

HOBOKEN ZONING BOARD OF ADJUSTMENT
CITY OF HOBOKEN

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REGULAR MEETING OF THE :
HOBOKEN ZONING BOARD OF : April 15, 2014
ADJUSTMENT : Tuesday 7:10 p.m.
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Held At: 94 Washington Street
Hoboken, New Jersey

B E F O R E:

- Chairman James Aibel
- Commissioner Phil Cohen
- Commissioner Michael DeFusco
- Commissioner Antonio Grana
- Commissioner Diane Fitzmyer Murphy
- Commissioner John Branciforte
- Commissioner Tiffanie Fisher
- Commissioner Richard Tremitedi

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

- Eileen Banyra, Planning Consultant
- Jeffrey Marsden, PE, PP
Board Engineer
- Paul J. Winters, PE, CME
- Patricia Carcone, Board Secretary

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1 CHAIRMAN AIBEL: Sorry for the short
2 delay.

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

11 Please join me in the Pledge of
12 Allegiance.

13 (Pledge of Allegiance recited)

14 Pat, do the roll call, please.

15 MS. CARCONE: Commissioner Aibel?

16 CHAIRMAN AIBEL: Here.

17 MS. CARCONE: Commissioner Greene is
18 absent.

19 Commissioner Cohen?

20 COMMISSIONER COHEN: Here.

21 MS. CARCONE: Commissioner DeFusco?

22 COMMISSIOENR DE FUSCO: Here.

23 MS. CARCONE: Commissioner Grana?

24 COMMISSIONER GRANA: Here.

25 MS. CARCONE: Commissioner Murphy?

1 COMMISSIONER MURPHY: Here.

2 MS. CARCONE: Commissioner Branciforte?

3 COMMISSIONER BRANCIFORTE: Here.

4 MS. CARCONE: Commissioner Fisher?

5 COMMISSIONER FISHER: Here.

6 MS. CARCONE: Commissioner McAnuff is
7 absent.

8 Commissioner Tremitiedi?

9 COMMISSIONER TREMITIEDI: Here.

10 CHAIRMAN AIBEL: Great. So why don't
11 we start with the resolutions.

12 MR. GALVIN: All right.

13 The first one is 504 Grand Street, Kamm
14 Development, and Mr. Grana, Mr. Tremitiedi, and
15 Chairman Aibel voted in favor. Others voted in
16 favor, but they are not here this evening.

17 Can I have a motion?

18 COMMISSIONER TREMITIEDI: Make a motion
19 that we approve it.

20 MR. GALVIN: Thank you, Mr. Tremitiedi.

21 MR. GALVIN: Can I have a second?

22 COMMISSIONER GRANA: Second.

23 MR. GALVIN: Thank you, Mr. Grana.

24 Mr. Grana?

25 COMMISSIONER GRANA: Yes.

1 MR. GALVIN: Mr. Tremitedi?

2 COMMISSIONER TREMITIEDI: Yes.

3 MR. GALVIN: Chairman Aibel?

4 CHAIRMAN AIBEL: Yes.

5 MR. GALVIN: The next matter is 405

6 Jefferson Street.

7 Mr. Grana, Mr. Tremitedi, and I need a

8 motion and a second.

9 COMMISSIONER GRANA: Motion to approve

10 405 Jefferson.

11 COMMISSIONER TREMITIEDI: I'll second

12 that.

13 MR. GALVIN: Thank you.

14 Now, the roll call.

15 Mr. Grana?

16 COMMISSIONER GRANA: Yes.

17 MR. GALVIN: Mr. Tremitedi?

18 COMMISSIONER TREMITIEDI: Yes.

19 MR. GALVIN: All right.

20 This one has to be held for Mr. Greene

21 to sign.

22 301 Newark Street, the final resolution

23 on our card, and we have Mr. DeFusco, Mr. Grana,

24 Ms. Fisher, Mr. Tremitedi and Chairman Aibel.

25 Do I have a motion?

1 COMMISSIONER FISHER: Motion.

2 MR. GALVIN: All right.

3 Do I have a second?

4 COMMISSIONER GRANA: Second.

5 MR. GALVIN: All right. So motion by

6 Ms. Fisher, second by Mr. Grana.

7 Mr. DeFusco?

8 COMMISSIONER DE FUSCO: Yes.

9 MR. GALVIN: Mr. Grana?

10 COMMISSIONER GRANA: Yes.

11 MR. GALVIN: Ms. Fisher?

12 COMMISSIONER FISHER: Uh-huh.

13 MR. GALVIN: Yes?

14 COMMISSIONER FISHER: Yes.

15 MR. GALVIN: Thank you.

16 Mr. Tremitedi?

17 COMMISSIONER TREMITIEDI: Yes.

18 MR. GALVIN: And Chairman Aibel?

19 CHAIRMAN AIBEL: Yes.

20 MR. GALVIN: I am stickler for that, so

21 we can hear it and --

22 COMMISSIONER FISHER: Okay.

23 (Continue on next page)

24

25

HOBOKEN ZONING BOARD OF ADJUSTMENT
CITY OF HOBOKEN

----- X
212 Eighth Street, Block 183, Lot 3 :
Applicant: Raphael S. Zagury : April 15, 2014
Variance for Roof Deck : Tuesday, 7:15 p.m.
----- X

Held At: 94 Washington Street
Hoboken, New Jersey

B E F O R E:

- Chairman James Aibel
- Commissioner Phil Cohen
- Commissioner Michael DeFusco
- Commissioner Antonio Grana
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9 Hoboken, New Jersey 07030
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I N D E X

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3 WITNESS

PAGE

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5 LOU MOGLINO, AIA

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E X H I B I T S

9

10 EXHIBIT NO.

DESCRIPTION

PAGE

11

12 A-1

Series of 3 Photographs

14

13 A-2

Photographs

26

14 A-3

Photographs

26

15 A-4

Two photographs

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1 CHAIRMAN AIBEL: Okay. We have
2 reversed the order of the agenda, and we will start
3 with 212 Eighth Street, Mr. Matule.

4 MR. GALVIN: Before we get going on
5 that, I just spoke to Mr. Matule, and the way the
6 maps were drawn on the map, it shows the 200 foot
7 list. It is not the accurate 200 foot list, but Mr.
8 Matule used the correct 200 foot list in noticing,
9 so I find no deficiency in the 200 foot list, and I
10 find no deficiency in the notice.

11 Then the second point that I just
12 discussed with him is the survey shows that the
13 building in question is -- that the plans we see say
14 that it is a two-story structure. We agree it is a
15 three-story structure, and as part of any approval,
16 we will get Mr. Matule to provide us with a revised
17 plan showing us that it is in fact a three-story
18 structure.

19 Correct me, Jeff.

20 MR. MARSDEN: No, you are correct. I'm
21 sorry. I never correct you. I just wanted to add
22 something.

23 (Laughter)

24 MR. GALVIN: All right. I can be
25 corrected.

1 MR. MARSDEN: The front of the building
2 is laid out, and those steps are on the wrong side,
3 and the fence is on the wrong side. The front of
4 the building as laid out on the survey is also
5 incorrect. It shows the steps on the --

6 MR. MATULE: I can shed some light on
7 that, if I might.

8 MR. GALVIN: Sure.

9 MR. MATULE: Just for the record,
10 Robert Matule, appearing on behalf of the applicant.

11 When the current owner of the property
12 purchased it, apparently his attorney had the
13 previous owners give him the old survey with a
14 survey affidavit, which I have a copy of, which is
15 very typical in real estate transactions. But one
16 of the things they called out on the survey
17 affidavit was that the front steps had been moved to
18 the left of the entrance way apparently.

19 The survey also says two-story and
20 basement, and again, it is my understanding that
21 when the prior owners bought this, they bought it to
22 renovate the house. They actually raised it up, so
23 now it is a three-story house with no basement.
24 There is just a crawlspace there, which the current
25 owner was very happy about when Sandy came, because

1 they didn't have any water in the basement.

2 But assuming the request is approved, I
3 have asked my client, as per my conversation with
4 Mr. Galvin, to just get an updated survey and submit
5 it for the record, because apparently as part of the
6 renovation also, what was a three-story extension,
7 they took a floor off, and that is the site we are
8 now talking about for our deck.

9 I have photographs, which we are going
10 to introduce --

11 MR. GALVIN: I didn't mean to interrupt
12 your case. I just wanted to get those kind of like
13 issues that were nagging out, and so you didn't have
14 to spend a lot of time on it.

15 MR. MATULE: I appreciate it.

16 Thank you.

17 So, as I said, Robert Matule appearing
18 on behalf of the applicant, Raphael Zagury.

19 We have Mr. Moglino, our architect, who
20 will be testifying tonight. As a matter of fact, he
21 was here last month on the 405 matter, so I would
22 ask the Board to accept his credentials and have him
23 sworn.

24 MR. GALVIN: Thank you.

25 Please raise your right hand.

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

4 MR. MOGLINO: I do.

5 L O U M O L I N O, AIA, PO Box 216, Holmdel, New
6 Jersey, having been duly sworn, testified as
7 follows:

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

10 THE WITNESS: Lou Moglino,
11 M-o-g-l-i-n-o.

12 MR. GALVIN: Mr. Chairman, do you
13 accept Mr. Moglino's credentials?

14 CHAIRMAN AIBEL: We do.

15 THE WITNESS: Thank you.

16 MR. GALVIN: You may proceed.

17 (Series of three photographs marked
18 Exhibit A-1.)

19 MR. MATULE: All right. Mr. Moglino,
20 before we start, I am going to show you a series of
21 three photographs, which I have marked A-1 as a set.

22 First of all, did you take those
23 photographs?

24 THE WITNESS: Yes, I did.

25 MR. MATULE: Approximately when?

1 THE WITNESS: Last spring in the year
2 2013.

3 MR. MATULE: Could you just tell the
4 Board what they show?

5 THE WITNESS: Sure.

6 I have three photographs. They are
7 eight and a half by 11. The first two are the rear
8 elevation, existing conditions. They depict a rear
9 deck at grade level, a two-story structure at the
10 rear, and at the very top of the sheet is the master
11 bedroom, where we are proposing to improve it with a
12 deck.

13 The second photograph was taken a
14 little bit further back of the rear elevation.

15 Then the third photograph is the view
16 straight out the back looking at the property, north
17 of the subject property.

18 MR. MATULE: Okay. Thank you.

19 I am just going to -- I have a couple
20 of sets, but one is formally marked, if you want to
21 pass them around for the Board to look at.

22 All right. Mr. Moglino, could you just
23 describe the existing lot and the existing structure
24 and what it is that the applicant is proposing to
25 build there?

1 THE WITNESS: Sure.

2 The subject is -- or the subject
3 property is 212 Eighth Street, and currently it is a
4 single story or a single-family or a one-family
5 residence. The principal building is three stories.
6 The back portion of the lot of the structure is two
7 stories, and right outside of the master bedroom, we
8 are proposing to remove two windows and have a set
9 of doors enter the back porch area.

10 There would be a proposed roof terrace
11 with planters to the west and to the east, and open
12 railings facing north.

13 MR. MATULE: Approximately what are the
14 approximate dimensions of the deck?

15 THE WITNESS: The existing footprint of
16 that flat roof area is approximately seven foot
17 eight, and it is about 16 feet wide.

18 MR. MATULE: And you are saying there
19 would be planters on both sides and a railing across
20 the back.

21 Approximately how high are the planters
22 going to be, and how high are the plants going to be
23 in them?

24 THE WITNESS: There are details on
25 Sheet Z-2, where the planters are to be

1 three-foot-six high, and the plants themselves would
2 be a maximum of three-foot-six above the planters,
3 so seven feet tall total.

4 MR. MATULE: You are also proposing a
5 trellis?

6 THE WITNESS: Correct.

7 And the bottom left-hand corner of the
8 same sheet is the roof plan of the roof trellis, and
9 the height of the trellis is shown on Z-3, where it
10 would be a maximum of nine feet above the existing
11 roof.

12 MR. MATULE: And also on Z-3, that is
13 showing a side elevation?

14 THE WITNESS: Correct.

15 There's a rear elevation and a partial
16 side elevation that shows the height of the trellis.
17 There would be no low voltage lighting on the
18 trellis itself. The client is proposing to put one
19 surface mounted light fixture between the existing
20 window and the proposed door, and there would be
21 no --

22 MR. MATULE: No loud speakers or
23 anything like that?

24 THE WITNESS: -- no loud speakers, no
25 barbecue grills and --

1 MR. MATULE: Just specifically with
2 respect to the partial east side elevation, where
3 you are showing, I guess, a 42-inch high knee wall
4 there, and then the planters, would it be accurate
5 to say that on the west side elevation, it is
6 basically the same thing except it is planters all
7 the way across?

8 THE WITNESS: Correct. It would be the
9 same finished surface around the east side and along
10 the west side, west and east.

11 MR. MATULE: And the only access to
12 that would be out that third floor, correct?

13 THE WITNESS: Correct, from the master
14 bedroom.

15 MR. MATULE: No stairs going down to
16 the yard or anything?

17 THE WITNESS: No, sir.

18 MR. MATULE: And the existing yard
19 currently is approximately 15 feet deep?

20 THE WITNESS: Yes.

21 MR. MATULE: And that is not going to
22 change, this is not going to impact that ground
23 floor --

24 THE WITNESS: At grade level, no.

25 MR. MATULE: -- design at all?

1 THE WITNESS: No.

2 MR. MATULE: And these are your revised
3 plans, correct, with a revision date of April 7th?

4 THE WITNESS: Yes.

5 MR. MATULE: And on the revised plans,
6 you corrected the --

7 THE WITNESS: Lot number.

8 MR. MATULE: -- misnomer concerning the
9 lot number and the 200 foot radius, correct?

10 MS. CARCONE: What is the right lot
11 number?

12 MR. MATULE: Lot No. 2.

13 MS. CARCONE: It's 2?

14 MR. MATULE: Yes.

15 MS. CARCONE: All right.

16 MR. MATULE: I have actually, if you
17 want, I have a copy of the sheet from the tax
18 office, if you just want it for the record.

19 MS. CARCONE: Okay.

20 MR. MATULE: Okay. I think that is
21 pretty much it. It's pretty straightforward, unless
22 the Board members have any questions.

23 COMMISSIONER DE FUSCO: I guess I'll
24 start.

25 CHAIRMAN AIBEL: Mike.

1 COMMISSIONER DE FUSCO: So the trellis
2 extends the entire width of the deck, is that
3 correct?

4 THE WITNESS: Correct. It goes from
5 side to side and covers the entire structure.

6 COMMISSIONER DE FUSCO: Are there going
7 to be any electrical -- you mentioned no low voltage
8 lighting, but are there going to be any electrical
9 outlets out there that you know of?

10 THE WITNESS: Yes. By code we need one
11 receptacle, and there will be one light fixture.

12 COMMISSIONER DE FUSCO: And the surface
13 mounted light will be low voltage as well?

14 THE WITNESS: Yes.

15 COMMISSIONER DE FUSCO: Downward facing
16 or outward facing?

17 THE WITNESS: Downward.

18 COMMISSIONER DE FUSCO: Thank you.

19 THE WITNESS: You are welcome.

20 CHAIRMAN AIBEL: Can I just ask some
21 questions on the dimensions?

22 I am having trouble sort of getting the
23 dimensions and also figuring out what the
24 orientation is to the buildings to the west
25 principally on the Park Avenue side.

1 How big is the principal -- how long is
2 the principal residence, 17 by how many feet,
3 without the extension?

4 THE WITNESS: The lot itself is -- the
5 lot itself is 80 feet deep and minus the 15 feet
6 would give you 65 feet, so the principal structure
7 of the building is 17 by 65.

8 CHAIRMAN AIBEL: 17 by 56, and then the
9 eight, nine foot extension?

10 THE WITNESS: Let me correct myself.
11 I'm sorry. I was looking at the tax map.

12 It is 60.7 feet from north to south.

13 CHAIRMAN AIBEL: So I guess it is fair
14 to say we are looking at a nonconforming lot to be
15 sure.

16 Could you describe the building to the
17 east of the residence?

18 THE WITNESS: To the east, it is an
19 existing two-story structure.

20 CHAIRMAN AIBEL: And it extends as far
21 out as the end of the extension?

22 THE WITNESS: I am sorry?

23 MR. MATULE: For that --

24 (Board members confer and all talking
25 at once.)

1 CHAIRMAN AIBEL: That is the one to the
2 right, to the east --

3 THE WITNESS: The two buildings line up
4 with each other referring to the photograph. This
5 is the building to the east.

6 CHAIRMAN AIBEL: So the proposed roof
7 deck would be on top of that?

8 THE WITNESS: Above the gutter, yes.

9 CHAIRMAN AIBEL: And to the west, what
10 are the conditions?

11 THE WITNESS: To the west is an
12 existing three-story structure, which is set back
13 from the existing building with what appears to be a
14 small alleyway.

15 CHAIRMAN AIBEL: I am not sure, Mr.
16 Matule, whether you have any pictures of the
17 buildings on the Park Avenue side.

18 MR. MATULE: I don't have any -- I
19 don't have any pictures, other than the picture
20 looking down the back of the property, you know,
21 down the center of the block.

22 CHAIRMAN AIBEL: So I guess my
23 principal question is, you know, what is going to be
24 the impact to the buildings in the rear of the Park
25 Avenue buildings, how close is the deck, the

1 proposed deck, to the windows and the Park Avenue
2 buildings?

3 THE WITNESS: Well, Sheet Z-1, this
4 building is to the west. The front of the building
5 is partially shown here where it is set back, and
6 again, this is open here to the west.

7 CHAIRMAN AIBEL: It's about 17 feet
8 until you reach the end of the Park Avenue
9 buildings?

10 THE WITNESS: I don't know exactly. I
11 didn't measure the distance to the adjacent
12 buildings.

13 CHAIRMAN AIBEL: Is there anything that
14 you can do to help out, Mr. Matule?

15 MR. MATULE: Just so I am clear, Mr.
16 Chairman, the buildings you are referring to as the
17 Park Avenue buildings is these buildings that are
18 shown in this photo?

19 CHAIRMAN AIBEL: I can't tell because
20 it would be immediately to the left of -- I am
21 assuming -- I can't even tell where the --

22 COMMISSIONER FISHER: It is probably
23 the other --

24 CHAIRMAN AIBEL: -- I can't even tell
25 where the orientation is.

1 MR. MATULE: I guess basically if you
2 were standing on the deck, what this is meant to
3 depict is this is what you would be looking at, so
4 the buildings on your left would be the Park Avenue
5 buildings.

6 COMMISSIONER COHEN: Right. But
7 actually, Mr. Matule, that is not accurate because
8 that is looking straight off the back.

9 I think what the Chairman is asking
10 about is that if you are looking in the direction of
11 Park Avenue as opposed to the other side of the
12 block --

13 MR. MATULE: Right.

14 COMMISSIONER COHEN: -- then you would
15 be looking at those white buildings with the fire
16 escapes on the back, and the question that I think
17 the Chairman is driving at is that if you have this
18 deck that is sitting on the top of the third floor
19 of this building, and you are looking into the back
20 of the buildings on Park Avenue --

21 MR. MATULE: Right.

22 COMMISSIONER COHEN: -- what is the
23 distance -- let me complete the question --

24 MR. MATULE: Sure.

25 COMMISSIONER COHEN: -- what is the

1 distance to the windows of the residences on the
2 back of Park Avenue, because they are going to have
3 a bird's eye view looking into the backs of those
4 buildings, so how far is the distance?

5 I am looking on Google Earth. I mean,
6 it looks like the windows of the back of Park Avenue
7 line up right to where that deck would be on those
8 apartment buildings.

9 So the question I think the Chairman is
10 driving at, what impact on the privacy of the
11 residents of Park Avenue back up on to that deck
12 will be --

13 MR. MATULE: The architect has got some
14 additional photographs here. I think we could have
15 them marked. I have not seen them before, but --

16 (Board members confer.)

17 COMMISSIONER BRANCIFORTE: You have to
18 say this photograph is kind of misleading because
19 you show the east side of the patio, but you don't
20 show the west side of the patio because it's cut
21 off, so we don't really get a good idea.

22 COMMISSIONER MURPHY: And also if I
23 could comment, if you are looking at this, it
24 says -- like we were -- it is Lot 2, not 3, so the
25 arrows of this aren't correct. They are showing it

1 to Lot 3, so --

2 MR. MATULE: We have supplied a
3 corrected one --

4 COMMISSIONER FISHER: But it is Lot
5 3 --

6 MS. BANYRA: No, it's Lot 2, so --

7 COMMISSIONER MURPHY: It's Lot 2, so
8 it's --

9 (Board members talking at once.)

10 COMMISSIONER COHEN: It is closer to
11 the corner.

12 COMMISSIONER MURPHY: Right. So it is
13 right up against the buildings on Park.

14 (Board members confer)

15 MR. MATULE: So here. I will mark it
16 as A-2 and A3.

17 (Photographs marked Exhibits A-2 and
18 A-3.)

19 MR. MATULE: I have two additional
20 photographs here, A-2 and A-3.

21 Can you describe them for the record,
22 what they are, Mr. Moglino?

23 THE WITNESS: Exhibit A-2, two
24 photographs, again, taken by myself during a site
25 visit.

1 This shows a little clearer picture of
2 the buildings along Park Avenue.

3 This is the third floor, where you
4 look -- where I am pointing to is the roof on the
5 third floor and the roof condensers.

6 This is taken a little bit further
7 west, same angle almost, but here you can just see
8 the adjacent neighbor with the fire escape. The
9 beige is the rear wall, and the red is the south
10 facing wall.

11 MR. MATULE: Do you know the
12 approximate distance from this deck to that?

13 THE WITNESS: I do not. Again, I
14 didn't take any measurements.

15 Just guessing, the lot to the west is
16 also 17 feet wide, so again, Exhibit A-3, two more
17 photographs looking to the west, now we are looking
18 down at the two-story structure, and here is that
19 red wall, the red rear wall, and the top photograph
20 is looking southwest.

21 MR. MATULE: So is that rear wall what,
22 if somebody were on this deck, is that the red wall
23 that they would be looking at, or would they be
24 looking at the beige wall?

25 THE WITNESS: They would be looking at

1 the beige wall.

