HOBOKEN ZONING BOARD OF ADJUSTMENT
CITY OF HOBOKEN

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HOBOKEN ZONING BOARD OF :Tuesday 7 p.m.
ADJUSTMENT SPECIAL MEETING :May 12, 2015
- - - - - - - - - - - - - - - - - - -X

Held At: 94 Washington Street
Hoboken, New Jersey

B E F O R E:

Chairman James Aibel
Commissioner Philip Cohen
Commissioner Michael DeFusco
Commissioner Antonio Grana
Commissioner Diane Fitzmyer Murphy
Commissioner John Branciforte
Commissioner Owen McAnuff
Commissioner Frank DeGrim

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

Eileen Banyra, Planning Consultant

Jeffrey Marsden, PE, PP
Board Engineer

Patricia Carcone, Board Secretary

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CHAIRMAN AIBEL: Good evening, everyone.

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

Please join me in saluting the flag.

(Pledge of Allegiance recited)

CHAIRMAN AIBEL: Thanks.

Pat, do a roll call, please.

MS. CARCONE: Commissioner Aibel?

CHAIRMAN AIBEL: Here.

MS. CARCONE: Commissioner Greene is absent.

Commissioner Cohen?

COMMISSIONER COHEN: Here.

MS. CARCONE: Commissioner De Fusco?

COMMISSIONER DE FUSCO: Here.

MS. CARCONE: Commissioner Grana?

COMMISSIONER GRANA: Here.

MS. CARCONE: Commissioner Marsh is

absent.

Commissioner Murphy?

COMMISSIONER MURPHY: Here.

MS. CARCONE: Commissioner Branciforte?

COMMISSIONER BRANCIFORTE: Here.

MS. CARCONE: Commissioner Fisher is absent.

Commissioner McAnuff?

COMMISSIONER MC ANUFF: Here.

MS. CARCONE: Commissioner DeGrim?

COMMISSIONER DE GRIM: Here.

CHAIRMAN AIBEL: Good.

Jeff, do we have any waivers tonight?

MR. MARSDEN: No.

CHAIRMAN AIBEL: No waivers, good.

We have two resolutions to memorialize.

MR. GALVIN: Okay.

CHAIRMAN AIBEL: The first is a resolution of denial for 61-63 Fourteenth Street.

MR. GALVIN: Okay. And we have eligible to vote Ms. Marsh, Mr. Branciforte and Chairman Aibel.

COMMISSIONER BRANCIFORTE: Motion to accept.

CHAIRMAN AIBEL: I will second it.

MR. GALVIN: Seconded by the Chairman.

Okay. Mr. Branciforte?

COMMISSIONER BRANCIFORTE: Aye.

MR. GALVIN: Mr. Aibel?

CHAIRMAN AIBEL: Yes.

MR. GALVIN: That's carried.

CHAIRMAN AIBEL: Resolution of approval for 600 Harrison.

MR. GALVIN: Mr. Cohen, Mr. Grana, Mr. Branciforte, Mr. McAnuff, and Mr. DeGrim are all eligible to vote on this matter.

Do I have a motion?

COMMISSIONER GRANA: Motion to approve 600 Harrison.

COMMISSIONER MC ANUFF: Second.

MR. GALVIN: There you go.

Mr. Cohen?

COMMISSIONER COHEN: Yes.

MR. GALVIN: Mr. Grana?

COMMISSIONER GRANA: Yes.

MR. GALVIN: Mr. Branciforte?

COMMISSIONER BRANCIFORTE: Yes.

MR. GALVIN: Mr. McAnuff?

COMMISSIONER MC ANUFF: Yes.

MR. GALVIN: Mr. DeGrim?

COMMISSIONER DE GRIM: Yes.

MR. GALVIN: Thank you.

CHAIRMAN AIBEL: Great. Thanks.

(Continue on next page)

HOBOKEN ZONING BOARD OF ADJUSTMENT
CITY OF HOBOKEN

- - - - - - - - - - - - - - - - - - X
RE: 1101 Grand Street : SPECIAL MEETING
APPLICANT: Studio L, LLC : May 12, 2015
Final Site Plan Approval : Tuesday 7:15 p.m.
- - - - - - - - - - - - - - - - - - X

Held At: 94 Washington Street
Hoboken, New Jersey

B E F O R E:

Chairman James Aibel
Commissioner Philip Cohen
Commissioner Michael DeFusco
Commissioner Antonio Grana
Commissioner Diane Fitzmyer Murphy
Commissioner John Branciforte
Commissioner Owen McAnuff
Commissioner Frank DeGrim

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I N D E X

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CHAIRMAN AIBEL: We are going to start with 704 Madison and then turn to 726-732 Grand, and 1101 Grand is third on the calendar, unless counsel has a different --

MR. MATULE: Well, good evening, Mr. Chairman, Robert Matule, and Board members.

The only thing I would like to bring to the Board's attention is Mr. Kolling is the planner on 704 Madison and 726 Grand, and I understand that he is in transit, as it were in traffic. We could start with our architectural testimony, if you would like, or if you want to do 1101 first only because it is final --

CHAIRMAN AIBEL: Well, they are all your clients, so...

(Laughter)

MR. MATULE: I think it would be more continuity to do 1101 first.

MR. GALVIN: I am agreeing with you. I just whispered that to the Chairman.

MR. MATULE: Okay.

CHAIRMAN AIBEL: Let me just say, Mr. Matule, we are going to do our very best to get through all three applications tonight, so we will be efficient, if the applicants can be efficient.

MR. MATULE: I will try to be on top of that as best as I can.

So then on that note, Robert Matule appearing on behalf of the applicant.

Just by way of a little background information, this is an application for final site plan approval for 1101 Grand Street. It was originally approved in June of 2006.

We received preliminary site plan approval and variances to construct a five-story building with a sixth floor mezzanine. So the mezzanine height was going to be 60 feet high. 16 units, 14 parking spaces, and a ground floor commercial space with a customer service area not to exceed 958 square feet.

When this application that is before you now was originally filed, it was for amended preliminary and final, and we subsequently amended that to withdraw the amended preliminary portion of it and to just go with the original approvals.

We have provided will-serve letters from North Hudson, PSE&G, United Water, our soil erosion permit. Hatch-McDonald has approved our stormwater detention design. We are not requesting any additional variances.

I do have Mr. Levine, our architect, here tonight if the Board has any questions of him.

I will proffer to the Board that Mr. Levine had a meeting with Ann Holtzman, the Flood Plain Administrator, earlier this week to discuss this particular building, and the only comment she had was that she wanted the commercial space to be dry flood proofed, and the lobby and the rest of the garage to be wet flood proofed, and that Mr. Levine should submit those plans at the time he applies for his zoning certificate, assuming this is approved tonight.

That is pretty much it. It's pretty straightforward. I would think it is fairly administrative at this point.

The only other thing I would ask, if the Board is inclined to approve the matter tonight, is in the resolution, since we have received approvals for 16 units, I would respectfully request that the resolution be worded either that the approval is not to exceed 16 units, or we have approval to build up to 16 units, just to give the applicant some flexibility, if market conditions change. This seems to be an issue in another approval right now, and if we can avoid that going

forward, I would like that.

CHAIRMAN AIBEL: So can I ask a question?

Are there any changes that we should be considering?

MR. MATULE: The facade has changed somewhat. I think the original plan had this kind of, I call it a bat wing like barrel roof that was on it coming down from the mezzanine to the edge of the fifth floor roof. That has now been eliminated, and it's just been slanted to keep the same profiles and setbacks and everything.

Aside from that, I think that is the only change.

It has not triggered any need for a facade variances. We still meet the masonry and fenestration phase.

CHAIRMAN AIBEL: So I guess I will look to our professionals.

MR. MATULE: I could have the architect come up, if you want to hear the specifics.

MR. GALVIN: I think we should look at the front facade.

CHAIRMAN AIBEL: I guess we should conclude whether there were material changes or not.

MR. GALVIN: If you said there were no changes to that, then you wouldn't have to look at that, but because you're making a change, it is almost like an administrative change. It's not a --

MR. MATULE: We will have Mr. Levine come up and --

MR. GALVIN: Okay.

MR. MATULE: Mr. Levine, we need to have you sworn before we do anything else.

MR. GALVIN: Raise your right hand.

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

MR. LEVINE: I do.

L E E L E V I N E, having been duly sworn, testified as follows:

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

THE WITNESS: Lee Levine, L-e-v-i-n-e.

MR. GALVIN: Did you previously appear before this Board in this case?

THE WITNESS: I did in 2005.

MR. GALVIN: Do we accept Mr. Levine's credentials?

CHAIRMAN AIBEL: Yes, we do.

MR. GALVIN: All right. You may proceed.

MR. MATULE: Mr. Levine, if you would, I am sure you heard the conversation I have been having with the Board up here about the fact that the facade of the building has been revised, so if you can, what I would like you to do, and we could mark them, if you have the rendering of the original --

THE WITNESS: Do you need the 2005?

MR. MATULE: What?

THE WITNESS: Do you need the 2005?

MR. MATULE: Yes, we could show that.

THE WITNESS: I'm sorry. I hadn't planned on presenting that.

CHAIRMAN AIBEL: We have a copy, so we will pass it around.

MR. MATULE: Oh, okay.

They have a copy, so they don't need that, so we can mark the current facade, if you will, A-1.

(Exhibit A-1 marked.)

THE WITNESS: If I could, I would like to start with six views that explains the bulk of the building.

MR. MATULE: All right. So we are going to mark this Exhibit A-1, and why don't you just describe for the record what it is?

THE WITNESS: This drawing is the model from -- it represents the model that we used to create the rendering.

What I have here is at 15 feet above grade, so that it is not even eye level. It is another eight or nine feet above eye level.

You see that, in fact, the sloping roof that encapsulates -- incorporates the mezzanine within it is not visible. You see that both from Grand Street, from across the street on 11th Street and from the diagonal corner.

Now, if you get up to 35 feet, which would be a third story across the street, you detach a little bit of a railing over the sloping roof, and you see that on Grand Street and on 11th Street, but you have to be 35 feet above grade for that to be in any way visible.

And this is just a little bit of a bird's eye view, so that what you see here is a sloping roof that is much less dramatic than what was a kind of a shaped truncated form that went in a couple of directions up there.

So this -- the parapet of the building is the same height as it was where it met the arches.

The second --

MR. MATULE: So we will mark this A-2. This is a rendering.

THE WITNESS: This is a rendering.

(Exhibit A-2 marked.)

This is a little bit higher than eye level from the opposite corner.

What you have is you have black framed windows. They are Marvin windows. They are push power-activated windows.

You have a two-by-four stone material. It is an Aristocrat stone, cast stone. It is traditionally done routed with groves, clipped stainless steel back to the facade.

And so what you see here is the stone work, and I can show that in elevations, although I believe you probably have the elevations, but I can certainly show them also, if you need them, but this represents the two facades.

The corner has a bay window of three stories. The original approval was for four stories of bay windows, and so if at some point you needed

me to go through all of the square footages, everything is less than the original 2005 plans, the same or less. I think we are nine square foot less on bay windows and footprints.

I can walk through the plans, if it's is needed.

CHAIRMAN AIBEL: I am not sure it is needed.

Let me open it up to the Board for questions.

Anybody have questions for Mr. Levine?

COMMISSIONER MURPHY: I mean, to me, like the obvious question is why the change from the barrel roof and the rounded windows?

I mean, it looks to me like it is a totally different building, so --

THE WITNESS: Well, it is the same building in terms of interior partitions on units, on the number of apartments, on the retail space, on the parking.

It is a different skin because there are different individuals involved from the original application.

COMMISSIONER MURPHY: Okay.

But for me, like looking at it, it

looks like a different building.

Like we have often been told it doesn't really matter how many, you know, what the room layout is going to be so much as the exterior of the building, which is what people that don't live in the building are going to see.

MR. GALVIN: That is correct.

COMMISSIONER MURPHY: So, you know, just to me, it looks like a totally different building, so I would love to see if anybody else on the Board feels the same way.

COMMISSIONER DE FUSCO: Mr. Chair?

Mr. Levine, would you think that in the time since the original plans were approved in 2006, that the exterior of the building is more of the time? It is more of the age that we are building it in?

THE WITNESS: Yes, I do.

COMMISSIONER DE FUSCO: So just to answer my colleagues's question --

THE WITNESS: I think it is a very appropriate building. It meets all of the conditions and terms here in Hoboken in terms of materials and glass. It is a masonry structure. It's a different type of masonry structure.

COMMISSIONER MURPHY: It looks beautiful, but just different. That is all.

CHAIRMAN AIBEL: Mr. Grana?

COMMISSIONER GRANA: I guess it is a question for Mr. Levine and maybe Mr. Matule simultaneously.

Other than the exterior change in appearance, has there been any significant deviation from what was approved in 2005?

THE WITNESS: Absolutely not.

There are some minor differences in how the stairs had to be separated, how the elevator had to be sized because of changes in building code regulations over the years. The units are exactly the same sizes, the 16 of them.

There was a mistake in both the planner's report and in the H2M report. It reported it as being a six-story building.

There was a set back sixth story approach that we brought to workshop. Comments were given on that, and as a result of those comments, we went back to maintaining the mezzanines, the exact same square footage on the mezzanines, so we have done everything that we possibly could to maintain everything correctly.

The retail space is exactly the same. A little bit of circulation is the only change.

COMMISSIONER GRANA: And no changes to height or lot coverage from the original application?

THE WITNESS: None whatsoever.

MR. MATULE: No.

I would just add to Mr. Levine's testimony, that in Ms. Banyra's report, on Page 3, she talks about the original approved gross floor area of the building was 33503 square -- 33512, I'm sorry, and we are now at 33503, a difference of nine square feet. We have actually gone down nine square feet.

THE WITNESS: That nine square feet is just a reflection of the change from four bay windows to three bay windows of a slightly different proportion.

CHAIRMAN AIBEL: Mr. Cohen?

COMMISSIONER GRANA: Okay. And one other question about the facade.

Does the facade as presented require a variance?

MR. MATULE: No.

COMMISSIONER GRANA: I have no more

questions.

CHAIRMAN AIBEL: Mr. Cohen?

COMMISSIONER COHEN: Mr. Levine, could you just describe what material you are using? I mean, it appears to be some sort of a white stone --

THE WITNESS: It is --

COMMISSIONER COHEN: -- on the exterior --

THE WITNESS: -- you can pass that around. It's a stone --

MR. MATULE: We are going to pass around a sample.

Should we mark it?

MR. GALVIN: No. We don't want to keep that. You will be responsible for bringing it to court, if somebody challenges us.

(Laughter)

THE WITNESS: It is a stone material that you rout the edges around. You use traditional stone applications like with stainless steel clips to tie it back.

The windows you see are a clad Marvin window, and that color then has guided some of the profiles that we have here that will match that.

COMMISSIONER COHEN: Okay. Thanks.

COMMISSIONER DE GRIM: It appears that the two buildings on either side are brick facade, and that this was originally a brick facade.

Is there a reason why it has been changed from a brick facade to this gray stone?

THE WITNESS: I think it is a matter of in ten years, sometimes it is appropriate to give it a shot at a different image. We worked very hard at that time to develop this, and we are very comfortable with it.

I obviously had a large hand in creating the original barrel red roof --

MR. GALVIN: I may have even been here -- no, I was at the Planning Board, not the Zoning Board.

THE WITNESS: -- I had a hand in it, and I thought it was very appropriate at the time.

I think we have a very good building here at this point.

COMMISSIONER DE GRIM: And the part that slopes that you can't see from here, but if you have the bird's eye view, the sloping part, is that like the second floor of the upper apartments?

THE WITNESS: What actually -- I can show a plan -- if I show a plan, do we have to --

MR. MATULE: No. If it is in the plans, it has been submitted, so that doesn't have to be marked.

THE WITNESS: Okay.

If we go to the roof plan for a moment, so the drawing, Z-8, that you all have before you shows sort of a drainage trough behind the parapet, and it shows the sloping roof. It would be kind of a matte silver gray roof, a standard metal, skylights, and at this point since there are some condensing units on the roof, we have a horizontal OSHA rail ten foot back from the perimeter, and --

COMMISSIONER DE GRIM: What I am asking basically is that the top apartment -- the top floor where the skylights are --

THE WITNESS: That is a mezzanine.

COMMISSIONER DE GRIM: -- is that a mezzanine?

THE WITNESS: What that is, and it is the exact same square footage as the original, we have a 458 square foot area and a 436 square foot area, both of which open up because of the sloping to the floor below, and the mezzanine square footage is under the building code, not zoning, are based on being a third or less of the area that is open, and

that's how they were calculated originally, and we maintained it that way when we went back to this approach.

COMMISSIONER DE GRIM: Okay.

MR. GALVIN: Now, originally the barrels caused the building to go to 55 feet in height.

What happened to the very top of the building? With the elimination of the barrels, did the whole building come up then? Is that the whole line came up?

MR. MATULE: I think the top of the mezzanine was always 60 feet.

THE WITNESS: It was 55 at the street and 60 at the --

MR. GALVIN: The resolution said 50.

THE WITNESS: Bear with me, and I will look up the 2005.

MR. MATULE: I have one right here.

THE WITNESS: It was -- the main roof was 50 feet, and the sloped ridge roof at the mezzanine was 60 feet, which is what we have here.

The roof is at 50, and this is at 60.

MR. GALVIN: Okay.

COMMISSIONER DE FUSCO: Mr. Chair, may

I ask one more question?

CHAIRMAN AIBEL: Sure.

COMMISSIONER DE FUSCO: In regard to the height of the building, would you say that the original barrel roof had a greater visual impact from the street level than the current design?

THE WITNESS: Absolutely.

COMMISSIONER DE FUSCO: So in the redesign process, you've actually improved sight lines from the street to --

THE WITNESS: Yes, we have.

And the sections that you can look at show that you can't see anything from either street, either Grand Street or 11th Street. If you are across the street, there is nothing visible above the front parapet.

COMMISSIONER DE FUSCO: Good.

And I also noticed on the second floor, there is a green roof. Was that in the original plan?

THE WITNESS: The green roof was in the original plan, and it has been provided here as well.

COMMISSIONER DE FUSCO: That is great. You were ahead of your time in 2006.

(Laughter)

THE WITNESS: Thank you.

CHAIRMAN AIBEL: Anybody else?

COMMISSIONER BRANCIFORTE: Not that far ahead of his time, because there is no electric car charging stations or --

MR. GALVIN: You can't add anything. You shouldn't be adding anything in the final.

COMMISSIONER BRANCIFORTE: Yeah, I know. Well, you know, so what happens if you decide to go from 16 units to less units then?

I mean, how --

THE WITNESS: What happens?

COMMISSIONER BRANCIFORTE: Yeah.

MR. GALVIN: No, no. I am going to jump in here.

There is a case that we have, where we approved a single-family home with an aupera apartment, a help, staff, a nanny apartment, and they eliminated the nanny. Don't ask me where she went. So they combined the nanny unit with the whole building.

And from a zoning perspective, if you say you are going to say you are going to have a building, and then a nanny unit, then you should

have a building and a nanny unit. You're not allowed to make that change without coming back to the Board and telling us that you want to eliminate that.

Normally, people only worry when it gets bigger, but getting smaller can have an effect, too. So if you have 16 units here, and you were to put a couple of them together, you get like a -- I don't know how big the units are here -- but you get a mcmansion-sized apartment.

So what they are asking us is: Are you okay if they combine one or two of these apartments, so that there would be less units, but bigger apartments.

THE WITNESS: If I might, in 2005, the only thing being constructed in Hoboken were two-bedroom, 11 to 12 and a half hundred square foot units, and we have left it this way for the purpose of ensuring that we are conforming with what we originally proposed.

MR. GALVIN: It is just for the Board to decide if you're okay with them combining units or not. We'll talk about that.

MR. MATULE: I will also add, that if anything like that would take place, it would have

to be vetted through the zoning officer, assuming the Board gave the applicant the discretion to do that, the applicant would have to go back to the zoning officer, get an amended zoning certificate and file amended plans. It is not something that they would just do on their own.

