess, a  
25      question, right?

1 I'm inclined to stick with what the  
2 Historical Board would do, but also I don't know if  
3 they take into account some of the things that we do  
4 on the Zoning Board. Like, they are looking at the  
5 outside of the buildings and what it looks like, and  
6 how it fits into the neighborhood. We have much  
7 bigger issues, so I don't know. I am kind of  
8 wavering myself.

9 CHAIRMAN AIBEL: Anybody else?

10 MS. BANYRA: This is one correction I  
11 have to make.

12 Somebody mentioned that the height of  
13 the building is 31 feet. The plans were revised,  
14 and I believe that the revised plans, and you can  
15 correct me, if I'm wrong, are dated the 28th of July  
16 2014, and the building height is 30 feet, not 31  
17 feet.

18 So if you looked at that -- and we  
19 should be in a pattern of citing the date of the of  
20 the plans, because we're having issues --

21 COMMISSIONER MURPHY: Right. I think  
22 it was in his report --

23 MS. BANYRA: -- but it's 30 feet just  
24 so you know --

25 COMMISSIONER MURPHY: -- listed 31.

1                   COMMISSIONER GRANA: Let me just add to  
2 Commissioner DeFusco, that as far as the slippery  
3 slope, I understand, but I think in this particular  
4 case, either the 30 feet is what is permissible and  
5 there are other 30 foot structures, garage-type  
6 structures on that block, and I am not sure that --  
7 I'm just voicing your concern --

8                   COMMISSIONER DE FUSCO: Yeah.

9                   COMMISSIONER GRANA: -- that it may not  
10 be a slipper slope, and that 30 foot would be what's  
11 permissible --

12                  COMMISSIONER DE FUSCO: I hear you.

13                  COMMISSIONER BRANCIFORTE: The reason  
14 I brought up the question of, you know, historically  
15 it would be a loft above the garage is because if we  
16 built it as a loft, a one-story loft, the face of  
17 the building would look much different. It wouldn't  
18 be like a two-story building with two sets of  
19 windows. It would be like -- the facade would look  
20 much more like an old horse carriage I suppose loft  
21 style building. That is the reason I wanted to put  
22 it out there and bring it up.

23                  CHAIRMAN AIBEL: I am not seeing the  
24 extension above the first floor as being the problem  
25 or precedent setting. The first floor of the

1 structure is a preexisting nonconforming -- make the  
2 lot coverage certainly nonconforming, and we're not  
3 endorsing that. We are allowing the structure  
4 that's 30 feet high, which strikes me as being  
5 not -- it strikes me as avoiding an issue of light  
6 and air, because you make it a two-story -- a  
7 one-story 30 foot high addition on top of that  
8 garage. That's what they're entitled to build, so  
9 as long as it is clear that we're not approving in  
10 general 90 percent lot coverage, I could see this as  
11 being a special circumstance.

12 COMMISSIONER DE GRIM: Aren't you in  
13 fact taking out part of the structure that is not  
14 nonconforming, that is already existing, by dropping  
15 down the roof, and then adding 30 feet --

16 CHAIRMAN AIBEL: I'm not sure.

17 COMMISSIONER DE GRIM: -- I think  
18 that's just what he --

19 (Everyone talking at once.)

20 CHAIRMAN AIBEL: I think they are just  
21 building on top of the --

22 (Everyone talking at once.)

23 MR. GALVIN: Normally, no. But I think  
24 the contention that was made by Mr. McNeight is that  
25 buildings could have come back and had more volume.

1                   Is that what you're talking about?

2                   COMMISSIONER DE GRIM: No.

3                   What I'm talking about is if you look  
4                   at the facade now, that whole brick expanse at the  
5                   top is going to be the first floor. It is going to  
6                   drop down, so the existing garage, which is  
7                   nonconforming as to how far back it goes will in  
8                   fact be lessened. The volume of that building will  
9                   be lessened.

10                  COMMISSIONER FISHER: Because you think  
11                  they're dropping the ceiling of it?

12                  (Everyone talking at once.)

13                  CHAIRMAN AIBEL: Because you're  
14                  dropping the ceiling --

15                  MR. MATULE: The volume of the existing  
16                  garage will be reduced. The depth will not change,  
17                  but the overall internal volume will be reduced, so  
18                  that when we add our two floors above that, it will  
19                  again be at a reduced volume. Notwithstanding the  
20                  fact that it exceeds the permissible volume, and  
21                  that's why we are here asking for a variance.