2 MR. MATULE: All right.

3 Is that where the side where the
4 planter is going to be --

5 THE WITNESS: Right, yes.

6 MR. MATULE: -- along the complete
7 length of the deck?

8 THE WITNESS: Yes. My guess is it
9 would be facing the beige wall.

10 MR. MATULE: Okay.

11 (Board members confer)

12 CHAIRMAN AIBEL: Ms. Banyra, do you
13 have anything that you can illuminate matters?

14 MS. BANYRA: Well, you know, I couldn't
15 go behind the building. I guess we are at least
16 seeing some pictures of the upper elevations. I
17 guess that was one of my concerns, which was while
18 the grade floor, you know, looks like you can look
19 down into the hole of the donut, the upper floors is
20 what I was concerned about, and we didn't have any
21 representation of it, and it still appears from the
22 pictures that the upper floors may be looking --
23 when they -- on the upper floor looking left is
24 looking into a window on the Park Avenue buildings,
25 and the upper deck now is 15 feet closer than -- or

1 17 feet closer than from the upper level than what
2 currently exists, so that really was one of my
3 concerns.

4 I think in my report, if you look, I
5 raised -- there were a number of inaccuracies. I am
6 not -- I guess I am concerned. I understand what
7 Mr. Galvin said about the survey, and I understand
8 how it happened, and this applicant doesn't appear
9 to have any blame or association with that, but as
10 surveyors, you know, when we get a surveyor, it is
11 supposed to represent the existing conditions of a
12 property, and now -- okay, the face was changed and
13 now the three-story. The survey says there are
14 three stories in the back, and there's only two
15 stores. I don't know what other changes are on the
16 property that may or may not be represented.

17 I don't know if the architect could
18 elaborate on that, but really a surveyor is the only
19 one who is allowed to actually represent existing
20 conditions on a plan, so I am a little
21 uncomfortable, let's put it that way, with a survey
22 that is not accurate.

23 However, it is a roof deck, so I
24 thought, you know, as I had discussed with the
25 Chair, maybe we should just move forward on this and

1 see where it is going rather than wait and get a
2 revised survey prior to hearing this.

3 So there are still some mistakes on the
4 front page that should be, you know, corrected. I
5 called them out in my report.

6 On number 4C, the pictures of the back
7 building, I think the architect has just provided
8 some pictures of the upper elevation, and again, my
9 concern would be whether or not that roof deck is
10 now maybe a little bit uncomfortable for an adjacent
11 property owner in terms of people on top of it.

12 CHAIRMAN AIBEL: Let me ask my
13 colleagues: Does anybody else have questions for
14 the architect?

15 COMMISSIONER BRANCIFORTE: Right now on
16 that roof, there are no condensers there now, no AC
17 units?

18 THE WITNESS: Are you referring to the
19 second floor roof?

20 COMMISSIONER BRANCIFORTE: Yes.

21 THE WITNESS: Yes. There's currently
22 just a roof membrane --

23 COMMISSIONER BRANCIFORTE: So nothing
24 is on top of it --

25 THE WITNESS: -- with a fire escape

1 ladder leading up to the third level.

2 COMMISSIONER BRANCIFORTE: Oh, okay.

3 So this picture here is taken from the
4 third floor?

5 THE WITNESS: That's taken, yes, from
6 the third floor.

7 COMMISSIONER BRANCIFORTE: Okay.

8 Yeah. I wish I had a better
9 representation of what we are really looking at
10 here.

11 COMMISSIONER COHEN: Right.

12 COMMISSIONER MURPHY: Like if you could
13 see, if you were standing on that roof of the second
14 floor, how close is it to the building?

15 MR. MATULE: I can ask the architect if
16 he has any other photographs that might be more
17 helpful.

18 THE WITNESS: Right here.

19 MR. MATULE: So what is this showing?

20 THE WITNESS: Looking west.

21 MR. MATULE: Okay. So I will mark this
22 as A-4.

23 Is this a picture that you took?

24 THE WITNESS: Yes.

25 MR. MATULE: So this is a picture of

1 standing on the -- well, here -- give me that one.

2 Same difference --

3 (Board members confer.)

4 MR. MATULE: -- so I will tell you
5 what. All right. So we are going to mark this A-4.
6 It is two photographs. The photograph on the
7 left -- describe the photograph on the left.

8 (Two photographs marked Exhibit A-4.)

9 THE WITNESS: Exhibit A-4, the bottom
10 photograph, taken from the second floor of the roof,
11 you can tell it is flat, and here are the two walls,
12 colored walls we were referring to earlier, the
13 adjacent fire escape, and here's the --

14 COMMISSIONER COHEN: That is the roof
15 that you are going to build on, correct?

16 THE WITNESS: Correct. That is the
17 roof that we are going to build on.

18 The photograph to the left reflects the
19 ladder that I was referring to earlier being up
20 there --

21 THE REPORTER: I can't hear you.

22 MR. GALVIN: You have to speak up.

23 MS. BANYRA: What exhibit is that?

24 THE WITNESS: A-4.

25 MR. GALVIN: But you started to

1 describe the ladder. The way you did it, your voice
2 trailed off.

3 THE WITNESS: I'm sorry.

4 The ladder leading go up to the third
5 level.

6 MR. MATULE: All right. So just let me
7 ask you a couple of questions just for clarity.

8 No. Hold it up this way.

9 So the picture on the left is showing
10 the -- if you are looking at the back of the house,
11 that is the left side where --

12 COMMISSIONER BRANCIFORTE: East side.

13 MR. MATULE: -- where the two-story
14 house adjoins the property, and you previously
15 testified that it lines up with the existing
16 principal structure. Is that correct?

17 THE WITNESS: This is the rear
18 building. There's the window outside of the master
19 bedroom, the ladder at the second level leading up
20 to the third level.

21 MR. MATULE: On your drawing on this
22 side of the proposed deck is where the planter with
23 the two trees in it is going to be?

24 THE WITNESS: Yes.

25 MR. MATULE: Okay. Now, the other

1 picture, if you would rotate it up, this is now
2 looking in the opposite direction towards the
3 buildings that front on Park Ave?

4 THE WITNESS: Correct, looking west.

5 MR. MATULE: Can you give us any idea
6 of the approximate distance between the end of this
7 roof and where that beige wall and red wall is?

8 THE WITNESS: I would guess about 15
9 feet. It's definitely under 17. The lot is 17, and
10 it projects back towards the subject property.

11 MR. MATULE: All right. And that is
12 the side where you are proposing to have a planter
13 the entire length of the proposed deck?

14 THE WITNESS: Correct.

15 MR. MATULE: Okay.

16 COMMISSIONER COHEN: Can I just ask
17 some questions about that?

18 MR. MATULE: Sure.

19 COMMISSIONER COHEN: So it is 15 feet
20 to the window on the red building, and 15 feet to
21 the windows on the beige building?

22 THE WITNESS: It's probably 17 to the
23 red building.

24 The beige building --

25 COMMISSIONER COHEN: The beige building

1 is 15 --

2 THE WITNESS: -- longer -- the beige
3 building is longer than the red one.

4 COMMISSIONER COHEN: So the beige
5 building window is closer --

6 THE WITNESS: Yes --

7 COMMISSIONER COHEN: -- to your
8 client's property?

9 THE WITNESS: -- correct.

10 COMMISSIONER COHEN: And you are
11 thinking about a two foot difference between the red
12 building and the beige building?

13 THE WITNESS: Yes. Again, I didn't
14 measure it. I'm just eyeballing it may be --

15 COMMISSIONER COHEN: Then what is the
16 height of the plants, the shrubs, that you plan to
17 build on that wall of the property?

18 THE WITNESS: Sheet Z-2 I have a label.
19 It's two separate dimensions, three-foot-six to the
20 top of the planter, and then the planting is another
21 three feet.

22 COMMISSIONER COHEN: So it would be
23 seven-foot-two?

24 THE WITNESS: Seven-foot-two total.

25 COMMISSIONER FISHER: On the other

1 side, is the reason why you are only putting two
2 planters is because of that fire escape?

3 THE WITNESS: Yes.

4 COMMISSIONER FISHER: So is it just
5 going to be open there or is it --

6 THE WITNESS: Yes. It is going to
7 remain open, so we have access up to the roof.

8 COMMISSIONER FISHER: No. Between
9 the -- the picture that you just showed that you --
10 I'm sorry -- the picture that you just showed when
11 you were looking at the fire escape, is it --

12 MR. GALVIN: A-4.

13 COMMISSIONER FISHER: -- I'm sorry,
14 A-4. So right here, this right here is going to
15 stay completely open, or is something going to be
16 right there?

17 THE WITNESS: No. It will still be a
18 solid wall there.

19 COMMISSIONER FISHER: It will still be
20 a solid wall.

21 Like I am looking at that window saying
22 is that going to be --

23 THE WITNESS: No. It would be a solid
24 wall there.

25 MR. GALVIN: Let the record reflect, we

1 were looking at the left picture on Exhibit A-4.

2 COMMISSIONER FISHER: Yes.

3 THE WITNESS: And it's shown on Sheet
4 Z-3.

5 COMMISSIONER FISHER: All right. Okay.

6 MR. MATULE: What is the height of that
7 wall?

8 THE WITNESS: 42 inches.

9 CHAIRMAN AIBEL: How tall are the
10 buildings on the Park side?

11 Are they four-story buildings?

12 THE WITNESS: Hum...

13 CHAIRMAN AIBEL: In other words, would
14 a fourth floor window be looking directly down into
15 the deck?

16 (Board members confer and are all
17 talking at once.)

18 THE WITNESS: They appear to be four
19 stories, yes.

20 CHAIRMAN AIBEL: Thank you.

21 I'll open it up to the public to see if
22 there's anybody here on this --

23 COMMISSIONER BRANCIFORTE: Oh, I just
24 have a couple.

25 CHAIRMAN AIBEL: Go ahead, John.

1 COMMISSIONER BRANCIFORTE: How is this
2 deck, if it is approved, how will it affect drainage
3 off the roof?

4 Is drainage going to change at all?

5 I mean, describe the roof.

6 How is the water going to pass through
7 this deck and hit the roof and fall off the roof
8 into the gutters?

9 THE WITNESS: It will still be pitched
10 towards the back of the building onto the gutters
11 and leaders that are currently there.

12 COMMISSIONER BRANCIFORTE: Okay.

13 COMMISSIONER FISHER: Jim, it is
14 actually five stories --

15 MR. GALVIN: Speak up and put it on the
16 record.

17 COMMISSIONER FISHER: I'm sorry.

18 The Park Avenue buildings, it is just
19 literally from Google Earth, it looks like those
20 Park Avenue buildings right here, if you just count
21 them, are five stories. So it is a couple stories
22 above that will be looking down on this roof deck.

23 CHAIRMAN AIBEL: Thank you.

24 COMMISSIONER BRANCIFORTE: Yes. The
25 pictures that you handed in are the same thing.

1 They show a fire escape that goes up five stories,
2 at least on the buildings further down the block
3 that appear.

4 CHAIRMAN AIBEL: Anything else, Board
5 members?

6 Let me open it up to the public.

7 Is there anybody here who would like to
8 ask questions of the architect?

9 Seeing none, could I have a motion to
10 close the public?

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

13 COMMISSIONER GRANA: Second.

14 CHAIRMAN AIBEL: Thank you.

15 All in favor.

16 (All Board members answered in the
17 affirmative.)

18 CHAIRMAN AIBEL: Let me just sort of as
19 a bookmark here throw out my own reaction and say
20 that I am not comfortable that the proofs have been
21 adequate to grant the relief that you are seeking,
22 and it may be just a function of the lack of
23 understanding of what the situation is.

24 So I guess when it involves the
25 intensification of a nonconforming lot, I would take

1 it, you know, very seriously what the impacts were
2 to the adjacent neighbors. I am not sure that you
3 have demonstrated that it is not going to be
4 negative, that there wouldn't be negative impacts,
5 so I don't know whether you can improve your
6 showing --

7 MR. MATULE: Well, certainly I would
8 like the opportunity to do that. I really wasn't
9 fully aware of this issue.

10 If the Board would consider carrying
11 the matter until next month, I could get a new
12 survey and perhaps some new photographs and some
13 better dimensions that might address what I am
14 hearing the Board's concerns are. That is the best
15 suggestion I could make.

16 COMMISSIONER COHEN: Just a comment.

17 I mean, Mr. Matule, I think that our
18 planner pretty clearly said in her report that she
19 needed these dimensions to understand the impact of
20 the backyard. I am not adverse to carrying this,
21 but I think there is some real basic information
22 that we are lacking for this, and it just seems to
23 me a lack of basic preparation for this
24 presentation, which is not typical from what you
25 see, but I think it is not ready for prime time this

1 application, you know, in many ways.

2 MR. MATULE: I certainly appreciate
3 your comments, Mr. Cohen, and you know, I will leave
4 it at that.

5 CHAIRMAN AIBEL: Motion to carry?

6 MR. MATULE: I would like the
7 opportunity to try to get some more specific
8 information and address the Board at another date.

9 MS. BANYRA: Mr. Chair, I just wanted
10 to ask the question. If the Board could, rather
11 than carry it, or maybe, you know, it might be
12 informative to the applicant if anybody is concerned
13 about the distance from the windows or whatever, I
14 think if that is the concern, by showing pictures
15 and dimensioning it hypothetically the architect has
16 indicated it is 15, 17 feet away.

17 If the Board is comfortable with that
18 number, then maybe you shouldn't carry it and keep
19 moving.

20 If you are thinking that you may not be
21 comfortable with that, I am not sure that that is
22 going to advance anybody continuing, you know, so
23 that is my only -- I mean, you still can go forward,
24 Mr. Matule, but if you know what I am saying, I
25 think it would be helpful to know --

1 COMMISSIONER COHEN: The right
2 measurements.

3 MS. BANYRA: -- well, the measurements,
4 but also what is there, and if you are concerned
5 about that, then --

6 CHAIRMAN AIBEL: I am concerned about
7 the impact. I just can't measure the impact,
8 whether it is 17 or 15 feet. I am not able to fully
9 assess the impact. I obviously have my concerns
10 about it, but I am not sure --

11 MR. MATULE: Again, I can try to get
12 more specific dimensions for you. I think that is
13 why the project was designed with that knee wall and
14 the plantings along that side because, you know, it
15 is an end block, an east-west street, where you
16 always have that, you know, corner buildings
17 meeting. I think that is why it was designed that
18 way. You know, it is an urban environment.

19 But if the Board would feel that it
20 would give them more information to make an more
21 informed decision, I would be happy to try to
22 provide both that information and some better
23 photographs.

24 CHAIRMAN AIBEL: I think we want to
25 give your client a full opportunity to demonstrate

1 his case.

2 MR. MATULE: I certainly appreciate
3 that, and that is why I would ask it to be carried.

4 MR. GALVIN: I guess to be a little bit
5 more direct, what we are saying is just because we
6 are going to carry it to get more information
7 doesn't necessarily -- it shouldn't be taken as a
8 commitment on our part --

9 MR. MATULE: I understand. I think
10 Ms. Banyra's comments were clear that if we provide
11 the information, and that is not going to change
12 anybody's position, then let's not waste everybody's
13 time and money, but, you know, I don't think that is
14 what I am hearing from the Board either. I think
15 the jury is still out so to speak.

16 CHAIRMAN AIBEL: Then let me poll my
17 Board members.

18 Would you like to see it carried, or do
19 you want to bring it to a vote?

20 Are you ready to vote, or would you
21 like to see it carried --

22 MR. GALVIN: Let me say this: As long
23 as you have an open mind that you could still be
24 moved, then you should wait and give them a chance
25 to show you the revised information.

1 COMMISSIONER GRANA: My feedback is I
2 would be willing to carry it, but I think we need a
3 more photographic demonstration of what the actual
4 changes are, and I cannot determine if the proofs
5 have been made both in terms of the measurements and
6 the photographs that I have seen, and that is my
7 opinion, so I would be willing to carry it, if that
8 was provided.

9 COMMISSIONER BRANCIFORTE: I'm sorry,
10 Diane.

11 COMMISSIONER MURPHY: Yes, the same.

12 COMMISSIONER BRANCIFORTE: Yeah --
13 sorry, Rich.

14 COMMISSIONER TREMITIEDI: Okay.
15 I feel the same way, and actually I
16 almost would have to recuse myself here, but I
17 don't. I owned 210 Eighth Street from 1965 to
18 1970 --

19 (Laughter)

20 -- and it would seem to me that the
21 distance would be that, but I never measured it.

22 But what I can see from my experience
23 in the neighborhood, the building is a welcomed
24 addition.

25 COMMISSIONER BRANCIFORTE: Well, I

1 understand that you put these plantings up to the
2 west to block some views, but quite frankly,
3 plantings are temporary. Once those people are in,
4 if they decide they don't like the bushes, they want
5 flowers, they can remove the bushes and just put
6 flowers in, so that screening that you are providing
7 isn't really permanent screening. It is not really
8 going to protect the people on Park Avenue as much
9 as I would like.

10 The other thing, too, you know,
11 whenever I hear an architect say, "I guess it is 15
12 to 17 feet," that is a huge alarm in my head.

13 I have heard that here before, and I
14 have seen the Board make mistakes when they go on a
15 guess what the distance is. So it's not just
16 photographs, but I would like to see some drawings
17 that show the distance, and I would like to see
18 something a little more permanent on that west side
19 of the patio.

20 CHAIRMAN AIBEL: Plastic trees?

21 COMMISSIONER MURPHY: I do have a
22 comment.

23 This buildings on the corner, the
24 second corner, they are large buildings. A lot of
25 times the back of the building has a staircase, and

1 this building -- because I lived in a few of them --
2 so that kind of butts out from the main part of the
3 building. If the area in question is being close,
4 it might be helpful to know if it is just a
5 stairwell or are they actually apartments.

6 COMMISSIONER FISHER: Well, I will add
7 my comments are when -- the whole concern is going
8 to be everything on Park Avenue's ability to -- or
9 impacted by turning into a roof deck, and from it
10 seems like, the only roof deck that is around.

11 If you -- there is the building -- the
12 first building on Park Avenue that looks like it is
13 at least three floors are going to look down on it,
14 the one next to it is going to look down on it from
15 three or four floors on an angle, because you are
16 only putting that block on the west side, not the
17 south side, so you actually -- you have a few of the
18 Park Avenue buildings that are going to be looking
19 directly at it.

20 So just when you are looking at
21 drawings, I think some of the side lines just being
22 able to see standing there and looking up and really
23 how far is this roof deck going to impact, how many
24 of those buildings on Park Avenue realistically are
25 going to be able to suddenly look down on a party or

1 something going on on this space.

2 They all seem to be five stories, so I
3 think there is quite a bit potential that either
4 needs to be blocked or needs to be considered when
5 you are looking at it.

6 MR. MATULE: Thank you.

7 COMMISSIONER BRANCIFORTE: Just one
8 other thing.

9 I mean, obviously, you know, you said
10 this is an urban area. I don't quite know what you
11 meant by that, that people are -- you were talking
12 about the bushes and the privacy issue, I guess, and
13 you said, you know, this is an urban area. I never
14 understood what that meant.

15 I mean, the reason you are here is
16 because it is an urban area, and because it is a --
17 you know, there is a law that says we have to
18 protect people, the neighbors, so...

19 MR. MATULE: My only point of the
20 comment was that I don't know if there would be a
21 significantly different impact on the people in the
22 buildings next door whether people are on that roof
23 deck or they are down in the yard. That was my only
24 point.

25 COMMISSIONER BRANCIFORTE: All right.

1 Thanks, Bob.

2 MR. MATULE: You know, there are
3 windows in the back wall now, where people look out
4 and people look in. That was my only comment.

5 COMMISSIONER BRANCIFORTE: Thanks.

6 MR. GALVIN: Da, da, da, da...

7 MS. BANYRA: Yeah. I don't know what
8 dates we have.

9 Was it May 15th?

10 MS. CARCONE: May 20th.

11 MS. BANYRA: Okay. Do we have -- is it
12 May 15th, the one scheduled by itself, and then we
13 have two weeks. 1300 Jefferson, I thought we
14 scheduled --

15 MS. CARCONE: That is May 20th.

16 MS. BANYRA: -- May 20th. Okay. So
17 then this would be the following, the next
18 meeting --

19 MS. CARCONE: The Special Meeting is
20 May 27th, if you choose to have that.

21 MS. BANYRA: It would be the 27th then,
22 unless you wanted to slide it in before. We had
23 dedicated a meeting to 1300 Jefferson I think.

24 CHAIRMAN AIBEL: Is that Block 112?

25 MS. BANYRA: Yes. I think that is 1300

1 Jefferson, right?

2 Mr. Matule, I think that is your client
3 as well.

4 MR. MATULE: Block 112.

5 I would prefer to do it on the 20th,
6 but again, I leave it up to the Board.

7 MS. BANYRA: So it could be the 20th.
8 If we think this would be short order on the 20th,
9 then we can hear it on the 20th.

10 The only other comment that I might
11 make is for the architect also to maybe assess sound
12 attenuation from up on a higher place than rather
13 the lower deck, so I think that is something that we
14 should consider as well.

15 CHAIRMAN AIBEL: I need a motion.

16 MR. GALVIN: Is that the night of 1300?

17 MS. BANYRA: It would be. We had said
18 that we would give them the whole night, but if we
19 feel that this would be a short order thing, then --

20 MR. GALVIN: Are you okay with that?

21 CHAIRMAN AIBEL: You said it was one
22 night --

23 MS. BANYRA: I did say that, but the
24 attorney who represents both people is standing
25 before us.

1 (Laughter)

2 CHAIRMAN AIBEL: I do want to keep
3 Block 112 to itself.

4 MS. BANYRA: Okay. So then this would
5 be the 27th then.

6 MS. CARCONE: Are we having a Special
7 Meeting on the 27th?

8 MS. BANYRA: We are going to have other
9 applications on for the 27th --

10 MS. CARCONE: That is the day after
11 Memorial Day.

12 MS. BANYRA: -- it won't be a solo --

13 MR. MATULE: I don't think I am
14 available that day, but whatever the next meeting --

15 (Board members confer and are all
16 talking at once.)

17 MR. GALVIN: What about doing it the
18 week before?

19 MS. CARCONE: The 13th, are you
20 available?

21 MR. GALVIN: If I am not, I will send
22 up Steve. That is the idea. That is why I hired
23 him.

24 MS. BANYRA: That is the only thing we
25 would have scheduled for that night, though. We

1 would have to then figure out if we could schedule
2 somebody else for the 13th.

3 MR. GALVIN: That's no good.

4 MS. BANYRA: Yeah. I would rather
5 group -- I'd rather cluster it, if we can, and I
6 don't know if we will have anybody else ready to be
7 on the 13th.

8 MR. GALVIN: Who said they weren't here
9 for the 27th?

10 MS. CARCONE: Diane.

11 COMMISSIONER MURPHY: I won't be here.

12 MR. GALVIN: Oh, you won't be here.

13 MR. MATULE: I won't be here.

14 (Laughter)

15 MR. GALVIN: So we need to go another
16 night.

17 What do you suggest?

18 MR. MATULE: Well, that is why I was
19 suggesting the 20th, only because I would hope --

20 MR. GALVIN: See, we are worried about
21 being criticized --

22 MR. MATULE: -- to make a somewhat more
23 organized application, we could come back and get
24 through it. Otherwise we would have to go into
25 June.