MR. GALVIN: I got you. But I'm visualizing. You got two apartments on the same floor, and you want to combine them, so then it would be 15 units. Rather than having to come back, they already have the authorization to just go ahead and combine them.

The other question I have is: Do you have 958 square feet of customer service commercial area?

THE WITNESS: We did. The same as we did originally, and I think the actual retail store area was eleven or slightly over eleven, if I recall --

MR. MATULE: Yes.

MR. GALVIN: All right. I just wanted --

THE WTINESS: -- but the variance for that was originally because there was only one business on the block.

MR. GALVIN: I am not -- I want to make sure we didn't lose the commercial space. It didn't get reduced.

MR. MATULE: It is the same size.

MR. GALVIN: I'll give you -- my personal opinion is that when you do a preliminary approval, it should -- the final approval really shouldn't change. It should be exactly what we bought, and I got the reasoning here, it is a ten-year-old application --

THE WITNESS: It is 1133, the overall space. 958 is the customer area, and it is shown on the drawing Z-3. You can see that this is where we divided the space.

MR. GALVIN: The proper way to make the change -- these changes, I think are minimal and could be made administratively, and that is effectively what you would be doing if you agree with the change in the architectural look.

But if they were making any more changes than this, they would have had to amend their case. If they had amended their case, they would have been subjected to newer laws that would have had an impact on this application.

That is all I have, and you guys are

educated.

CHAIRMAN AIBEL: Any other Board questions?

Professionals?

MS. BANYRA: So, Mr. Levine, you said that it is five stories?

THE WITNESS: It is five stories.

MS. BANYRA: Okay.

So the mezzanine, we counted that as a story, because the definition of story, you know, is floor-to-ceiling height.

THE WITNESS: What was approved in 2005 was two mezzanines, and we are maintaining the same two mezzanines.

MS. BANYRA: That's okay. I am just saying, you know, in terms of, you know, the way we count a story, so whether it's semantics or not, I think both of our reports call it out, and the story is -- the definition of story basically says that the portion of the building included between the surface of any floor and the surface of the floor or roof next above it, so on a technical read of that to me would be a mezzanine would be considered a story.

THE WITNESS: My apologies. I thought

what the planner's report was referring to was the prior set of plans that did show a unit on the sixth floor, and that is what we omitted after the workshop. We went back to the two mezzanines.

MR. GALVIN: I think we are good. I think we are good.

MS. BANYRA: Yeah. I'm just --

THE WITNESS: My apologies.

MS. BANYRA: -- no problem. I'm just, you know --

MR. MARSDEN: I just need him to say he is going to make these changes.

MR. GALVIN: Okay.

MR. MARSDEN: Do you have my letter?

MR. MATULE: I do, and I believe Mr. Levine has it.

MR. MARSDEN: Yes.

Are you okay with making the changes? Most of it is just kind of detailing and grading and stuff.

THE WITNESS: We actually -- except for the three percent, which we have not figured out how to do without moving curbs, we already put revisions on the drawings to reflect the comments, and we can submit them as soon as tomorrow.

MR. MARSDEN: Okay.

MS. BANYRA: Then the only other outstanding issue, and maybe you can just address this in testimony, was I think what was testified to was a retail establishment, that the commercial space was supposed to be a convenience-type retail establishment and a customer service area that you already testified to, so is that still what's proposed?

MR. MATULE: That's still the intention obviously until the building is up --

MR. GALVIN: No, no, no. It can't be the intention. It has to be a requirement.

MR. MATULE: Well, fine.

I mean, we don't have any objections to that requirement continuing in place.

All I am saying is, if you want us to testify that we have a proposed tenant, no.

MR. GALVIN: No. We didn't ask for that.

MS. BANYRA: No.

I am looking at the conditions of approval, so that was one of the conditions of approval that was a retail-type convenience store --

MR. GALVIN: I am going to put: The

applicant will continue to comply with the conditions of preliminary approval, and the applicant agreed to comply with the H2M letter, and I think we have gotten all we can out of this case.

MS. BANYRA: And the materials should be identified on the plans, Mr. Levine, for signing.

THE WITNESS: Okay.

CHAIRMAN AIBEL: Okay.

Seeing no more questions here, let me open it up to the public.

Anybody in the public have questions for Mr. Levine?

Seeing none, may I have a motion?

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

COMMISSIONER GRANA: Second.

CHAIRMAN AIBEL: All in favor?

(All Board members answered in the affirmative.)

MR. GALVIN: You have all outside agency approvals?

MR. MATULE: Yes. I believe we have submitted them all to Mr. Marsden.

MR. MARSDEN: I believe you have, yes.

CHAIRMAN AIBEL: Everything is in

order, Jeff?

MR. MARSDEN: Yes, I believe so.

CHAIRMAN AIBEL: Anything else, Mr. Matule?

MR. MATULE: No. I think that is pretty much it.

CHAIRMAN AIBEL: Board members, anybody have any comments?

COMMISSIONER BRANCIFORTE: Just one quick comment.

I guess in this particular case, it doesn't matter if we word it, you know, if he wants to do less than 16 units, combined units, it's fine. But in any other case, if this was a mix of one-bedrooms and studios and two-bedrooms, I would be completely against it, because unless he told us exactly what the mix would be, if he downsized, but now I don't think it really makes a difference. But I am just saying it is not going to be a habit with me to approve it, especially when there is a mix of units.

MR. MATULE: Understood.

CHAIRMAN AIBEL: I will just add very quickly that, you know, my general feeling is we should be honoring the approvals, the preliminary

approvals.

In this case, the design changes were done after ten years, so I can see why maybe we could overlook them here, but probably not in a case that were two years old.

MR. MATULE: Understood.

CHAIRMAN AIBEL: Anybody else?

COMMISSIONER COHEN: I think the design is a good design. I actually think it is nicer than the one that was originally approved. I think it fits the neighborhood. I think it is important that it's consistent with the approval.

I am okay with the maximum number of units, which will allow them flexibility to consolidate, to make more family-friendly units than was originally envisioned, which I think, again, as Mr. Levine testified, ten years later, there is more of a market for those types of units, and I think it would be preferable to have more of them available, if they see fit to build them, so I would support this.

CHAIRMAN AIBEL: Mr. Grana?

COMMISSIONER GRANA: I would support the up to 16 units discussion. The market conditions have changed in the last ten years. I

don't see any material changes from preliminary to final.

The facade has changed, but it is not triggering a variance. I like both, and I would vote to approve it.

COMMISSIONER DE FUSCO: I would just add this is a nice improvement to the facade.

I think the retail space on the corner is something that will add life to the streets.

I think the roof change is a -- reduces the sight line and the overall impact of the building.

I think it is refreshing to see these sized units. To me, these could be family-friendly. Certainly they would be family-friendly for me. You know, three and four-bedrooms sometimes are a little inaccessible to other folks and, you know, I support this project wholeheartedly.

CHAIRMAN AIBEL: I like the architect who did the first plans.

(Laughter)

COMMISSIONER MURPHY: I just want to add, too, that I am okay with the changes considering the fact that it has been ten years, but I would probably be less likely to accept something

within a year or two change to that much, but I do like the building.

CHAIRMAN AIBEL: Okay.

I think we're --

COMMISSIONER BRANCIFORTE: We can't -- the only thing I would like to say is I would like to see you update and incorporate some of the changes that we talked about in the last ten years, whether it be lighting. There is no requirement that you do it. LED safety lighting for the driveways and stuff --

MR. LEVINE: Those are on the plans, yes.

COMMISSIONER BRANCIFORTE: Oh, they are?

Okay.

CHAIRMAN AIBEL: Okay. Are we ready for a motion?

COMMISSIONER GRANA: Do we need to hear the conditions?

CHAIRMAN AIBEL: I'd like to hear the conditions.

MR. GALVIN: Yes. I already said two of them, but I will repeat them, though.

One: The applicant will continue to

comply with the conditions of preliminary approval, which is pretty much that commercial space.

Two: The applicant agreed to comply with the H2M letter.

Jeff, what is the date of your letter?

MR. MARSDEN: It is March 19th, revised May 5th.

MR. GALVIN: Revised May 5th, okay.

Three: The plans are to be revised to show all of the revised building materials.

Four: The Board authorizes the applicant to combine units, if the opportunity to create family-friendly units arises. The combination of units shall require the review and approval of the zoning officer.

Is that what we were talking about?

I think we should have a gatekeeper there.

MR. MARSDEN: If I may ask, do you have an SES approval?

MR. MATULE: A what?

MR. MARSDEN: The Soil Erosion Sediment Control approval.

MR. MATULE: Yes. It is actually attached to the plans.

MR. MARSDEN: It's attached in the plans --

MR. MATULE: It is right on Sheet Z-15.

MR. MARSDEN: -- oh, okay. That was the only thing I didn't see.

MR. LEVINE: One is soil erosion and one is the other.

MR. MARSDEN: The approval, the permit, not just the drawing.

MR. LEVINE: Have we pulled the permit yet?

MR. MARSDEN: Yes.

MR. LEVINE: No, we have not.

MR. MATULE: It is approved, but it's a letter saying they have reviewed it, and it is approved --

MR. LEVINE: The approval letter --

MR. MATULE: -- that meets the standard.

MR. MARSDEN: Okay. So I am good. Thank you. I'm sorry.

CHAIRMAN AIBEL: So just my final comment is: I am a little sorry we are going to lose that iconic building that I pass by all of the time walking my dogs, but I am sure you will build a

very nice building.

(Laughter)

MR. LEVINE: Maybe we will try for another one soon.

CHAIRMAN AIBEL: Okay. Good.

COMMISSIONER GRANA: Motion to approve 1101 Grand.

COMMISSIONER COHEN: Second.

COMMISSIONER AIBEL: Pat?

MS. CARCONE: Commissioner Cohen?

COMMISSIONER COHEN: Yes.

MS. CARCONE: Commissioner DeFusco?

COMMISSIONER DE FUSCO: Yes.

MS. CARCONE: Commissioner Grana?

COMMISSIONER GRANA: Yes.

MS. CARCONE: Commissioner Murphy?

COMMISSIONER MURPHY: Yes.

MS. CARCONE: Commissioner Branciforte?

COMMISSIONER BRANCIFORTE: Yes.,

MS. CARCONE: Commissioner McAnuff?

COMMISSIONER MC ANUFF: Yes.

MS. CARCONE: Commissioner Aibel?

CHAIRMAN AIBEL: Yes,

MR. MATULE: Thank you.

And if I might, Mr. Branciforte, on

Sheet Z-12 --

COMMISSIONER BRANCIFORTE: Yeah, I did see it --

MR. MATULE: -- they actually did put the LED strips in the sidewalk --

COMMISSIONER BRANCIFORTE: -- yeah. I was looking like at A-3 or G-3 I think. I wasn't looking all the way in the back.

MR. MATULE: That was Mr. Marsden's suggestion in the work session.

COMMISSIONER BRANCIFORTE: Excellent. Thank you, Mr. Marsden.

MR. MATULE: Thank you.

(The matter concluded.)

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 testimony as taken stenographically by and before me at the time, place and date hereinbefore set forth.

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

s/Phyllis T. Lewis, CCR, CRCR

- -

PHYLLIS T. LEWIS, C.C.R. XI01333 C.R.C.R. 30XR15300
Notary Public of the State of New Jersey
My commission expires 11/5/2015.
Dated: May 18, 2015
This transcript was prepared in accordance with NJAC 13:43-5.9.

HOBOKEN ZONING BOARD OF ADJUSTMENT
CITY OF HOBOKEN

- - - - - - - - - - - - - - - - - - X
RE: 704 Madison Street : SPECIAL MEETING
APPLICANT: 704 Madison, LLC : May 12, 2015
C&D Variances : Tuesday 7:40 p.m.
(Carried from 4-28-15) :
- - - - - - - - - - - - - - - - - - X

Held At: 94 Washington Street
Hoboken, New Jersey

B E F O R E:

Chairman James Aibel
Commissioner Philip Cohen
Commissioner Michael DeFusco
Commissioner Antonio Grana
Commissioner Diane Fitzmyer Murphy
Commissioner John Branciforte
Commissioner Owen McAnuff
Commissioner Frank DeGrim

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

Eileen Banyra, Planning Consultant

Jeffrey Marsden, PE, PP
Board Engineer

Patricia Carcone, Board Secretary

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

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Attorney for the Applicant.

I N D E X

WITNESS	PAGE
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EDWARD KOLLING	68

E X H I B I T S

EXHIBIT NO.	DESCRIPTION	PAGE
A-1	Massing Diagram	52
A-2	Diagram	52

CHAIRMAN AIBEL: 704 Madison.

Yes, sir.

MR. MATULE: Yes.

Good evening, Mr. Chairman, and Board members.

Robert Matule, appearing on behalf of the applicant.

This is an application --

MR. GALVIN: Friends, Romans, Countrymen.

MR. MATULE: -- for 704 Madison Street.

As I think most of you, or not all of you were here sitting when we were previously here last September, we had applied to construct a four-story, four-residential-unit building with 70 percent lot coverage, and I believe some rear decks behind that. That application was denied.

We went back to the drawing board. We have now submitted a new application to construct a four-story, two-residential-unit building.

The principal structure, Frank will get into the details, but the principal structure has 60 percent lot coverage.

There is a small stair into the rear yard. That is 2.68 percent lot coverage. That's

the lot coverage variance we are requesting.

I also have to point out that the plans that were submitted erroneously state in the project description "minor site plan application."

This is not a minor site plan, because it is two units, so minor site plan is not required. You know, it's probably a distinction without a real difference, but I just wanted to make that clear for the record.

So what I would like to do is call Mr. Minervini up and have him sworn, and he can walk the Board through the new proposal.

MR. GALVIN: Please raise your right hand.

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

MR. MINERVINI: Yes, I do.

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

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

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

MR. GALVIN: Mr. Chairman, do we accept

Mr. Minervini's credentials?

CHAIRMAN AIBEL: Yes, we do.

MR. GALVIN: You may proceed.

MR. MATULE: Okay. Mr. Minervini, would you please describe the existing site and the surrounding area, and if you are going to refer to any exhibits that are not part of the plans, we need to mark them for the record.

THE WITNESS: I have a photo board that is a colored version of the drawing you have on the last sheet, so it is the same. I don't know if you want to mark it or not.

MR. MATULE: I don't think so.

Do you want it marked, Dennis? It's just a colored version of what's already in the plans.

THE WITNESS: It is in the plan set.

MR. GALVIN: No, no.

Thank you for asking.

THE WITNESS: 704 Madison is now a vacant 25 by a hundred foot lot. The photographs we got show what the building was there prior to being razed.

It is on the west side of Madison Street between 7th and 8th Streets.

In terms of context, we've got directly to our south a one-story church.

To our north -- although these photographs don't show it, because they are a bit older, there is an empty parking lot all the way down to a three and a half, or four-story residential building that was a converted school from back in the early '90s.

Across the street directly we have got the parking lot for St. Anne's Church, as well as -- it is not shown here -- but there is a five-story multi-family residential building as you go further to the north.

What we are proposing is to construct, as Bob said, a four-story residential building, but it is, as we talked about many times, it is a five-story building. The four residential floors are above the flood plain.

Our requirement in Hoboken is to have the building at 14 feet above flood plain, so the end result would be a building that's five stories tall, with the ground floor use for only lobby and storage, and four residential units above -- pardon me -- four residential floors above with two duplex units.

MR. MATULE: Let's mark this as A-1, and please describe what it is.

THE WITNESS: It's A-1 and A-2 as well, Bob, and I will describe both.

(Exhibits A-1 and A-2 marked.)

A-1 is a massing diagram that we put together. I think this may help, although since this was put together in the previous application, I think we all have a better sense of the height differences from the relative -- what the code requires in terms of the zoning code compared to the Hoboken flood plain ordinance,

So the zoning ordinance, if you look at this diagram on the bottom here, and I can happily pass this around, requires that the first floor measurements start at BFE, which is 12 feet above sea level, and then we are permitted 40 feet above that with three floors, so three floors at 40 feet and to start at 12 feet.

Since this ordinance was written, and Hoboken's own specific requirement, the first residential floor has to be at 14 feet.

So both at 12. The first residential floor is at 14 feet, which is two feet higher. So if we start 40 feet from that, there is a two foot

difference from our building relative to what the zoning ordinance allows.

Now, of course, the zoning ordinance also only allows three residential stories within that same volume, but in terms of the volume, what we are asking for today is a two foot different from what the zoning ordinance allows.

I will pass this around.

It is a bit premature, but this is what we are proposing for the facade, but I will get to that when I get to the plans.

So our street elevation, 7th Street, 8th Street, it is a raw canvas right now, empty canvas right now, excuse me.

So we got the one-story church building I had mentioned, our site, and then an empty lot until we get to the Gotham project, which is a multi-family residential building that was a converted school.

So ours would be, if we assume future apartments are coming, ours would be the first project built.

In terms of massing and lot coverage, we are proposing a 60 foot deep building, which is permitted by zoning ordinance. However, we are

asking for a five foot front yard variance, and that would allow us to keep in line with the adjacent buildings to our south, and that makes perfect sense.

If we go to Sheet Z-3 -- actually I would like to start with Sheet Z-4, the floor plans.

Our first floor plan has a lobby, our egress hallway, and the remainder mostly storage, so we also have space here for trash and recycling, as well as a private entry with a private elevator for the upper duplex.

Because it is only serving one unit within a two-unit building, it is permitted to be a smaller elevator, and the apartments don't have to be ADA compliant. It's not a requirement. That's our ground floor.

The second floor, the lower level of the duplex.

The third floor, the second level of a duplex, so in total, we have 2640 square feet for that lower duplex, which it has floors two and three.

Floors four and five are the upper duplex served by the elevator, and the total square footage there is 2,960.

Large apartments, so we are trying to provide outdoor space for each apartment, so the lower apartment would have access and use of the rear yard, which is 40 foot in depth.

The upper apartment, we are proposing a roof deck of slightly under 500 square feet, with the remaining space on the rear and the front extensive green roof. This is detailed on Sheet Z-5 and detailed on 4.

Relative to the previous application that was denied here, that project had one unit per floor, a total of four units, as well as a rear deck and a second means of egress.

We have eliminated those rear decks. All we are proposing now is a single stair of three feet in width that connects the second floor, which is the first residential floor, to the ground level.

MR. MATULE: Frank, so we are clear, because they may have the drawings in front of them, if you go back to that one stair drawing, was it mislabeled --

THE WITNESS: It's the same dimensions here at three feet, Bob. It's actually three feet, so it is correctly mentioned on drawing number two, so this is actually three feet, the standard stair

width.

MR. MATULE: And that is what the 2.68 percent lot coverage is calculated on?

THE WITNESS: The additional lot coverage that we are requesting is solely for this stair, this open stair that connects the second floor to the rear garden.

The building design, the facade that is, so this corresponds with that.

We are proposing a copper colored metal, gray brick, and the remainder glass -- remaining glass -- it is a very clean, neat and contemporary look.

We don't think it is -- well, certainly in this case, there is no particular context to work from. If you look at our street elevations I mentioned, there is, again, in terms of context, nothing other than the one-story stucco building and this building here.

So a contemporary design that is clean, neat and hopefully not enough to scare this Board, and something that we think is appropriate.

The building will be as required, it will be -- it will have a residential sprinkler system. It will not be ADA compliant. It doesn't

need to be. It's only got two apartments, but it does provide a needed space for larger families. So, again, we reduced the unit count from four to two.

We have reduced the lot coverage by removing the rear decks and only having a stair that connects the second floor to the backyard.

The main portion of the building is really a four-story building over a requirement of the flood plain.

And, again, relative to what is permitted, the height difference from what is permitted to what we are proposing in terms of the actual bulk in height feet is two.

MR. MATULE: You testified that the building is going to have an extensive green roof on the top floor --

THE WITNESS: Oh, yes. Pardon me, Bob.

Thank you.

MR. MATULE: -- does it have any other environmental features?

THE WITNESS: Yes, it does.