22                  Just again, if I could just to the  
23                  Chairman's point, if we did not have this unusual  
24                  site condition with the Union Club next door, I  
25                  wouldn't have filed this application.

1                   I mean, I have people who are going to  
2                   say to me, I want to put a 35 foot deep or 30 foot  
3                   deep carriage house on Court Street, and I tell them  
4                   forget about it. So I mean in terms of a concern  
5                   about establishing policy, I think this is clearly  
6                   an exception that you could justify.

7                   COMMISSIONER FISHER: Can you just  
8                   clarify?

9                   How tall is the current garage?

10                  MR. MC NEIGHT: The current garage has  
11                  about a 13 foot ceiling in it, so we're going to  
12                  drop that down --

13                  MR. GALVIN: No, no, no.

14                  She wanted to ask for the height of the  
15                  building right now as it exists.

16                  MR. MC NEIGHT: The height of the  
17                  building right now --

18                  COMMISSIONER MARSH: The external  
19                  envelope.

20                  MR. MC NEIGHT: Oh, I would imagine it  
21                  is about 17 feet tall.

22                  COMMISSIONER FISHER: So you are really  
23                  effectively adding one tall story on top of it to --

24                  (Everyone talking at once.)

25                  COMMISSIONER DE FUSCO: If you

1       superimpose that coping, it would like cross the  
2       mullion, too, basically of the double hung window.

3                   COMMISSIONER FISHER:  But the result on  
4       the back side is that you are going to drop the  
5       ceiling on the back part --

6                   MR. MC NEIGHT:  Yes, because --

7                   COMMISSIONER FISHER:  -- so the whole  
8       thing is going to drop down five feet or something.

9                   MR. MC NEIGHT:  Correct.

10                  Yes.  We are going to diminish the  
11       height of the back of it.

12                  COMMISSIONER FISHER:  That's a good  
13       point.

14                  MR. GALVIN:  It is really good for the  
15       rookie.

16                  (Laughter)

17                  COMMISSIONER FISHER:  I'll just add  
18       that I think what has been presented was a very  
19       interesting approach to try to take an odd lot and  
20       an odd structure and do what they could to work  
21       within the lot and preserve the light and air for  
22       the alcove and the Union building by dropping now  
23       the ceiling on the garage and really just kind of  
24       staying within the height.

25                  I mean, it is as if you tried to do

1 everything you possibly could to work within that  
2 structure.

3 I am not as concerned about the light  
4 and air, because notwithstanding everything with one  
5 story all the way to the left of it, everything on  
6 this side, on the Washington Street side, so across  
7 the street is tall, so the light is already -- I  
8 think the point maybe Mr. McNeight made is I feel  
9 like the light that we're talking about is actually  
10 a de minimus amount in terms of this two-story  
11 versus the already four stories directly across the  
12 street.

13 I don't see it as having that big of an  
14 impact because the sun quite frankly is going to be  
15 blocked very quickly anyway because of what is in  
16 front of it, so I don't have as much of an issue,  
17 and I think the facade looks great, and all of these  
18 things that we approve, we are approving some  
19 interesting structures on Court Street and I mean,  
20 when you think about where it's going to be a couple  
21 of years from now, it's going to be great.

22 CHAIRMAN AIBEL: So my last comment  
23 slash question is: Would it make it easier for my  
24 colleagues to approve if I withdrew the suggestion  
25 of the carriage-like door and avoid --

1 COMMISSIONER GRANA: Not for me.

2 COMMISSIONER FISHER: Not for me  
3 either. I am not voting, but I think the wooden  
4 doors are a great addition, and all we are doing is  
5 telling them to ask, right? That's all we are  
6 doing.

7 COMMISSIONER BRANCIFORTE: We have to  
8 keep some sort of tie -- for me, we have to keep  
9 some sort of tie to the carriage house history of  
10 Court Street, and if that is what it is, then that's  
11 what I think it should be.