1 talking at once.)

2 MR. MATULE: The architect is available
3 that night. My only concern I think we probably
4 need until that --

5 MR. GALVIN: Right. If you are not
6 going to get everything done and get it done well
7 between now and the 29th, we really should wait.

8 MR. MATULE: Well, he is saying he
9 could get it done, but I can't have it to you ten
10 days before the meeting, so that's my concern.

11 I think, in all fairness to the Board
12 members and the Board professionals --

13 MR. GALVIN: Listen, we have no problem
14 with carrying this thing into June, so that's the --
15 we were trying to accommodate you.

16 MS. BANYRA: Well, there is nobody here
17 right now to object to this. There is no further
18 notice, so I don't know what would bring somebody
19 else out to look at the revised version.

20 MR. GALVIN: Here is my advice. Let's
21 carry this thing to the April 29th meeting. If you
22 are not ready, we can carry it again from there, and
23 we will figure out what date we could carry it to,
24 and if you do get everything in, then we will hear
25 you, but if not, you know --

1 MR. MATULE: Or the --

2 MR. GALVIN: -- but we do want to have
3 everything in at least by when?

4 How much time do you need?

5 MS. BANYRA: This is all supplemental
6 information because we do have, whether it is
7 correct or incorrect, we have information --

8 MR. GALVIN: How is the 22nd?

9 MR. MATULE: I was going to suggest the
10 22nd, filed by the 22nd.

11 MS. BANYRA: Fine.

12 MR. GALVIN: Sure. Eileen and Jeff
13 need enough time to take a look and make sure
14 everything has been done correctly.

15 MR. MATULE: Okay.

16 CHAIRMAN AIBEL: A motion to carry to
17 April 29th.

18 MR. GALVIN: April 29th.

19 COMMISSIONER BRANCIFORTE: Motion to
20 carry it to April 29th with no further notice.

21 COMMISSIONER MURPHY: Second.

22 CHAIRMAN AIBEL: Thank you.

23 MR. GALVIN: All in favor?

24 (All Board members answered in the
25 affirmative.)

1 MR. MATULE: Thank you for your
2 consideration.

3 (The matter concluded.)

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C E R T I F I C A T E

I, PHYLLIS T. LEWIS, a Certified Court Reporter, Certified Realtime Court Reporter, and Notary Public of the State of New Jersey, do hereby certify that the foregoing is a true and accurate transcript of the proceedings as taken stenographically by and before me at the time, place and date hereinbefore set forth.

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

s/Phyllis T. Lewis, CSR, CRR

PHYLLIS T. LEWIS, C.S.R. XI01333 C.R.R. 30XR15300

Notary Public of the State of New Jersey

My commission expires 11/5/2015.

Dated: 4/16/14

This transcript was prepared in accordance with NJ ADC 13:43-5.9.

HOBOKEN ZONING BOARD OF ADJUSTMENT
CITY OF HOBOKEN

----- X
 1426-1428 Willow Avenue, :
 Block 123, Lot 13 :
 Applicant: 1426 Willow Avenue, LLC : April 15, 2014
 Preliminary Site Plan & Variance : Tuesday, 8 p.m.
 ----- X

Held At: 94 Washington Street
Hoboken, New Jersey

B E F O R E:

- Chairman James Aibel
- Commissioner Phil Cohen
- Commissioner Michael DeFusco
- Commissioner Antonio Grana
- Commissioner Diane Fitzmyer Murphy (recused)
- Commissioner John Branciforte
- Commissioner Tiffanie Fisher
- Commissioner Richard Tremitedi

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

- Eileen Banyra, Planning Consultant
- Jeffrey Marsden, PE, PP
Board Engineer
- Paul J. Winters, PE, CME
- Patricia Carcone, Board Secretary

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1 (Commissioner Murphy recused.)

2 CHAIRMAN AIBEL: So we are going to
3 start with 1426 Willow Avenue.

4 MR. MATULE: Good evening, Mr.
5 Chairman.

6 MR. GALVIN: One second.

7 CHAIRMAN AIBEL: Before you start, Mr.
8 Matule, the record should reflect that Diane Murphy
9 has stepped down for this hearing.

10 I guess counsel is also going to
11 address the fact that there are at least two Board
12 members, probably more, who are familiar with Mr.
13 Pino. He is a well-known restaurateur and character
14 in town, but for my own sake, and I will speak for
15 my Board members, I don't see any reason why I would
16 need to recuse myself.

17 MR. GALVIN: I will speak to this.

18 Mere patronage in a restaurant does not
19 disqualify you from hearing the application. You
20 know, you are not supposed to be receiving any
21 benefits, and you are not supposed to be getting a
22 discount on your meals. You are not supposed to be
23 getting any free glasses of wine. And provided that
24 everything has always been an arm's length
25 transaction, the mere fact that you have this

1 acquaintance is not enough to disqualify you.

2 COMMISSIONER COHEN: I think I asked
3 you this before, but I am a Facebook friend of Mr.
4 Pino.

5 MR. GALVIN: And I remember thinking
6 how funny it was when I asked you how many Facebook
7 friends you have, and you had a lot --

8 COMMISSIONER COHEN: I had a lot.

9 (Laughter)

10 MR. GALVIN: -- and because you had a
11 lot, I didn't feel it was -- I think Facebook is
12 more like an acquaintancy --

13 COMMISSIONER COHEN: I think I added
14 more since you last asked me that question.

15 MR. GALVIN: -- so I don't think that
16 that would be a disqualifying factor --

17 COMMISSIONER COHEN: Okay.

18 MR. GALVIN: -- and I think the
19 importance, when you have these gray area type
20 things that concern you, disclosing them to the
21 public is what you absolutely should do. We hit the
22 best practice. Now we are good to go and to hear
23 this case.

24 MR. MATULE: Thank you, Mr. Galvin.

25 Thank you, Mr. Chairman. I appreciate

1 everyone's candor.

2 This is an application for minor site
3 approval and for variances to convert an existing
4 commercial space on I guess it is the southwest
5 corner of 15th and Willow Avenue directly across
6 from the car wash that is on the northwest corner
7 into a restaurant and bar.

8 I have actually four witnesses tonight.
9 I have the architect, Anthony D'Angelo. Edward
10 Kolling is our planner. We have Gary Dean, who has
11 done a traffic report, and I have actually Mr. Pino
12 here, the operator, because I think a lot of
13 information he can supply would be helpful to the
14 Board.

15 I also have a representative of the
16 landlord here. It is not Mr. Pino. He is going be
17 leasing the commercial space, not owning it, so I
18 know there was some reference in some of the
19 professional reports about the building, the
20 existing building, which has residences upstairs,
21 but as I said, I have a representative of the
22 landlord here also.

23 So if we could, I would like to start
24 with Anthony D'Angelo, the architect.

25 MR. GALVIN: Raise your right hand.

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

4 MR. D'ANGELO: I do.

5 A N T H O N Y D ' A N G E L O, having been duly
6 sworn, testified as follows:

7 MR. GALVIN: State your full name and
8 spell your last name.

9 THE WITNESS: Anthony D'Angelo, D
10 apostrophe, capital A-n-g-e-l-o.

11 MR. GALVIN: Okay. And could you give
12 us three Boards you appeared before recently?

13 THE WITNESS: Asbury Park, Hoboken,
14 Jersey City, Weehawken.

15 MR. GALVIN: Do we accept Mr.
16 D'Angelo's credentials?

17 CHAIRMAN AIBEL: Yes, we do.

18 MR. GALVIN: All right. You may
19 proceed.

20 MR. MATULE: Before I start, just for
21 the record, I previously submitted the
22 jurisdictional proofs.

23 MR. GALVIN: We find them to be
24 adequate.

25 Please proceed.

1 MR. MATULE: Thank you.

2 All right. Mr. D'Angelo, I am sure you
3 are familiar with the process, but if you are going
4 to refer to anything other your drawings, we need to
5 mark them for identification.

6 But if you could, could you please
7 describe for the Board members the existing site and
8 the surrounding area, and then describe the proposed
9 renovations to the commercial space?

10 THE WITNESS: Okay. Thank you.

11 We are -- the project location is
12 located in the I-1 Zone.

13 As Bob said, our site is located on the
14 southwest corner of Willow and 15th. We are Lot 13
15 within Block 123. Our lot size is 50 by a hundred.
16 And as you can see from the shaded area, our lot is
17 a hundred percent lot coverage, as well as the
18 adjacent properties to the south and also to the
19 west are also a hundred percent lot coverage.

20 Our building is an existing three-story
21 brick building. There is an existing commercial
22 space on the ground level, two floors of residential
23 above that, three units on each floor for a total of
24 six residential units.

25 The property directly to the south is

1 an existing two-story brick building, and the
2 property directly adjacent on the west is an
3 existing one-story building, but it is a very tall
4 one-story building, as I will show you in the
5 photographs.

6 So we are proposing on adding above our
7 one-story portion of the building in the southwest
8 corner of the lot, we are proposing adding a
9 two-story addition on that, which is 32 feet by 25
10 foot five inches. There is a distance between our
11 addition and the existing rear wall. We are
12 maintaining 18 feet.

13 I will jump ahead to some photographs.
14 This is a view taken looking at the block on Willow
15 Avenue. This is our building on the corner here.
16 As you can see, you have the two residential stories
17 above the commercial. There are two existing
18 overhead garage doors.

19 On the southern portion of that facade,
20 this is the two-story building adjacent. This is a
21 three-story building, and then there is an empty
22 lot, and then a one-story building on the opposite
23 corner.

24 This is a view looking at our property
25 along 15th Street. Again, we have the residential

1 entrance, which is off 15 Street, and this is the
2 adjacent one-story building, but it is very tall,
3 and you will see in the next picture and also in our
4 section how that abuts our property.

5 This is a picture taken from the
6 one-story existing roof, and what you have is the
7 building creates like an L-shape, and then there is
8 a deck, an outdoor deck on the roof here for one of
9 the residential units.

10 This fence actually surrounds the
11 skylight that goes into the existing space below,
12 which we are proposing on relocating to the roof of
13 the addition. And then this red wall here is the
14 adjacent property to the west, which is that
15 one-story building.

16 And then along -- along our southern
17 property line is the stockade fence that the
18 neighbor has put up to separate the two properties.

19 This is -- you can see in the section
20 our proposed addition, the existing building is
21 approximately 38 feet six. Our proposed addition is
22 approximately 34 feet, so it is about four and a
23 half below the top of the existing roof.

24 Let's go back to the plans. This is
25 the site plan slash ground floor plan. I will walk

1 you through the site improvement first. So what we
2 are doing is we are proposing to replace the
3 concrete curb and concrete sidewalk around the
4 corner adjacent to the property on Willow and 15th.

5 We are going to be installing two new
6 handicapped accessible curb ramps that tie into the
7 crosswalks, as well as regrading the sidewalk slope
8 to provide this four-foot path for handicap
9 accessibility with a cross slope that's not to
10 exceed two percent.

11 Because this is a substantial
12 difference in height from the curb line at the
13 corner to the first floor elevation, we are
14 proposing to create a handicapped accessible ramp
15 for the main entrance and also a set of steps to
16 come in to make that difference in grade up, because
17 the property slopes up from the corner going --
18 heading south on Willow.

19 We are proposing on installing six
20 trees located around the corner. Our schedule
21 indicates the quantity of three, but that is an
22 incorrect number. It should be updated to reflect
23 six. The trees will --

24 MR. GALVIN: Can I stop you for a
25 second?

1 THE WITNESS: Yes.

2 MR. GALVIN: Have you talked to the
3 Shade Tree Commission?

4 THE WITNESS: We have a note on the
5 drawing that says that the trees will have to be
6 approved by them, the species.

7 We indicate a species on our drawings,
8 but it will have to be approved by them, whatever
9 they recommend --

10 MR. GALVIN: Awesome.

11 THE WITNESS: -- and also the tree
12 gratings, the metal gratings for the trees, we are
13 proposing to match -- there are some existing trees
14 south of us on Willow on the same block, that we
15 match those as well to keep it consistent.

16 CHAIRMAN AIBEL: Is the ramp going to
17 be in the city right-of-way?

18 THE WITNESS: Yes. So we will have to
19 go to City Council for any projection past the
20 property line, which is the ramp and stair, and also
21 we have this canopy trellis, which I will show you
22 on the elevations that is extending three feet off
23 of the building.

24 MR. MATULE: Anthony, if I could just
25 interrupt for one minute to clarify that point.

1 Willow Ave is a county road, so if the
2 Board is inclined to approve the application, we
3 would have to go to the county for county site plan
4 approval, and we would also have to get a franchise
5 easement from the Board of Freeholders from Hudson
6 County, which they typically, after we submit the
7 dimensions, they send an appraiser out and come up
8 with one-time one charts and adopt the resolution
9 and granting it, so that would all be --

10 MR. GALVIN: So we had a condition that
11 said: The applicant will obtain outside agency
12 approval of any encroachments into the right-of-way
13 of the county.

14 Close enough?

15 MR. MATULE: Fine, close enough.

16 MS. BANYRA: Can I just --

17 CHAIRMAN AIBEL: Yes.

18 MR. BANYRA: -- also, Mr. Matule, you
19 just raised a point. Just as a point of order, I
20 didn't call out that Willow was a county road, and
21 you did not go to the county for an approval, so
22 technically you should be requesting a waiver from
23 that at this point in time.

24 Is that not correct?

25 MR. MATULE: Yes, that is correct.

1 On the checklist of what we have
2 heretofore done has just showed it would be a
3 condition.

4 When this was originally submitted, it
5 was submitted as if we were applying for preliminary
6 rather than minor, so that is why it was going to be
7 a condition of final, but since it is minor, we
8 would request a waiver and just make that a
9 condition of any approval.

10 Typically we don't go to the county
11 until we are done here, because if we go to the
12 county, and then something changes here, we just
13 have to go back again, so it seems to be a more
14 expedient use of everybody's time and resources to
15 make it a condition --

16 MS. BANYRA: Since it is a requirement
17 of the checklist, then I think that you just
18 actually submit, you don't need an approval, but you
19 submit, so I just think as a point of order, that it
20 would be appropriate for the Board to consider
21 whether or not they want to waive that requirement.

22 MR. GALVIN: The Municipal Land Use Law
23 says that outside agency -- that we can't hold up an
24 approval based on outside agency approval, so --

25 MR. MATULE: Well, that is what I am

1 saying. I am asking for a waiver with the
2 stipulation that any approval this Board gives is
3 subject to that.

4 MR. GALVIN: Yes, yes. I think we
5 should continue and move along, and I have that
6 down, and we will discuss that when we get to that
7 point.

8 MR. MATULE: Thank you. I'm sorry to
9 interrupt --

10 MR. GALVIN: You didn't interrupt me at
11 all.

12 MS. BANYRA: I did.

13 MR. GALVIN: You didn't interrupt me
14 either. You are doing your job well.

15 MR. MATULE: Anthony, if you could, I
16 believe you were going through the site.

17 THE WITNESS: Yes.

18 Let me explain two other issues with
19 the sidewalk and the exterior upgrades related to
20 the sidewalk.

21 So one major component of the facade
22 design for the restaurant is to have ivy growing up
23 these screens, which you will see when I show you
24 the elevations, but these are little cut-outs, which
25 alternate around the windows of the restaurant.

1 They will be two foot deep, and they will have the
2 Thorndale English Ivy in these little small planting
3 beds, where we will have the mesh green behind them,
4 and I will show you that when you see the
5 elevations.

6 They will be mechanically irrigated,
7 each one of these little cut-outs, so that is what
8 we are proposing on doing in terms of additional
9 landscaping besides the trees on the sidewalk.

10 We are also upgrading the sidewalk
11 lighting, which I will show you later on on the
12 plan. This is some recessed lighting on the
13 underside of the canopy, and then some fixtures
14 surface mounted on the interior of the building.

15 So as we mentioned before, there was an
16 existing commercial space on the ground level. We
17 are proposing to convert that to a restaurant,
18 bar/restaurant, and we have three different dining
19 rooms, and the kitchen located in the rear of the
20 first floor plan with the stairs that will go up to
21 the two-story addition above.

22 As I mentioned before, this is the
23 residential entrance here on 15th Street. And then
24 we are creating a second means of egress out of the
25 restaurant onto 15th Street towards the back of the

1 space.

2 This is the second floor, and the
3 addition will accommodate men's and women's toilet
4 rooms and also a prep area, and an employee toilet.

5 COMMISSIONER BRANCIFORTE: That is in
6 the basement --

7 COMMISSIONER FISHER: It's the second
8 floor.

9 THE WITNESS: It's the second floor up.

10 COMMISSIONER FISHER: Was there toilets
11 on the first floor?

12 THE WITNESS: There was a handicapped,
13 unisex handicapped toilet there.

14 THE WITNESS: This is that deck that
15 we're maintaining off of this residential unit here.

16 On this wall there is an existing
17 exhaust duct that goes up to the roof, and we are
18 adding a second exhaust duct, you know, as well for
19 the kitchen.

20 So you come up to the third floor,
21 which will have storage and another toilet, employee
22 toilet, and an office, as well as there will be a
23 dumbwaiter that will connect all three floors, and
24 then a roof hatch to access the mechanical
25 equipment.

1 MR. MATULE: Anthony, again, if I could
2 interrupt, just to go back to your comment about the
3 exhaust duct, that is going to go all the way up
4 to -- above the top --

5 THE WITNESS: Yes. I will show you
6 that in the section when we get to that.

7 MR. MATULE: I don't want the Board to
8 think it would be exhausting out to the other
9 person's roof deck.

10 THE WITNESS: So this is the roof plan.
11 This is the relocated skylight that was on the roof
12 below. This will help bring light into that
13 stairwell and flood it into the portion of the rear
14 of the restaurant to bring some light back there.
15 We have some --

16 MR. GALVIN: Is it still going to be
17 protected by the Fort Apache fence?

18 (Laughter)

19 THE WITNESS: No. We can get rid of
20 that.

21 COMMISSIONER FISHER: The painted Fort
22 Apache fence.

23 THE WITNESS: So we have our HVAC
24 condensing units up on this section of the addition
25 roof, as well as condensing units for the walk-in

1 refrigerator. And like I said before, we will have
2 a roof hatch to access this area to maintain the
3 equipment, and we have a 36-inch high guardrail
4 around that roof for protection for fire, you know,
5 if they have to get up on the roof.

6 Our roof appurtenances total with the
7 existing and the proposed 10.4 percent, which is
8 well below the 50 percent allowable.

9 So this is the front elevation on
10 Willow Avenue, which now you can see the screening,
11 the metal screening, and the vines growing up them,
12 and also on top of that steel canopy will be the
13 screening as well, so that the vines can then grow
14 up on top of this canopy and drape over it as well.

15 This is the entrance stairs and ramp,
16 so this entrance is recessed. You have a door on
17 each side.

18 These sections are a system of panels
19 that will open up the facade here toward the
20 southern part of the restaurant into that dining
21 room.

22 As you wrap around the corner, we have
23 signage, which will be double sided, hanging off the
24 corner, as well as signage letters that will hang
25 down from the bottom of the canopy as well.

1 This is a detail of that, what that
2 plant screen would look like with the vines planted
3 in front of it, and then sits off the exterior wall,
4 and they grow up that as well.

5 This is a detail showing the section to
6 the canopy with the light fixtures being recessed up
7 into that canopy to wash that whole wall and the
8 sidewalk, so it will be down lighting and just
9 focusing on the sidewalk itself, and you can see
10 here how the vines will grow up and on to that
11 canopy as well.

12 On the section we note -- in this
13 detail we note, and also in our building section, we
14 note that that first floor -- that ceiling
15 separation between our space and the residential
16 above will have a fire rated ceiling and also sound
17 attenuation within it to minimize the noise
18 transfer.

19 CHAIRMAN AIBEL: Are you going to be
20 improving the facade of the building?

21 THE WITNESS: Yes. We have notes on
22 our drawings that the landlord will be replacing the
23 windows and also will be scraping the paint off of
24 the building, off of the brick area, and also
25 removing all of that sort of white stucco on the

1 first level, removing all of that down to the brick.
2 If the brick is in good condition, then it will, you
3 know, remain natural brick. If not, then it will be
4 painted.

5 So, again, the same sort of design
6 wraps around this corner with the ivy growing up on
7 to the green screen and the canopy as well, and the
8 signage wraps around, so it is mounted on the corner
9 here, and these letters are also on the 15th Street
10 side, and then a section of glass that will open up
11 to this dining area along 15th Street. This is the
12 existing entrance for the residential, and this is
13 our second means of egress, and this door -- this is
14 the second means of egress for the building, the
15 stairwell,

16 There is existing light fixtures, wall
17 mounted light fixtures here and here and here and
18 here, and we are proposing to replace those light
19 fixtures, and we are also adding another light
20 fixture outside of our doorway, and I will show you
21 what that fixture looks like. It is a down light.

22 Again, we have this lighting, which
23 will be recessed and wrap around. The whole corner
24 will be recessed into that canopy.

25 So, again, on the first floor, this

1 note is on the building section that we will be fire
2 rating and providing sound attenuation in the
3 ceiling that separates our space from the
4 residential.

5 This is a section taken through the
6 addition, which shows the relationship again of that
7 building next door, which is a very high one-story,
8 and we are coming above that by approximately eleven
9 feet or so.

10 This is the -- I don't know if you can
11 see it here, if I rolled it back.

12 So one of these existing ducts, exhaust
13 ducts, goes along the outside of the building, and
14 there is an existing fan, and what we are going to
15 do is we are also going to be utilizing that, but
16 also running another one adjacent to it, and they
17 will extend above the roof, and they will be
18 designed to minimize the odors and high enough that
19 will be above the roof.

20 So we are holding back, like I said, 18
21 feet from these residential windows here.

22 The exterior of the addition is
23 proposed to have a stucco finish and putting two
24 windows into the office located at the third floor.

25 MR. MATULE: If you could, Mr.

1 D'Angelo, on Sheet Z-2, you make reference to a
2 cellar plan. Could you just highlight that and
3 discuss how the trash is going to be stored?

4 THE WITNESS: Yes. I'll just flip
5 back. Let me go back to the plan.

6 So on 15th Street, you will see there
7 is an existing bulkhead door on the sidewalk, and
8 underneath a portion of this is a cellar plan, which
9 is shown here. So there is your bulkhead door
10 coming down from the sidewalk, and there is a small
11 section of cellar, which has existing gas meters and
12 a sump pump, and we are proposing using that area as
13 a temporary location for the trash and recycling to
14 be held there until those nights when they can put
15 it out for pickup. That would just be for the
16 restaurant.