We are going to get minimally LEED accreditation. But in terms of the actual points that we are proposing as green and sustainable

features, we got the extensive the green roof that I described. All of the appliances will be Energy Star rated. The windows will also be Energy Star rated.

All of the water heating units will be on-demand types.

The insulation for the building will be sprayed closed cell foam insulation, which is much more efficient.

It will have a water detention system, and all of the lighting will be LED.

MR. MATULE: And you received the H2M letter reviewing the plans, and I believe it is dated February 13th --

THE WITNESS: Yes.

MR. MATULE: -- 2005.

And you have no issues with that?

THE WITNESS: No.

MR. MATULE: Your plans call out the former tree grate design. Are you going to revise them to show the new tree grates with the fences around?

THE WITNESS: Yes. There is a more recent and updated detail that we received from the Shade Tree Committee, and we will apply that to this

building as well.

MR. MARSDEN: Mr. Matule, that would be the revised April 20th letter, correct?

THE WITNESS: 21st --

MR. MARSDEN: February 15 -- or 13th, revised April 20th, just for the record.

THE WITNESS: That's the one that I didn't receive --

MR. MATULE: Okay, yes.

MR. MARSDEN: Thank you.

MR. MATULE: The answer is yes.

And I guess the other thing, and maybe it is in there now, but originally you were talking about dry flood proofing. Now you are doing wet flood proofing?

THE WITNESS: Yes.

What we will have to do to meet the specific Hoboken flood requirements is have the entire lower level wet flood proofed, which means we are allowing water to enter and also recede. So all materials used will have to be able to sustain being wet and still be usable afterwards.

But that would be, if approved, we have to get that permission from the Flood Plain Manager, along with our zoning compliance letter.

MR. MATULE: And I guess just technically, the building is gone now, so it doesn't make any difference --

THE WITNESS: Yes.

MR. MATULE: -- I know there was an encroachment shown on the survey of this building encroaching on the adjacent property. Obviously, that's --

THE WITNESS: The building that was there has been razed --

MR. MATULE: It's gone.

THE WITNESS: -- it's a vacant lot now.

MR. MATULE: All right. I have nothing further for Mr. Minervini.

CHAIRMAN AIBEL: Great.

Board members, questions?

COMMISSIONER DE FUSCO: Mr. Chair?

Mr. Minervini, did you consider -- I don't know -- bringing the rear stair inside of the building, so that you could avoid that lot coverage variance, because right underneath it, I only see a storage space, so I don't know if you gave that any thought to having interior stairs to let out to the backyard.

THE WITNESS: It is certainly an

option, but our thinking is that a simple open stair at the back of the building is very similar to almost every building in Hoboken in terms of residential context, it is very similar and used all the time.

To have that stair inside is possible, but we thought it was a perfectly reasonable solution for a very minor lot coverage variance at that one level.

COMMISSIONER DE FUSCO: It's certainly de minimus. I mean, just some thoughts moving forward, as this storage space and base flood elevation rises, that space is down there, and you might be able to avoid some variances in the future.

THE WITNESS: Well, we can certainly look at it on future projects.

COMMISSIONER DE FUSCO: Thank you.

CHAIRMAN AIBEL: Anybody else, Board members?

Eileen?

MS. BANYRA: Yeah.

Frank, did you get my report, dated April 23rd?

THE WITNESS: Yes.

MS. BANYRA: So I had -- my first note

was that your plan isn't based on the current survey.

Can you tell me what the differences are?

THE WITNESS: I have is not based on the current survey?

MS. BANYRA: That's right.

I think it references a 2013 --

THE WITNESS: Oh, that is probably a drafting error. We can certainly correct that.

Our spot elevations came from the most current survey.

MR. MATULE: I think, if I might, Ms. Banyra, the original survey was dated January 2nd, 2013 --

THE WITNESS: 2013.

MS. BANYRA: Right.

MR. MATULE: -- and then there was like five -- it was revised November 5th, June 23rd, August 8th, and October 29th.

THE WITNESS: And I could explain why -- sorry --

MS. BANYRA: Right.

THE WTINESS: -- in conversations with Mr. Marsden and his report, he was requesting

additional spot elevations, so that is really the difference between the earlier survey and this one.

MS. BANYRA: Right.

So you will be able to revise your plan to match the 10/29 spot elevations --

THE WITNESS: The date, yes --

MR. MARSDEN: The reference date.

THE WITNESS: -- the reference date, yes.

MS. BANYRA: Great.

And then the second thing is I think there was no discussion about the front yard planting bed and how that aligns or doesn't align with the only other building on the block facing -- I mean the north I guess, and City Council approval will be required for I think both your bay and --

THE WITNESS: Yes, for the bay and the proposed planter area in the front.

The Gotham has some planting in front as well as exterior entry stairs, which goes back.

The building to our south has a gated area, so our small encroachment in terms of planting will not go any further certainly than past the building directly adjacent to us at the south, and we think it allows for a softer connection between

the building and the sidewalk.

MS. BANYRA: Then my third point was that there is no information around the green screen from the bulkhead, and that should be detailed.

I don't know if you have any comments about that.

THE WITNESS: Yes.

We, of course, noted, and I should have mentioned that we have taken comments from the previous meeting and are proposing a green screen around the bulkhead. Again, it is the way to soften what would be a larger reference on the building, and I have to provide the detail for that.

MS. BANYRA: Then the last thing was about the site elevations, because it is so exposed, and you know, at this moment in time there is nothing happening on either side, and there is nothing there, so I am wondering if there is some detail and coloration treatment that could be done to soften the sides.

THE WITNESS: We are proposing a composite panel, and as you see not so clearly on Sheet Z-6, the smaller elevations to the south and north, we are proposing to, for lack of a better term, play with the setting of each of the panels,

so there is a more veranda look.

Do we want to play with the colors?

I think it might be a bit over the top for this particular --

MS. BANYRA: I am not looking for garishness.

THE WITNESS: -- yes, neither are we.

MS. BANYRA: I think the thing is that materials weren't called out, and whether or not there's something that would be complimentary and not stark, so I guess just in that consideration.

THE WITNESS: I think this is probably a very good solution, but I could detail it better for you, though.

MS. BANYRA: Okay.

That is all I have, Mr. Chairman.

MR. GALVIN: Okay. In that little flurry, I have: The plan is to be revised to show the October 19th, 2015 survey --

MS. BANYRA: October 29th, 2014 survey.

MR. GALVIN: -- oh, 29/2014?

MS. BANYRA: 10/29/14.

MR. GALVIN: Boy, that was a big mess.

Okay. And the plan is to be revised to identify or what that survey?

MS. BANYRA: It is going to match.

MR. MARSDEN: The reference note on Z-2.

MS. BANYRA: Yeah, the reference note -- right --

MR. GALVIN: The reference note to reflect the October 29th survey.

Okay. I got: The applicant is to obtain city approval to permit the bay and the planting area encroachment into the city right-of-way.

MS. BANYRA: Right.

MR. GALVIN: All right.

Then I have: The green screen is to be submitted to the Board's Planner for her review and approval.

Is that okay?

MS. BANYRA: It should be details should be included on the plan.

MR. GALVIN: And the details are to be shown on the plan.

What else do you have?

MS. BANYRA: That the -- Mr. Minervini is going to identify what the sides are made of, and the sides -- and I am calling it coloration. It

could be whatever --

THE WITNESS: Architectural treatment.

MS. BANYRA: -- whatever the treatment will be on the sides of the building.

MR. GALVIN: So the applicant is to provide the architectural treatment for the side of the building --

MS. BANYRA: Both north and south sides of the building.

MR. GALVIN: -- both the north and south sides of the building to the Board's planner for her review and approval.

I know. You said if it's neutral, it is done, but if turns out to be something garish, in your opinion, you send it back to the Board to have us comment on it.

MS. BANYRA: No flourishes.

MR. GALVIN: I am sure you two can work it out.

Okay. Got it then, right?

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

Questions for Mr. Minervini?

Seeing none.

COMMISSIONER COHEN: Motion to close

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public portion for this witness.

COMMISSIONER MC ANUFF: Second.

CHAIRMAN AIBEL: All in favor?

(All Board members answered in the affirmative.)

MR. MATULE: At this time I would like to call Edward Kolling.

Mr. Kolling is pinch hitting for Mr. Ochab again tonight.

MR. GALVIN: Mr. Kolling, raise your right hand.

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

MR. KOLLING: Yes, I do.

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

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

THE WITNESS: Edward Kolling, K-o-l-l-i-n-g.

MR. GALVIN: All right, Mr. Kolling.

Mr. Chairman, do we accept Mr. Kolling's credentials as a planner?

CHAIRMAN AIBEL: Yes.

MR. GALVIN: You may proceed.

MR. MATULE: Mr. Kolling, you are familiar with the master plan and the zoning ordinance of the City of Hoboken?

THE WITNESS: Yes, I am.

MR. MATULE: And you are familiar with the site and the surrounding area?

THE WITNESS: Yes.

MR. MATULE: And you had an opportunity to review the report, dated 11/24/14, prepared by Mr. Ochab?

THE WITNESS: Yes, I did.

MR. MATULE: And could you give us your professional opinion regarding the variance relief that's being requested in terms of the necessary criteria and whether or not you believe this application meets that?

THE WITNESS: Yes.

Just adding to some of the things that Mr. Minervini has already discussed, this particular block, this side of the lot especially is more or less a clean slate. There's not a lot of context, but directly behind this property is a couple of five-story buildings. Across the street, of course, is the back of the church, and then down the block

is a few other five-stories. This four-story, and there's is a single-story next door, so it's kind of, like I said, not a lot of context.

The zoning is R-3. The variances that we are asking for are lot coverage, which is simply the 2.16 percent for the open stairway going to the backyard.

The building height in terms of numbers of stories, it is four stories over the storage space. Of course, by definition, it is five stories, but the bottom acts more like a basement, so there is four stories of residential.

We are two feet above the permitted height. In terms of being 40 feet above the ABFE, that is because of the nuance between the requirement differences between the Hoboken flood ordinance and the zoning ordinance, which I understand is being corrected with the introduction of some zoning amendments that were just introduced just this past Wednesday, I believe it was.

We also have a front yard coverage with facade masonry.

In terms of the variances, the D variance is the number of stories. Again, I reviewed the ordinance that was introduced, and that

is going to be eliminated. But in this particular case, we still have that issue, and it is in part because of having the flood hazard regulations having to have that fifth floor more or less needed to get us out of the height of the flood area.

We are asking for an additional floor, so that we have two duplexes, and that way you can have two units that would have larger floor area being more family-friendly. I think that is more beneficial in that regard.

I think the site can accommodate the extra height obviously. Although we have the extra floor for residential and an extra floor for storage, it really doesn't create a substantial impact to the building. It's only two feet taller, and again, that is because of the anomaly or hardship of being both within the flood hazard area and the discrepancy between the two ordinances.

The other C variances, other than the height for the two feet, include lot coverage, which again, as I mentioned, is 2.16 percent. And not to keep repeating myself, but in that particular case as well, in reviewing the zoning ordinance amendment that was introduced last Wednesday, open stairways as long as they are no more than three feet wide

will not be counted as coverage in the future, so this is pretty much consistent with what the intent is going forward, assuming that this is --

MR. GALVIN: Well, you know what, though, it is a relatively benign application. We are all happy, but I don't really want to hear about what might happen, because the Zoning Board only deals with what the existing law is.

THE WITNESS: Right.

Well, again, it is an open stairway, so it is rather minimal in terms of its impact. It's only from the first floor down, and it doesn't continue up the back of the stairs. It's only in that limited location.

The front yard setback is something that the Board has seen many times. It's in order to maintain what is typical frontage along most streets in Hoboken. I think in that case the benefits outweigh the detriments because in keeping with the context.

Roof coverage is another variance, and I might point out that in actual coverage in terms of the rooftop amenities or rooftop equipment, we are only at 9.3 percent.

The other coverage is the green roof,

which is counted as roof coverage currently, and the deck up there, which is to provide for outdoor living space, which allows for the upper unit to have similar type of outdoor living space as the lower unit does, and the size of the family-friendly aspects of that unit.

The facade variance, again, just very little context, so it is not where you would see the typical brown -- Hoboken masonry look. So I think creating a contemporary building here is probably appropriate in that it is more in keeping with the time of construction.

I think that we promote certain purposes of the Municipal Land Use Law.

This variance would guide the appropriate use and development of this property. It is a residential use and a residential zone within the appropriate density, only two foot higher. Those are the reasons described. The granting of the variances would also help secure safety from flood, which is consistent with Paragraph 2(b).

It promotes an establishment of an appropriate population density. We are below the density that's permitted.

In terms of it has a good visual environment, and the previous building was a little old and tired, and it is not even there now, so I think this building is a great improvement to what was there and what is there now.

We also have certain green building elements, so I think that in the case of the C variances, the benefits outweigh the detriments, and without any substantial detriment to the zone plan or to the general welfare.

In terms of the D variance for number of stories, it is -- the stories are within the height except for the extra two feet, and I think that that would not have any significant impact, so the site can accommodate the additional height in terms of number of stories without detriment to the zone plan or to the general welfare.

MR. MATULE: Thank you, Mr. Kolling.

CHAIRMAN AIBEL: Thank you, Mr. Kolling.

Board members?

Professionals, any questions for Mr. Kolling?

Let me open it up to the public.

Any questions for Mr. Kolling?

Seeing none.

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

COMMISSIONER MC ANUFF: Second.

CHAIRMAN AIBEL: All in favor.

(All Board members answered in the affirmative.)

MR. MATULE: That's all of the witnesses I have.

I guess in the interest of full disclosure, this application was filed in December of 2014, long before those proposed ordinance changes that Mr. Kolling was testifying about, I guess were even on the drawing boards. It was just an effort to try to keep it to a minimum as possible.

One of the other issues, and I know Frank didn't talk about it, but as part of the flood ordinance now, also they can't have openings in the front of the lower portion of the building any more, so there is virtually no way to get -- you would either have to create a side yard or have some way to come down from that residential floor. Otherwise, there is literally no way to get into the backyard, so I would ask the Board to take that into

consideration in weighing the positive and negative effects of this 2 point, whatever it is, 16 percent ordinance.

The building is going to be LEED certified. I think Frank gave in the record a bunch of specifics about how that is going to achieved.

I also think, and I would like to think that perhaps that was part of the Board's reasoning when this application was denied the first time is that this application is going to be the benchmark for probably the build-out of this block now, and we've got a 40 foot deep rear yard save for that three-foot stair, and I think that will be what will be there going forward. Obviously, that is up to you.

CHAIRMAN AIBEL: Thank you.

COMMISSIONER BRANCIFORTE: Just one quick thing for Mr. Minervini.

Could he put a spigot, a water spout on the roof in case the people want to do some gardening up there and have access to water?

MR. MINERVINI: Yes.

MS. BANYRA: Mr. Chair, can I ask one more question, too?

CHAIRMAN AIBEL: Go ahead.

MS. BANYRA: Mr. Minervini, I don't know what type of fence. I'm not sure if your detail for the fence in the rear yard is shown on Z-6, or if it's for the roof.

Next to where it says: "Rear elevation west," is that the rear fence that is proposed, Z-6?

MR. MINERVINI: Yes. I think I might have it elsewhere as well. That is why I am looking.

MS. BANYRA: Okay.

MR. MINERVINI: So that is the planter box up on the roof.

It looks like I haven't got the fence. I will have to provide that for you. We don't have that detail.

MS. BANYRA: Okay. I just wasn't sure if that was it or not.

So if you don't mind, that should be included on the plans as well.

Thank you.

MR. GALVIN: What detail?

MS. BANYRA: The fence detail around the rear yard.

CHAIRMAN AIBEL: Does anybody in the public want to comment?

MR. GALVIN: Seeing no one, Mr. Chairman, I recommend that the Board moves into deliberations.

CHAIRMAN AIBEL: Okay.

Anybody have comments?

COMMISSIONER DE FUSCO: Yes. I will just start.

I think that this revised application responds to a number of the Board's concerns the first time around, incredibly family-friendly with large -- large units, sized back the lot coverage.

The height is certainly the same, but at the same time it is a new block, and it is in line with I think where the City Council might be going in the future, and I hate to predict, but it is out there.

The only thing I will add is that at last Wednesday's Council meeting, they did comment on the Zoning Board approving planters on the street, and I think that they feel that it should be -- I don't necessarily know if the Council is okay with us pushing planters on them without any information, so --

MR. GALVIN: Boy, I think that is what I heard.

COMMISSIONER DE FUSCO: -- yeah -- so, you know, I gave them a firm stare as they were doing it. I did not comment, but I think that --

COMMISSIONER BRANCIFORTE: Good for you.

COMMISSIONER DE FUSCO: -- we should certainly think about whether these planters are necessary.

MR. GALVIN: I heard they were talking about whether or not they wanted to create an ordinance to make them permitted, so that people could just do them, if they were going to do them, rather than -- because it is like a detail that no governing body wants -- like when I occasionally say in any town, that you are going into the city's right-of-way, that is understood, and they're okay, but there are so many projects in Hoboken that go into the right-of-way, that that becomes a lot of work for them at every meeting I bet.

COMMISSIONER DE FUSCO: Certainly. I certainly agree with that.

I personally feel that the planters minimize the impact of the building --

MR. GALVIN: Well, if they don't want them, all they just have to do is turn them down.

COMMISSIONER DE FUSCO: Yeah.

So I am proposing this to the entire Board. I don't know where we stand on it and how we want to deal with it --

MS. BANYRA: Can I respond to that, Mr. Chairman?

COMMISSIONER DE FUSCO: Please, yeah.

MS. BANYRA: So what I think would be great, and if you are commenting on the ordinance, was, as Mr. Galvin said, it would be great if the city took that over, and we didn't have to send somebody, number one.

But, number two, along with the flood plain ordinance, these areas really should be landscaped, and in some of my reports you've probably seen this, that one to enhance the building, but one to enhance the street, and also serve as a rain garden. You know, there is so much that could be done to beautify the street and these areas, we should have a concerted plan, and not one-offs -- we're approving those one-offs, but they should be a concerted plan where rain gardens that are embellished and beautiful street trees and/or fruit trees, some communities are actually doing where there's edibles along the street. It sounds

crazy, but that's actually in many communities that they are doing that. But those type of things -- and that would also support the resiliency plan in terms of stormwater, so certainly if you are going to be commenting on that, I'd love -- that to me would be a dream for the community.

CHAIRMAN AIBEL: I know. But for tonight's operation --

MS. BANYRA: Understood.

CHAIRMAN AIBEL: -- what I'm hearing is the City Council approves of what we are doing, but they don't want the work, so let them sort that out. But we should be considering our embellishments as we have been.

COMMISSIONER DE FUSCO: In this application I feel that, you know, the planters are something that do minimize the impact of the building, and they do create a street level amenity that is positive, so I think it is good, and I would like to hear what the Board thinks.

CHAIRMAN AIBEL: Anybody else wish to comment?

COMMISSIONER COHEN: I would just say that I think this is a good application. I also voted for the earlier incarnation of this project.

This is less of an impact on the donut than the last one. Although I think this is not a typical Hoboken donut, which is why it didn't bother me in the first place, I mean, you are looking at a massive parking lot for the church, a hundred percent lot coverage next to it, I think it is, you know, somewhat artificial to try and suggest that, you know, this difference is going to make a great donut, where there wasn't one before because this is just not that kind of a block, but that's just my view.

That being said, it does address the concern of other members of the Board, and it does it in a sensitive way.

So for the reasons I supported it the last time, I continue to support it now.

CHAIRMAN AIBEL: Well, I opposed it the first time, and I am not sure I agree at all with Commissioner Cohen's comments, so I will say that for the record.

(Laughter)

I appreciate that Mr. Matule's client did come back with a design that addressed the issues that I had, so I could support the project.

How about a motion?

COMMISSIONER COHEN: Motion to approve.

COMMISSIONER GRANA: Second.

CHAIRMAN AIBEL: Pat?

MS. CARCONE: Okay.

Commissioner Cohen?

COMMISSIONER COHEN: Yes.

MS. CARCONE: Commissioner De Fusco?