12 CHAIRMAN AIBEL: I think we are ready  
13 for a motion.

14 COMMISSIONER GRANA: I would like to  
15 make a motion --

16 MR. GALVIN: Remember we need five  
17 affirmative votes on this one, because we have taken  
18 the position that it's --

19 COMMISSIONER GRANA: I would like to  
20 make a motion to approve with the conditions that  
21 were read previously.

22 CHAIRMAN AIBEL: Second?

23 COMMISSIONER MARSH: I'll second it.

24 COMMISSIONER FISHER: Carol seconded  
25 it.

1 MS. CARCONE: Commissioner Cohen?  
2 COMMISSIONER COHEN: Yes.  
3 MS. CARCONE: Commissioner DeFusco?  
4 COMMISSIONER DE FUSCO: Yes.  
5 MS. CARCONE: Commissioner Grana?  
6 COMMISSIONER GRANA: Yes.  
7 MS. CARCONE: Commissioner Marsh?  
8 COMMISSIONER MARSH: Yes.  
9 MS. CARCONE: Commisisoner Murphy?  
10 COMMISSIONER MURPHY: Yes.  
11 MS. CARCONE: Commissioner Barnciforte?  
12 COMMISSIONER BRANCIFORTE: Yes.  
13 MS. CARCONE: Commissioner Aibel?  
14 CHAIRMAN AIBEL: Yes.  
15 MR. MATULE: Thank you, Mr. Matule.  
16 MR. GALVIN: I'll email the conditions.  
17 You will have them tomorrow.  
18 MR. MATULE: Thank you.  
19 (The matter concluded at 11:25 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: 2/23/15  
 This transcript was prepared in accordance with  
 NJAC 13:43-5.9.

HOBOKEN ZONING BOARD OF ADJUSTMENT  
CITY OF HOBOKEN

----- X  
REGULAR MEETING OF THE HOBOKEN : Tuesday, 11:25 pm  
ZONING BOARD OF ADJUSTMENT : February 17, 2015  
----- X

Held At: 94 Washington Street  
Hoboken, New Jersey

B E F O R E:

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

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

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

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

1           A P P E A R A N C E S:

2                   DENNIS M. GALVIN, ESQUIRE  
3                   730 Brewers Bridge Road  
4                   Jackson, New Jersey 08527  
5                   (732) 364-3011  
6                   Attorney for the Board.

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1                   CHAIRMAN AIBEL: Before you break,  
2 everybody, Board members, we have to do some waivers  
3 tonight to be timely, so, Jeff, would you --

4                   MR. MARSDEN: In 145 seconds.

5                   MS. CARCONE: Go quick, Jeff.

6                   (Everyone talking at once.)

7                   CHAIRMAN AIBEL: Come on, please, we're  
8 on the record.

9                   MR. MARSDEN: We are looking at the  
10 waivers for 100-108 Paterson. It's a minor site  
11 plan with C and D variances. They are only  
12 requesting the stormwater management plan waiver,  
13 and both C and D variance issues.

14                   Because of the nature of the request, I  
15 have no problem with them in granting that, and I  
16 recommend approving the application as complete.

17                   CHAIRMAN AIBEL: Anything else?

18                   MR. MARSDEN: And then we have one --  
19 356 Third Street --

20                   COMMISSIONER FISHER: I assume that's  
21 not a new construction?

22                   It's not a new construction?

23                   MR. MARSDEN: -- it's preliminary site  
24 plan, C variances.

25                   They are not requesting site plan

1 application variances, major site plan for some  
2 variance. They are requesting the stormwater  
3 management on C variance.

4 However, they didn't fill out an  
5 application or a checklist for minor site plan.  
6 Therefore, they are not complete, so I recommend  
7 that they be deemed incomplete because they didn't  
8 fill out the checklist, and all they will have to do  
9 is be told they could fill the checklist out and be  
10 deemed complete as soon as they do that.

11 CHAIRMAN AIBEL: Is that it, Jeff?

12 MR. MARSDEN: That's it, yes.

13 COMMISSIONER BRANCIFORTE: Motion to  
14 act on Jeff's recommendations as stated.

15 COMMISSIONER MARSH: Second.

16 COMMISSIONER GRANA: Second.

17 CHAIRMAN AIBEL: All in favor?

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

20 CHAIRMAN AIBEL: Anybody opposed?

21 No.

22 Motion to close the meeting?

23 MS. CARCONE: Jeff, can I have those  
24 back?

25 COMMISSIONER GRANA: Motion to close.

1 COMMISSIONER MARSH: Second.

2 MS. CARCONE: Next week, Tuesday, Multi  
3 Service Center.

4 COMMISSIONER FISHER: That's where the  
5 meeting is.

6 MS. CARCONE: We're not meeting in this  
7 room. We're meeting at the Multi Service Center.

8 (Discussion held off the record.)

9 (The meeting concluded at 11:35 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.

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s/Phyllis T. Lewis, CCR, CRCR

- - - - -

PHYLLIS T. LEWIS, C.C.R. XI01333 C.R.C.R. 30XR15300  
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