17 The residential units have existing
18 bins over here for trash. There is three for trash
19 and one for recycling. That is along 15th Street.

20 Okay. So back to here --

21 MR. MATULE: Did you receive Mr.
22 Marsden's letter of December 17th, the engineering
23 review?

24 THE WITNESS: Yes.

25 MR. MATULE: You have no issues

1 addressing any of the points raised in his letter?

2 THE WITNESS: No. I believe that most
3 of those I have shared with Mr. Marsden, and with
4 respect to specifically the grading of the sidewalk
5 and the exterior lighting, which is what I am going
6 to show you lastly.

7 So, again, this is the sidewalk, and
8 these are the light fixtures that will be recessed
9 up inside of the canopy, and this is one of the down
10 light -- the fixture that will be mounted to the --
11 along here, along 15th Street. Really there is not
12 a lot of street lighting on 15th Street. There is
13 only a utility pole on the corner of Willow and
14 15th, and that light pretty much shines down on to
15 Willow, so the canopy lighting will really light up
16 that whole sidewalk area and exceeds the minimum
17 two-foot candle at the center of the sidewalk.

18 And then the lighting along 15th
19 Street, the wall mounted lighting, will achieve the
20 minimum two-foot candle at the center of the
21 sidewalk, so we are improving the lighting all
22 around the corner here, and that is --

23 MR. MATULE: Just for the record, the
24 total customer service area would be 3,040 square
25 feet?

1 THE WITNESS: Okay, yeah. 3,040 square
2 feet, and the occupancy is at 213.

3 MR. MATULE: And that is based on the
4 size?

5 THE WITNESS: The seating areas and the
6 egress aisles and things of that nature, yes. That
7 is what it calculates to.

8 MR. MATULE: Fine.

9 I have no further questions unless the
10 Board has specific questions.

11 MR. GALVIN: What was the square foot
12 number again?

13 THE WITNESS: The customer service?

14 MR. GALVIN: Yes, sir.

15 THE WITNESS: 3,040.

16 MR. GALVIN: Thank you.

17 That is always a good thing to put in
18 the resolutions.

19 CHAIRMAN AIBEL: Board members?

20 COMMISSIONER GRANA: I have a few
21 questions.

22 So the entire commercial floor area
23 will be 3,040. Is that the commercial -- I guess
24 that is the entire first floor --

25 THE WITNESS: Customer service area.

1 COMMISSIONER GRANA: -- that will be
2 the entire lower floor, the customer service area --

3 THE WITNESS: Yes, sir.

4 COMMISSIONER GRANA: -- is that the
5 area that is in commercial use right now, is that
6 entire first floor in commercial use?

7 THE WITNESS: Well, the lot is 50 by a
8 hundred, so let's say it is about 5,000 square feet,
9 which is what the commercial space takes up right
10 now minus the residential stairwell --

11 COMMISSIONER GRANA: Okay.

12 THE WITNESS: -- so right now it is
13 actually more than 3,040 because what we did is we
14 reduced our calculation by the kitchen area and also
15 the bathroom area. Everything that is left over,
16 where the customers are, is the customer service
17 area.

18 COMMISSIONER GRANA: Okay. Thank you.

19 On Z-7, I am just looking at Z-7, and
20 you know, Z-7 and Z-8, just the proposed drawings.
21 The windows do -- I don't know -- are they -- they
22 look different than what is there, and I don't know
23 if you covered this, but are we actually going to
24 build out new windows?

25 Are we changing the windows?

1 THE WITNESS: Yes. We proposed on the
2 drawings to change the windows out, and it basically
3 would be a two over two arrangement versus a -- a --
4 what is that -- nine over nine, so the mutton
5 arrangement would change as well.

6 COMMISSIONER GRANA: Okay.

7 And then on Z-9, the picture that has
8 the first floor, the top of the first floor
9 structure, and then the deck, that deck is the
10 adjacent property. That is a separate property,
11 yes, on the far right?

12 THE WITNESS: Here?

13 COMMISSIONER GRANA: Yes.

14 THE WITNESS: No. This is our property
15 here.

16 COMMISSIONER GRANA: So that entire
17 photograph that we are looking at --

18 THE WITNESS: Yeah. You know what, I
19 think it's obscured --

20 THE REPORTER: Wait a second. You
21 can't talk at the same time.

22 What was your question?

23 My question is, what I am looking at on
24 the far right of that picture, where that deck is,
25 is that a neighboring property --

1 THE WITNESS: No, that's right --

2 COMMISSIONER GRANA: -- or is that part
3 of the total --

4 THE WITNESS: -- no. That is right
5 here. It is a little -- because I took a panoramic
6 view to try to give you the whole feel, but this
7 fence over here is actually the same fence, which
8 kind of like rides the property line here.

9 COMMISSIONER GRANA: Okay. Is it fair
10 to say that the fence on the left is to the street,
11 and the fence on the right is to the next property?

12 THE WITNESS: The fence on the left
13 runs at the south end of our property line heading
14 west, and this fence heads to the east to Willow.

15 COMMISSIONER GRANA: Okay. And the
16 fence on the right is the property line?

17 THE WITNESS: Yes. This fence and this
18 fence are actually in the same plane, but because --

19 COMMISSIONER GRANA: Okay. Because --

20 THE WITNESS: -- it's a panoramic
21 picture, it's a little kind of distorted --

22 MR. GALVIN: -- okay --

23 THE WITNESS: -- because you pick it up
24 on both sides.

25 MR. GALVIN: We got it.

1 COMMISSIONER GRANA: Thank you. Those
2 are my questions.

3 (Counsel confers)

4 THE WITNESS: I will show you the roof
5 plan here. So, in other words, that fence that you
6 saw ran right along here, and this is that deck area
7 on the lower roof, and we are infilling this back
8 portion of that roof, that existing roof.

9 COMMISSIONER GRANA: So if we add two
10 new windows, they are going to look down on the deck
11 area of the existing property?

12 THE WITNESS: These two windows, yes.
13 I will show you that plan.

14 So this is the office, and these are
15 the two windows here in the office --

16 COMMISSIONER GRANA: Okay, thank you.

17 THE WITNESS: -- because this is the
18 property line, and we can't put any windows here or
19 here.

20 CHAIRMAN AIBEL: So the deck will be
21 opened to the south?

22 THE WITNESS: The deck, yes, this is
23 south, so the sun comes and floods in here, so
24 you'll --

25 CHAIRMAN AIBEL: So they are going to

1 have a wall built on the west side with two windows,
2 and they have two ventilation ducts running up the
3 side --

4 THE WITNESS: Yes. This one is
5 existing, and this one is going to be run next to
6 it. That will be a new one, so that is that picture
7 here.

8 CHAIRMAN AIBEL: Will they be enclosed?

9 THE WITNESS: They are just run exposed
10 to the ductwork on the outside of the building.

11 This is that existing duct right here,
12 if you see that.

13 COMMISSIONER GRANA: Just one last
14 question.

15 Do we know if this is a rental building
16 or a condominium?

17 THE WITNESS: Rental.

18 COMMISSIONER FISHER: It's a rental,
19 but how the whole thing I guess relates is that the
20 person who hired you to do all of the plans is not
21 the owner.

22 THE WITNESS: Is the owner of the
23 restaurant.

24 COMMISSIONER FISHER: Is the owner of
25 the restaurant, but not the owner of the physical

1 building.

2 MR. MATULE: Correct. The
3 restaurant --

4 COMMISSIONER FISHER: Can you spend a
5 second on how the actual owner of the building is
6 involved in this?

7 MR. GALVIN: I will tell you.

8 COMMISSIONER FISHER: Okay.

9 MR. GALVIN: Who is making the repairs?
10 Who is going to make construction?

11 MR. MATULE: Well, I have both the
12 representative of the owner and the applicant, the
13 operator here.

14 My understanding is that the operator
15 is going to make the repairs. They are going to fit
16 out the restaurant. The owner is going to make the
17 exterior repairs to the building.

18 MR. GALVIN: That's pretty typical of a
19 building that's in this kind of condition with the
20 rent, and what you have, and both of them are here.
21 Sometimes the owner doesn't have a representative
22 here, as long as the owner signs off on the
23 request --

24 COMMISSIONER FISHER: Well, some of it,
25 though, it sounds like the owner is -- I guess the

1 question is: Are we making it a condition that the
2 reference you made to what the owner is going to do,
3 which is scraping the building and repainting, et
4 cetera --

5 MR. GALVIN: Well, here's the thing --

6 COMMISSIONER FISHER: -- is it a joint
7 application or is it a --

8 MR. GALVIN: -- let me just be clear on
9 this. They don't get the restaurant, if they don't
10 do what they are telling us right now, so everything
11 has to be done for them to be able to get the prize.

12 So if they can't do the windows, or the
13 they can't do exterior lighting, they are not going
14 to replace the sidewalk and curbs, I am already
15 making a list of conditions, and if those things
16 can't be done, they will never be able to get a
17 permit to open this restaurant, so they have to get
18 it done. They will have to work it out with the
19 landlord.

20 MR. MATULE: And just for the record,
21 they are --

22 MR. GALVIN: In this instance they are.
23 Let me say this --

24 MR. MATULE: -- they have a common
25 goal --

1 MR. GALVIN: -- I had other situations,
2 where I have had the tenant that had the landlord's
3 permission, came before the Board, made an argument,
4 and then the Board started requiring modifications
5 to the building that the tenant knew that the
6 landlord wouldn't agree to. They are not going to
7 get their approval then, okay?

8 So whatever we lay down, this is no
9 different than if this was the owner of the whole
10 building. It has to be done.

11 COMMISSIONER FISHER: Okay.

12 COMMISSIONER BRANCIFORTE: I am going
13 to ask a question that I never asked before, and
14 that has to do with the actual physical application.

15 Is Mr. Bijou only a one percent owner
16 in this building?

17 MR. MATULE: It is not a question of
18 being one percent --

19 COMMISSIONER BRANCIFORTE: On Page
20 14 --

21 MR. GALVIN: Being less than ten
22 percent.

23 MR. MATULE: -- and the building is
24 owned by 1426 Willow Avenue, LLC. The sole member
25 of the 1426 Willow Avenue, LLC is Bijou Holdings,

1 LLC.

2 Again, you know, we drilled down.

3 Bijou Holdings, LLC consists of Andwell Partners --

4 COMMISSIONER BRANCIFORTE: Which owns
5 99 percent --

6 MR. MATULE: -- which owns 99 percent,
7 and Lawrence Bijou owns one percent, so --

8 MR. PINO: That's not correct. That's
9 not correct. It's 80/20.

10 MR. MATULE: -- well, why don't you
11 come up and get under oath --

12 COMMISSIONER BRANCIFORTE: Well, you
13 know what --

14 MR. MATULE: -- maybe there was a
15 change --

16 COMMISSIONER BRANCIFORTE: -- it is not
17 that important, but I just thought this had to be a
18 mistake --

19 MR. GALVIN: No. But more than ten
20 percent would require some disclosure -- kick some
21 disclosures --

22 COMMISSIONER BRANCIFORTE: Okay.

23 MR. MATULE: But Mr. Bijou has signed a
24 disclosure and Andwell Partners, and the individuals
25 of Andwell Partners have also signed disclosures.

1 MR. GALVIN: So why don't you as a
2 condition of approval, you submit a revised
3 statement --

4 COMMISSIONER COHEN: Statement of
5 ownership.

6 MR. GALVIN: -- of ownership?

7 COMMISSIONER BRANCIFORTE: The
8 buildings -- can I, Mr. Chair?

9 CHAIRMAN AIBEL: Good job.

10 COMMISSIONER BRANCIFORTE: So I am
11 looking at Z-3, or it doesn't really matter what we
12 look at, but the buildings to the -- we are putting
13 a two-story addition on that southwest corner of the
14 building. On Clinton Street, we have Lots 11 and
15 12. Do we know how far back those buildings go?

16 THE WITNESS: They are a hundred
17 percent lot coverage. That is this wall here --

18 COMMISSIONER BRANCIFORTE: Okay.
19 That's that red wall --

20 THE WITNESS: -- comes right up, and
21 then you see it here. It pops up above the existing
22 roof. Do you see that height there?

23 So that is what is reflected in this
24 section --

25 COMMISSIONER BRANCIFORTE: Oh, okay.

1 THE WITNESS: -- so basically our roof
2 is coming above that approximately 11 feet above
3 this existing roof.

4 COMMISSIONER BRANCIFORTE: So we have
5 that deck there to the right in that photograph in
6 Z-9 --

7 THE WITNESS: Right.

8 COMMISSIONER BRANCIFORTE: -- just to
9 the left of that deck is a white portion.

10 Is that also same part of the same
11 building?

12 THE WITNESS: Yes. This is this wall
13 here that you're seeing.

14 You can see that window here is there,
15 and these small windows are there, so this is our
16 building, and we are basically putting it in this
17 corner here.

18 COMMISSIONER BRANCIFORTE: Okay. And
19 it is going to back up to that red wall?

20 THE WITNESS: Right.

21 COMMISSIONER BRANCIFORTE: Okay. I
22 just wanted to make sure there are no windows that
23 were --

24 MR. MATULE: I don't know if they still
25 are the operators of that building, but the building

1 immediately to the west of us is the old Pochi Crest
2 operation or the new Pochi Crest operation.

3 COMMISSIONER BRANCIFORTE: 213
4 occupants, does that include any possible sidewalk
5 cafe that will go anywhere in the building?

6 THE WITNESS: That is just the interior
7 ground floor.

8 COMMISSIONER BRANCIFORTE: Should we be
9 able to consider that, because it adds additional
10 occupants, which adds parking?

11 MR. MATULE: I can address it.

12 I have the operator here who I was
13 going to ask testify about that, but quite
14 frankly --

15 MR. GALVIN: I think we can wait --

16 MR. MATULE: -- I don't even know if
17 the county allows sidewalk cafes.

18 COMMISSIONER BRANCIFORTE: Really?

19 MR. GALVIN: -- I think that's a great
20 thought, but -- oh, so they might not have it
21 because the county might not permit it?

22 MR. MATULE: Right. But I know when
23 the city -- under the city ordinance, it is a
24 seasonal --

25 MR. GALVIN: Let me just say this. Mr.

1 Dean is very acquainted with our ordinances. He is
2 a very competent traffic expert. Let's hold that
3 question for Mr. Dean, and we'll compartmentalize
4 that.

5 COMMISSIONER BRANCIFORTE: Got you.

6 COMMISSIONER FISHER: Can I ask a
7 question, because I am unclear in Jeff's report.

8 What is the situation on the FEMA
9 elevation requirements, and if they have to do
10 anything?

11 MR. MARSDEN: Well, they have to get an
12 individual permit, if they are below the base flood
13 elevation of 13 -- 12 in this area.

14 MR. MATULE: My understanding is that
15 the owner has submitted paperwork to the DEP, and
16 based upon the fact that the renovation costs are
17 less than 50 percent of the value of the building,
18 the DEP is issuing a letter of no interest. We were
19 hoping to have it tonight, but we don't, but they
20 verbally told us it would be forthcoming.

21 MR. GALVIN: Just for the Board's
22 information, and Jeff will agree with me, that if
23 the improvements were going to be 50 percent more
24 than the value, yes, then they have to comply with
25 the FEMA requirements, and they have to elevate the

1 building, or as you have seen in the past, they have
2 to wetproof it, so they are hoping that they are
3 going to be okay, because what they are proposing
4 here is the renovation to the building, and that
5 little room upstairs isn't really going to be more
6 than 50 percent of the cost of the building --

7 MR. MARSDEN: Yeah --

8 MR. GALVIN: -- it seems right --

9 MR. MARSDEN: -- typically what you do
10 is you request a letter of jurisdiction or
11 determination, and the DEP says, yes, because of
12 your work we feel you need an individual permit.
13 Then you will have to provide the individual permit.

14 If not, you will get a letter
15 indicating that there is no jurisdiction by DEP
16 because of the fact they are spending less than 50
17 percent of the building.

18 MR. GALVIN: But we are not close to
19 that 50 percent line --

20 MR. MARSDEN: I don't think so --

21 MR. GALVIN: -- so Jeff is just raising
22 it to be careful --

23 MR. MARSDEN: -- right.

24 MR. GALVIN: -- so we are good.

25 Anything else? I'm sorry.

1 COMMISSIONER BRANCIFORTE: On 1300

2 Park, did you represent 1300 Park?

3 I can't remember -- no, you didn't. It
4 was another attorney.

5 1300 Park, they were talking about
6 putting that restaurant in, and the ventilation had
7 some sort of scrubber unit or something like that to
8 keep the odors to a minimum. Does that sound --

9 THE WITNESS: Yes. That is what we are
10 saying is the exhaust for the kitchen will have
11 that -- will be designed to minimize the odors.
12 That is the mechanical engineer will, when they
13 specify the unit that will be required.

14 COMMISSIONER BRANCIFORTE: Okay. Thank
15 you. I am good, Mr. Chair.

16 Thank you.

17 CHAIRMAN AIBEL: Anything else?

18 COMMISSIONER FISHER: No.

19 CHAIRMAN AIBEL: Mr. Cohen?

20 COMMISSIONER COHEN: Yes.

21 Well, with respect to the interaction
22 between the restaurant use and the residential
23 units, I know that your plan really focuses on the
24 changes that you are making to accommodate the
25 restaurant use. But has any thought gone into the

1 design with respect to insulating?

2 I mean, Commissioner Branciforte asked
3 about scrubbers on the smoke stacks, but I mean in
4 terms of noise and use with respect to the
5 residential units that will be above the restaurant.

6 THE WITNESS: Yes.

7 Well, I mentioned before, and as this
8 note indicates, the tenant -- the floor ceiling
9 separation between our space and the residential, it
10 will have a fire rated ceiling and also sound
11 attenuation will be installed between the joists to
12 minimize the transfer of sound up into the units.

13 COMMISSIONER COHEN: Okay. Thank you.

14 CHAIRMAN AIBEL: Anybody else,
15 Commissioners?

16 COMMISSIONER TREMITIEDI: Nothing.

17 MS. BANYRA: I just had a question.

18 The garbage bins can't be pulled inside
19 because of the different uses, is that how that's
20 working, Mr. D'Angelo?

21 THE WITNESS: For residential --

22 MS. BANYRA: Residential, yeah.

23 Why would you leave those out, other
24 than maybe they are working?

25 THE WITNESS: Well, they are existing

1 there, and I don't think that there is really an
2 area within their section of the building to pull
3 them inside, because it is just the -- there is just
4 the egress stair in the back and then the other
5 stairwell.

6 COMMISSIONER BRANCIFORTE: Do you have
7 any photos of where they put their garbage right
8 now?

9 THE WITNESS: See the other stairwell
10 here, it's very -- sorry -- the other stairwell is
11 pretty much just the stair and then the landing.
12 There's not adequate room to really --

13 MS. BANYRA: Will they be redone in
14 terms of materials?

15 I just didn't remember looking at what
16 they looked like.

17 THE WITNESS: There would, so --

18 MS. BANYRA: Are they in good condition
19 or do they need to be fixed up?

20 THE WITNESS: Well, when they are
21 removed for the sidewalk renovations, obviously if
22 they, you know, don't relocate easily, then they
23 would have to be rebuilt, you know, and the like.
24 But they'll be -- I am sure they will be painted
25 also to tie in with the rest of the building, you

1 know, the upgrade of the rest of the exterior at
2 minimum.

3 MS. BANYRA: So they should be redone
4 probably, if you are pulling them apart to resurface
5 the building, correct?

6 MR. MATULE: Yes.

7 THE WITNESS: Yes. I don't think that
8 is that big of an issue --

9 MS. BANYRA: Yeah. I don't know if it
10 is or it isn't. But if you are pulling them apart,
11 it just sounds like you should just redo it then.

12 MR. MATULE: The applicant has said,
13 one way or another, they will address that. Whether
14 they do it or the owner does it, it will be
15 addressed.

16 MS. BANYRA: The doors, is it Nano
17 Doors, is that what is happening with the --

18 THE WITNESS: Yeah. Over here, here
19 and then along 15th Street.

20 MS. BANYRA: Okay.

21 So is it the intention to have outdoor
22 dining, or is it more to have open door dining?

23 THE WITNESS: Well, the intent in the
24 design was to open up to bring the outside into the
25 space, you know, to have the outside flow into the

1 space, but I think that Mr. Pino will be able to
2 address some of that when he testifies.

3 MS. BANYRA: Okay.

4 The grating -- the grates that are
5 there may or may not be -- I don't know -- were they
6 part of the county design?

7 I am not sure that the Shade Tree
8 Commission still uses them. They are hard to clean
9 underneath, and you have to have two people to lift
10 them up, you know, and things, so maybe when you go
11 to the Shade Tree Commission for the species
12 selection and everything, just make sure that --

13 THE WITNESS: Confer with them on it --

14 MS. BANYRA: -- whatever is going to be
15 done, it may differ from the balance of the street
16 is what I am suggesting.

17 THE WITNESS: Okay. Yeah. I mean, if
18 that is what they think is in the best interest of
19 the street, then we will --

20 MR. MATULE: The only comment I would
21 make to that is that the county, I believe, has
22 their own design --

23 MS. BANYRA: Okay.

24 MR. MATULE: -- and they will probably
25 specify when we go to them --

1 MS. BANYRA: Got you. That's right.

2 That's a county road, right.

3 Then the other -- Mr. D'Angelo, maybe
4 you know the answer to this.

5 Your guard rail is represented around
6 the edge of the building. I guess I thought in some
7 of our hearings we have had comments back from the
8 fire department that they don't like anything right
9 up against the edge. Do you know -- because if they
10 are coming up to a building, they like to get up on
11 the building before they are kind of stopped by a --
12 whether it's a fence or something.

13 THE WITNESS: Yeah. In past practice
14 usually I have always done it on the rear and side
15 property line, recess it in the front to pull it
16 away from the front of the building. But whatever
17 they recommend, because obviously --

18 MS. BANYRA: So maybe just --

19 THE WITNESS: -- when we go through our
20 review with them, they will make us correct anything
21 on that.

22 MS. BANYRA: Okay.

23 (Board members confer)

24 MS. BANYRA: Are there any LEED
25 practices or any kind of green globes, any kind of

1 environmental sustainability things that are being
2 done that are a little different in terms of from
3 the architect's point of view?