COMMISSIONER DE FUSCO: Yes.

MS. CARCONE: Commissioner Grana?

COMMISSIONER GRANA: Yes.

MS. CARCONE: Commissioner Murphy?

COMMISSIONER MURPHY: Yes.

MS. CARCONE: Commissioner Branciforte?

COMMISSIONER BRANCIFORTE: Yeah.

MS. CARCONE: Commissioner McAnuff?

COMMISSIONER MC ANUFF: Yes.

MS. CARCONE: Commissioner Aibel?

CHAIRMAN AIBEL: Yes.

(The matter concluded.)

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 testimony as taken stenographically by and before me at the time, place and date hereinbefore set forth.

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

s/Phyllis T. Lewis, CCR, CRCR

- -

PHYLLIS T. LEWIS, C.C.R. XI01333 C.R.C.R. 30XR15300
Notary Public of the State of New Jersey
My commission expires 11/5/2015.
Dated: May 18, 2015
This transcript was prepared in accordance with NJAC 13:43-5.9.

HOBOKEN ZONING BOARD OF ADJUSTMENT
CITY OF HOBOKEN

- - - - - - - - - - - - - - - - - - X
RE: 726-732 Grand Street : SPECIAL MEETING
APPLICANT: FGAM, LLC : May 12, 2015
C&D Variances : Tuesday 8:30 p.m.
- - - - - - - - - - - - - - - - - - X

Held At: 94 Washington Street
Hoboken, New Jersey

B E F O R E:

Chairman James Aibel
Commissioner Philip Cohen
Commissioner Michael DeFusco
Commissioner Antonio Grana
Commissioner Diane Fitzmyer Murphy
Commissioner John Branciforte
Commissioner Owen McAnuff
Commissioner Frank DeGrim

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

Eileen Banyra, Planning Consultant

Jeffrey Marsden, PE, PP
Board Engineer

Patricia Carcone, Board Secretary

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I N D E X

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CHAIRMAN AIBEL: Okay, Board members. Back on the record.

Mr. Matule, 726-732 Grand Street.

MR. MATULE: Good evening, Mr. Chairman, Board members.

Robert Matule, appearing on behalf of the applicant.

This is an application for preliminary site plan approval and variances for property at 726-732 Grand Street.

I am sure Mr. Minervini will go into more detail, but basically it is a 100-by-200 site at the north end of the lot between Grand and Adams Street on 8th Street. It is part of what was formerly referred to as the "Mercury Building Site."

We are requesting variances to construct a five-story building, four over one, with parking and two commercial spaces on the ground floor, four floors of residential space above, 24 residential units.

I will have Mr. Minervini and Mr. Kolling testifying.

MR. GALVIN: Raise your right hand

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

God?

MR. MINERVINI: I do.

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

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

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

MR. GALVIN: Mr. Chairman, do you accept Mr. Minervini's credentials?

CHAIRMAN AIBEL: Yes.

MR. GALVIN: You may proceed.

MR. MATULE: Thank you.

Mr. Minervini, would you describe for the Board the existing site and surrounding area, and as always, if we are going to refer to exhibits, we need to mark them.

THE WITNESS: So we have two exhibits here, Bob, that the Board has not seen.

MR. MATULE: Okay.

So we will mark this as A-1, and just tell us what this is. It's an aerial photograph.

(Exhibit A-1 marked.)

THE WITNESS: It's an aerial photograph taken by the Minervini Vandermark drone that has

since crashed.

(Laughter)

MR. MATULE: Sounds like pilot error.

THE WITNESS: It was pilot error.

(Laugher)

MR. MATULE: Just for the record, Aerial Photograph 1 is being marked A-2, and what we marked as A-1 says Aerial Photograph 2.

(Exhibit A-2 marked.)

MR. GALVIN: So the next one will be the drone number 2, right?

THE WITNESS: Well, we're still hoping it can be repaired.

As Mr. Matule stated, the site is 200 feet deep, because it is an entire city block between Grand Street and Adams Street, and 100 feet in width. In essence, it is eight lots. Four 25-foot lots here, four 25-foot lots here, and four facing Grand Street, and four facing Adams Street.

I have another drawing that really talks about the context in terms of height, but you can get a sense just from this photograph that the other buildings in terms of their height, we have residential buildings on both flanks, down Adams Street, down Grand Street, and here you see the roof

of the Wonder Bakery building, which has recently received approvals, and again, I have a drawing that better describes what we are proposing.

So the site is 200 feet by 100 feet in the R-2 zoning district.

The flip side is a slightly altered view, a little further to the west, which has a better view, what would be the view of the donut hole, and it is relatively clear save for one, two, -- well, four different -- three different buildings. It is U-shaped. We are at the corner hoping to complete the --

COMMISSIONER BRANCIFORTE: Could you pass that around, Frank?

Frank, could you pass that around?

THE WITNESS: Sure.

So there is a site history here that is pretty important.

As Mr. Matule said, it is too often too commonly known as the Mercury lots.

In 1910, the Cooper Hewitt Electric Company built a five-story building here. It was a five-story. It was about 60 feet in height. That was in -- that building was working as an electronic production factory until the mid 1940's. General

Electric then bought the site and the building.

It was then converted to a mercury vapor lamp factory. It remained constructing mercury vapor lamps from the 1940s through the mid 1970s.

A private family bought it then from General Electric to use it as a small tool and die manufacturing company building.

In the 1990s, 1993, the building was purchased by what was then called the Grand Street Artist Partnership, so it was bought in 1993 by in essence a group of local artists who then converted it to artist lofts. They received Zoning Board approval to do this, and so that was in 1993.

During the construction between '93 and '95, in two of the units, mercury was discovered, liquid mercury, which mercury is a liquid. The only metal that is a liquid was found beneath the floor boards in particular units.

So DEP got involved. Some measurements were taken in terms of the health of the people there, and some of them were at elevated levels of mercury in the blood, so they were all removed from the building.

The DEP in -- in 1995, it was found,

the mercury. In 1997, DEP labeled this as a Superfund site, so it was amongst the worst in the nation in terms of its environmental problems.

In 2001, DEP razed the building. It was demolished, then purchased by a local group. To this date, when the applicant here has purchased the property.

So some remediation was done by the DEP. They removed the building. They removed some sections of the soil, but there was no capping or anything further done at that point. That was all left to whomever was going to develop the property, whenever that may be.

In 2012, the State of New Jersey created a regulation that in essence puts the responsibility for site remediation on sites like this to private engineering companies or what they actually are called LSRPs. That's stands for a Licensed Site Remediation Professional.

So in 2012, that law was enacted, and an LSRP, which has to be hired by the applicant for any project that is like this or has some previous contamination, they are responsible for the design of the new remediation, because it has not been fulfilled, and they are responsible for the

implementation of that remediation from today until the building is no longer used for residential use.

So the point being that that LSRP is responsible from today until whenever the building is no longer used or the person -- LSRP is no longer with us.

What that does is it takes the responsibility away from the NJDEP and from the EPA, and it gets put into the hands of the private firms.

This applicant had to hire an LSRP, and the reason I am bringing it up now is you will come to understand, they have provided us with a report and a design, which has -- which was the determining factor in the starting design of this building, and I may as well get to it now.

We are proposing 100 percent lot coverage on the ground floor. It has been commented on in Ms. Banyra's report.

The simple reason is that we are required to have an enclosure of one story on the entire site. Mr. Marsden and I have had discussions about this. He has a copy of the LSRP's report as well as their design. I am not an engineer, but I can give you what I know in terms of the requirements.

The ground has to be capped, 12 inches of concrete, vapor barrier. Then all of the walls that encompass this site have to be constructed -- well, of course, have to be built -- walls have to be built, as well as a roof enclosure, and that is to keep vapors from emanating out of the building, and it is also to ensure that if this were a yard, for example, that nobody penetrates the slab. This is very serious stuff, and the LSRP has required that we take these extensive efforts.

That is the sole reason for the 100 percent lot coverage at this site.

MR. GALVIN: Why don't we stop here.

Can you stop there, because that is really essential to your whole case.

THE WITNESS: Yes, it is.

MR. GALVIN: All right.

So, Mr. Marsden, what do you think about that?

MR. MARSDEN: That is a typical procedure. DEP and EPA give up jurisdiction to the LSRP, if they don't want the jurisdiction for some reason.

MR. GALVIN: Let me reframe what my concern is, so you are answering the right question.

MR. MARSDEN: Okay.

MR. GALVIN: I got the whole LSRP thing. I get that.

MR. MARSDEN: Okay.

MR. GALVIN: The question is: They are telling us that you have to have a whole floor of the entire site, and is that correct, or is there another solution, where there can be a cap that doesn't have to have a structure in this fashion?

MR. MARSDEN: It depends on the type of material.

They change their recommendation based on what the actual contents of the contaminant is and the strength of it and the concentration of it. At certain levels, they might have a different solution.

I am not expert at it, so I don't know what levels require that. I know they require caps, vapor barriers over the entire site.

MR. GALVIN: Should we be getting another expert to consider that?

MR. MARSDEN: My office has eight or nine LSRPs that I can ask to review this.

CHAIRMAN AIBEL: Who is the LSRP?

THE WITNESS: I have the report, if

anybody would like to see it.

MR. MATULE: All right. So we will mark this A-3.

(Exhibit A-3 marked)

MR. GALVIN: Let me just say for the record, I think it is fundamental to what you are suggesting that you have to have the whole first floor, and then it becomes logical, well, if you have to have a first floor, we may as well take up the whole area.

But the question is, I think that there were other areas that are capped, where the cap has got some soil over it. You can even have some patio bricks or something like that. You know, we have to accept that this is the only -- is this the only solution --

THE WTINESS: Our LSRP tells us this is the only solution given the conditions that were there and that are there. They are pretty severe.

MR. GALVIN: Right. I respect that.

That is what your report says, but I think what we should evaluate, unless, of course, the Board is okay with the project as it is, and that is not really the only reason why we should approve 100 percent lot coverage.

THE WTINESS: I mean, if I may --

MR. GALVIN: Well, no. Well, no. Let Mr. Marsden go.

MR. MARSDEN: Being my office has a number of LSRPs, the LSRP is picking up the total liability on this --

THE WITNESS: Yes.

MR. MARSDEN: -- so therefore, if one LSRP says, I don't feel comfortable unless you do this, and he is the licensed remediation professional for the site, then that goes based on his professional opinion. I don't know that he is basing that on a set standard, but I could find that out.

MS. BANYRA: Can I also just --

COMMISSIONER COHEN: Can I just ask Mr. Marsden a question about that?

So are you saying because the LSRP that generated this report is liable for any possible problems that result from this, that he would not logically be second guessed by an LSRP from your office, because you don't have to stand in the shoes of this guy who is on the hook for any problems?

I just want to understand your comment, if that's what you're saying.

MR. MARSDEN: That's pretty much what I am saying.

COMMISSIONER COHEN: Okay.

MR. MARSDEN: I mean, it doesn't mean that another LSRP won't have a slightly different opinion.

COMMISSIONER COHEN: But since that LSRP doesn't have to stand behind the report and take the hit, if he's wrong, you wouldn't want to substitute your judgment for that one. Is that what you're saying?

MR. MARSDEN: Not exactly, but, yeah, I mean, we don't take the responsibility, even if we wanted to, unless we became the LSRP. That is the bottom line on that.

But I don't know about any appeals process that if there is an issue with too much sending out a request to the DEP or EPA, and that is what I am going to check on, is there a protocol to verify this type of thing, or does he have the whole say.

CHAIRMAN AIBEL: Is there an RAO in place, do we know?

Is there is a deed --

MR. MATULE: Pardon me?

CHAIRMAN AIBEL: -- is there an RAO in place?

Is there a deed notice?

MR. MATULE: There is an RAWP. That's a Remedial Action Work Plan that's being submitted or may have been submitted.

(Counsel confers)

THE WITNESS: It was approved --

MR. MATULE: The Remedial Action Work Plan.

THE WITNESS: -- it was approved by the DEP. I'm sorry.

(Mr. Minervini confers)

MR. MATULE: I mean, we can have Mister --

THE WITNESS: Pardon me.

I think the letter actually states -- the report states that his plan was approved by the DEP.

MR. GALVIN: Ask him. That is what you have to do.

MS. BANYRA: Mr. Chair, can I also just --

COMMISSIONER MC ANUFF: Where did you say it has to be a story for the entire --

MR. GALVIN: I'm sorry --

MS. BANYRA: -- that's okay.

THE WITNESS: As specified in the RAWP, a presumptive remedy in accordance with the NJ technical requirements of the blah, blah, blah -- yeah -- this remedy will be a concrete and a buffered cap at ground level, and the first floor walls and roof section encompassing the entire site to minimize physical contact and vapor barrier slabs -- sub-slab pressurization components to minimize potential inhalation hazards.

That is what drove right from the start of the design process in this building 100 percent lot coverage. It is even to the point that our water retention system cannot be below grade.

MR. GALVIN: Now, that's a different issue.

The main -- I think the main thing that we have to settle -- I mean, again, if the Board is okay with having a hundred percent lot coverage, then we don't need to get into this. But if it's on the premise that your report says that you must have a floor, then that starts to build the case for, well, we have a floor, we might as well go up.

What I am saying is I have seen other

situations, where I believe there was capping, but it didn't have to necessarily be building coverage. Some of it could have been capped in some other way.

THE WTINESS: Now, so everybody understands, and I have not gotten into the design yet, the additional lot coverage, we are not asking for any additional lot coverage in terms of the residential portions.

Actually we are, but it has nothing to do with this rear yard or 100 percent lot coverage. It is solely because of our street, continuation of the street facade on 8th Street, and I will get into that as I get into the plans. But the LSRP's letter did not necessitate any additional residential lot coverage. It is purely at ground level for parking. That is what we are using it for, for parking, as well as two commercial spaces, which I will get into the details.

CHAIRMAN AIBEL: The lot coverage issue on the ground floor is I think the critical issue here --

MR. MATULE: It is. No question about it.

CHAIRMAN AIBEL: -- and I am not sure

how we can resolve it without the LSRP and some backup information and a review of that assessment.

MR. MATULE: Well, I can make the suggestion, if the Board is so disposed, to have Mr. Minervini put in his architectural testimony, and then we will try to get the LSRP back here to -- unless you want Mr. Marsden to look into it first.

You know, the only other thing I would add about the LSRP is based on my experience working with them is even though you pay them, you don't tell them what to do. They have an independent obligation to report things to the DEP.

That is why a lot of times I know in land transactions, people don't want the other side to hire an LSRP because of their independent obligation to report things.

You know, once they find something, they have to report it, whether it's good or bad for their client, so -- and I think that is the tradeoff for the liability they assume in having that unfettered discretion, but be that as it may.

CHAIRMAN AIBEL: I claim expertise in very few areas, but this is one where I personally have some experience --

MR. MATULE: Then you know.

CHAIRMAN AIBEL: -- so I personally need some additional help here.

MR. GALVIN: Let me just --

THE WITNESS: So we should have the LSPR here --

MR. GALVIN: -- time out.

Ms. Banyra, did you want to say something?

MS. BANYRA: Yeah.

I just wanted to say that this, as you probably saw in my report, when this property came up for sale, and again, I don't know anything about the LSRP. We weren't given a copy of that report until I believe this evening, and I didn't receive a copy of that --

THE WITNESS: No, that is not true.

Jeff had it about two or three weeks ago.

MR. MARSDEN: I don't have it in my file.

THE WITNESS: I emailed it to you, and you and I discussed it on the phone. But nevertheless, at the ARC meeting --

MR. MARSDEN: I'm just saying I don't have it in my file --

THE WITNESS: -- at the ARC meeting, we agreed that I would send it to Jeff, and that's what I did.

MS. BANYRA: Okay. So but I guess that would have been, I guess -- I didn't get a copy of it, so that was the nature of my report, which basically said it was identified for open space in the 2010 master plan.

As a matter of fact, when the property came up for sale, at some point the city was bidding or thinking of bidding on it, so I didn't understand, and the nature of my questioning was, I wasn't sure how contaminated it still was.

So now that I am hearing that, I just would like to I guess reiterate what the Board Chairman -- I think we just need verification of that --

THE WITNESS: Understood.

MS. BANYRA: -- and concurrence because I think that goes really to the heart of your entire coverage, which granted is really for parking, but maybe that parking is not necessary.

THE WITNESS: Understood.

CHAIRMAN AIBEL: Go ahead.

COMMISSIONER COHEN: So, I mean, if you

are going to have the professional come, I would like to hear more specifics about the cleanup that was done.

THE WITNESS: Right.

COMMISSIONER COHEN: I mean, it seems like this property has been vacant and not used for such a long time because it was contaminated, it sounds like there was a significant cleanup that was done. It is now fit for human habitation in its construction, so I guess I would like to know when the LSRP comes, I would like an explanation as to why is it that it's fit for human habitation and the like, but it's not able to be open to that area --

THE WITNESS: That's the part that's not accurate. It is not currently fit for human habitation. There was a level of work that had to be done to make it to that point. Now, as I understand it, from the LSPR, it is safe for no use.

To have a use is when these additional remediation points have to be --

MR. GALVIN: Hey, guys, I just want you to know -- do we have a clean copy of this?

CHAIRMAN AIBEL: Yes.

MR. GALVIN: -- I am going to submit for the record that the Chairman searched this

property. It is available on the web, and he has from the EPA Region 2, dating back to the deletion date of this property of September 18th, 2007. It is, in fact, talking about the Grand Street mercury site is located at 720 Grand Street, so I think it is the same property.

And it does say on the second page: Currently all remedial construction work had been completed at the site, and the property is clean to levels suitable for residential use.

THE WITNESS: Those regulations have changed and, again, this will be described to you by the LSRP --

MR. GALVIN: This is going to be marked into evidence as Exhibit B-1.

(Exhibit B-1 marked.)

MR. MATULE: I can respond to that partially, because I did not represent them transactionally, but I did represent them before this Board, but the people who built the five-story building immediately to the south of this site, which was also part of this site, relied on that letter when they bought the property.

CHAIRMAN AIBEL: Well, did they cap the entire property?

MR. MATULE: And they wound up having to incur substantial expense after the fact of revising their plan, putting in vapor intrusion barriers.

One of the big issues I think, I don't think at the time that was done, the vapor regulations were out there, but anyway, we will let the LSRP explain it.

CHAIRMAN AIBEL: All we have -- what we have to determine is you are describing this as an absolute, that we must do this, and I realize that everything is possible with the right amount of money. I am not suggesting that you should have to do anything and everything, but I am wondering if there is another solution that is economic that is not being considered, and I don't know if it's important to the Board.

If it's not important to the Board, then let's not go there. I just want to make sure that we are getting what we paid for.

COMMISSIONER DE GRIM: If I may, the LSRP report has a drawing with a number of soil borings and soil samples having been taken, and there are no results of what was found. I think at the very least we ought to have that, so the LSRP

can explain to us that, yeah, this is at a dangerous level, and it needs to be capped or it isn't.

MR. GALVIN: Or all I am even suggesting is -- I'm also suggesting how you cap it. In other words, not that it doesn't have to be capped. I am acknowledging that, but maybe there is a way to cap it where you have a building, and you have a backyard, and you have a building, and in the backyard they have it capped in a way where there's a membrane or something, and then there's some soil or --

COMMISSIONER DE GRIM: Clay membrane.

MR. GALVIN: -- whatever.

CHAIRMAN AIBEL: Mr. Minervini, you were the architect on 720?

THE WITNESS: Yes.

CHAIRMAN AIBEL: Is the backyard a hundred percent capped by concrete?

THE WITNESS: I don't know even know what's happened since --

(Witness confers)

THE WITNESS: -- no, it is not.

I will tell you that that didn't need an LSRP when that was done. That has -- as I have come to learn these regulations because of this

project.

CHAIRMAN AIBEL: The LSRP program has been in effect for years.

THE WTINESS: No. 2012 was --

CHAIRMAN AIBEL: Well, that's three years.

MR. GALVIN: Technically that is three years.

(Laughter)

COMMISSIONER DE FUSCO: Mr. Chairman, can I ask a question?