4 THE WITNESS: Not that I know of, with
5 the exception of we are using LED lighting on the
6 exterior. We are using the ivy to soften the front,
7 but besides that --

8 MS. BANYRA: Anything for water, you
9 know, any kind of reduction methods in terms of --

10 THE WITNESS: Well, the plumbing
11 fixtures --

12 MS. BANYRA: -- well, it's standard --

13 THE WITNESS: Yeah, yeah, yeah.

14 MS. BANYRA: -- but is there anything
15 else that's being done in the kitchen?

16 THE WITNESS: No, not that I am aware
17 of at this point.

18 MS. BANYRA: That's all I have.

19 COMMISSIONER FISHER: I have one
20 question.

21 With regard to the ivy, what's
22 underneath the grating? Like what's the surface
23 going to be?

24 Again, just thinking, you know, a year
25 from now, they don't like to maintain the ivy. It

1 is not growing the way they want, and now you are
2 left with grates on the surface of the building.

3 THE WITNESS: Well, when they clean
4 that whole stucco system off the brick, it will be
5 the brick exposed --

6 COMMISSIONER FISHER: Okay.

7 THE WITNESS: -- and then, as was in
8 this picture, that mesh screening sits off the face
9 of the brick by a couple of inches, if you remember
10 the photograph, and then the intention is if the ivy
11 grows up, and it is going to have to be trained to
12 grow across, even above the windows. In the
13 elevations if we have it above the windows, you
14 know, that is one of the major esthetics of that
15 facade, so it is going, you know, to be taken care
16 of for the vines to grow properly, so -- and be
17 maintained.

18 MS. BANYRA: I didn't see any detail.

19 I know you called it out, but I didn't
20 see any detail on the plan on the landscaping in
21 terms of -- you testified the type of ivy, so maybe
22 you could specify in the landscaping plan.

23 THE WITNESS: Yes. That will be added
24 in because I saw your latest report, and we didn't
25 revise it, but I figured we would just discuss it at

1 the meeting. But, yes. The Thorndale English ivy
2 will be added to the landscaping legend.

3 COMMISSIONER DE FUSCO: You know, I
4 just wanted to ask one question actually.

5 I mean, I think it's a very smart use
6 of the space, but my concern is actually for Units
7 2A and 3A, where the new extension is going to be
8 built in their back windows.

9 So we are cutting off their light and
10 their air, so I am wondering, if we have all of this
11 green ivy work, has there been any thought of
12 beautifying that space to bring back something that
13 is a little greener for the courtyards of the --

14 THE WITNESS: Well, this -- you're
15 talking -- I'm sorry -- these units are the only
16 ones with windows onto --

17 COMMISSIONER DE FUSCO: The courtyard.

18 THE WITNESS: -- so this is going to
19 have this -- their deck is out here, and the other
20 unit above just looks down on it. It doesn't have
21 access --

22 COMMISSIONER DE FUSCO: So where is --
23 in the past they would have had perhaps a view of
24 the setting sun out west, presuming it could come
25 over the Palisades. Now, they are going to be

1 looking into office and on to a floor with no
2 windows.

3 So my question is: Has there been any
4 thought given to these units and the light and air
5 that they are losing?

6 THE WITNESS: Well, we are holding back
7 18 feet, and because there is a southern exposure,
8 this will trap the light throughout the day as it
9 cycles from east to west, so we feel like we are not
10 really encroaching that much that it is going to
11 inhibit that.

12 CHAIRMAN AIBEL: Are there any
13 improvements that could be made with the fencing,
14 something to, you know, ameliorate the stucco wall
15 that they will be facing?

16 COMMISSIONER FISHER: Like on that
17 wall, can you do something on that wall to make
18 it --

19 COMMISSIONER BRANCIFORTE: Even
20 extending the ivy out maybe?

21 MR. MATULE: Yes.

22 Can you put a green screen on that?

23 THE WITNESS: Yes. We could put the
24 same treatment on the office wall in the space where
25 their deck ends in that cavity --

1 MR. MATULE: With a green screen --

2 THE WITNESS: -- we will add the ivy on
3 this facade then.

4 MR. MATULE: On the east facing wall of
5 the addition?

6 THE WITNESS: Correct.

7 MR. PINO: Do the same screen that we
8 are doing on the front facade, along that same
9 wall --

10 THE REPORTER: Who is that talking?

11 THE WITNESS: Anthony Pino.

12 THE REPORTER: I can't hear him.

13 MR. MATULE: We are going to have him
14 up here under oath shortly.

15 COMMISSIONER FISHER: He said they
16 would install the same screens for the ivy on that
17 wall.

18 MS. BANYRA: Mr. D'Angelo, on the new
19 roof, will it be a white roof, the new roof?

20 THE WITNESS: Yes.

21 MS. BANYRA: Was the other roof being
22 replaced or not?

23 THE WITNESS: I have not investigated
24 that, if it's in need of it. Right now it is
25 currently a dark colored roof, but, you know, the

1 addition will have a light white colored roof or
2 reflectivity, you know.

3 CHAIRMAN AIBEL: Anything else?

4 Mr. Marsden?

5 MR. MARSDEN: Does the existing
6 basement have a building -- yeah -- does the
7 existing building have a basement?

8 THE WITNESS: That is that small
9 section, which is a cellar, because it is totally
10 below grade.

11 MR. MARSDEN: Yeah, because I didn't
12 see it --

13 THE WITNESS: It is on the partial
14 plan, which is on Z-2 --

15 MR. MARSDEN: That is just the small
16 space off the Bilco doors?

17 THE WITNESS: That's it. Everything
18 else is slab on grade, yes.

19 MR. MARSDEN: Okay. That was my
20 question.

21 MR. MATULE: And just for the record,
22 Mr. D'Angelo, the only access to that is through
23 that outdoor sidewalk door?

24 THE WITNESS: Yes.

25 MR. MATULE: There's no access

1 internally from the building?

2 THE WITNESS: No.

3 MR. GALVIN: I got one thing.

4 I just looked at 1300 Park that you
5 weren't a part of, but what we did there is we had a
6 condition that the applicant agreed to install a
7 filtration system to eliminate odor.

8 Can you do that?

9 THE WITNESS: Yes.

10 CHAIRMAN AIBEL: Anything else, Board
11 members?

12 Professionals?

13 Let me open it up to the public.

14 Is there anybody in the public who
15 wishes to put a question to the architect?

16 Seeing nothing...

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

19 COMMISSIONER GRANA: Second.

20 CHAIRMAN AIBEL: Okay. All in favor.

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

23 (Board members confer.)

24 CHAIRMAN AIBEL: We will reconvene at
25 nine o'clock on the dot.

1 MR. MATULE: Sharp.

2 (Laughter)

3 (Recess taken.)

4 CHAIRMAN AIBEL: It is exactly nine, if
5 you're time challenged, but let's get back to work.

6 MR. MATULE: Thank you.

7 At this time I would like to call
8 Anthony Pino.

9 MR. GALVIN: Raise your right hand.

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

13 MR. PINO: I do.

14 A N T H O N Y P I N O, having been duly sworn,
15 testified as follows:

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

18 THE WITNESS: Anthony Pino, P-i-n-o.

19 MR. GALVIN: All right. Your witness.

20 MR. MATULE: Mr. Pino, you are going to
21 be the operator of the restaurant that's proposed at
22 this site, correct?

23 THE WITNESS: Correct.

24 MR. MATULE: Could you give the Board
25 members just a brief background of your work

1 experience and your existing operations in the City
2 of Hoboken?

3 THE WITNESS: Yup.

4 So I have 15 years of having a
5 restaurant in this town, Anthony David's, on the
6 corner of Tenth and Bloomfield, and then we also
7 have Bin 14, which is going into its sixth year, at
8 1314 Washington Street.

9 And, you know, I am a restaurant owner
10 and operator, so we offer great food, great space,
11 and just a great part of what I am, I am a chef,
12 so --

13 MR. MATULE: Okay, Chef --

14 THE WITNESS: -- so --

15 (Laughter)

16 MR. MATULE: -- could you describe with
17 specific reference to this site what it is you are
18 proposing in terms of the type of restaurant you are
19 going to be operating?

20 THE WITNESS: Sure.

21 So as a chef, you cultivate and you
22 learn a lot more about food and the industry and
23 stuff like this.

24 So what we are looking to do is bring
25 to Hoboken a farm to table gastro pub, so that would

1 entail, you know, everything from roast chicken to
2 burgers, some steak, local and line caught fish,
3 which is seasonal, okay, and in an industrial,
4 somewhat comfort level dining experience, okay?

5 So we are talking about a wood burning
6 oven, a kitchen that is wrapped in glass, high
7 ceilings.

8 You had mentioned before about what are
9 we going to use for flooring, making sure that, you
10 know, so we don't want to use hardwood floors, so we
11 are going to be using like a -- what is the stuff
12 called -- I forget the name of it -- the plaster
13 flooring, all right? So if there is rain, this and
14 that, it is not going to get damaged and so forth.
15 Radiant heating for the flooring throughout. Those
16 are some of our ideas.

17 We want to be able to have a place that
18 offers entertainment to all of us here, to families,
19 and just a great dining experience and so forth and
20 seasonal menus.

21 MR. MATULE: Do you expect most of your
22 clientele will be the local population of Hoboken?

23 THE WITNESS: Yeah.

24 So after 15 years of knowing the market
25 and so forth, it's the same reason why we are here

1 more and more. Our market is our neighborhood.

2 Okay?

3 We know way back in the day, people
4 used to drive here more and more, and now everyone
5 is already here. So when we open a restaurant,
6 every one that we search for, we do a market
7 research, so we know everyone who is going to come
8 to this restaurant is really within like a six to
9 eight-block radius, so that gives them the
10 availability to walk there.

11 That is what makes the restaurants in
12 this town busy, because everyone can walk there.
13 You don't need to drive there. And from Bin 14 and
14 Anthony David's, this is what we have known to
15 follow.

16 MR. MATULE: And we have a parking
17 traffic expert who is going to testify, but it is
18 your intention to participate in the Hoboken Park
19 and Shop Program?

20 THE WITNESS: Correct.

21 MR. MATULE: So if any patrons are
22 coming by car from out of town, they can park in
23 some of the surrounding garages --

24 THE WITNESS: We are going to offer a
25 three-hour validation, yes.

1 MR. MATULE: And there were some
2 concerns raised by several Board members about sound
3 attenuation between the commercial space and the
4 residential space.

5 It is not your intent to have any kind
6 of amplified music in there or anything like that?

7 THE WITNESS: I will have music, but
8 nothing amplified. We are not a sports bar. We are
9 a dining establishment. Go there, nice and quiet.
10 You can enjoy each other's conversations, some good
11 food, some good drinks. But if we did have any type
12 of entertainment, it would only be an acoustic level
13 of a Sunday brunch. That is what we would be
14 offering.

15 MR. MATULE: And there was also some
16 inquiry about outdoor seating or outdoor cafes.

17 Do you have any thoughts or plans
18 regarding, you know, seasonal outdoor cafe use?

19 THE WITNESS: Yeah. I mean, it is
20 always a possibility, but as of right now we are
21 more contingent on let's get it open, let's see how
22 it goes, and so forth. And then if we decided to go
23 forward with the outdoor cafe, we would follow any
24 proper channels to get it approved.

25 MR. MATULE: Thank you.

1 That is pretty much it, if the Board
2 has any particular questions.

3 CHAIRMAN AIBEL: Board members, anybody
4 have anything for Mr. Pino?

5 COMMISSIONER BRANCIFORTE: The wood
6 burning oven, is it going to be a true wood burning
7 oven, or is it going to be a gas oven that just
8 happens to have wood in it, because I'm a little bit
9 worried about the odors of constant wood burning to
10 the neighbors.

11 THE WITNESS: Yeah. It is like a
12 double oven, so you kind of have like your gas oven
13 that is there to really heat it, and then something
14 that adds a little bit of smoke to the food and so
15 forth to give it a more natural flavor, so it would
16 be a double --

17 COMMISSIONER BRANCIFORTE: Is it
18 something like you have at Bin 14 now?

19 THE WITNESS: No. Bin 14 is strictly
20 gas, even though it looks like it has the flames in
21 the back, it's strictly gas.

22 COMMISSIONER BRANCIFORTE: Because I am
23 just worried about the odor of like wood burning
24 constantly eight, ten --

25 MR. GALVIN: I am just going to say,

1 that should be covered, too, by this filtration
2 system.

3 COMMISSIONER BRANCIFORTE: Would it be?
4 That's what I'm wondering.

5 MR. GALVIN: Yes, it would be. It
6 would be scrubbed.

7 Do you disagree?

8 MR. MATULE: No.

9 MR. GALVIN: We just feel like you have
10 to flip to the other side.

11 (Laughter)

12 Galvin is agreeing with me, I have to
13 go no.

14 No, we don't want this approval. Deny
15 it.

16 (Laughter)

17 COMMISSIONER BRANCIFORTE: And it is
18 going to have liquor, you already have a liquor
19 license secured?

20 THE WITNESS: That's correct.

21 COMMISSIONER COHEN: Just a question
22 out of curiosity.

23 I remember when you came to Bin 14, and
24 you made the application for the backyard, you
25 mentioned that you opened Bin 14 six years ago, but

1 do you remember how long ago that was? I'm just
2 curious.

3 THE WITNESS: With the backyard?

4 COMMISSIONER COHEN: Yes. When you
5 were before us on that.

6 THE WITNESS: Yeah. That was three
7 years ago.

8 COMMISSIONER COHEN: Three years ago.

9 COMMISSIONER BRANCIFORTE: Would you
10 have any objection to putting some sort of sign in
11 the window or making it clear to your customers that
12 you participate in this parking --

13 THE WITNESS: You know, obviously being
14 on that type of road, you would actually need to
15 drive and stop to take a look at it.

16 COMMISSIONER BRANCIFORTE: No. I mean
17 as -- well, I guess what I'm concerned about is --

18 THE WITNESS: The best way we have
19 to --

20 COMMISSIONER BRANCIFORTE: -- I want to
21 make sure people understand that they can, you know,
22 go park in this lot rather than clog up the streets.

23 THE WITNESS: What we would propose is
24 that as we do our marketing through our PR firm.
25 The people that are coming in town aren't looking in

1 the window. They want to know before they even come
2 there that, okay, parking validation. So when they
3 are looking at our website or their email glass or
4 our newsletter, they are going to know that
5 validation is already available to you at these
6 local lots and so forth, free, let us know you are
7 there, and we will take care of that for you.

8 MR. GALVIN: Because I know like the --

9 MR. MATULE: But you wouldn't have any
10 objections to posting a sign inside the restaurant
11 either, would you?

12 THE WITNESS: Nope, nope.

13 (Laughter)

14 COMMISSIONER BRANCIFORTE: Well, I know
15 that the Beer Garden participates in this parking
16 thing, but there is no information to tell people,
17 direct them to the parking spaces.

18 THE WITNESS: Yes. I'd just like to --
19 we get most of our -- everything that we want to
20 send out to people instead of, you know, because
21 fliers, this and that, people don't even pay
22 attention to it. That is why it is easier for us on
23 an email glass and our website, it will say that.
24 But we definitely will put something available.

25 CHAIRMAN AIBEL: I know you are going

1 to have a parking expert, but I don't know if you
2 can describe the parking or drop-off possibility
3 along Willow and 15th Street for that matter.

4 THE WITNESS: Sure.

5 Well, I think Willow is kind of a just
6 dangerous road in general. But on 15th Street we
7 could definitely accommodate some kind of a
8 drop-off, because I think it -- it's definitely --
9 the volume is much lower there.

10 If somebody were to come around,
11 however the roadway is worked out, accommodate
12 people with the drop-off, possibly, you know, as
13 people come by, they need special valet services and
14 so forth. This is something down the road that we
15 can offer.

16 CHAIRMAN AIBEL: Is that something that
17 you arrange with the parking director?

18 MR. MATULE: Well, what I was going to
19 suggest, there currently is on-street parking on
20 Willow Avenue, like in front of Battaglia's there.

21 I was going to suggest maybe when we go
22 to the county, we inquire about maybe a handicapped
23 space out front or a loading zone, one or the other.

24 THE WITNESS: That would be great.

25 Especially since the handicapped ramp is kind of

1 right there, maybe something for handicapped
2 accessibility would be great.

3 MR. MATULE: But that would be
4 something that we would have to address with the
5 county.

6 CHAIRMAN AIBEL: Is it city parking on
7 15th Street?

8 MR. MATULE: I believe it is.

9 THE WITNESS: Metered.

10 MR. MARSDEN: It is metered. I mean,
11 it's got the pay stations.

12 CHAIRMAN AIBEL: I don't know, maybe a
13 trip to the parking director might be worthwhile to
14 see if you can get a spot there.

15 THE WITNESS: Sure.

16 COMMISSIONER BRANCIFORTE: Is 15th
17 Street a county road, too, or is it just --

18 MR. MATULE: I believe it is. I have
19 to check and see. I know some of them are only
20 between certain streets, so I don't have the list in
21 front of me.

22 COMMISSIONER FISHER: It is not.

23 CHAIRMAN AIBEL: Okay. Anything else
24 for Mr. Pino?

25 COMMISSIONER DE FUSCO: Are you

1 thinking about having events here in the back room?

2 Is this a potential event space?

3 THE WITNESS: It is. I mean, you know,
4 it is not a huge venue, but obviously we know event
5 space here in town is very super limited, so yes,
6 that is a possible venue for christenings and
7 birthday parties and fundraisers and so forth.

8 COMMISSIONER FISHER: The back room --

9 COMMISISONER DE FUSCO: In a case like
10 that, how would you propose dealing with potentially
11 the 56 occupants that would come in at one time?
12 They may not necessarily be around the corner. They
13 might be coming in multiple cars.

14 THE WITNESS: Yup.

15 So something like, I mean, generally a
16 fundraiser is probably from people who are local and
17 so forth, so taxi service or the buses. There are
18 three bus lines that drop off just across the
19 street. I think it's the 89, the 126 and -- I'm
20 sorry --

21 COMMISSIONER GRANA: 22.

22 THE WITNESS: -- and the 22.

23 Thank you.

24 And there is also the waterway ferry
25 just seven blocks away.

1 So what I am saying is we would
2 definitely arrange with the 1415 -- I'm sorry --
3 1415 Park Avenue -- Park Place. When that opens up,
4 there will be 160 I think additional spots, public
5 parking in there, and it would definitely be
6 arranged with the landlord there, and to make sure
7 that we don't block up 30 or 40 spots for a
8 particular event on this particular day, so we would
9 definitely have that because we want guests coming
10 and not have to be worrying about parking.

11 COMMISSIONER DE FUSCO: Great. Thank
12 you very much.

13 COMMISSIONER BRANCIFORTE: People who
14 own 1415 Park, that is also Bijou property?

15 THE WITNESS: That is.

16 COMMISSIONER BRANCIFORTE: Okay.

17 MR. MATULE: For the record, it's not.
18 I don't believe it is. I believe that it is a
19 different entity that owns it now --

20 COMMISSIONER BRANCIFORTE: It wouldn't
21 be the same LLC --

22 MR. MATULE: -- because they are
23 overseeing the construction of the new building --

24 COMMISSIONER BRANCIFORTE: Okay.

25 CHAIRMAN AIBEL: Jeff?

1 MR. MARSDEN: Yeah.

2 As you indicated, Willow is a county
3 road. Currently those garage doors prevent parking
4 on those sections of the street.

5 What is the possibility when you go to
6 the county to ask for either a drop-off zone there
7 or a drop-off zone on 15th, so rather than stop the
8 car on the road to unload and reload, just have a
9 drop-off area and a handicapped space in some way,
10 shape or form. I think that would be --

11 MR. MATULE: We are certainly open to
12 that, and I think the county will frankly be happy
13 when those curb cuts are eliminated --

14 MR. MARSDEN: So you wouldn't be taking
15 up additional parking spaces by doing that on the
16 county road. Also --

17 THE WITNESS: No.

18 MR. MARSDEN: -- will you have valet?
19 Did you mention valet?

20 THE WITNESS: I mean in the scenario
21 just say if there is an event there, where they need
22 some kind of service, then we would outsource, you
23 know, a certified valet service and still utilize
24 the lot that we are going to be utilizing right
25 there.

1 CHAIRMAN AIBEL: Anything else, Board
2 members?

3 Professionals?

4 Let me open it up to the public.

5 Does anybody wish to ask Mr. Pino a
6 question?

7 Seeing none, motion to close the public
8 portion.

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

11 COMMISSIONER DE FUSCO: I will second
12 it.

13 CHAIRMAN AIBEL: Thanks.

14 All in favor?

15 (All Board members voted in the
16 affirmative.)

17 CHAIRMAN AIBEL: Thank you.

18 MR. MATULE: Thank you.

19 Mr. Dean?

20 MR. GALVIN: Raise your right hand.

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

24 MR. DEAN: Yes, I do.

25

1 G A R Y D E A N, having been duly sworn, testified
2 as follows:

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

5 THE WITNESS: Gary Dean, D-e-a-n.

6 CHAIRMAN AIBEL: Mr. Chairman, do we
7 accept Mr. Dean's credentials as a traffic expert?

8 CHAIRMAN AIBEL: We do.

9 MR. GALVIN: You may proceed.

10 MR. MATULE: Thank you.

11 Mr. Dean, you are familiar with the
12 proposed restaurant project at this site and the
13 surrounding area, correct?

14 THE WITNESS: Yes, I am.

15 MR. MATULE: And you prepared a traffic
16 report, dated September 24th, 2013, with respect to
17 the application?

18 THE WITNESS: For both, traffic and
19 parking were covered in that correspondence.

20 MR. MATULE: All right. Could you go
21 through your report for the Board and give them the
22 benefit of your professional opinion regarding the
23 parking and traffic at the site?

24 THE WITNESS: Certainly.

25 Very briefly, as the Board is aware,

1 the restaurant use is not permitted in the I-Zone,
2 and the applicant is seeking a variance to allow
3 that.

4 There are a number of permitted and
5 conditional uses in the I-Zone, industrial
6 principally, as you see by the name, office, factory
7 outlet, retail stores, and so the first element of
8 our report really compares the traffic that we would
9 expect with the restaurant use with the traffic one
10 would otherwise expect with a permitted use in the
11 I-Zone.

12 I will draw your attention to Table 1
13 on Page 2 of our report, where we evaluate the
14 traffic impacts associated with the six residential
15 apartments. They are candidly a very nominal
16 traffic generator with the proposed restaurant
17 facility at 140 fixed seats, with certain estimates,
18 as you heard from the applicant, but consistent with
19 our other experience in Hoboken, where essentially
20 these uses cater to residents, and then because of
21 that, there is a preponderance of walk-up traffic,
22 the occasional bike traffic or mass transit, but by
23 catering to the immediate neighborhood, there is not
24 a high demand in terms of automobile use.

25 Contrasted with the certain other

1 elements in the I-Zone, manufacturing and R&D or
2 even an office use, these employment-type centers,
3 where there is some element of shipping and/or
4 receiving would be a little bit more vehicular
5 incentive.

6 But I would submit that the proposal
7 for a restaurant generating -- and the apartments
8 generating in the evening, which is the higher of
9 the peak hours, a.m. or evening, with 20 expected
10 traffic movements falls right in line with what we
11 would otherwise project for a conforming use in the
12 zone, and so to that extent, and you will hear from
13 our planner, by being essentially the traffic
14 equivalent of what we would expect in the zone, I
15 think we have passed that test as far as the
16 negative criteria and certainly not having the
17 detrimental impact regarding traffic.

18 I think the issue that perhaps is more
19 on your minds and certainly was on mine pertains to
20 parking, and because the lot is entirely developed,
21 there is obviously a classic hardship of not having
22 any parking regardless of the use, and the issue is
23 whether the restaurant use presents a type of
24 activity that is potentially more intrusive on the
25 neighborhood in terms of that impact.

1 To help advise you with that, we
2 actually did a parking study. We looked at roughly
3 a one-block radius, which I think in hindsight is
4 rather shallow, but we were trying to provide this
5 economically. We were there after schools resumed
6 in mid to late September of 2013, and I will sort of
7 cut to the chase.

8 During a weekday evening peak hour,
9 dinnertime hours, in my opinion, we found 39
10 available parking spaces, and that does not include
11 the spaces that are out of service because of the
12 Viaduct project. There were 15 spaces that have
13 been blocked off and unavailable during our study.

14 But from what we did count, my
15 expectation is that we would have 39 spaces
16 available, and I will get to what I believe the site
17 would demand worst case for parking notwithstanding
18 your ordinance, but I have estimated a worst case
19 parking need of about 35 parking spaces, if the use
20 attracts a significant amount of traffic from
21 outside of the neighborhood. That is not the
22 applicant's expectation, but as a traffic engineer,
23 I sort of follow the basic tenents and projections
24 that we use for our standards without a major
25 adjustment, recognizing the urban area and the

1 higher density of the neighborhood, so on a weekday
2 it is not issue.

3 On Saturday we found only 13 parking
4 spaces, and again, it is tight in that neighborhood.
5 As you heard, the applicant will participate in the
6 parking reimbursement program. By my count there
7 are five public parking facilities within a
8 two-block radius of the site going from the Tea
9 Company -- I forget the name of the one that's on
10 15th, and then two blocks to the south I believe at
11 Willow and 13th. Within that area, there are those
12 available facilities.

13 My expectation would be as with
14 virtually all of the successful restaurants in
15 Hoboken, there is no parking. I mean, you have
16 fantastic -- and I live an hour away. I come to
17 this city to go to your restaurants quite frankly --

18 COMMISSIONER FISHER: You are going to
19 take up one of the spots then.

20 THE WITNESS: I have to. That
21 hour-drive is worth it, not every weekend, but I
22 would have to pay and park in the garage, and
23 Cucharamama, it is a difficult task to find parking,
24 and sometimes I drive away and go somewhere else.

25 But that issue aside, with the

1 availability of that amount of public parking, which
2 many of your other very successful restaurants don't
3 have, I believe this site is unique in its proximity
4 to that type of available parking, and it won't
5 create an undue burden on the neighborhood.

6 Most of the parking as one gets further
7 west is resident permit parking only, so if a
8 resident, I believe, and I don't know how the
9 parking regulations work specifically, but if you
10 have a permit, but you live on the southern end of
11 the city, that permit would allow you to park in the
12 northern end of the city, I believe, if you are a
13 resident.

14 COMMISSIONER FISHER: Yes.

15 THE WITNESS: So those individuals
16 wouldn't be displacing. They are still residents of
17 Hoboken, and that compromises the majority of the
18 available parking in the area.

19 The expectation is obviously no one has
20 a greater interest in ensuring that this is a
21 successful operation and is not depending on parking
22 than the applicant. They believe that there is a
23 population in density in this area, and as the
24 general northwest quadrant of the city continues to
25 be redeveloped and becomes increasing vital, that

1 that base that is coming from the redeveloped area
2 around Monroe Center and a few further blocks south,
3 that is your basis, and that is generally an
4 underserved area in terms of restaurants and
5 facilities, and this is now an infill development to
6 help meet that demand. So I believe Hoboken is very
7 unique, and some of the standards that as a TRAC
8 engineer use, I kind of have to disregard because
9 they apply to suburban locations.

10 Your ordinance is very unusual, in my
11 experience, where I believe it requires one parking
12 space for every 16 square feet of patron area, and
13 it shows a theoretical demand of 190 parking spaces.
14 That assumes literally people are standing on
15 tables. They're standing on chairs. You can't fit
16 190 people in this --

17 MS. BANYRA: It is based on experience,
18 though. I am kidding.

19 (Laughter)

20 THE WITNESS: I am sure there have been
21 bars or restaurants in Hoboken that are literally
22 standing room only. Tables and chairs have a
23 different element, and I don't know necessarily that
24 one should assume that every patron also drives to
25 the site.

1 I think it is a conservative ordinance
2 standard, but one that given the circumstances for
3 this particular location, I think candidly don't
4 apply, but we are seeking the variance recognizing
5 the unique characteristics of this neighborhood.

6 So if there are any specific questions,
7 you know, related to either traffic or parking, I
8 would be happy to address those, but I did want to
9 quantify at least what is available in the
10 neighborhood.

11 We could have gone further out. It
12 just would have been very time and costly for the
13 applicant when we realized that there are so many
14 public parking facilities nearby.

15 CHAIRMAN AIBEL: What was the name of
16 that restaurant you drive an hour to get to?

17 COMMISSIONER FISHER: Cucharamama.

18 (Laughter)

19 COMMISSIONER BRANCIFORTE: Cucharamama.

20 There is parking at the St. Mary's lot
21 down the block.

22 THE WITNESS: Thank you for that.

23 (Laughter)

24 COMMISSIONER BRANCIFORTE: Well, if a
25 traffic engineer can't figure out where the garage

1 is --

2 (Laughter)

3 THE WITNESS: I go on the website, and
4 I look at it. It's exactly as the applicant said --

5 MR. MATULE: They're throwing out your
6 testimony --

7 (Laughter)

8 THE WITNESS: -- that is what I am
9 doing.

10 COMMISSIONER BRANCIFORTE: Well, it is
11 always interesting when I hear traffic engineers say
12 something like "I drive away," but, you know, that's
13 just my point. If Cucharamama had a sign, like I am
14 asking for in front of your restaurant, "Parking
15 this way," you would know that there is a lot right
16 down the street, so that's why I'm kind of driving
17 home my point.

18 I want you to make it clear to people
19 as they pull up, parking is over there. You know,
20 don't drive around the neighborhood for an hour, the
21 parking lot is over there --

22 THE WITNESS: I agree, and --

23 COMMISSIONER BRANCIFORTE: -- and you
24 will get the discounted parking when you --

25 THE WITNESS: -- websites and emails,

1 and there are even apps for smart phones, where if I
2 hit parking, it tells me where to go, and that's
3 becoming the trend.

4 COMMISSIONER BRANCIFORTE: Well,
5 obviously not you then because you would know
6 there's parking spaces across the street at St.
7 Mary's Hospital, if you are using it.

8 But anyway, what is the occupancy of
9 the restaurant again?

10 MR. GALVIN: 213.

11 COMMISSIONER BRANCIFORTE: And you are
12 basing this on 160?

13 THE WITNESS: 140 seats, but occupancy
14 I think is calculated a little differently with
15 standing areas.

16 MR. GALVIN: Okay. I am just repeating
17 what the architect said. I am the parrot.

18 COMMISSIONER BRANCIFORTE: I'm fine.

19 COMMISSIONER FISHER: I have a
20 question.

21 This is my neighborhood. I live in the
22 Hudson Tea Building, so we -- what we feel a lot up
23 there is (a) notwithstanding you highlight there is
24 parking, all of the garages are full. It will be
25 nice when the new 1415 or whatever opens, and there

1 is some additional, but all of the lots are
2 completely full all of the time, and so I think
3 parking is going to be an issue. It is going to put
4 more people up there. But the one question I have
5 is: Did you look at like the pedestrian flow?

6 I mean, this is on the far side of
7 Willow, so this is -- so the people coming, a lot my
8 guess, are going to come from Hudson Tea, and they
9 are going to come from the north end, and Willow,
10 you have to cross Park, you have to cross Willow,
11 and those are not easy streets to cross whether you
12 are at 14th or 15th.

13 Did you look at all of that or
14 calculate pedestrians?

15 THE WITNESS: Well, I didn't calculate
16 it specifically.

17 I am now seeing a trend in my industry
18 where streets have been designed for cars for
19 decades, and they are wide and they are big, and
20 they are designed to be a conduit for traffic.

21 I am now seeing, particularly in Hudson
22 County, working in Jersey City, where streets are
23 being narrowed, and we're implementing elements of
24 what we call traffic calming, where on-street
25 parking has a little bump-out at the corner and

1 while it makes it pretty, it narrows the distance a
2 pedestrian has to cross the street.

3 The county unfortunately is not quite
4 as progressive, although they are coming along, and
5 they are their streets.

6 COMMISSIONER FISHER: And
7 unfortunately, and I know this is -- I haven't been
8 on the Board that long, but this is probably one of
9 the first that's been in front of the Board around
10 the corner, this is the entrance into Hoboken. You
11 know, both Willow and Park, so you can't really
12 narrow those streets, right?

13 Because every time you put more
14 traffic, every other development is going to put
15 that much more traffic on both of those roads, and
16 it is going to be a pedestrian safety issue, and it
17 is a huge issue I think that we have not solved yet.

18 MR. GALVIN: Yeah. But it is one of
19 those broader --

20 COMMISSIONER FISHER: Yup.

21 MR. GALVIN: -- it's like when we
22 talked the other night, it is a broader thing that
23 Hoboken has to work out.

24 What Mr. Dean is suggesting is that the
25 county has to look at this, and they have to figure

1 out something in a way, you know, what they are
2 going to do, so pedestrians can get across.

3 THE WITNESS: I know, Ms. Banyra, in
4 your report, there was a notation in your report
5 that the area has been designated in need of
6 redevelopment.

7 The redevelopment standards are getting
8 to be drafted. That is the opportune time to
9 implement street scape standards and ways to make
10 the streets -- the term nowadays is called complete
11 streets -- recognizing that there are many different
12 user groups, and it's not just automobiles and
13 trucks, that there are pedestrians and bicyclists
14 that share that same right-of-way, and that better,
15 more creative design techniques need to be
16 implemented to address that user group, and that's
17 the opportune time.

18 MR. GALVIN: The other thing, too, in
19 my time here in Hoboken, I have learned the hard way
20 that we want -- that we are not as interested in
21 getting as much -- maximizing parking, because we
22 want people to use mass transit and to use these
23 other means of getting around and walking, and so I
24 don't think it is the same problem that we would not
25 allow a restaurant in one of my suburban communities

1 without adequate parking.

2 COMMISSIONER FISHER: I guess the way I
3 think about it is in this whole area, they have to
4 solve parking, so when every single development
5 that's going to occur is going to have a parking
6 requirement, so when you waive one, you never get to
7 recapture it, right?

8 So effectively we are saying this is
9 the first one we are waiving all parking, but we
10 never get to recapture those spaces, so every other
11 development in that area is going to be burdened by,
12 you know, we are going to have to require that they
13 have parking, or at some point we are just not going
14 to have enough.

15 I can tell you, on the north end we
16 don't have enough parking not anywhere close because
17 of the vertical and the density that we have
18 recently just addressed on the Planning Board with
19 something else, so I think it a big challenge. Just
20 my own personal opinion, I think it is a big
21 challenge.

22 MR. GALVIN: Okay.

23 CHAIRMAN AIBEL: It is a fair comment,
24 and it is not the first time a large parking
25 variance has been granted. Beer Garden was probably

1 the first in there.

2 COMMISSIONER FISHER: Yeah. I mean,
3 the positive that I would say is it's underserved,
4 and it's great -- and personally it's a great
5 concept. We don't have stuff like that up there,
6 and it will be a great addition, but it's that
7 balance --

8 CHAIRMAN AIBEL: Well, we do have Mr.
9 Kolling.

10 COMMISSIONER FISHER: Yeah.

11 MS. BANYRA: Can I ask a question,
12 though, also before?

13 Mr. Dean, did you happen to check on --
14 kind of the same way as Ms. Fisher here -- regarding
15 the timing for a pedestrian to cross?

16 Did you look at the sequencing, and is
17 that something that you can speak about with the
18 county?

19 As a pedestrian is crossing, do they
20 actually have enough time to get across, or are they
21 skipping across because of the last few seconds it
22 would be flashing?

23 THE WITNESS: A very, very fair
24 question, and the standards have changed, and it is
25 a simple mathematical calculation of how wide the

1 crossing is, and that's how long the light blinks

2 "Don't walk."

3 The standard use -- I won't bore you --
4 it's -- now the standard has been lengthened
5 recognizing the aging population, and the fact that
6 there is a certain number of people that are not
7 simply sprinting across the street, so --

8 (Laughter)

9 COMMISSIONER FISHER: And the
10 population --

11 THE WITNESS: -- certain --

12 COMMISSIONER FISHER: -- ours is the
13 opposite, right --

14 (Ms. Fisher speaking over the witness,
15 and this portion could not be stenographically
16 recorded.)

17 A VOICE: Shush, shush.

18 THE WITNESS: -- that is something that
19 as part of our deliberation with the county, we will
20 raise. It is systemic. I mean, it is endemic to
21 that corner regardless of this use, but obviously
22 this particular application creates a greater demand
23 line between east and west, but we will certainly
24 approach the county --

25 COMMISSIONER FISHER: And the impact,

1 though, of that is if you make it longer, you back
2 up traffic, you know, more going back all the way up
3 the corner --

4 MS. BANYRA: You know what --

5 COMMISSIONER FISHER: -- and it's such
6 a terrible corner --

7 MS. BANYRA: -- yeah --

8 THE WITNESS: It is all -- it's both
9 crossings, north, south, east and west.

10 MS. BANYRA: -- so my other question
11 was: When you hit the corner, I know that there's
12 parking, as you come up and over the ramp, there is
13 no parking, and it's kind of tight coming up and
14 over the bridge, but when you come down, is there a
15 way to actually remove a couple of spaces and angle
16 it, so that you can do an extension, because there
17 potentially could be a parked car there anyway.

18 So while the county might not want to
19 do bump-outs, isn't there a way even with temporary
20 measures to kind of experiment with the -- I'm going
21 to call it like the Jersey barriers that they
22 experimented with until they realized that that
23 worked and taper it back in a way, so that
24 there's -- or taper it in a way that allows that
25 experiment to happen?

1 Because it is busy area, and that, you
2 know, with the park coming, you know, with the park
3 up there now, and with the Toll Brothers
4 development, there is just a lot increasing, and we
5 are not sure what is going to happen in the center,
6 but there is a lot going on there, so I think that
7 the county is really going to have to revisit their
8 thoughts on just keeping an open thoroughfare
9 without some traffic calming measures.

10 THE WITNESS: It is not to pass the
11 buck.

12 MS. BANYRA: No.

13 THE WITNESS: It's a collaborative
14 effort between the city planning, the parking
15 authority and the county, because the county allows
16 the parking on their street, but it's still governed
17 by municipal ordinance.

18 So the city still has some element of
19 control and regulation on that, and with those
20 overlapping jurisdictions, I can't say that the
21 county's decision is final without having input from
22 either the governing body or the parking authority
23 or perhaps the Planning Board.

24 MS. BANYRA: You know, and if the Board
25 is so inclined, I mean, maybe even make a

1 recommendation for our parking authority to examine
2 that because I think certainly they have done a
3 little bit more progressive things in the past, and
4 certainly that I think is warranted on those
5 corners, particularly at that intersection going
6 across.

7 THE WITNESS: But I think given this
8 site's location right at the corner, and the fact
9 that there are removals of depressed curbs, curb
10 cuts, it's an opportune time to visit that issue
11 with the county, particularly to implement just a
12 loading or a drop-off zone or some kind of valet
13 station, should that operation ever come to
14 fruition.

15 MS. BANYRA: And then the last question
16 I have was regarding since you're creating something
17 very active on that corner, forget the corner --
18 yeah -- the street right across with the car wash,
19 is that actually potentially a hazard because as you
20 are coming up and over, and all of a sudden, there
21 is an activity note that wasn't there before, do you
22 see any conflicts in terms of people stopping short,
23 backing -- you know, something, because now it is
24 all of a sudden active. It wasn't before, and if
25 it's a really nice looking place, you are going up

1 and you're coming down pretty fast.

2 THE WITNESS: Well, one -- they
3 shouldn't be for one. It has a low speed limit, but
4 again, the width of the street promotes faster
5 speeds --

6 MS. BANYRA: Right.

7 THE WITNESS: -- and that is the irony
8 of -- greater capacity means faster speeds.

9 To a degree creating that focal point
10 and that area of interest is good for Hoboken. It
11 suggests vitality and a vibrancy in the corner, and
12 if it has that added benefit of causing people to
13 slow down, you know, to look at the beautiful
14 architecture or people, and it probably is not a bad
15 thing.

16 MS. BANYRA: That I don't disagree
17 with.

18 I am asking whether or not you think
19 that creates a, you know, potential accident hazard,
20 and if there is some way to mitigate that.

21 THE WITNESS: No more so than any
22 distraction on the highway or even what is in the
23 automobile itself. I mean, it's always incumbent
24 upon the driver to be in control of their vehicle,
25 but it's one more piece of the landscape for them to

1 visualize. We wouldn't want to create a hazard in
2 the front and, you know, have an activity which
3 could disrupt traffic, but something that provides
4 visual interest -- it is a balancing.

5 Could it be a distraction?

6 Yes.

7 But is it better for the neighborhood
8 for other reasons?

9 Well, that's really for you to decide.

10 COMMISSIONER FISHER: So just for that
11 point, you are suggesting that we -- you wouldn't
12 put that on Willow. If you were going to do any
13 type of valet or drop-off, it would be on 15th
14 because that activity is what you wouldn't want on
15 Willow?

16 THE WITNESS: Well, there's --

17 MS. BANYRA: Not necessarily.

18 THE WITNESS: -- there is on-street
19 parking --

20 COMMISSIONER FISHER: Yes.

21 THE WITNESS: -- and so if it's in lieu
22 of on-street parking, where one can create a zone
23 that doesn't have people backing up into active
24 traffic lanes, that may be a positive element.

25 COMMISSIONER FISHER: I imagine four

1 cars being valet, right? You have one sitting
2 there --

3 MS. BANYRA: There are all different
4 ways to handle it, and depending upon how they
5 revisit that corner, I think there are ways they
6 could do it safely.

7 COMMISSIONER BRANCIFORTE: The -- I'm
8 sorry --

9 CHAIRMAN AIBEL: Go ahead.

10 COMMISSIONER BRANCIFORTE: Two quick
11 questions.

12 You mentioned people were arriving by
13 bicycles, but there are no bicycle racks on the
14 street.

15 Would you have to apply to the county
16 or the city for permission to put bicycle racks?

17 MR. MATULE: I think that is something
18 that the county will look at and probably require --

19 COMMISSIONER BRANCIFORTE: Do you agree
20 to -- do you agree to, as part of the conditions, to
21 apply to the county for bicycle racks?

22 MR. MATULE: Yes, certainly. We
23 certainly have no objections to asking them if
24 they -- I think it is going to go the other way. I
25 think they are going to ask us to put one there, but

1 we certainly have no objection to asking them if we
2 may put one there.

3 COMMISSIONER BRANCIFORTE: Okay. I
4 mean, at least enough parking for seven or eight
5 bicycles, I would think. I'm just guessing, coming
6 up with a number.

7 The other point, too, is: In the past
8 we have had this discussion about restaurants and
9 parking, and the traffic engineer has always
10 compared the restaurant here to an Outback Steak
11 House in Cinnaminson, or you know, somewhere in
12 Morris County, and now you are saying that it's not
13 really fair to compare a suburban restaurant to
14 Hoboken?

15 THE WITNESS: I think it is
16 inappropriate to do that. I mean, Hoboken has a lot
17 of unique characteristics. I can't draw a
18 comparison to Outback that is out on Route 46 in
19 Parsippany. I don't think there is -- not only
20 aside from the fact that that is a chain, and it is
21 generally in a mall --

22 COMMISSIONER BRANCIFORTE: I'm just
23 throwing it out --

24 THE WITNESS: -- it is completely
25 different. It's almost two different lands uses,

1 you know, where something that is a locally owned
2 and operated and caters to the immediate
3 neighborhood --

4 COMMISSIONER BRANCIFORTE: Right.

5 THE WITNESS: -- with I would submit
6 probably three-quarters, if not 80 percent of the
7 traffic which will ultimately originate from the
8 neighborhood.

9 COMMISSIONER BRANCIFORTE: I
10 understand.

11 Just so in case Bob ever comes up with
12 another restaurant in a neighborhood with a traffic
13 engineer, just a fair warning. I am going to use
14 his testimony in that application.

15 All right. I am all set. Thanks.

16 THE WITNESS: Duly noted, Counselor.

17 (Laughter)

18 CHAIRMAN AIBEL: Jeff?

19 MR. MARSDEN: Did you look at any of
20 the existing traffic information in the area?

21 I mean, did you talk about the cuing?

22 And one of the things I notice in the area is
23 it's -- one of the problems with pedestrians
24 crossing the road is the fact that you have vehicles
25 cued up across the intersection or you got vehicles

1 cued up on -- heading east on 15th trying to turn
2 right onto Willow, and the next light down has
3 blacked them all the way up, and it just happened
4 this afternoon where it blocked them up and went
5 around the corner, and people are walking around
6 vehicles and so forth.

7 I am more concerned about pedestrian
8 safety that way than I am with the fact that -- I
9 mean, I think the timing on the signal is more than
10 adequate to very calmly walk across the
11 intersection, but to do it in a manner when you got
12 the vehicles cuing in two different directions makes
13 it more difficult.

14 I know there were a couple studies
15 done. I don't remember which one. There was a
16 traffic study that I think included that
17 intersection two years or three years ago --

18 MS. BANYRA: It could have been the
19 Bijou project --

20 MR. MARSDEN: I think that's what it
21 was --

22 MS. BANYRA: -- maybe --

23 MR. MARSDEN: -- you didn't find
24 anything in the area or looked at anything like
25 that?

1 THE WITNESS: I am actually working and
2 doing studies, and they have not been released to
3 the public yet, for two large redevelopment tracts
4 between Willow and Park and 15th and 16th, so I have
5 been actively involved in that for the past two
6 years, so I have counts and studies and pedestrians.