Following up on Dennis' recommendation, did you consider capping the property at a hundred percent, but leaving the backyard as an open air patio?

THE WITNESS: It wasn't for me to consider. This was handed to us, and we had to design for it.

Frankly, although the applicant will get extra parking out of this, the costs involved are enormous, so if an LSRP would tell us not to do that and have the yard at grade level, then wonderful.

This is no -- you know, there's nobody trying to sneak anything in here to get extra

parking. The value of that parking compared to what it's going to cost is not there.

CHAIRMAN AIBEL: So the testimony is that the LSRP is requiring a one-story garage over this space?

THE WITNESS: Just as that letter says. Exactly right.

CHAIRMAN AIBEL: All right.

I am interested in hearing from the LSRP.

MR. MARSDEN: If the Board so chooses, and I feel comfortable in having one of my LSRPs that are an expert at this type of material and contamination to attend the next meeting to question the LSRP if he's going to be here.

CHAIRMAN AIBEL: So we will talk about the process.

MR. GALVIN: So we shouldn't --

COMMISSIONER GRANA: Excuse me.

I don't believe we're going to be able -- well, enough people need to hear testimony from the LSRP. It is foundational to the application. I don't think we are going to be able to proceed without that testimony, though I think we could debate whether we want to hear what Mr. Matule

says is the architecture or --

MR. GALVIN: Well, it's up to you guys.

CHAIRMAN AIBEL: I'll open it up to the Board.

We are here. It is ten of nine. It is an early, young evening.

MR. GALVIN: We have other things to do, though.

CHAIRMAN AIBEL: That is true as well.

Does everybody want to continue with the architect or wait until we solve the first issue?

COMMISSIONER MURPHY: I think we should wait until we solve the first issue because it may end up that the whole thing gets changed. I mean, who knows, and then we spent this time, and it may be exactly the way it is, but I think we are dealing with a big issue --

COMMISSIONER DE FUSCO: Well, I'm sorry for interrupting.

COMMISSIONER MURPHY: Okay.

COMMISSIONER DE FUSCO: I think we should proceed with the architecture because ultimately the worst case scenario, there is bound to be a disagreement between, you know, the

specialists, if you call him, the LSRPs.

So if their LSRP is saying and maintains that this is a hundred percent lot coverage and one story, and the other LSRP is saying it is not necessary, I think the application is still going to move forward, and then just take it to a vote at this point, so I think that we should hear the architectural testimony and save us that chore at the next meeting.

CHAIRMAN AIBEL: Board members?

MR. GALVIN: All right.

COMMISSIONER MC ANUFF: I don't know if it is worth hearing it, and then if something changes and -- you know, if the LSRP comes to the next meeting and says, no, there is no alternative solution, we now have in the back of our head what this design already was, and then there's going to be people comparing the old design to the new design, and I don't know if it behooves the architect to present it right now with all of these open-ended questions.

THE WTINESS: Chairman, if I may, if for whatever reason the LSRP changes his mind for lack of a better term, the only change here is that what we have as additional parking will be at ground

level. So the building from that point up is all the same. The lobby areas are the same.

Just for a quick reference, I will go to sheets -- at the ground floor, we would lose this section. The residential floors would not change at all. The residential floors two, three, four, and five will not change at all.

COMMISSIONER BRANCIFORTE: Question for you, Frank.

I don't want to get too far into it, but that section that you just pointed out that would get removed --

THE WITNESS: Which would be here.

COMMISSIONER BRANCIFORTE: -- just out of curiosity, how many parking spaces are we talking about in there?

THE WTINESS: I think approximately -- we are proposing 48 in total --

COMMISSIONER BRANCIFORTE: And you only need --

THE WITNESS: -- well, Bob just pointed it out, it is also our retention system, so we would be losing, you know, approximately one, two, three, four, five, six, seven, eight, nine -- 18, but maybe more, because now in that case, this retention

system has to move into the building proper underneath the residential portion.

COMMISSIONER BRANCIFORTE: And you would still be within code even with 18 --

THE WITNESS: We would still meet the requirement even without that.

COMMISSIONER COHEN: Mr. Chair, I think based on that, then there is value in hearing about the rest of the design, because if they are changing the first floor, it is not going to change the residential units. We could learn about the residential units. We could learn about the layout, and that's going to be applicable no matter what, and the night is still young, so, you know, he's here. I think that we could get something accomplished.

MR. GALVIN: We have other stuff to do, though, tonight.

CHAIRMAN AIBEL: Okay.

Well, let's move forward with the testimony. There may be other issues that arise.

MR. MATULE: I will try to get through it expeditiously --

CHAIRMAN AIBEL: And I guess you can assume Mr. Minervini will be coming back, and we can

follow up.

MR. MATULE: Yes.

Mr. Minervini, now that we have discussed the capping, why don't you take the Board through and describe the proposed building? I think the simplest way, as you usually do, go to the site and then floor by floor.

THE WITNESS: Yes.

So as I started to mention, the building design was driven in terms of its mass and bulk by two factors. The first one being the LSRP that we have already discussed.

The second is that we -- the property actually takes two corners of space, so we got the intersection of 7th -- pardon me -- 8th and Grand Street and the intersection of 8th and Adams.

So what that means to this Board is that we got 400 feet, 400 linear feet of facade area. So how we use that and reacted to that in terms of building design, let me flip around on the floor plans, and you will understand.

If I go to Sheet Z-7, which is the second floor, the residential floors are mostly the same, but we will use this as a basis for discussion.

We will assume that this is not a hundred percent lot coverage for the purposes of this conversation. Here is Grand Street, and here is Adams Street.

What we have done is we designed a building of 60 feet in depth off of Grand Street. That is the permitted depth in accordance with the zoning ordinance.

Sixty feet in depth from the Adams Street side, and with the thought of keeping or actually to be introducing the full enclosure of the donut, we are proposing to connect these two buildings along the 8th Street facade, which again is 200 feet, with a 25-foot deep structure, so our building becomes U-shaped. The two main flanks, one along Adams and one along Grand, are conforming at 60 feet.

We connected the two at floors one, two, three, four, five -- all of the floors -- we've had between the two buildings at 22 feet in depth. What that does is it allows continuity of street scape. It allows a pedestrian friendly walk. I've got renderings that show that, but those are the two things that drove the actual building design, so we really took what would have been a 60

foot building here and a 60 foot deep building here, if in terms of context they were elsewhere and not on a corner, and then because we reacted to the corner, we connected the two while enclosing the donut in full, so that is what drove the actual building design.

We are proposing 24 residential units, two commercial spaces. One will be at each corner. One at the corner of Adams Street here, 500 square foot. One at the corner of Grand Street of 500 square feet. They are small commercial spaces, but the thought they will introduce, again, some street life into what could be otherwise a very blank, long brick wall.

So then we played with massing, which I discussed.

I got a diagram showing the relative building heights. We are proposing a five-story building. It has setbacks in particular areas, which respond to adjacent properties. I'll get into that, but I think this might be a time to pass out some massing schematic renderings we have done showing --

MR. MATULE: Let me mark this as A-4.

Just state what it is for the record.

(Exhibit A-4 marked)

THE WITNESS: There are four separate vignettes, renderings of different scenes of what this building would look like relative to the adjacent properties.

So, for example, this is a view looking north along Grand Street, the buildings across the street that have recently received approval, the one bakery, the existing building, and we had mentioned before 720 Grand, and the blue section is our building, and this is down along Grand Street.

This is looking south on Grand Street, one of the projects that was approved by this Board probably like two months ago, our building, and then showing the relative heights of the buildings on the northern section of 8th Street.

Another view looking down Adams Street, and I will go through each of these in detail, so you can understand how we responded, and this is a bird's eye perspective showing the Wonder Bakery building as approved, and our building.

So if you look at the context and the adjacent properties --

MR. MATULE: Want to pass that around?

THE WITNESS: Yes.

Talk about relative heights on this one --

MR. MATULE: Wait. Let's mark this A-5, and what are you going to call this?

THE WTINESS: Call it a relative height diagram.

(Exhibit A-5 marked)

MR. MATULE: Okay.

THE WITNESS: So in terms of the context of the adjacent buildings, here is our U-shape structure. This is Grand Street. This is Adams Street, the Wonder Bakery building. Directly across at its highest point is 79 feet. The major portion of it that's directly across from our building is at 68 feet.

The five-story residential building directly to our north is between 50 and 52 feet.

There is a four-story industrial building, which is at 68 feet.

Across the street on Grand Street, we have a five-story building at 50 feet, two shorter one-stories, and another five, and then a 45 foot building.

As we come down Grand Street and

connected to ours is a recent approval by this Board and under construction, a residential building at five stories. Then there's a four. Then you see the variety of heights as you come further south along Adams Street. Our building at five stories, and then four-story buildings, and 47 feet in height. One, two, three, four, five. There's five of them here.

So the purpose of this drawing, other than the obvious of showing you the heights, is to explain how the fifth floor setbacks came about in our design.

So we have a fifth floor setback along Grand Street, and that is at ten feet responding exactly to the fifth floor setback on the adjacent property. So our Grand Street facade and the building that's under construction approved by this Board have the same setback for the first 25 feet.

That applies as well to Adams Street. We have got a setback here, which you probably can see on another drawing.

Yes. A setback here along Adams Street, and that meets -- that would be at 40 feet, our fourth floor roof, which is slightly below the four-story buildings that are adjacent to it, so we

addressed the context here. The two buildings that were touching, we have addressed in terms of height.

We kept the full five stories in height at the two corner marks, typical architecture design and even urban design. The corner should have the buildings with the most architectural character as well, as in this case, it's a small height deviation between the two buildings, so we kept the two taller buildings there.

The section that I talked about, that 25 foot depth section, that connects the two flank portions on Grand and Adams.

On the fifth floor, it has an eight foot setback, and the purpose of that is to soften its visual impact on the shorter street.

So with those things in mind, we can go right to our last sheet, and I will bounce around a bit here, which is our Z-13 sight line diagrams,

COMMISSIONER GRANA: Frank, why don't you pass them around, too?

THE WITNESS: Yes.

COMMISSIONER GRANA: Thank you.

THE WITNESS: I also have printed the photo board. I think you may have a color version of the board you have already, so if you did want to

see that, I have it in color.

So the sight line diagram showing above the Adams and Grand Street, because in this case the setback is the same at ten feet. The street width right-of-way is the same on both Adams and Grand, so you see the ten foot setback from across the street conceals the main fifth floor structure.

On the 8th Street side, because that street is a bit more narrow, an eight foot setback would give us the same end results, so that is concealed there, and this is part of your drawing on Sheet Z-13.

So those are the things that we looked at first when designing this large building.

The other point that we really had to focus on, and not that it is something new, but it is something new that we heard from this Board in particular, that there are perhaps too many very large long buildings being constructed in Hoboken, so we have taken that into consideration, with, of course, the knowledge that we have got two 100 foot facades and one very long 200-foot facade.

So because of that, part of that reason, we are, if you look at the plans, you will see that the building is in essence cut in half and

flipped. So what we have done, we have treated really it on the upper floor as two separate buildings, which serves two purposes.

You can see this would be the dividing line. This 100 foot square, and this 100 foot square, what it does is it allows us to play with the elevations. It allows us to phase the project, if required, and we will ask the Board for that opportunity, but it also then requires that we have two separate entries.

So what we have done is we treated these as two separate buildings, as if they were going to be built as of the times, with one with an entry along Grand Street, and one with an entrance along Adams Street. You bring that back into the architecture, so you got a two-dimensional line drawing here.

Since that was submitted, we kind of massaged that same design with some minor changes, but changes that we think better respond to the neighborhood concepts.

MR. MATULE: For the record, we are labeling the rendering as A-6.

(Exhibit A-6 marked.)

THE WITNESS: I will pass this around

as well.

It is slightly different. What we've done -- here is our Grand Street elevation, Adams Street elevation, the long 200 foot -- what we have done, for example, on Grand Street, we have responded to the fact that there are industrial buildings directly across the street from us.

The Wonder Bakery building is -- I won't say iconic, but it certainly will have a prominent presence when it's complete, and the design is on one of the boards that you are looking at, just to refresh your memory for those who don't remember, because this Board did approve it.

So what we have done on this Grand Street portion of this design, we made the building look like it had some semblance of an industrial past. Certainly there was an industrial building here, so we thought here we are recognizing it's without acknowledging its actual problems, we are acknowledging the actual industrial use, so the architecture that was there, it had an industrial feel. The buildings across the street on Grand Street, 1715 Grand Street, which has been recently completed, has a very much of industrial feel, looking like the building that was there prior.

The Wonder Loft project, Wonder Bakery, has that same look, and further down the street is then Applied at 710.

So what we have is we've broken the building up into smaller segments, again, to try and achieve the visual result of not having one massive wall. So what we have done is we broke up in this case four separate elements. There are two brick elements, a bay extension, and then a glass structure that in essence connects the two. That is our Grand Street to respond to the more industrial nature of that part of the neighborhood.

If you go to Adams Street, it is less industrial, although there is an industrial building here, that storage project that I mentioned. So we have lessened the -- in terms of architectural design, that what was kind of a larger industrial feel facade --

MR. MATULE: Just let me interrupt you for a minute.

Could you stand on that side, because I think you are blocking the drawings.

THE WTINESS: Sure. I am not as small as I think.

MR. MATULE: Or transparent.

(Laughter)

THE WITNESS: Yes.

So what we have here is we have reduced that industrial portion of it, kept it along Adams Street and further to the south, and then had more, although contemporary, certainly a more residential looking structure.

Pardon me one second. This is falling,

MR. MATULE: The leg.

THE WITNESS: The leg. There you go.

(Laughing)

I may need some help. It's highly likely.

CHAIRMAN AIBEL: One of my colleagues just offered, and now he understands why the drone crashed.

(Laughter)

THE WITNESS: Which one of those colleagues was it?

CHAIRMAN AIBEL: I can't reveal that.

(Laughter)

THE WITNESS: I can't deny that.

So I explained here how the architecture and in terms of the massing, where the setbacks are responding to the context, responds to

the neighboring group that they are facing and responds to the adjacent buildings.

More difficult, and although I think we have really done a very good job of achieving what we need to achieve for the more difficult facade was the 200 foot facade that runs down 8th Street.

There's several ways, of course, to do it. We could have broken it up into seven or eight very small buildings that look like small buildings, but to us often have a kind of Disney World feel, because it's not really reflective of what's going on in the front. So we have chosen instead to continue the corner design, make those corners architecturally prominent and give those corners the most character, as I discussed before, and have a brick two-story connection between those.

What that does at two stories, it is a very comfortable street wall for pedestrians walking down the street.

Above that, we changed the material to black panels, metal panels and glass, and above that is that setback I mentioned.

So on 8th Street, as well, we think we have been very sensitive to the fact it is a very long facade. We have broken down the very long

facade into elements. Those elements are comprised by the two corners, as well as the connecting piece, and in all cases a very comfortable pedestrian friendly street height in terms of this brick.

It wasn't an easy thing to accomplish, but I think we have hit the mark on that.

So those are the things that drove -- those are the big decisions that were driven by the comments that I made before, the LSRP, the fact that we have the very long facades.

We get into the actual building itself, and it is relatively straightforward, so I will go through all of the floor plans.

But at the ground floor, as part of this proposal, we are providing 48 parking spaces, as well as -- and I will start at the larger of the ground floor plans, which is -- I will start at Sheet Z-6.

So the ground floor, here's Grand Street. Here's 8th. Here's Adams, providing 48 parking spaces, and this is the line above that I mentioned of the structure above. The lobby floor we will call it.

If it were to be phased, the Phase I Building here on Adams -- pardon me -- on Grand

Street -- that almost needs to be the stair. It has its own elevator, lobby, as well as a secondary means of egress stair, a separate trash room and recyclables, as well as commercial space.

On the western part of the building, it is the exact design flipped. Commercial space anchoring the corner lobby, elevator, one means of egress, and our second means of egress as well as trash.

From that point on, the building is -- although nicely designed in terms of its facade induration, it is a much more of a standard residential building like you would see.

So we have a total of 24 apartments. We are proposing six per floor in total, and for sizes, the total number of three-bedroom units are 16 as part of this proposal. They range from 1745 square feet to 2275 square feet.

There are also eight four-bedroom apartments, ranging from 2,250 square feet to 2,275 square feet.

So you got one, two, three, four, five, six per floor. Three per half of the building. That's the same for floors, two, three and four.

Go to Sheet Z-9, which is the fifth

floor, and that one is slightly different, because as I had mentioned in looking at the master models, we are proposing a ten foot setback on the Grand Street side here, which is on the southern portion of the building, and that responds directly to the building that is under construction here, and it matches it exactly in terms of the setback.

We are not proposing a setback at the corner for the same reason that I had mentioned, strong architectural character, a great spot for the fifth floor at its total, and an eight foot setback along Grand Street, as I mentioned with the sight line diagrams, the eight foot dimension meets that requirement, so you cannot see that fifth floor from across the street, as well as some open space, and it also lessens the visual impact on a smaller street.

Then we mirror the setback on Adams Street at ten feet.

Here we are almost matching the five or six, four and a half story residential buildings that we are adjacent to to our south.

So I propose an outdoor space as part of this proposal, the outdoor space is there are spaces above the garage, which would be used by the

second floor apartments, by four second floor apartments, so we broke them up into one, two, three, four private terraces.

Floors two, three -- pardon me -- three and four, we are proposing eight foot outdoor space decks that are 8 by 25 for 200 square feet. You have one, two, three, four per floor on floors three and four.

What that does is it allows for four of these apartments to again have outdoor space, so larger apartments. Outdoor space seems to be one of the requirements for people who would be purchasing these would have.

In our opinion, in terms of the donut hole, well, certainly when this is a hundred percent lot coverage, the impact is lessened, but even in terms of impact, we are not having any negative impact on adjacent properties.

Any impact that the Board may see would be certainly within our own property, and in my opinion, we still have 80 feet as the zone plan requires between the two buildings. So even with 16 feet taken out, there is more than the actual ordinance requires.

So that allows for outdoor space on

floors two and three, outdoor space on the fifth floor -- pardon me -- that was the third floor, and this is the fifth floor would be something that would be from these terraces. Some would be at this terrace, and at this terrace, and then those four decks.

MR. MATULE: Frank, if you could, could you just go back? I just wanted to I think correct something for the record.

Sheet Z-4, I don't know if you misspoke when you gave the unit count as 16 threes, and eight fours. I think you are showing 12 of each on the sanitary sewerage --

THE WTINESS: No. I think 16 and eight is correct. The calculation may be wrong, but I will certainly confirm that right now.

So we got one, two four-bedrooms per floor, so it's four floors, so that would be eight --

MR. MATULE: Here --

THE WITNESS: -- I'm sorry. Pardon me. Yeah, I got four.

Actually you are right. The sewerage calculation is correct.

MR. MATULE: So you got 12 and 12 --

THE WITNESS: The square footage is the same. We have 12 and 12, and those numbers are the same as the three-bedroom, 1745 square feet to 2275 square feet on the threes, square feet.

On the four-bedroom 2,250 square feet at 2,275, so what I have as 16 and eight should be 12 and 12.

So I got to the fifth floor. I described the setbacks and how the setbacks occurred and what I think they accomplished and the roof.

The majority -- not the majority -- the roof is being used in its majority partially for an extensive green roof that is not walkable, partially for six private decks. The square footage is shown. 800 each. The top floor apartments would have their own separate stair connection to those outdoor spaces.

The outdoor spaces would be set back from the building line along Grand and Adams at ten feet two inches, and 14 feet seven inches from the 8th Street side. So they are set back to again minimize any impact from within our area in terms of the hole in the donut is at that eight feet.

We also are proposing our condensing units and any mechanical equipment that's required

will be in this connecting flank.

All of the green roof is not walkable, so it cannot be used as outdoor space.

I talked about the elevations or Sheet Z-11, the line diagram elevations, which we have since massaged from that to this, and I can pass this around, too, if anybody would like to see it.

So, in essence, I guess to conclude, given the job to design this building, we were faced with several determining directions. LSRP was one at a hundred percent lot coverage.