7 It is virtually impossible for us as
8 planners to regulate inconsideration, and crosswalks
9 are supposed to be a protective zone for
10 pedestrians. That is why they are conspicuously
11 marked, and the state law has been amended to
12 acknowledge the fact that drivers are to yield --
13 not yield, stop for pedestrians in properly marked
14 crosswalks, and jaywalking is a different issue.

15 But once a pedestrian is in that
16 crosswalk, if anybody has been to Rhode Island, it's
17 a completely different driving experience. Drivers
18 almost lock up their brakes to yield to
19 pedestrians --

20 COMMISSIONER FISHER: Not in north
21 Hoboken.

22 THE WITNESS: -- not in Hoboken and not
23 in New Jersey.

24 (Laughter)

25 COMMISSIONER FISHER: Not in north

1 Hoboken.

2 MR. GALVIN: No, no, no. Summit, New
3 Jersey --

4 THE WITNESS: -- and I will say not
5 yet.

6 MR. GALVIN: -- Summit, New Jersey.

7 THE WITNESS: -- slowly it is evolving,
8 and you sometimes see the little sandwich boards or
9 flexible signs to educate motorists.

10 But to your point, I don't know how to
11 regulate inconsideration when a motorist cues and
12 knowingly blocks a crosswalk because of traffic
13 congestion, and it is -- I don't have a good answer.
14 It is -- the pedestrian has right-of-way. If they
15 are crossing with the signal and in the crosswalk,
16 that motorist is not supposed to interfere with
17 them.

18 We hope that, because traffic has
19 stopped, that lines of sight are clear, and that we
20 have at least the safest condition to stop the
21 vehicle who can to view a pedestrian. But if people
22 break the law, I just don't know how to respond to
23 that, other than they shouldn't, and other than
24 through a period of enforcement and a police
25 presence to start to educate those habitual

1 offenders, it's the only way to improve that
2 situation.

3 MR. MARSDEN: You mentioned -- I didn't
4 see the number in your report -- but if you went by
5 the strict interpretation of the ordinances, how
6 many parking spaces for the restaurant would be
7 required?

8 THE WITNESS: There is an error in my
9 report somewhere, and I don't know if the floor
10 plans changed, but my report indicates that 149
11 spaces are required.

12 I believe Ms. Banyra's report, because
13 of the one per 16, that total raised to about 190 or
14 190 plus.

15 MR. MATULE: 190 is what we are asking
16 for.

17 MR. MARSDEN: You also indicated in
18 your report that there is available parking on the
19 street along the -- and the numbers you indicated,
20 was that a full block away generally, because every
21 time I go in the area, I find the parking on 15th
22 and Willow in that area very difficult as far as
23 usually circling a couple of times to find a spot --

24 THE WITNESS: Just for background, we
25 were out there on a Thursday evening, a nice day in

1 September from -- let me get it right -- from five
2 p.m. to eight p.m., and then we were also -- we did
3 our parking study from seven to ten on Saturday,
4 peak dining hours, so our weekday counts, and this
5 was both sides of 15th from Willow to Grand, both
6 sides of Clinton from 15th to 16th, and both sides
7 of Willow from 15th across to 14th and the Viaduct
8 all the way down to 13th.

9 There are some pay stations. They
10 allowed two or four hours. There is resident
11 parking, and again, there were the 15 spaces that
12 were out of service due to the Viaduct project. So
13 within that general one or one and a half block
14 area, we counted 106 total spaces.

15 On a weekday, there were 39 of those
16 spaces available.

17 So you were right, if one were to walk,
18 but that is what our people did. I mean, they
19 literally took an inventory and completed their loop
20 every fifteen to twenty minutes to evaluate the
21 turnover.

22 MR. MARSDEN: But I will say, I wasn't
23 out there during peak dinner hours either, so that
24 could explain some of the --

25 THE WITNESS: And that is why we

1 tailored our study for the use. On Saturday there
2 wasn't as much traffic.

3 COMMISSIONER BRANCIFORTE: I'm sorry.
4 I hate to beat a dead horse, but I have to also say
5 that peak dinner hours that you are probably using
6 apply to suburban restaurants, not necessarily
7 Hoboken restaurants, where dinner hours go on for
8 much longer, so--

9 THE WITNESS: Well, on the weekday it
10 was five to eight.

11 Now, at eight o'clock, certain retail
12 stores close, offices, boutiques, you know, dance --
13 you know, all of those other things.

14 Let's start at the gyms, they are not
15 as active, so I figured eight o'clock on a weekday
16 was a reasonable cutoff. I am sure there are people
17 who dine at nine or 9:30, but it is a, quote, school
18 night or a work night, but on Saturdays we were out
19 there until ten o'clock at night, and sure, there
20 are some people who like to eat at eleven --

21 COMMISSIONER BRANCIFORTE: I just
22 wanted to make sure your idea of peak is reasonable
23 for Hoboken.

24 THE WITNESS: It's not a 5:30 dinner
25 bell --

1 COMMISSIONER FISHER: Is the number of
2 parking spots -- how does it change from five to
3 eight? Because part of that area -- or my guess,
4 the availability of parking spots during that time
5 frame shrinks as people come home, you know, come
6 home from work, so at five o'clock there might be
7 more spots, but at eight o'clock people are driving
8 back. Commuters are driving back and starting to
9 take those spots.

10 Did you see that?

11 THE WITNESS: We did see that, and it
12 does fluctuate. The number I shared with you, and
13 our report says the surplus vacant on-street parking
14 was at least 39 vehicles --

15 COMMISSIONER FISHER: Okay, so that
16 was --

17 THE WITNESS: -- so sometimes there are
18 40 and 50 --

19 COMMISSIONER FISHER: -- the lowest --

20 THE WITNESS: -- and obviously as we
21 get later to eight o'clock and nine o'clock, there
22 is more parking, but the minimum amount was that
23 time.

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

1 Does anybody in the public have
2 questions for Mr. Dean?

3 MR. GALVIN: Seeing none.

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

6 COMMISSIONER GRANA: Second.

7 MR. GALVIN: All in favor?

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

10 MR. MATULE: Thank you.

11 Mr. Kolling?

12 MR. GALVIN: Raise your right hand.

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

16 MR. KOLLING: Yes, I do.

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

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

21 THE WITNESS: First name is Edward, and
22 the last name is spelled K-o-l-l-i-n-g.

23 CHAIRMAN AIBEL: Mr. Chairman, do you
24 accept Mr. Kolling's credentials?

25 CHAIRMAN AIBEL: We do.

1 MR. GALVIN: You may proceed.

2 MR. MATULE: Mr. Kolling, you are
3 familiar with the Hoboken zoning ordinance and
4 master plan, correct?

5 THE WITNESS: Yes.

6 MR. MATULE: And you are familiar with
7 the proposed restaurant project at this site?

8 THE WITNESS: Yes.

9 MR. MATULE: And you prepared a
10 planning report, dated September 12th, 2013?

11 THE WITNESS: Yes.

12 MR. MATULE: Could you go through your
13 report for the Board and give us the benefit of your
14 professional opinion regarding the variances that
15 are being requested and the proofs that have been
16 put forth by the applicant?

17 THE WITNESS: Yes.

18 Very briefly, because a lot of this has
19 already been covered, we are all familiar with where
20 the site is by now.

21 It is 50 by a hundred parcel. It is in
22 the industrial zone. The industrial zones require
23 20,000 square feet, and I think if you look at the
24 surrounding area, you could see right in this
25 immediate area at least, this has not been a

1 traditional large industrial block. There are
2 industrial uses there, but they are on smaller
3 parcels.

4 The larger industrial uses are further
5 west. I think there is a large industrial use
6 across the street as well, so there is a little bit
7 of character of commercial activity along here
8 rather than the heavy industrial.

9 This particular property is, in fact,
10 listed on the tax records as commercial and has a
11 commercial ground floor. It is a residential
12 commercial mixed use, which is not typical of an
13 industrial zone, so I think that speaks to the
14 particular suitability of this site to support a
15 commercial use and/or a restaurant use, and that is
16 probably the reason why this is being selected this
17 way.

18 The other variances have to do with the
19 side and rear setbacks, and the building today has
20 zero, both on the side and the rear, and in the
21 industrial zone it is ten feet on the side and 20
22 feet in the rear.

23 What we are asking for is to continue
24 the existing building up and maintaining the zero,
25 and it is really a rather de minimus type of

1 deviation because the extensions are rather small.
2 The second story, I believe, is about 750 or 800
3 square feet. The third floor is really about 350
4 square feet.

5 For a limited use within the confines
6 of the property, the buildings that adjoin this go
7 lot line to lot line as well, and they have blank
8 walls in that location, so I don't see any
9 significant impact either to the zone plan or to the
10 public good by permitting that variance and allowing
11 for that extension of the use.

12 The master plan when it was -- the
13 earlier master plan, not the reexamination report,
14 had looked at this area as being an under-bridge
15 economic development zone. And when they were
16 looking at it in that way, they were looking at it
17 in terms of having a mixture of uses with retail and
18 service commercial uses, including bars and
19 restaurants, and additions on the ground floor. The
20 idea of that was to try to create activity in the
21 area and activate the street as the other uses
22 above, which would have been maybe light industrial
23 or office or things like that that would have
24 occurred, so this would have fit right into that
25 character.

1 The 2010 reexamination report
2 eliminated that requirement and suggested that the
3 council would want to proceed with the rezoning here
4 from the redevelopment perspective.

5 As Ms. Banyra's report suggested, it
6 has been designated as an area in need of rehab, but
7 there is not a redevelopment plan yet in place, so
8 we look at the zoning as it is.

9 But another recommendation, a general
10 recommendation in the master plan talked about,
11 again, in the economic development section talked
12 about encouraging a mixture of uses in new
13 developments to provide supporting services to
14 workers and residents.

15 It specifically mentions that housing
16 and offices, or you could by extension say
17 industrial uses alone do not make a city. Retail
18 services are an integral part of the community that
19 has not been included in many new developments, and
20 the idea was that you need to provide these
21 services, things that service the people who live
22 here and work here.

23 This location is in a spot where it can
24 service the residential community and the growing
25 residential community in north Hoboken to the east

1 of the PUD areas and the other residential areas
2 more to the south, and to the extent that there are
3 still employment generators in the area, it can also
4 serve employees during the day.

5 So I think that the site is
6 particularly suited for this use, and I think that
7 it can promote certain of the recommendations of the
8 master plan.

9 The site is not suitable for industrial
10 conversion, because it already has a commercial
11 space on the ground floor. It already has
12 residential uses above, so I think that it is not
13 well suited to that, so I think having the
14 restaurant here would fit in well.

15 So I think that the granting of the
16 variance would actually guide the appropriate use
17 and development of the site in a manner that will
18 promote the general welfare through the renovation
19 of the commercial space as already existing into the
20 restaurant use.

21 I think that the building provides
22 sufficient space in an appropriate location for the
23 restaurant use, which is consistent with
24 40:55D-2(g), and the proposed project will promote a
25 desirable visual environment. The existing building

1 is a little tired, a little worn, and I think that
2 the design that's being presented here is very
3 refreshing, and I think will enhance the
4 neighborhood and the esthetics.

5 In terms of the C variances, as I said,
6 they are really rather de minimis in terms of scale.
7 They are hidden in the back corner and adjoin other
8 buildings that occupy a hundred percent of their
9 sites. I don't see them resulting in a substantial
10 detriment either to the zone plan or to the general
11 welfare either.

12 Parking is a variance. We have heard a
13 lot of testimony from the traffic engineer. I won't
14 repeat all of that.

15 I would just add in terms of potential
16 resources in the future, a project that I recall
17 doing some testimony on along Willow just south of
18 14th Street, where it is involving the environmental
19 remediation of that site, and then a mid-rise
20 building coming above it, and as part of the
21 remediation, that site is being excavated
22 essentially right down to the bedrock, and it will
23 have like four levels of parking down there, which
24 is well in excess of what is required.

25 As I recall in the presentation at that

1 time, it was that that parking would then be made
2 available as a parking public resource, and although
3 it is not online yet, I don't know the status of the
4 construction, although I know it had started. At
5 some point in the future, there will also be that
6 resource available.

7 MR. MATULE: Anything further?

8 THE WITNESS: No.

9 MR. MATULE: Okay.

10 CHAIRMAN AIBEL: Board members, any
11 questions for Mr. Kolling?

12 MS. BANYRA: I just have one question.

13 Mr. Kolling, the commercial use you
14 recognize is not a permitted use in that zone,
15 correct?

16 THE WITNESS: Right.

17 MS. BANYRA: Okay. So we are swapping
18 out one -- a restaurant use for a use that is not
19 permitted, so in your testimony I think it's
20 basically no harm, no foul?

21 THE WITNESS: Well, you could put it
22 that way, but the building, if you look at the
23 building, I am assuming it was probably constructed,
24 if not in the late 19th century, the very early 20th
25 century. I am sure it predates zoning, and it

1 appears to always have been constructed always as a
2 mixed use traditional residential over commercial,
3 so yes, it has been there the whole time. It has
4 been built for this purpose of having a commercial
5 use on the ground floor. Therefore, you know, it
6 would be suitable for conversion.

7 MS. BANYRA: Was the prior use
8 actually -- I saw the sign that indicated it was for
9 commercial rent. But was it actually a commercial
10 use in there prior?

11 THE WITNESS: I don't know the history
12 of the uses that occupied that site, no.

13 MR. MATULE: I have the applicant here,
14 but I can proffer to the Board that the last tenant
15 that was in there was a cabinet --

16 MS. BANYRA: Maker.

17 MR. MATULE: -- maker, had a retail
18 cabinet business.

19 And before that, where those overhead
20 doors are and the curb cuts, it was an auto repair
21 facility for many, many years.

22 MS. BANYRA: I remember that.

23 So it wasn't actually commercial. It
24 was like if you were manufacturing cabinets,
25 you're -- it's a manufacturing --

1 MR. MATULE: Well, it was a retail
2 kitchen place --

3 COMMISSIONER COHEN: Was that the Ruho
4 (phonetic) tire place?

5 MR. MATULE: No. That is actually
6 where Battaglia's is.

7 COMMISSIONER COHEN: Oh, okay.

8 MR. MATULE: It was a place, you know,
9 like a kitchen and bath cabinet, where people went
10 and met. You know, there was a showroom there, and
11 I guess they manufactured it outside also, but it
12 had a retail component in the operation.

13 MS. BANYRA: Was there difficulty
14 renting it back up?

15 Do you know if there was any difficulty
16 in renting it back up?

17 MR. MATULE: Well, I have Mr. Caper
18 (phonetic) here. I can bring him up to testify.
19 I know that this was --

20 MS. BANYRA: Just curiosity more.

21 MR. MATULE: -- the applicant -- this
22 process with this applicant started about two years
23 ago, so that is how long we were at it.

24 MS. BANYRA: Okay. There's no need for
25 testimony.

1 Thank you.

2 CHAIRMAN AIBEL: So, Mr. Kolling, from
3 a planning perspective, is it desirable in your
4 opinion to put this kind of intensity of use on a
5 high traffic corner to put it bluntly?

6 THE WITNESS: Well, you know, in
7 reality you wouldn't want to put an intensive use in
8 a low traffic generating area. If you had a low
9 intensity area, you would want to put something in
10 that is going to draw a lot of people because it's a
11 low intensity area.

12 The higher intensity area of use should
13 be a more high intensity trafficked area. That is
14 how it would work, at least that is my opinion.

15 CHAIRMAN AIBEL: Anybody else have any
16 questions for Mr. Kolling?

17 COMMISSIONER FISHER: Maybe just to
18 expand on what you said.

19 Changing it from a high traffic area to
20 a main thoroughfare and entry point, is this the
21 proper type use for that type of high traffic?

22 There is a big difference between just,
23 you know, an avenue or a boulevard that has a lot of
24 traffic and restaurants and one that is the pivotal
25 point eventually into the city.

1 THE WITNESS: I don't really see a
2 difference. It might be more of a traffic issue,
3 but as cars are coming through and proceeding
4 through, it is not like there would be cars entering
5 or exiting the site per se, so I don't think it
6 matters in that regard.

7 If it was a traffic generating in terms
8 of cars coming out of the site or something,
9 creating conflicts, that might be a problem.

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

12 Anybody in the public have questions
13 for Mr. Kolling?

14 COMMISSIONER BRANCIFORTE: Motion to
15 close the public portion or motion to close
16 questions for the planner.

17 COMMISSIONER COHEN: Second.

18 CHAIRMAN AIBEL: All in favor?

19 (All Board members voted in the
20 affirmative.)

21 MR. MATULE: I have no further
22 witnesses unless the Board has any specific
23 questions for the building owner. I have him here,
24 but I don't really see the need for any specific
25 testimony.

1 CHAIRMAN AIBEL: Can I raise an issue
2 before you go into your summation?

3 MR. MATULE: Sure.

4 CHAIRMAN AIBEL: I guess one of the
5 questions Mr. Pino didn't answer, and I didn't ask
6 it, was the length of his lease. I will ask this to
7 counsel, you know, what kind of conditions can we
8 impose, assuming everybody is inclined to grant the
9 application, that makes sure that it's going to be a
10 restaurant and not a very, very high traffic bar, if
11 Mr. Pino is not there to operate this establishment.

12 MR. GALVIN: All variances run with the
13 land, notwithstanding the fact that we generally
14 have a high regard for Mr. Pino, it is possible that
15 he might sell the restaurant or the building might
16 be sold or somebody else might operate the
17 restaurant in the future. But if you could tell us
18 how long your lease is.

19 MR. PINO: Sure. I think I have a 15
20 with a ten-year option, so it would be a 25-year
21 lease.

22 MR. GALVIN: That is considered normal
23 in the course of business and a decent time.

24 CHAIRMAN AIBEL: Is it clear that we
25 are granting an application for a restaurant with a

1 bar as opposed to a bar with food?

2 MR. GALVIN: I'm --

3 CHAIRMAN AIBEL: Can we make that kind
4 of limitation run with the land --

5 MR. GALVIN: -- I am referring to it
6 only as a restaurant any place that I've talked
7 about it. So when I draft the resolution, I will
8 kind of make that clear that it is a restaurant, not
9 a bar.

10 COMMISSIONER BARNCIFORTE: Just speak
11 to that --

12 MR. GALVIN: Is there a bar in the
13 building now?

14 MR. MATULE: Yes -- you mean now or are
15 we planning to have one?

16 (Laughter)

17 MR. GALVIN: Well --

18 MR. MATULE: There is on the site plan,
19 I will characterize it as a small bar.

20 MR. GALVIN: How many seats --

21 MR. MATULE: I think there are twelve
22 seats --

23 MR. GALVIN: All right. The bar is to
24 have no more than -- that is your restriction.

25 MR. MATULE: -- you know, there's 12

1 seats at a bar, which --

2 (Board members all talking at once.)

3 MR. PINO: Let me see. And then also
4 right here.

5 MR. MATULE: Okay.

6 COMMISSIONER BRANCIFORTE: I counted 18
7 actually,

8 MR. MATULE: Pardon?

9 COMMISSIONER BRANCIFORTE: There's two
10 bars, six and --

11 MR. MATULE: I am getting there. You
12 are getting ahead of me.

13 COMMISSIONER BRANCIFORTE: I'm always
14 one step ahead of you.

15 MR. MATULE: On the south dining room,
16 there is a bar with 12 seats, and Mr. Pino just
17 pointed out to me in the, I guess I'll call it the
18 north dining room, there is a bar with six seats, so
19 there is a total of 18 seats at the bar, which I
20 would think relative to the total number of seats
21 pretty --

22 MR. PINO: Like this is the service
23 bar, like if there is no seats --

24 MR. MATULE: Okay. I am talking about
25 just that --

1 MR. PINO: -- okay.

2 MR. MATULE: And I know our ordinance
3 unfortunately doesn't really draw a tremendous
4 distinction between a bar per se and a restaurant.
5 I know traditionally we sort of looked at what the
6 bulk of the revenue was coming from, whether it was
7 more of a bar than a restaurant. But obviously, you
8 know, part of the whole business plan here is to
9 have liquor service.

10 COMMISSIONER BRANCIFORTE: However,
11 let's say in ten years or five years from now, Mr.
12 Pino hits the lottery and decides to take his family
13 down to Florida and sell all of the businesses, and
14 the new owner says, you know what, I don't want to
15 be a restaurant any more. I just want to be a bar.
16 What happens then?

17 I can concede changes -- does he have
18 to come back in front of the Zoning Board?

19 MR. MATULE: Well, my understanding of
20 your ordinance is if the occupancy changes, they
21 have to come back to the Board.

22 COMMISSIONER BRANCIFORTE: Okay.
23 That's fine. I just wanted to clarify that.

24 MR. GALVIN: That wouldn't work that
25 way in other towns, though.

1 MS. BANYRA: Yeah. I think, though,
2 what is being approved here is a bar -- I mean a
3 restaurant with two bars --

4 MR. GALVIN: Wait a minute. Say that
5 again.

6 What is being approved here is a
7 restaurant.

8 MS. BANYRA: -- it's a restaurant with
9 two bars, and they identified it as two bars because
10 it separates the groups, so it's 18 seats in two
11 different locations.

12 I think if it turned into where there
13 was 25, 35, 45, that to me is a different -- it's a
14 use variance also. It's just a restaurant and a bar
15 that is a permitted use in a permitted zone, so I
16 think there is a distinction that can be made here
17 in terms of the approvals we are granting. And
18 should it change to principally a bar that serves
19 food, a/k/a 1300 Park, I think that is a different
20 entity.

21 So I think -- I don't know, Mr. Matule,
22 if you can -- if you have any comments on that, but
23 I think that that would require somebody to come
24 back in.

25 If it was sold as a restaurant with

1 similar limitations in occupancy and numbers, I
2 think that that is fine. But if it turns over to a
3 bar, I think that is different.

4 MR. GALVIN: You know, in my
5 observation of restaurants in other towns, they all
6 come with bars because you need somewhere to sit
7 while you are waiting to be seated a lot of times.
8 You need that place. I mean, not that some people
9 don't sit there and get a meal. They do, and at the
10 busiest times they obviously do that.

11 But generally, you come in. You get a
12 quick drink at the bar. You sit there for 15 or 20
13 minutes or 25 minutes, and then your number gets
14 called, and you get seated, so that is the way we
15 intend for these bars to be used as opposed to using
16 it as the local sports bar or tavern.

17 But I have 16 conditions that I have
18 not read them, and some of them say there's not
19 going to be any amplified music. That is certainly
20 a hallmark of a more serious bar, so we need other
21 kinds of restrictions --

22 COMMISSIONER BRANCIFORTE: Yeah, I'm --

23 MR. GALVIN: This approval --

24 MR. MATULE: My understanding -- oh,
25 okay.

1 MR. GALVIN: -- just let me read this.

2 This approval is intended to be for a
3 restaurant, not a bar.

4 The bars within the restaurant are
5 intended to serve the needs of the restaurant, and
6 they are not to have more than 18 seats.