The second, and it is a big one, is the total facade front is we got a 400 square foot facade.

We really had to we think tactfully -- we have tactfully broken down what could have been a very, very large mass into smaller sections, something that's more easily understandable by a pedestrian, in terms of its scale.

We have addressed the pedestrian scale along the 8th Street side by having this a two-story brick section that connects the two corner buildings.

We have set back the fifth floor to reduce visual impacts from the street at particular

locations that make sense again in terms of context. So those setbacks occur where the adjacent buildings are shorter or where the adjacent building has a setback that would be exactly the same.

The building will, of course, be completely ADA compliant.

A sprinkler, we are proposing car charging stations within the parking area.

We are proposing the building to have LEED certification, and the actual list of the LEED, we'll call them green elements, actually I didn't put them on the paper, but I have them committed to memory.

We are proposing a water retention system, but in terms of green, we are proposing a green roof.

We're proposing electric car charging stations.

We're proposing the water detention system.

We are proposing the Energy Star appliances, Energy Star windows, on demand water heaters, so all of the usual things, plus we are proposing for this building, and it will minimally meet LEED certification.

I think that it's a great response to the site that is there, that was given to us. I think it is a great response considering the partially industrial character of the neighborhood.

I think in terms of height, it makes perfect sense, and the visual impact is really nothing because where it could have had an impact, we reduced the height. We are proposing commercial spaces along 8th Street, the corners of both 8th and Adams, and 8th and Grand, again, to allow for some street life, and I hope the Board feels the same way.

MR. MATULE: Frank, just a couple more questions.

Without discounting the one-story garage --

THE WITNESS: Yes.

MR. MATULE: -- you have a hundred percent lot coverage.

The basic residential portion of the building is 70 percent?

THE WITNESS: 70 percent, and that extra ten percent is only the connecting piece along 8th Street that continues that street wall and allows for the whole donut to be constructed.

MR. MATULE: And you mentioned a couple of times that the project is going to have on-site detention.

In your design, you have designed that on-site detention to be above ground, because you cannot have it on the ground?

THE WITNESS: Yes. I go to Sheet Z-5.

We are proposing because the building is likely or possibly to be phased, two groundwater detention tanks that are above grade, and again, according to the direction from our LSRP, it has to be above grade, so...

MR. MATULE: And I know you have been talking this back and forth with Mr. Marsden, but you received his letter of March 5th --

THE WITNESS: Yes.

MR. MATULE: -- revised May 5th?

THE WITNESS: Yes, I have.

MR. MATULE: Any issues addressing any of the concerns there?

THE WITNESS: No.

MR. MATULE: Then one other question. I know on this drawing, Z-5, you are showing the street width on 8th Street as 70 feet. In fact, it is 50 feet, correct?

THE WITNESS: This is the total right-of-way at that street width --

MR. MATULE: Well, from the property line to property line is 50 feet --

THE WITNESS: Correct --

MR. MATULE: On the tax map?

THE WITNESS: -- that's correct, yes.

MR. MATULE: Then Grand Street and Adams Street are 65 feet?

THE WITNESS: Right. Those are larger, yes.

MR. MATULE: I am only asking that because --

THE WITNESS: 8th Street is longer --

MR. MATULE: -- Ms. Banyra raised a point in one of her letters about Grand Street being a primary street -- I mean, 8th Street being a primary street --

THE WITNESS: In this case.

MR. MATULE: -- but, in fact, the north-south streets are the wider streets, correct?

THE WTINESS: Yes.

MR. MATULE: Thank you.

CHAIRMAN AIBEL: I missed the last part of your last question.

MR. MATULE: The north-south streets are the wider streets.

THE WITNESS: Correct.

MR. MATULE: Well, that is all I have for Mr. Minervini at this time.

Obviously, we are going to need to get the LSRP in here.

CHAIRMAN AIBEL: Board members, any questions for Mr. Minervini at this time?

COMMISSIONER BRANCIFORTE: So, Frank, Z-11, those drawings Z-11 and Z-11-A just go out the window. They mean nothing at this point because they don't represent what you showed us --

THE WITNESS: The basis are still here. What we have done is, for example, we added more industrial for this section, but in terms of the massing, and the bays, it is pretty much the same.

But, yes, the right answer is let's go out the window, and I can replace them with my drawings on the rendering --

COMMISSIONER BRANCIFORTE: Because when I opened those plans this afternoon, I was like, you got to be kidding me, so --

THE WITNESS: Do you still feel that way?

(Laughter)

COMMISSIONER BRANCIFORTE: Yeah, on those plans. So I think for the sake of the public that wants to come to the office and look at the plans, they will need something that's more representative.

THE WTINESS: Okay. We can absolutely provide prior to the next meeting a two-line drawing of what the rendering shows.

COMMISSIONER BRANCIFORTE: You were talking about along 8th Street, you need to connect two buildings to create the donut.

THE WITNESS: Well, it is not a need in the sense that the zoning is requiring it. It's our thought for architectural or for design reasons, the continuity of the street scape and the continuity of the street wall is important. It is called a hole in the donut for the obvious reason, because it is enclosed on all sides, so that's what we have done here, and we were, I think, sensitive to that I think in terms of its facade design, but also its actual depth. It is only 25 feet.

CHAIRMAN AIBEL: But the property to the north of it does have a breezeway right in the middle of the block.

THE WITNESS: Yes, and it's a very, very odd condition. It's a very odd condition.

They also responded in that case to a storage building that was to their west, that takes up the majority of the lot.

So if you look at, referring to The Huntington, because I am very well aware of it and I've been to the site many times, one time crashing the drone, that building is 70 feet in depth. We measured it today, where as this is 60, and then you only got about 15 feet between -- maybe 20 between that building and the very large tall industrial storage building there, so it is a very odd condition that I don't think should be replicated. I don't think should have been built.

I think our direction makes absolute perfect sense in an urban -- and it continues what this Board has always pushed for --

COMMISSIONER BRANCIFORTE: What's that?

THE WITNESS: -- a hole in the donut means that there's a donut

COMMISSIONER MURPHY: Yeah, but it's not the same.

Like in some of the older blocks or non industrial blocks, there is either a driveway or

like a one-story building.

THE WITNESS: Absolutely.

COMMISSIONER MURPHY: I mean, like you can walk down 11th Street east of there and look into a donut.

THE WITNESS: And one of the reasoning in the initial construction in urban design for the donut is to provide some semblance of privacy for those people in their rear yards. That is one of the reasoning of urban design. There are some standard urban design guidelines, but I am pretty aware of them, and one of the reasons for the donut even on shorter streets is for privacy to the central open area.

COMMISSIONER BRANCIFORTE: Yeah. But, you know, when you take a -- when you have a donut, and you take a bite out of it, you are allowing more -- you know, you're creating an opening for air to shoot in and --

THE WITNESS: That's not a donut. We should talk about then the U-shape or perhaps the two linear pieces --

COMMISSIONER BRANCIFORTE: Well, I think maybe you are a little bit too married to the term "donut" in this case then.

THE WITNESS: Fair comment.

COMMISSIONER BRANCIFORTE: And if there's anybody --

MR. GALVIN: The recreational pavilion in the rear of the structure.

(Laughter)

THE WITNESS: No. I absolutely understand what you are saying, John.

I think that this relatively small area, and we set it back to address the smaller street, makes perfect sense in urban design.

I think the continuation of that street wall and pedestrian friendly height and the two commercial spaces, it is a very small price to pay for that continuation.

COMMISSIONER BRANCIFORTE: Again, what is the height on that wall then that makes it so pedestrian friendly?

THE WTINESS: 20 feet, and you have to see it on the rendering, which you have got over here.

You can't see it on -- or you probably can see it on the two-dimensional drawings, but the colored rendering does a better job of describing that.

COMMISSIONER DE FUSCO: Mr. Chair?

Frank, so 400 square feet of facade lighting the street, yet -- it's a big building -- yet only two 500 square foot retail commercial spaces, a lot of ground floor space, you have an opportunity to obviously bring life to this block.

What was your thinking on keeping those so small and limited when you are already above the parking allotment?

THE WITNESS: We are, of course, directed by an applicant. What the applicant thought here was that the kind of commercial spaces that would be attracted -- commercial uses that would be attracted to these small spaces are coffee shops, something that doesn't take up a lot of space.

So our thought was we would have more parking with some commercial space. Certainly there could be less parking, given the abundance we have got now to make the commercial space bigger, but as I have come to understand, generally the want for a commercial space in areas like this are smaller ones.

COMMISSIONER DE FUSCO: Well, that's because there is not currently a lot of commercial

space in the rear of town, and there is opportunities that developers, such as this applicant, have to bring them to this part of town, and I think it is a true community benefit. It doesn't necessarily need to be larger square footage, perhaps more commercial space for a small businesses that, you know, I agree, I think small square footage might be better for a coffee shop. But perhaps consider bringing light to the street especially with the size of this application, because I know we're going to hear this in a future meeting.

The southern edge of the building, so the one that is now going to face into the rear yard of the neighbors, what is the material that's proposed on that?

THE WITNESS: Yes. Here -- well -- oh, here?

COMMISSIONER DE FUSCO: No, directly above that.

THE WITNESS: This here?

COMMISSIONER DE FUSCO: Correct, yes.

THE WITNESS: So, well, we're as part of this proposal, and we talked about it, a hundred percent lot coverage results in a one-story high

wall that would be in effect.

You may have the board. I will take all of the boards back actually.

So, in effect, the wall would be in this section right here, one-story high here.

It didn't make it to the drawings, but we have since submitting, we've revised them, proposing a green wall section, so we will set it back wherever the requirement is and propose a green wall there to soften that visual impact that those two adjacent properties would have.

COMMISSIONER DE FUSCO: That would be great.

You testified, too, this would be a minimally LEED building?

THE WITNESS: Yes.

COMMISSIONER DE FUSCO: I mean, another opportunity to do something for, you know, with this size of a building, I would think the opportunities for LEED certification are there. Why only minimally?

THE WITNESS: Well, we have not figured out the points, but I thought based on previous conversations and previous applications here that what was more important to the Board was the actual

list of the proposed features we are proposing --

COMMISSIONER DE FUSCO: That's true.

THE WITNESS: -- so that's what we did. That's why I said "minimally LEED," and if those points can get us further, great, but I think we've gone pretty far in terms of what we are proposing.

COMMISSIONER DE FUSCO: Well, I think the Board's often concerned with the fact that a number of the LEED factors really are transportation, which are basically grandfathered into the sites, and so certainly green -- with gray water and green roofs, and you know, those sort of features are important. I don't want to speak for the Board, but that is what I gather.

THE WITNESS: Understood, and we can have a discussion to maybe even increase what we are proposing. We'll take another stab at it.

COMMISSIONER DE FUSCO: Yeah. It is a large building, and I think that the more LEED features, the better --

THE WITNESS: Okay.

COMMISSIONER DE FUSCO: -- and then I will just end it on this one.

You know, like a number of your diagrams are showing different things from the

boards to the actual plans. How does the building on Adams and on Grand connect with the neighboring properties?

Are they at the same level, or are they going to be at different levels to their neighbors?

THE WITNESS: Yeah. I think one of the models will show it.

COMMISSIONER DE FUSCO: I just wanted to confirm.

THE WITNESS: Sure.

On the Grand Street side, we match exactly that building, so -- and I know we were the architects for that building. So this, we called it A-4.

Now, to pass it around, and I will walk up to Commissioner DeFusco, we match it exactly. So they have a fifth floor setback, so we are proposing a fifth floor setback here. Here, save for the corner condition, which I had described, the same condition applies on Adams Street. The buildings along Adams don't have a setback, but the one, two, three, four, five buildings are at 47 feet high.

So our actual floor level of the terrace, we'll call it at the floor, is lower than that building, so we think we were sensitive to

those two conditions.

This one, we are the exactly the same as, and this one we're slightly lower than on the initial facade, and then at the setback we're slightly higher than them.

COMMISSIONER DE FUSCO: Okay. Because just on Z-1, the block diagram shows the -- where they connect as being slightly lower.

I think it is a positive for the buildings to connect at a similar height. I think it continues the street, the visual impact of the buildings along the street.

THE WITNESS: Yeah. So the block diagram on Adams Street is exactly right. Our fourth floor is lower than those at 47 feet.

COMMISSIONER DE FUSCO: Correct.

THE WITNESS: And along Grand Street, actually the drawing that we have here is not reflecting that this entire floor is set back, so that is the inaccuracy --

COMMISSIONER DE FUSCO: Okay.

THE WITNESS: -- on that Grand Street side, that fifth floor is set back exactly matching what we're proposing.

COMMISSIONER DE FUSCO: I view it as a

positive that the buildings do connect along the street.

Thanks, Frank.

It is a very nice design that you have come up with.

THE WITNESS: Thank you.

COMMISSIONER BRANCIFORTE: I have to go back to what I was asking before, though.

THE WITNESS: Yes.

COMMISSIONER BRANCIFORTE: On Z-11 -- all right -- go to Z-3 first.

The 8th Street -- you said it is a 20 foot wall, and it is pedestrian friendly because it is a 20 foot wall.

THE WITNESS: No. Well, I said that, but that's not exactly what I said.

MS. CARCONE: There's another board back there.

THE WITNESS: There's another board. Is that the actual colored facades?

That is the one I like.

MS. CARCONE: Dennis hid it back there.

(Laughter)

THE WITNESS: So what I was describing was the mass, the visual mass, as perceived when you

walk down the street of the two-story brick.

Certainly, the entire building from -- we will call it this section, 60 feet to this 60 feet, is four stories tall. But what we have done is we broke up that visual mass by having a two-story brick wall, which is again more pleasing to the eye, and more comfortable for pedestrians.

I wasn't suggesting that this portion of the building was set back. It is just the way we treated the facade responds to that concern.

COMMISSIONER BRANCIFORTE: I have another concern. This is a question that might be for you or it might be for your planner.

Tonight we talked about 1100 Grand Street I think. No one or two-bedroom units.

Then we approved the other building on Madison, no one or two-bedroom units.

You were in here a couple of weeks ago with the Wonder Bread Factory, no one or two-bedroom units.

THE WITNESS: That one did.

COMMISSIONER BRANCIFORTE: It did?

THE WITNESS: Yes.

COMMISSIONER BRANCIFORTE: Okay. I thought we lowered them and got --

THE WITNESS: Yeah, but there were still some ones and threes and twos, but --

COMMISSIONER BRANCIFORTE: Okay. I'll give you that.

THE WITNESS: Yes.

COMMISSIONER BRANCIFORTE: There's no one or two-bedroom units in this building, and yet you could still increase your density by a few units.

THE WITNESS: Certainly these 24 units could be carved up into different numbers.

The market today is telling us this is what people want, and I really am hesitant to -- I wouldn't think the Board would want to tell an applicant how to carve up a number of units with the square footage into unit counts, because this is purely driven by the market. It is not a determination that they make for ones or twos --

COMMISSIONER BRANCIFORTE: Well, that is fine, but I'm not sure because as a Zoning Board, I think we should be talking -- trying to think about the building and how the neighbors are going to interact.

I just feel like we are building family buildings over here, and these are the families, and

all of the single people and people without kids can go somewhere else and live in a different building, and they will interact. They will never intertwine or speak to each other, because we are living in two different neighborhoods completely.

THE WITNESS: Well, I could answer that in many ways, and you live in a multi-family building, and you know the interaction within a building is limited anyway, so --

COMMISSIONER BRANCIFORTE: Oh, that's not true at all. I deal with families every day, and I deal with single people every day.

THE WITNESS: Understood.

But this Board, of course, sees many, many large apartments because that is what the projects are being built because of the market.

However, relative to what is out there, there are not a lot of large units. You know, there are not a lot of large units. You see them. That's most of the projects we bring are those responding to the fact that there are none --

COMMISSIONER BRANCIFORTE: This is a conversation maybe for a different time, but --

THE WITNESS: Yeah.

COMMISSIONER BRANCIFORTE: -- you know,

my response to that is, you know, you ask a person with a family, are there enough family units, and they will say no. You have to build more family units.

Ask my friends that are single or my friends without kids, and they will say it's just the opposite. No, we need more one or two-bedroom units --

THE WITNESS: I understand.

COMMISSIONER BRANCIFORTE: -- so it's all -- to me, I'm trying to I think, it is anecdote -- anecdotical -- anecdotic --

MR. GALVIN: Anecdotical --

COMMISSIONER MC ANUFF: Anecdotal.

(Laughter)

COMMISSIONER BRANCIFORTE: And until I see some solid -- being an economist, I want to see numbers, and I want to see data that proves that we need this. Not just what the real estate agents tell us --

THE WITNESS: Respectfully, John, I don't understand why an applicant should be required to show you an economic proof of how they want to break up the units --

COMMISSIONER BRANCIFORTE: No. I am

not saying you have to. But I'm just saying until I see it, I am not going to believe that this is what we need in town.

THE WITNESS: Well --

COMMISSIONER BRANCIFORTE: I am just questioning why we are not including units for people without kids. Units that are smaller. That's what I am questioning --

THE WITNESS: Understood.

COMMISSIONER BRANCIFORTE: -- and as an architect, I am wondering if there is a reason why you did that.

THE WTINESS: We don't make those decisions as an architect --

MR. GALVIN: I think you should stop there. I think that is the answer.

COMMISSIONER BRANCIFORTE: That's fine.

MR. GALVIN: The architect takes his cue from his client, and then he develops the building accordingly.

COMMISSIONER BRANCIFORTE: That is fine.

CHAIRMAN AIBEL: Mr. DeGrim?

COMMISSIONER DE GRIM: The fact that you have completely redone the facade, and very

nicely, I might add, has that changed the floor plans at all?

THE WITNESS: No. There may be some slight rearranging of bays, but the overall answer is now, and I will confirm that -- what we will do based on several comments, we'll revise our two-dimensional drawing -- I mean our line drawings to conform with this. If there is any slight variation, for example, a small setback, we will revise it.

COMMISSIONER DE GRIM: And to follow up on a request that was made earlier this evening on another project, it does not appear that there are hose bibs for the private roof decks.

THE WITNESS: That's a mistake, and we should absolutely propose them.

COMMISSIONER DE GRIM: No other comments.

Thank you.

CHAIRMAN AIBEL: Mr. Cohen?

COMMISSIONER COHEN: With respect to the decks, the various decks that are on the fourth and fifth floors, you just talked about private -- a number of them are on the street front. I am wondering if you can just talk about what kind of

privacy there will be.

Will those folks be visible from the street?

You know, how is that set up?

THE WITNESS: You are referring to what we are calling setbacks at the fifth floor, one on Grand, and one on Adams, and one on 8th Street.

COMMISSIONER COHEN: Correct.

THE WTINESS: So I think the visual impact of those decks can be seen on our sight line diagrams, which actually show those setbacks relative to the street, relative to the sight lines. That would be on Sheet Z-13.

So I think if you get a sense here of what privacy would be needed or not, that is a six foot high person. If the Board had a concern that these decks might intrude somehow on the adjacent properties, we could propose a planting there to minimize it. But I think at the fifth floor only, the impact is really minimal. It's just our opinion in terms of design and what I experienced in town.

COMMISSIONER COHEN: Okay. I am asking, because I think it is not typical for there to be front street facing decks.

THE WITNESS: Yeah. And use of a deck

is purely as a result of a setback.

If this Board said to us, we like the setback idea, but don't like the terrace, I am sure that the applicant would consider that.

COMMISSIONER COHEN: Well, I certainly do like the setback, and I like the fact that you matched the setback to the neighbor.

There is just not a lot of detail with respect to how it's going to look with people there.

THE WITNESS: I understand.

COMMISSIONER COHEN: Maybe when you return, maybe, you know, relative to across the street neighbors, how they would line up, and maybe just a little more detail on that would be helpful.

THE WITNESS: Okay. Absolutely. I will certainly do that

CHAIRMAN AIBEL: With the clotheslines and the bicycles and --

THE WTINESS: And the bad patio furniture.

COMMISSIONER COHEN: Yeah.

(Laughter)

COMMISSIONER GRANA: Drones.

COMMISSIONER COHEN: Just a quick comment in response to Commissioner Branciforte.

I mean, look at each application on its own. We look at each application, and I don't know that it is fair to this applicant or any applicant to compare it to a laundry list of prior approvals to say how this one compares to the others.

I think that, you know, we look at this one on its merit to make a decision based on its merit.

CHAIRMAN AIBEL: Do you agree?

Do you agree?

THE WITNESS: Yes, absolutely.

COMMISSIONER COHEN: Okay. Thank you.

MR. MATULE: Wouldn't you agree.

(Laughtger)

CHAIRMAN AIBEL: Can I ask, what is the architectural reason for 74 percent lot coverage on the second, third and fourth floors?

THE WITNESS: The second floor is 100 percent -- pardon me -- well, the second floor has 70 percent for the building, and what we know, as part of this plan, has a roof level to the garage is all being used, so the actual 74 percent is at three, four and five.

It is purely, as I mentioned, the two major portions of the building are 60 percent, so

that would be the section that fronts on Grand Street and the section that -- here we go -- just using Sheet Z-7, this is convenient.

The section that fronts on Grand Street, this is 60 feet. So this swath building is 60 percent. This is 60 percent. The additional ten percent in structure came from, as I described here, the connection. The four percent, which is what I think you are really referring to, is solely based on the need slash want of outdoor space for apartments that don't get it otherwise, and they are just balconies attached to the building.

CHAIRMAN AIBEL: But now I understand your calculations. You might want to check the zoning table.

THE WITNESS: On the second floor, it might be incorrect. Yes, I understand, and I will check it.

CHAIRMAN AIBEL: Anybody else have questions, Board members?

COMMISSIONER BRANCIFORTE: I do actually.

The numbers of cars that you're proposing the spaces, you're proposing 48, I think.

THE WITNESS: Yes. 24 per pad we'll

call it --

COMMISSIONER BRANCIFORTE: The code calls for only 20 what, 24?

THE WITNESS: Yeah. We are obviously proposing more, and again, that was purely a result of this, as we understand it, and we have been dictated to, having a hundred percent lot coverage.

MR. MATULE: Just if I could, I believe we have 24 units, so that would be 19 and then two for each commercial, it would be 23 --

COMMISSIONER BRANCIFORTE: So 23 is required --

MR. MATULE: -- is what the code requires. That would be the minimum.

COMMISSIONER BRANCIFORTE: This is my concern, and I wonder if you agree or not.

THE WITNESS: Sounds like a trick question.

(Laughter)

COMMISSIONER BRANCIFORTE: By allowing you the extra parking spaces, are we bringing too many cars into Hoboken, and does that by chance counter any green LEED design effect that you might be proposing?

In other words, do we really need that

many cars in Hoboken?

Can we eliminate 12 or 13 parking spaces and eliminate 12 or 13 cars from our streets driving around on Saturdays and Sundays?

THE WITNESS: There are two schools of thought. But as you are well aware of, certain -- one school of thought is that, don't provide any parking for a structure. Therefore, no one can have a car, and therefore, you have less cars on the road.

There is another school of thought that -- and it is in gradations depending on what school you went to --

(Laughter)

-- what we have got here is simply a result of the space that was available.

Now, having said that, I am going to make the assumption that the Board will ultimately agree with our LSRP, and we come to the conclusion that there has to be a hundred percent lot coverage just in terms of this discussion, we certainly could increase the commercial space and reduce some of the parking, as Commissioner DeFusco has proposed.

I don't think that is a problem, but we are not making any kind of planning argument by

proposing more. This is a result of the space that is given to us.

COMMISSIONER BRANCIFORTE: That's fine. Thanks.

CHAIRMAN AIBEL: Anybody else?

Are the professionals okay?

Let me open it up to the public.

THE WITNESS: Thank you -- oh, sorry, I forgot.

CHAIRMAN AIBEL: Questions for Mr. Minervini?

Seeing none.

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

COMMISSIONER MC ANUFF: Second.

CHAIRMAN AIBEL: All in favor?

(All Board members answered in the affirmative.)

MR. GALVIN: When are you carrying it to?

MS. CARCONE: I guess -- do we have to figure out when your LSRP person is available?

MR. MATULE: Well, what I would like to do, if we could tonight, is pick a date and --

MR. GALVIN: I think that is sensible.

MR. MATULE: -- and carry the matter with no further public notice. And the LSRP, if there's a problem with their schedule, we will address it then.

MR. GALVIN: We will carry it to another night.

MR. MATULE: Yes.

MS. BANYRA: Mr. Chair, I have one question.

Mr. Minervini, could you provide for the Board the listing of your LEED features --

THE WITNESS: Sure.

MS. BANYRA: -- you said you were going to reevaluate it --

THE WITNESS: I can add it to the drawings.

MS. BANYRA: -- maybe you could add it to the drawings or provide it to Mr. Galvin.

MR. GALVIN: Yes. Right now all I have is water detention, green roof, electric car charging, and then Energy Star windows --

THE WITNESS: Energy Star appliances.

MR. GALVIN: That's like how are we going to enforce -- how is Ann going to enforce the appliances?

I did Energy Star windows and appliances.

THE WITNESS: If I may, many of the things, most of the points that get us to LEED cannot be checked by a zoning officer. Sprayed closed cell foam insulation --

MR. GALVIN: Wait a minute. Wait a minute.

All I am looking for are major features that you're going to commit to. I know there's a lot of small things, and that's why --

THE WITNESS: Understood --

MR. MATULE: We will make a list.

MR. GALVIN: -- we don't need to get into that --

THE WTINESS: I will make you a nice big long list.

MR. GALVIN: I got four things right now. If you feel you need more, you give me another thing or two. But washing machines, I don't think is the same thing like a green roof or a solar array --

(Everyone talking at once.)

THE WITNESS: Yes, they are --

MR. GALVIN: -- then that's fine. I

apologize. I am a neophyte.

MR. MATULE: I think also he said there was sprayed closed cell foam insulation, which was --

MR. GALVIN: Okay.

THE WITNESS: That is one of the major ways of getting -- achieving points in terms of your LEED compliance and --

MR. GALVIN: I think you should give me your list, and I will cross check it versus my conditions.

I am happy to insert whatever you think is substantial.

THE WITNESS: Got it.

CHAIRMAN AIBEL: Go ahead, Jeff.

MR. MARSDEN: Frank, can you also send me a copy of the LSRP's report with all his backup data, et cetera, et cetera?

THE WITNESS: Yes, absolutely, which is what the soil boring tests refer back to.

MR. MARSDEN: Right.

MS. BANYRA: That should be provided to the file.

MR. GALVIN: To the file, so all three professionals get it.

THE WITNESS: Can I sit down?

Thanks.

MR. GALVIN: I don't know. He's the boss.

(Laughter)

CHAIRMAN AIBEL: Do you have a date, Pat?

MS. CARCONE: June 9th, which is going to be a Special Meeting for the Board.

MR. GALVIN: Just hold on. I want to talk about something else.

COMMISSIONER DE FUSCO: I won't be able to make that.

COMMISSIONER MURPHY: I'm sorry. When was the date?

MS. CARCONE: June 9th. I think I have a pretty good response for --

MR. MATULE: Okay. Wait a minute.

I am being told that June 9th is not good. So what do you have after that?

MS. CARCONE: We've got the 26th, the 23rd -- well, the 23rd we were tossing around for Stevens for a possible --

MR. MATULE: The 16th is Stevens?

MS. CARCONE: The 16th is Stevens, yes.

MS. BANYRA: For the 16th and the 23rd, Pat, we said Stevens on both of those nights.

MS. CARCONE: We're tossing that around.

MR. GALVIN: I'm having trouble with that. I think that putting Stevens on back to back weeks, if there is absolutely anything else that they have to provide, if it just gets to closing arguments, we will be find. But if it's anything more than that, we will be jammed.

COMMISSIONER BRANCIFORTE: Is there an objector to Stevens?

MR. GALVIN: Yes.

COMMISSIONER BRANCIFORTE: There's an objector, right?

MR. GALVIN: Well, there's a whole --

(All Board members talking at once.)

THE REPORTER: Do you want this on the record, Dennis, because everybody is talking at once?

MR. GALVIN: No.

Wait, wait. Guys.

CHAIRMAN AIBEL: We'll go off the record. Let's figure it out.

MR. GALVIN: It's off the record.

(Discussion held off the record on scheduling)

MS. CARCONE: So that opens up the 23rd as a possibility for carrying this application.

MR. GALVIN: Okay, sorry.

MS. CARCONE: So if the 9th doesn't work for you, that would be the next available night.

MR. MATULE: Yes. I don't know what else to do because the -- what it is, the 23rd of June, that is already booked up, so --

MS. CARCONE: No, it is not. We just had a discussion, and we are not going to carry Stevens to that night.

MR. MATULE: Oh, I am talking about May. May 26th is full?

MS. CARCONE: Yes.

MR. MATULE: So does the 23rd work?

MR. GALVIN: However, let's carry this to the -- can we get that meeting room?

Remember, we talked about that, too.

MS. CARCONE: Yes.

COMMISSIONER COHEN: For the 26th?

MR. GALVIN: No, no. What I am saying is, all right, everyone stay with me. You don't

care because it is Stevens, but if we had this and Stevens, because there is a possibility we are okay with what the LSRP guy says, and we will get through that very quickly, and then you put your planner on, and we are done. It is like 45 minutes to an hour in the worst case scenario.

So then Stevens, it's at that point, we think Stevens is almost done. That is why we wanted to try to maybe, if we just get that close, but we just wanted to do that last little bit to finish them, we could just carry them to the next week.

My fear is that whatever happens at that meeting is going to require them to go back to some drawing board and do something, and one week's time is not enough time for us look at anything before that meeting.

But if we put ourselves in the meeting room, the community room, if we get to the end of the 16th, and there isn't anything major to be done except a decision on Stevens, we could put them on the 23rd.

CHAIRMAN AIBEL: This is what you're proposing, one night more of Stevens?

MR. GALVIN: I am saying the 16th and the 23rd -- okay --

CHAIRMAN AIBEL: It will never get done on the 16th.

MR. GALVIN: All right. Then Forget that. I was just talking about having us in the community service room in case we wanted to do this and that.

CHAIRMAN AIBEL: I think it is highly unlikely we'll finish Stevens based on what I'm hearing.

MR. GALVIN: So the 23rd will be here.

MS. CARCONE: The 23rd here. Does that work for you?

MR. MATULE: And the applicant extends the time in which the Board has to act through June 23rd.

MS. CARCONE: June 23rd.

CHAIRMAN AIBEL: Great.

How about a motion to carry it without further notice to June 23rd?

COMMISSIONER MURPHY: Motion to carry to June 23 without further notice.

CHAIRMAN AIBEL: Second?

COMMISSIONER GRANA: Second.

MR. GALVIN: All in favor?

(All Board members answered in the

affirmative.)

MR. GALVIN: Anyone opposed?

One other matter, 118 Madison.

MR. MATULE: 118 Madison.

MR. GALVIN: Since I have you here.

MR. MATULE: Yes.

MR. GALVIN: I was expecting when Ann rejected that matter, I expected to be contacted to have a meeting requested, so --

MR. MATULE: I was actually going to raise it with you this evening, so --

MR. GALVIN: Okay. I just wanted to make sure that we're getting on track, and you are guys are coming to talk to us about it.

MR. MATULE: Yes.

As a matter of fact, I had a long conversation with my client today, and with Mr. Minervini. I actually asked my client to give me a little narrative, which I got late this afternoon, and I forgot to bring it with me when I ran out of the office today, but basically I guess we have to come back to the Board and have a conversation --

MR. GALVIN: I think the proper protocol I think is for you to send a letter to us requesting an appearance before the Board, and then

we will pick a night when we can get you on there, and we need to go over that and figure out what we're going to do and what the resolution is. Okay?

MR. MATULE: All right.

I will get a letter off to you before the end of the week.

MR. GALVIN: Yes.

Ann left it open ended like that, either you or I could do it, but the way it works in other towns is if you get stopped, then you have to come back to the Board. That is how we get jurisdiction is you submit to our jurisdiction. I don't reach out and grab you and pull you back.

Can I have one minute?

I need to talk to Mr. Matule about something else. Can I step off for a minute?

CHAIRMAN AIBEL: We are going to go off the record for ten minutes and take a break, and then we're back in executive session

MR. GALVIN: Well, we're going to move into executive session.

CHAIRMAN AIBEL: Move into executive session.

(The matter concluded)

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 testimony as taken stenographically by and before me at the time, place and date hereinbefore set forth.

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

s/Phyllis T. Lewis, CCR, CRCR

- -

PHYLLIS T. LEWIS, C.C.R. XI01333 C.R.C.R. 30XR15300
Notary Public of the State of New Jersey
My commission expires 11/5/2015.
Dated: May 18, 2015
This transcript was prepared in accordance with NJAC 13:43-5.9.

HOBOKEN ZONING BOARD OF ADJUSTMENT
CITY OF HOBOKEN

- - - - - - - - - - - - - - - - - - - X
HOBOKEN ZONING BOARD OF : SPECIAL MEETING
ADJUSTMENT : May 12, 2015
BOARD BUSINESS :Tuesday 10:10 p.m.
- - - - - - - - - - - - - - - - - - - X

Held At: 94 Washington Street
Hoboken, New Jersey

B E F O R E:

Chairman James Aibel (Recused)
Acting Chairman Philip Cohen
Commissioner Michael DeFusco
Commissioner Antonio Grana
Commissioner Diane Fitzmyer Murphy
Commissioner John Branciforte
Commissioner Owen McAnuff
Commissioner Frank DeGrim

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

Patricia Carcone, Board Secretary

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

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(732) 364-3011
Attorney for the Board.

(After recess)

(The following takes place at 10:10 p.m.)

MR. GALVIN: Back on the record.

CHAIRMAN AIBEL: I am stepping off the podium, so I am not participating.

MR. GALVIN: All right. We are back on the record.

THE REPORTER: Yes.

MR. GALVIN: Okay. Thank you.

All right. The Chairman has to step off. We are going to talk about 259 First Street.

I could have taken this into executive session. There is nothing that we are going to discuss that I feel it needs to go into executive session for. If you disagree at some point, we can move into executive session.

We are going to go back to who is going to be Acting Chairman. Who is going to step up and be the Acting Chairman?

ACTING CHAIRMAN COHEN: We are alternating, so I think it is my turn. Actually I am the Chairman on this.

COMMISSIONER BRANCIFORTE: I know. That's what I was going to say. You started the

chairmanship, so continuity-wise, why don't you take that?

ACTING CHAIRMAN COHEN: Right. So on this one, I'm still the Chairman on this application.

MR. GALVIN: I'm very proud of you guys. That's good. That's fine. Okay.

ACTING CHAIRMAN COHEN: There's no need to alternate.

COMMISSIONER BRANCIFORTE: Then for continuity on the other one --

ACTING CHAIRMAN COHEN: You would continue to do that one.

COMMISSIONER BRANCIFORTE: That sounds good.

MS. CARCONE: Phil, are you attending the meeting next week?

I don't have you here.

ACTING CHAIRMAN COHEN: Yes.

MS. CARCONE: You are here. Okay, good.

MR. GALVIN: There was some suggestion, I understand that the Board members were concerned with my ability to be -- I don't know -- free of a conflict on the 259 First Street case.

I don't think that I have a classic conflict, but I definitely have a type of situation that if I were advising any of you, I would suggest that since you had alternates, you would step off and let the alternates hear it.

The suggestion I heard is that you want to hire another attorney to finish this case, and to make it easy for everybody, that is what you should do. I have no problem with that.

So what you should have now is a discussion as to who should replace me on that matter.

ACTING CHAIRMAN COHEN: Well, can't we discuss whether we need to replace you first?

COMMISSIONER DE FUSCO: Yeah. I mean, this is news to me.

I mean, is it something -- is the conflict something we can discuss?

MR. GALVIN: Oh, yes. I'll tell you flat out. Again, remember we are recording it. If we think we need to go into executive session, we will.

You know, I happen to be the Planning and Zoning Board Attorney in Hoboken, and I am the Planning and Zoning Board Attorney in Point Pleasant

Beach.

I have to tell you, in Point Pleasant Beach, I had a conflict when the Chairman wanted to come before the Zoning Board, but other than that, I really haven't had any conflicts in my positions between the Planning and Zoning Board.

Here in Hoboken, it is more complicated because the Chairman's wife is the zoning officer, so it's not a direct conflict, but it does put me in a position where I want to be more respectful toward the zoning officer, and here is the rub in all of this, guys.

I keep telling you that we don't supervise the zoning officer. But in this case, if you don't agree with what the zoning officer decided, there might be some criticism of the zoning officer, and under those circumstances, I think it might be prudent to have somebody come in.

ACTING CHAIRMAN COHEN: Let me just follow up on that.

I mean, if certain Commissioners were critical of the zoning officer, why would your relationship on the Planning Board prevent you from giving us impartial advice about that?

I mean --

MR. GALVIN: It wouldn't, but I have to be -- I may be couching my remarks or being more cautious. I mean, maybe with a different zoning officer, we should be complaining to the governing body or the mayor or something like that.

ACTING CHAIRMAN COHEN: Right.

COMMISSIONER GRANA: Can I offer something here?

I think, Dennis, you know, there were Commissioners that raised this, and I don't think -- you started by making the comment that there were questions about your ability to oversee the case. I don't think there was any questions about your ability to oversee the case.

I think what the Commissioners heard in that session in the testimony, your testimony at that point was --

MR. GALVIN: My comments.

COMMISSIONER GRANA: -- your comments -- several times you said, look, I have to be careful here. I have a potential conflict of interest, and I have to kind of couch what I say.

Since that came out as comments, I think the Board said -- those Commissioners said, look, in fairness then, if that exists, then we

should pursue a conflict counsel.

MR. GALVIN: Yes, I think so.

What I'm saying to you is: If I say to you, we don't discipline this person, and everybody -- you know, but I was getting that one or two of the Commissioners wanted me to be the sword for the Board, and in that instance that wouldn't be --

COMMISSIONER GRANA: No.

MR. GALVIN: -- that is where I don't think that we should be in that position. But if we decide to go into that position, then if I feel uncomfortable being the sword, then you have to have another sword.

COMMISSIONER GRANA: I think there is also something else here, which is -- and I will just speak for myself now.

You know, we are going to look at a potential issue that, you know, people have talked about the zoning officer, et cetera, et cetera. But, you know, you are on this dual situation here, and we may need to -- we may not even fully understand what the zoning officer really should or shouldn't be doing in that situation, you know, what they are required to do. And, again, so when you

raise that, and you advise us, you know, it could appear couched to somebody else, but maybe not to us, it could appear couched --

MR. GALVIN: But I'm saying for years, people have told me, and I was in this business for 20 years, and I have had some very honorable Board members who said, "Dennis, I can honestly sit on this case, and I can be unbiased."

I believe them, but if they have a conflict, I still take them off the case. And in this case it is not a classic one, because it's not like -- she is not being called before the Board to be dealt with, but that is why I got out of that other case that we had Mr. Weiner fill in for.

You can't have Mr. Weiner now because he is representing 604 Hudson Street, so I think it is a good idea --

COMMISSIONER GRANA: I also would like to say, I give you credit for raising this straight out of the gate and saying, "Look, folks, I may have a problem here," so I give you credit for saying that.

MR. GALVIN: Right.

I mean, I think that there was a way that the water could have gone down the stream a

certain way, where I didn't have to get into it. But since it looks like it's going down -- it might go down this other path, and if it goes down this other path, then yes, I think there is a point that does transmogrify into an ethics problem.

COMMISSIONER GRANA: The Board should be aware of a request made by the Chairman, the person formally known as Jim Aibel.

(Laughter)

ACTING CHAIRMAN COHEN: What was the request made?

COMMISSIONER GRANA: There was a request made based on this feedback that the Chair said, I would like to pursue what our options are for a conflict counsel.

ACTING CHAIRMAN COHEN: But he's recused --

MR. GALVIN: He is recused. He can't --

COMMISSIONER GRANA: Well, I know --

ACTING CHAIRMAN COHEN: -- that can't be a factor in this decision --

(Everyone talking at once.)

COMMISSIONER MURPHY: Trust me. There's going to be two people that weren't here,

they're going to feel that way --

COMMISSIONER BRANCIFORTE: I agree with you. I agree with you, Antonio, and I don't want to interrupt you, but I am just going to carry on what you're saying.

I think it is important that we get another attorney because with the public sitting in the audience and the public looking at Dennis saying, how can Dennis sit there --

COMMISSIONER GRANA: Somebody could come in --

MR. GALVIN: I am endorsing it --

COMMISSIONER GRANA: -- somebody could come back and say, look, I heard him say this --

COMMISSIONER MC ANUFF: All on the side of caution --

COMMISSIONER MURPHY: I think if --

(Everyone talking at once.)

THE REPORTER: Wait a second. Everybody really can't talk at once.

COMMISSIONER MURPHY: I'm sorry.

MR. GALVIN: Who's chairing this meeting?

ACTING CHAIRMAN COHEN: I am.

COMMISSIONER MURPHY: I was just going

to say, because if Dennis is feeling this way, then we should also be taking your cue.

I mean, you are feeling this way, so what is the harm in doing it?

ACTING CHAIRMAN COHEN: Well, isn't the harm in doing it, the fact that in any application, someone could question the zoning officer's actions and require us to get a new counsel?

I mean, couldn't this create a lot of delay --

MR. GALVIN: No --

ACTING CHAIRMAN COHEN: Hang on. Let me finish.

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

ACTING CHAIRMAN COHEN: -- couldn't this create a lot of delay and a lot of extra cost for lots of applications?

I mean, isn't there a precedential problem here?

I mean, we deal with zoning officer decisions on virtually every application on some level, some more intense than others. But, I mean, couldn't we -- I mean, doesn't this open us up to -- I will say gainsmanship?

Doesn't it open us up to abuse, if

every time that we have this issue come up, we have to get a new lawyer in the middle of the application, where applicants are going to have additional costs, additional time, and we're going to have to get a new lawyer up to speed?

It would only -- you know, I don't say that is necessarily being done intentionally. I don't think it is, but I think that every time somebody has a question about the zoning officer, given the nature of, you know, our lawyer's role as advising us and advising the Planning Board, and the fact that the Chair of the Planning Board is married to the zoning officer, that is not changing.

So, you know, if we don't have confidence in our lawyer to handle this, this is not an isolated case. I think this is something that can happen lots, you know, lots of times, and I am wondering whether this is something that we should avoid doing, quite frankly --

COMMISSIONER MURPHY: Let me ask you this: How long have you been on the Board, and how many times has this kind of thing come up before?

ACTING CHAIRMAN COHEN: This is the first time this issue has been raised before --

MR. GALVIN: Second.

ACTING CHAIRMAN COHEN: -- oh, I'm sorry, the second.

COMMISSIONER MURPHY: So maybe it will set a precedent --

MR. GALVIN: That's all right.

COMMISSIONER MURPHY: -- or second, right --

ACTING CHAIRMAN COHEN: It's the second, but that doesn't mean that's -- I mean, now it's on people's radar screen, that it is not going to come up a lot more --

MR. GALVIN: Well, I don't say that I have a conflict. I'm saying that it will put me in a complicated position because in this position sometimes it is a question of whether or not there is a potential to criticize the zoning officer, and in the one case that I got out of, there was a potential to criticizing the zoning officer, and again, there is a potential to criticize the zoning officer. But if it is a routine matter, I don't see any problem at all for me sitting there.

The other thing, too, is that the Board shouldn't necessarily be in a position of criticizing the zoning officer, any Board, Zoning Board, should not be, because we do not supervise

the zoning officer. But I concede that there are some times when you have circumstances that exist that you have something that you want to say. You have a voice to say it, but it is putting me in a bad spot.

I think this is -- I don't think this is going to be a routine problem. I think it is exceptional in the fact that there is potential criticism that might come against the zoning officer beyond -- you know, potential, I say, because you didn't hear the case yet --

MS. CARCONE: Would that be the case of any appeal of the zoning officer?

MR. GALVIN: It depends.

I mean, zoning officers routinely are reversed by Zoning Boards. I don't see that as the problem.

I see in this case, people want to know what was done and what wasn't done, and it is not just a matter of the zoning officer issuing a denial to somebody and then it gets appealed to the Board, and the Board -- it's not a matter of whether the zoning officer is right or wrong. It's just a matter of does the Board agree with that decision.

In this instance, the Board feels that

the zoning officer should have done something that she didn't do or did something that she shouldn't have done, and this is at a different level, guys. It isn't the normal case, and what we are saying is we are not agreeing I have a conflict. We're just -- or I wouldn't even be able to have this conversation with you.

What I am saying is: It has the potential to put me in an uncomfortable position and in a compromised position because there is a potential to criticize, an irregular, not something that would happen normally.

ACTING CHAIRMAN COHEN: But you are going to be acting on the behest of the Commissioners. I mean, it's not like you are taking this up as an independent issue.

If the majority of the Board or enough members of the Board believe that there is an issue that needs to be raised with the zoning officer, you will do that, because that is what the view of the Board is, and you're not -- I mean, to use your expression, acting as a sword as an independent agent, you are acting as a sword on behalf of the body that you represent.

MR. GALVIN: And I got to tell you, I

think other Board attorneys wouldn't do what I do for our Board. I think I am very proactive and part of the operations. Like other lawyers would just hang back and help you when you needed it. I am a little bit more proactive, so I think there is a lot of unique things going on here and --

COMMISSIONER BRANCIFORTE: Look, I think that you are the third attorney I worked with on the Zoning Board, and by far, you are most unquestionably the best we have had since 1999.

I can't say if those other guys would have stepped down or not, but I would think that they should have, and just I think all of this is silly to even discuss because you have already said, I think I should step down. So at that point as soon as you said that, that was enough for me.

Look, we can go case by case. If we have to go case by case, we will. But just like we look at applications individually, we should look at this as an individual case, and if in future it comes up again, we'll talk about it.

COMMISSIONER DE FUSCO: This is all going on the assumption that if taken to a vote -- when taken to a vote, that the application won't be approved. I mean --

MR. GALVIN: Oh, I have no idea about that. I have no idea where you guys are going on that. But I'm saying it was just the issue of people wanting to know what the zoning officer did and why the zoning officer did it, and that is different than just disagreeing with the zoning officer -- just disagreeing with the zoning officer's ruling to grant a deck. It's just a higher level of criticism.

ACTING CHAIRMAN COHEN: Let me also say in the context of this, where we are dealing with a final, this is not a preliminary. This is a final approval, I think the key question on this application is what are the deviations from what was presented in the original approval, and are they substantial enough for us to have a problem with what those changes were --

COMMISSIONER DE FUSCO: I fully agree with you.

ACTING CHAIRMAN COHEN: -- and I don't believe that how the zoning officer acted is relevant to whether we believe that the changes that were made are substantial enough to create an issue, because I think that we can come to the ultimate conclusion in this issue, without saying whether Ann

Holtzman did a great job, a bad job or an inferior job --

COMMISSIONER BRANCIFORTE: However --

MR. GALVIN: Wait, guys. Let me throw something on this.

I agree with what you are saying. If I got the read from the entire Board, that the Board was agreeing with you that that's the way we're processing this, then I think I'm fine, and we can proceed. But I didn't get that feeling, and there were a couple of Commissioners that disagreed that are -- not that they are never going to get to that issue on what's a final, but they wanted to get some other answers, and that's when -- and if there is criticism of the zoning officer, it is going to put me in a spot. I think it is a unique thing, and I --

ACTING CHAIRMAN COHEN: We have gone on detours and frolics before that are maybe of interest to certain Commissioners, but not necessary to resolve in order to get to the solution of the application before us --

COMMISSIONER DE GRIM: Yeah. No, I agree with that --

COMMISSIONER DE FUSCO: Absolutely --

they're looking --

ACTING CHAIRMAN COHEN: -- and -- and my point is that if we go on this detour and frolic, okay, which I think this is what this is, we are going to spend a lot of time, a lot of money, and a lot of delay for an applicant, that is not necessary for us to get to the answer of the question, which is -- excuse me, Jim, you are shaking your head no, and you're recused on this matter.

MR. GALVIN: You can't -- no, you cannot --

CHAIRMAN AIBEL: I'm going to leave --

MR. GALVIN: All right.

(Laughter)

CHAIRMAN AIBEL: -- for exactly that reason.

ACTING CHAIRMAN COHEN: Have a good night --

COMMISSIONER BRANCIFORTE: All right. Don't -- don't Phil, don't --

(Everyone talking at once.)

ACTING CHAIRMAN COHEN: Let me finish, okay?

I think that we should be using our resources wisely. I think we should do what we need

to do to get to the answer of the question before us, okay?

You can spend a lot of time on applications having discussions that may be of interest to certain Commissioners, but are not necessary to get to the final answer.

So the question we need to ask here is: Is it necessary to get to the bottom of whether the zoning officer's conduct is such, that we are not going to be able to get to the final answer on this question.

This is not a preliminary approval. This is final approval. We need to look at what was originally approved, what was finally approved, and whether the differences are such that we are not comfortable with authorizing this.

So I am not saying it is not a legitimate question. It's a legitimate question, but is it a necessary question --

COMMISSIONER GRANA: Let me just say this. I agree with you in principle, and I agree with you a hundred percent that that's why we are here. But I want to give you a scenario that could go down in this, which is one, while you feel that way, there are in fact people that are going to want

information, and they are going to want information about how did this situation arise.

So how are we now in the situation where we are going to final, and the building is being constructed, and those questions are going to get asked. They might be asked by Commissioners on this Board. I suspect they will be there. There's some voices that are not here tonight, but I suspect they will be. I might even have these questions.

And second, there might be members of the public that are also going to have that same question.

Why are we -- we had an expectation of an adaptive reuse that there would be preservation of the structure. How is it that we ended up as a city in a situation where a decision has been made, and the appropriate bodies were not alerted.

I can see that happening. That's going to put Dennis back into that situation of having to now --

ACTING CHAIRMAN COHEN: But, again, --

COMMISSIONER GRANA: -- take a position on this --

ACTING CHAIRMAN COHEN: -- do we need to do that forensic analysis to get to the answer

here?

COMMISSIONER GRANA: You and I may not, but I think that people in the room and the public may --

MR. GALVIN: That is what is concluded, that there was enough -- I did my best to try to dissuade everyone from going down that path, and I clearly got the message that that wasn't good enough, so I don't want to stand in the way of everybody having their answers --

COMMISSIONER GRANA: We have members of the public asking questions about when were permits pulled, who approved this change, when did this change occur. I mean, I think we can't avoid the questions --

COMMISSIONER DE FUSCO: But is it a question for us to answer?

MR. GALVIN: Well, guys, let me help you a little bit. I don't want to sit on this case --

(Laughter)

COMMISSIONER GRANA: And he said that at the very beginning of the last meeting --

MR. GALVIN: -- and I don't want to lose my job. I love working with you gays.

ACTING CHAIRMAN COHEN: Okay. Well, then let me say that the question is moot now.

I mean, if Dennis is saying he doesn't want to sit on this case, I don't want to make him sit on this case, but --

MR. GALVIN: I need to step out as a team player. I need to step out.

ACTING CHAIRMAN COHEN: -- let me just say that I really want to urge the Board to focus on the issue we need to answer to get this done, and that is, you know, it may feel good to find answers to all of these questions, but it is really going to make this process a lot longer, if we try and sift through the bones to figure out, you know, who killed who.

At the end of the day, when the answer is, you know, we feel comfortable that what was built is the same as what was -- is substantially the same as to what was designed and approved as a preliminary or not --

COMMISSIONER BRANCIFORTE: Well, let's not debate the case now --

ACTING CHAIRMAN COHEN: I'm not --

MR. GALVIN: We shouldn't, because they are not here --

ACTING CHAIRMAN COHEN: -- I am not debating the case.

COMMISSIONER BRANCIFORTE: -- well, I don't want -- I'm afraid we're going to go that way. That's why I wanted to stop it right now --

ACTING CHAIRMAN COHEN: But I'm not. I'm just saying what the standard is that we need to be comfortable with in order to get to the answer --

MR. GALVIN: Right. What you really should do --

COMMISSIONER MURPHY: There may be a bigger question than what you are asking -- what you're saying right now, so that's part of --

MR. GALVIN: I think --

COMMISSIONER BRANCIFORTE: Look --

MR. GALVIN: -- let me frame this for you, guys. I'm sorry, I didn't mean to speak over anybody.

I think that where you are at is it's as simple as I am telling you I think you should get other counsel. If you have a thought as to who it is, you should select him now, and we should close the meeting, okay, and then we can chat personally, if anybody wants to chat personally, but --

ACTING CHAIRMAN COHEN: Does any Commissioner have a view as to who our replacement counsel should be?

COMMISSIONER DE FUSCO: I'll just put on the record that I think this is a waste of resources for the Zoning Board and the city, and I think that Phil was 100 percent correct in what he said, and I think we are delaying an application that really could take twenty minutes of time into something that's much longer. But I respect our counsel's judgment, and you know, let's proceed with finding another lawyer.

COMMISSIONER MURPHY: So maybe I don't know what the executive is, but maybe that is where we need to go with this because it seems to me that there may be more questions about whether they just built something that is close to what was approved --

MR. GALVIN: Well, that --

COMMISSIONER MURPHY: -- so with that said, I think we need to -- maybe as a Board decide do we want to go down that road or we just want to not go down that road --

MR. GALVIN: Well, I don't think -- I think we just -- I think that -- let me just say

this. This is where it gets tricky. If you have a conflict, how far can you go.

But let me give just you general advice. You got to take every case on its face. You have to hear the case. You haven't really heard all of the case. You just started to hear the case, so people want to ask questions, and they want to be probing about the zoning officer. That is why I am stepping out.

So you bring another attorney in there, and with all due respect, I do appreciate that I know things that whoever you replace me with is going to have to figure something out, so it's going to be an hour or two at least. I acknowledge that.

But, on the other hand, I just think you are left with this at the end. There is nothing to really discuss right now. There's nothing you can frame right now.

The case isn't here right now. All we are talking about is an administrative issue of: Is Dennis going to sit in this case -- you should be just -- this focus is: Should Dennis sit in this case.

I'm telling you voluntarily I'm withdrawing from this case, because I think it is in

everybody's best interest for me to do that, and --

COMMISSIONER DE GRIM: Who would we --

MR. GALVIN: -- do you have somebody in mind?

I have a name, but I don't want to give you the name.

COMMISSIONER GRANA: I have a name, Cliff Gibbons.

MR. GALVIN: That's fine.

COMMISSIONER GRANA: That's my name.

COMMISSIONER DE FUSCO: Where do we know him from?

MR. GALVIN: He was previously the Planning Board attorney. He is currently representing Hudson County in the Shipyards case, so he is familiar with Hoboken.

ACTING CHAIRMAN COHEN: So do you want to make a motion?

COMMISSIONER GRANA: I will make a motion. I think there is one other factor that this will come into the question of time and resources. This is on the calendar for next Tuesday. I don't know if Cliff can get ready by Tuesday. That's going to be the one challenge.

ACTING CHAIRMAN COHEN: Well, the

applicant is prepared to return on that date.

COMMISSIONER GRANA: Yeah.

ACTING CHAIRMAN COHEN: I mean, if we decide to retain Mr. Gibbons tonight and we get the file to him right away, we can try to keep on that schedule. I mean --

MR. GALVIN: And you have two other professionals here that know the file inside and out. I mean, how much time does Cliff have to put in to prepare for that?

COMMISSIONER GRANA: Fair enough.

COMMISSIONER DE FUSCO: I think it's important that we keep this hearing for next week. It's --

MR. GALVIN: I know he teaches the -- like I teach the first level zoning officer class, and he teaches the second level of the zoning officer class. He is familiar with all of the rules, you know.

Like I said, I would love to go into it more with you guys, but again, it makes me feel uncomfortable, so --

COMMISSIONER DE FUSCO: If he is not available, do we want to have a secondary option?

COMMISSIONER GRANA: We might want to

have a secondary --

ACTING CHAIRMAN COHEN: Well, the applicant is not here, so I mean, I think if we're setting a date without the applicant --

MR. GALVIN: No, no. The applicant has a date.

(Everyone talking at once.)

COMMISSIONER DE FUSCO: Next Tuesday.

COMMISSIONER MURPHY: So if a second lawyer --

(Everyone talking at once.)

MR. GALVIN: How about Michael Kates --

COMMISSIONER DE FUSCO: That's good.

MR. GALVIN: -- as a second, but go to Cliff first.

ACTING CHAIRMAN COHEN: So we have a motion.

COMMISSIONER GRANA: So I have a motion that we will appoint a conflict attorney on 359 First --

MR. GALVIN: 259 First.

COMMISSIONER GRANA: -- is it 259?

MR. GALVIN: Yes.

COMMISSIONER GRANA: -- and that we appoint a conflict attorney, and our initial

recommendation is Cliff Gibbons.

ACTING CHAIRMAN COHEN: And a backup.

COMMISSIONER GRANA: And a backup of Michael Kates.

COMMISSIONER BRANCIFORTE: Second.

MS. CARCONE: Are we taking a vote on this?

ACTING CHAIRMAN COHEN: Yes.

MS. CARCONE: Commissioner Cohen?

ACTING CHAIRMAN COHEN: Yes.

MS. CARCONE: Commissioner De Fusco?

COMMISSIONER DE FUSCO: Reluctantly, yes.

MS. CARCONE: Commissioner Grana?

COMMISSIONER GRANA: Yes.

MS. CARCONE: Commissioner Murphy?

COMMISSIONER MURPHY: Yes.

MS. CARCONE: Commissioner Branciforte?

COMMISSIONER BRANCIFORTE: Yes.

MS. CARCONE: Commissioner McAnuff?

COMMISSIONER MC ANUFF: Yes.

MS. CARCONE: Commissioner DeGrim?

COMMISSIONER DE GRIM: Yes.

COMMISSIONER GRANA: How would you like to proceed, Chairman?

ACTING CHAIRMAN COHEN: Can Mr. Galvin contact --

MR. GALVIN: I think Pat is going to do it.

ACTING CHAIRMAN COHEN: Pat, do you want to do it?

MS. CARCONE: Yes. I will take care of it.

ACTING CHAIRMAN COHEN: Okay. So you are going to have to call Cliff Gibbons. Call him first thing tomorrow. See if he can make it. If he can, great. If he can't, then call Michael Kates.

MS. CARCONE: This application doesn't need to notice so we could slide them around.

MR. GALVIN: Oh, yes, but I respect -- these guys are --

COMMISSIONER BRANCIFORTE: Do you need to get Jim back to close this meeting?

MR. GALVIN: No.

Did he leave?

(Everyone talking at once.)

COMMISSIONER DE GRIM: You are chairing the meeting, so --

COMMISSIONER BRANCIFORTE: I didn't know what the --

ACTING CHAIRMAN COHEN: I'll take a motion to adjourn.

COMMISSIONER MC ANUFF: Motion to adjourn the meeting.

ACTING CHAIRMAN COHEN: Second?

COMMISSIONER BRANCIFORTE: Second.

MS. CARCONE: Dennis, you're going to be there, if everything works according to plan --

MR. GALVIN: I'm going to be here any way.

MS. CARCONE: You're going to be here for the two other applications?

MR. GALVIN: Yes, I am.

MS. CARCONE: And then we're going to have a second attorney --

MR. GALVIN: Yes.

MS. CARCONE: -- and we can play with the others.

MR. GALVIN: Yes. I don't even get the night off.

(Laughter)

ACTING CHAIRMAN COHEN: Anyone opposed to adjourning?

A VOICE: No one is opposed.

ACTING CHAIRMAN COHEN: The meeting is

adjourned.

(Meeting adjourned at 10:40 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 testimony 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.
May 18, 2015
This transcript was prepared in accordance with NJAC 13:43-5.9.