7 COMMISSIONER FISHER: Remember he
8 originally described it as a gastro pub, which is a
9 pub that serves nice food.

10 MR. GALVIN: We can come back to that.

11 He said farm to table gastro pub, so --

12 MR. MATULE: The only comment I would
13 make regarding, and I just reconfirmed with the
14 architect that, because it has always been my
15 understanding, if someone were to come in and say I
16 want to take all of these fixed tables and chairs
17 out of here, that generates a whole new issue with
18 the building code and the occupancy, which according
19 to our ordinance, anything that would increase the
20 permitted occupancy of a nonresidential use, either
21 by Uniform Fire Code or BOCA has to come back for
22 minor site plan approval, and it would also probably
23 require additional parking variances.

24 So if anyone were going to
25 substantially change the physical layout, I believe

1 see it as an occupancy issue. I see it more as a
2 use issue, because I think the type of use of a
3 restaurant is materially different than a bar. And
4 you have people coming into Hoboken to drink, and
5 the first thing they want to do is say, oh, there's
6 the first bar, so --

7 COMMISSIONER FISHER: And they are
8 going to cross Willow, which is a high traffic road
9 and --

10 CHAIRMAN AIBEL: -- so, again, that
11 is --

12 MR. MATULE: I will leave that to
13 counsel --

14 CHAIRMAN AIBEL: -- if this could be
15 cast in a way that makes it very clear that a change
16 of use from a restaurant and the type of restaurant
17 that Mr. Pino has described would require a trip to
18 the Zoning Board, then I am comfortable.

19 MR. MATULE: For whatever it is worth,
20 if you want to frame it that the primary use is a
21 restaurant and the ancillary use is bar, and if that
22 use is going to change, it requires a trip back to
23 the Board, I have no objections to that, because
24 that is not my client's intention.

25 COMMISSIONER BRANCIFORTE: Mr. Pino

1 said it wasn't going to be a sports bar, but I don't
2 know how we can write that into the -- into the --

3 COMMISSIONER DE FUSCO: Are there going
4 to be televisions there?

5 MR. PINO: I mean, you're going to have
6 some TVs, but in the Bin 14, there are two 50-inch
7 TVs. Anthony David has none.

8 COMMISSIONER DE FUSCO: Right.

9 MR. PINO: We are looking into these
10 TVs that actually when they're not on, they are
11 mirrors, and you can't even tell that it's a TV. So
12 we will have them available behind the bar, okay,
13 there is a game on, maybe they're on for a bit and
14 so forth, but outside of that, we are really not
15 drawing that kind of attraction to our
16 establishment.

17 MS. BANYRA: You know, the definitions
18 differentiate between bars and restaurants as in
19 what is principal, you know. So when it is a bar,
20 it's principally serving alcohol, it's different
21 than a restaurant that is principally serving food.
22 They both do, you know, a little bit of each, but
23 this is being, you know, I think proffered as a
24 restaurant that has a bar, so I think we should keep
25 it in that context and not think that it will turn

1 over.

2 Because I think, you know, when you
3 look at the differences in the definitions, that are
4 distinctions made, and it is basically the
5 restaurant -- the bar license says that it is the
6 place of business duly licensed by the ABC Board for
7 the sale on premises to the consumption of alcoholic
8 beverages by the drink as the principal or primary
9 use whether or not food service is also provided.

10 And then the restaurant is basically
11 almost the opposite of that.

12 COMMISSIONER FISHER: Can you just
13 reference that definition then and just say that's
14 the use?

15 MR. GALVIN: I think I have a condition
16 that I am going to use --

17 MS. BANYRA: I think we are okay.

18 MR. GALVIN: -- what I am going to say
19 to you is this: The concern that you are all having
20 I think is valid to a certain degree, because what
21 will happen is when it's not Mr. Matule or Mr. Pino
22 in ten years or fifteen years, somebody else is
23 going to say, when you guys approved this, there was
24 no prohibition on us using a bar or it was a bar.
25 Now we have some language in there that kind of says

1 basically that this is supposed to be primarily a
2 restaurant.

3 I have added a little bit of extra. I
4 said: The tables and chairs on the plans are not to
5 be moved to create additional standing only space,
6 because that is what happens in Fairfield. Their
7 restaurant runs until nine o'clock, and then they
8 move out, and then it becomes something else after
9 nine o'clock at night.

10 MS. BANYRA: Yeah.

11 COMMISSIONER TREMITIEDI: Five square
12 feet a person --

13 MR. GALVIN: What's that?

14 COMMISSIONER TREMITIEDI: -- five
15 square feet a person, and if they change it to
16 standing --

17 MR. GALVIN: Well, we can put that,
18 too. Population of the space is not to exceed 213.

19 MR. MATULE: That is fine.

20 (Board members confer.)

21 MR. GALVIN: No. But I'm saying --
22 they are telling us 213, but if they took the tables
23 out, they could have more, so we are saying it's
24 never to exceed 213 no matter what.

25 MS. BANYRA: Right. The occupancy

1 that's --

2 MR. GALVIN: Oh, okay. Thanks.

3 Open to the public and then closing
4 argument, and we will go to the conditions.

5 CHAIRMAN AIBEL: I think we opened it
6 to the -- I will open it to the public for comment.

7 Anybody in the public have a comment?

8 Seeing none --

9 COMMISSIONER BRANCIFORTE: Motion to
10 close the public portion.

11 COMMISSIONER COHEN: Second.

12 CHAIRMAN AIBEL: All in favor?

13 (All Board members voted in the
14 affirmative.)

15 MR. MATULE: Just very briefly, this
16 area of town is obviously up and coming. I know
17 when my client did their business model, they were
18 looking at not only the new residential buildings
19 that have opened there, but the ones that are in the
20 process of being built.

21 I suspect once the county project on
22 14th Street is done, that will alleviate some of the
23 traffic issues and congestion issues there.

24 I would also suspect a lot of people
25 will come up Clinton Street and around to come to

1 the restaurant rather than coming across Park and
2 Willow, but I mean, that will just work itself out.

3 I think it is certainly a much better
4 use than some other uses that could go there,
5 industrial uses or commercial uses, and it is
6 basically there is not much room in the center of
7 town to do anything like that, so it is pretty good
8 location.

9 I don't know what the ultimate
10 redevelopment plan up there is going to be. I am
11 sure it is going to include restaurants.

12 I also can't imagine that if any large
13 scale office buildings are being built up there,
14 they are not going to be required to have a
15 tremendous amount of on-site parking, or maybe even
16 a parking garage there, so hopefully that will
17 alleviate some of the concerns that have been
18 expressed here, but, you know, that is really
19 something way beyond the parameters of this
20 application.

21 I think on its own merits, that it is a
22 good application. That is kind of a little
23 commercial strip of Willow Ave anyway. They have
24 the Hertz place. They have Battaglia's, and this
25 building. So I think it would be a great thing for

1 the town, having been in Mr. Pino's establishments
2 myself, and I would ask that the Board grant him the
3 variance relief.

4 CHAIRMAN AIBEL: Thank you, Mr. Matule.

5 I will open it up to the Board for
6 discussion.

7 Phil?

8 COMMISSIONER COHEN: I think it is a
9 really welcomed addition to the neighborhood.

10 I think this is a neighborhood that
11 really could use a quality restaurant establishment
12 like this. There is a lot of construction going on
13 near the Viaduct right now, and there are not a lot
14 of services for the people in this part of the city.

15 Also, I think that having this kind of
16 establishment at 15th and Willow, it is not as
17 heavily trafficked as the Willow part itself. I see
18 it more on the 15th side of things.

19 I don't think it is too congested or
20 too trafficked for this area. I think it is really
21 terrific. I think it is great that Mr. Pino is
22 doing this business here.

23 He clearly is a quality establishment,
24 and I think the protections that we have built into
25 this resolution, which will be read by our counsel,

1 I think address the concerns, the legitimate
2 concerns, that the Commissioners have had about this
3 project, so I am fully in support of this proposal
4 with the restrictions as we discussed.

5 CHAIRMAN AIBEL: Thanks.

6 Anybody else wish to comment?

7 COMMISSIONER FISHER: I will comment.

8 With all due respect, I think it is a
9 great use. I actually am not supportive of the
10 project, because I just don't think that we have --
11 we understand the safety issues in the north end.
12 There has been a recent application in front of the
13 Planning Board on the north end, the result of which
14 is, again, quoting the architect for the Planning
15 Board, the north end is a mess. It's a mess from
16 safety issues. It has not been looked at. They
17 elevated it. The city council is going to take a
18 look at the north end. It will ripple over on to
19 that side, and I think Willow is a high traffic --
20 is a high traffic entrance from -- main entrance
21 into Hoboken.

22 Although I think it is a great concept,
23 there is a big difference between Willow Avenue and
24 two blocks away, which is the Pilsner House, and
25 putting a high density or a high intensity use on

1 that corner coming just off the bridge, I don't
2 think we have a good sense of what the safety issues
3 are there yet. So to me, I think there is probably
4 a better commercial use, you know, that doesn't
5 bring as much intensity to that corner. So I like
6 it conceptually, but I just don't like the location.
7 I don't think we understand enough --

8 CHAIRMAN AIBEL: Thank you.

9 COMMISSIONER DE FUSCO: Just to follow
10 up on Phil's statement, I think in addition to all
11 of those positive criteria that he outlined, I also
12 just think it is kind of the standard that is going
13 to be set for this up and coming part of town. I
14 think the street scape is going to be improved. My
15 concerns with the upstairs apartments are being
16 addressed.

17 In respect to your comment about there
18 could be a better commercial use, I would contend
19 that this isn't a Whole Foods. This isn't a use
20 where people are coming in and leaving through a
21 revolving door. They are coming in, and they are
22 sitting, and it is going to bring foot traffic to
23 the area that, if anything, will help us understand
24 what is going on in that immediate -- in that
25 portion of town.

1 I know we can't predict what is going
2 to happen with the parking or any of the larger
3 planning issues surrounding the area, but I don't
4 think that this is going to adversely, you know,
5 change anything.

6 It is a small business run by a
7 well-to-do, well-known chef in town, and it is going
8 to add the foot traffic, which is only going to
9 benefit that region, so I understand your concerns,
10 but I fully disagree.

11 COMMISSIONER BRANCIFORTE: Well, I
12 think Tiffanie and Mike both bring up good points.

13 You know, yes, people will be --
14 hopefully people will be arriving on bikes and by
15 foot, and we will have to see. But certainly you
16 guys have downplayed people coming in from out of
17 town. Look, Mr. Pino's restaurants have always
18 gotten great reviews in the newspapers, which
19 broadcast to everybody come to town and drive your
20 car.

21 So parking is sort of an issue for me.
22 I am not completely confident it's not going to be a
23 problem. I am hoping that because Mr. Bijou is the
24 landlord here and the landlord across the street,
25 that he will work out some sort of parking solution

1 or something like that. It is sort of a chicken and
2 the egg thing here.

3 I mean, the county probably has no
4 reason to improve those intersections because there
5 is nobody there, so maybe if there are people there,
6 the county would finally get off its butt and
7 improve the intersections.

8 You know, my fear in the end is, you
9 know, that someone is -- it's going to take a
10 tragedy before the county gets off its butt and
11 figures it out, but hopefully it is not going to
12 come down to that.

13 You know, I can't speak to anything
14 else, but I always envisioned that part of town as
15 being sort of a meat packing district with lots of
16 street life and lots of restaurants, and Mr. Pino
17 has already agreed not to have anything on his menu
18 over ten dollars, right?

19 (Laughter)

20 Put that down in the resolution.

21 So hopefully it will be an attractive
22 place, and hopefully that will spur some development
23 and some improvements.

24 That's all I have to say.

25 Tiffanie, I completely understand what

1 you are saying.

2 And, Mike, I understand what you're
3 saying, too, so...

4 CHAIRMAN AIBEL: Thanks, John.
5 Gentlemen?

6 COMMISSIONER TREMITIEDI: To be brief,
7 I think that this use fulfills the need for the
8 area. Hoboken is a highly pedestrian city, and the
9 parking and traffic problems are in the entire
10 county, and I don't think they would have an adverse
11 impact in this area.

12 COMMISSIONER GRANA: I would offer that
13 I actually feel sort of similar to Commissioner
14 Tremitedi. I actually think it is a great use for
15 the area, and I think the proofs have been
16 delivered.

17 I do understand all of the concerns
18 about parking. To some extent, I will just state
19 the position that parking and challenges in Hoboken
20 to some extent come with the territory. They are
21 difficult to mitigate, and I think we are perhaps
22 underestimating the future potential of this area of
23 how much of the foot traffic or the pedestrian
24 traffic is coming from the downtown direction or
25 what will soon to be the developed western part of

1 this area.

2 So I think it is a good use. I do
3 observe also that when we have these things in other
4 parts of town, where we have more intensive
5 development that does not come with the services, we
6 seem to be generating more traffic because we are
7 not promoting pedestrian uses, and so we have the
8 opposite problem, and I think we have to consider
9 that in these applications, so I support it.

10 CHAIRMAN AIBEL: Okay.

11 I am just going to say that I think my
12 Commissioners have articulated both sides of a not
13 perfectly easy issue very well, and I think we can
14 bring it to a vote.

15 MR. GALVIN: Want me to read the
16 conditions?

17 CHAIRMAN AIBEL: Please.

18 MR. GALVIN: Okay.

19 One: The curbs and sidewalks are to be
20 replaced.

21 Two: The applicant is to comply with
22 the review letters of the Board's professionals.

23 I have Mr. Marden's letter of December
24 17, 2013.

25 Eileen, I don't have your date.

1 MS. BANYRA: I think it was --

2 COMMISSIONER COHEN: April 9th.

3 MS. BANYRA: April 9th, 2014.

4 CHAIRMAN AIBEL: Three: Six street
5 trees are to planted as described at the hearing and
6 will be approved by the Shade Tree Commission, and
7 the grates will be consistent with the other grates
8 in the area.

9 Four: The applicant will obtain
10 outside agency approval of any encroachments into
11 the Hudson County right-of-way.

12 Five: This approval is subject to the
13 Hudson County Planning Board approval.

14 We need them to make a request for the
15 waiver -- no --

16 MS. BANYRA: I think we should do that
17 just because that is probably a good practice.

18 MR. GALVIN: The applicant is to amend
19 the checklist to show that they requested the
20 waiver.

21 Six: The building facade and exterior
22 lighting are to be improved as shown and described
23 to the Board at the time of the hearing.

24 Let's see.

25 Seven: The applicant is to submit a

1 revised statement of ownership.

2 Eight: The applicant agreed to install
3 a filtration system to eliminate odors exhausted
4 from the kitchen.

5 Nine: The plan is to be revised to
6 show the storage of the residential refuse area --

7 MS. BANYRA: Well, it does show it, but
8 it is going to be improved --

9 MR. GALVIN: What's that?

10 COMMISSIONER FISHER: As part of this,
11 the condition is to improve it --

12 MS. BANYRA: -- it's to improve it when
13 they --

14 COMMISSIONER FISHER: -- replace it or
15 renovate it --

16 MS. BANYRA: -- yeah, when they replace
17 the facade or fix the facade of the building.

18 MR. GALVIN: 10: The Thorndale English
19 Ivy will be added to the landscape plan.

20 11: Ivy will also be planted on the
21 east facing wall of the addition.

22 12: The roof will be white in color or
23 reflective.

24 13: The restaurant is to participate
25 in the Park and Shop Program.

1 Is that enough, guys? Did you want any
2 signs --

3 COMMISSIONER FISHER: I don't think
4 they -- I don't think they can contractually agree
5 to that, right? Because what if the parking lots
6 don't let them?

7 COMMISSIONER BRANCIFORTE: That's sort
8 of has been my question about that program anyway --

9 COMMISSIONER FISHER: I mean, honestly
10 it's availability, and there is no availability
11 right now, okay, so I think it will be
12 challenging --

13 MS. BANYRA: But that is not
14 necessarily true with the Bijou building that's
15 being built --

16 COMMISSIONER FISHER: No, I understand,
17 but we are saying that they have to --

18 MR. GALVIN: I am going to change it to
19 make its best effort --

20 COMMISSIONER FISHER: It's best effort,
21 but not a --

22 MR. GALVIN: -- but any time we --

23 COMMISSIONER FISHER: -- it's not --

24 MR. GALVIN: -- let me just stop and
25 let me just circle that.

1 Any time I put "best effort" that is
2 basically like saying, we probably are not getting
3 it, so I don't like to say that normally. But in
4 this instance, what else can I do?

5 COMMISSIONER FISHER: I don't know how
6 you can contractually obligate --

7 MS. BANYRA: They testified that
8 they --

9 COMMISSIOENR GRANA: That they would --

10 (All Board members talking at the same
11 time, and this portion could not be stenographically
12 recorded.)

13 THE REPORTER: Wait a second.
14 Everybody is talking at once.

15 CHAIRMAN AIBEL: Mr. Matule?

16 MR. MATULE: Mr. Galvin, again, in my
17 experience both from this side of the table and also
18 as a customer in restaurants that participate in the
19 Park and Shop Program in town, it is somewhat
20 self-regulating in that the customer has to get into
21 the parking garage and get his parking ticket before
22 he can have the restaurant operator validate it. It
23 is not like the restaurant operator ensures that
24 there is space in the public garages.

25 My point being that, you know, it is

1 kind of a supply and demand basis, so I
2 personally --

3 COMMISSIONER COHEN: So if you
4 participate in it, that would be okay.

5 MR. MATULE: That is my point.

6 We are ready, willing and able to
7 validate your permit.

8 I mean, I know, for example, the garage
9 behind Starbucks on 12th Street, I park in there
10 quite there often when I go to --

11 MR. GALVIN: I'm going to put it this
12 way: The restaurant agreed to participate in the
13 Park and Shop Program.

14 CHAIRMAN AIBEL: Well, let me just
15 throw this out.

16 We don't have to spend all night on it,
17 but on the Beer Garden we actually were very
18 detailed, and we obligated the Beer Garden to
19 purchase at least two 50-ticket books for its
20 patrons to utilize, monitor the status, and then
21 increase the number of books that they would
22 purchase, if necessary.

23 So, again, I am not familiar with the
24 details of the program, but does that bear any
25 resemblance to reality?

1 MR. MATULE: Well, again, I think it is
2 self-regulating on two levels.

3 Basically what the program is is you
4 validate somebody's parking sticker for three hours,
5 which is a reasonable time to go there and have
6 dinner.

7 I would think as a business operator,
8 he is going to buy as many tickets as he has demand
9 for not based on what the zoning resolution says he
10 needs to buy, but rather what his customer base is
11 demanding. In the context that you can certainly
12 set a minimum, but I would think that a business
13 operator is going to buy as much as he needs to
14 satisfy his demand.

15 CHAIRMAN AIBEL: And we want Mr. Pino
16 to buy as much as he needs.

17 I guess my question is: What is the
18 significance of this ticket. Is it something
19 that --

20 MR. MATULE: They are hours, as I
21 understand them. You know, each sticker is worth
22 two hours or three hours, and they validate your
23 sticker, and then when you bring it back to the
24 parking facility, you just pay for the difference.

25 If you are under, you don't pay

1 anything. And if you are over, you pay the
2 difference. So I don't really know what the
3 significance is of saying you have to buy two books
4 or four books or six books --

5 MS. BANYRA: Can I make a suggestion --

6 MR. MATULE: -- if you're participating
7 in a program --

8 MS. BANYRA: -- every time we made that
9 recommendation that we were going to evaluate it,
10 I've never seen a book or heard about a book ever
11 since we approved them, so I would just leave it the
12 way it is. It works for them. It works for us. I
13 think, as Mr. Matule indicated, it's
14 self-regulating. There's no way that the zoning
15 officer or anybody else can keep up with that, and
16 we have never had it come back, so...

17 MR. GALVIN: All right. 14 --

18 COMMISSIONER BRANCIFORTE: I wanted to
19 hear the rest of the conditions. I just opened my
20 mouth again.

21 MR. GALVIN: -- 14: The restaurant
22 will not have amplified music. This prohibition
23 will not restrict the use of acoustic music.

24 COMMISSIONER BRANCIFORTE: Okay. But
25 going back to 13 about the parking --

1 MR. GALVIN: Okay.

2 COMMISSIONER BRANCIFORTE: -- Mr. Pino
3 agreed that he would somehow advertise or promote
4 the fact that he participates in this program.

5 COMMISSIONER COHEN: I think he said on
6 his website.

7 COMMISSIONER BRANCIFORTE: Well, you
8 know, Phil, I would rather see it when you walk
9 through the door, so customers know where the
10 parking is. I want the customers to know there is
11 parking. If you didn't get it this time, you get it
12 next time.

13 MS. BANYRA: Yeah.

14 MR. MATULE: The applicant will be
15 happy to have a sign posted conspicuously in the
16 restaurant that they participate in the Hoboken Park
17 and Shop Program.

18 COMMISSIONER BRANCIFORTE: Okay. That
19 should be in the conditions now.

20 COMMISSIONER FISHER: There's nothing,
21 so it doesn't --

22 (All Board members talking at once, and
23 this portion could not be stenographically
24 recorded.)

25 MR. GALVIN: 15: The applicant is to

1 consult with the county in an to attempt to create a
2 drop-off zone and a handicapped space and for the
3 creation of bicycle parking.

4 16: This approval is intended to be
5 primarily for use as a restaurant, not a bar. The
6 bars within the restaurant are intended to serve the
7 needs of the restaurant, and they are not to have
8 more than 18 seats.

9 The tables and chairs on the plans are
10 not to be moved to create additional standing only
11 space.

12 17 --

13 MS. BANYRA: Dennis, can you instead of
14 principally -- I mean, primarily --

15 COMMISSIONER FISHER: Primarily --

16 MS. BANYRA: -- I mean, can you say
17 "principally"?

18 MR. GALVIN: Sure, I can.

19 COMMISSIONER FISHER: I think it's
20 primary use as opposed to --

21 MS. BANYRA: The principal use instead
22 of primary --

23 COMMISSIONER FISHER: -- I think the
24 approval is primary use like it was the wrong
25 placement primarily --

1 MR. GALVIN: Well, that's not --

2 MS. BANYRA: Well, I think principal
3 use is a term that planners use, and it is also a
4 zoning term.

5 MR. GALVIN: The principal use of the
6 space is as what?

7 (Board members confer)

8 MR. GALVIN: Sure.

9 (Laughter)

10 We don't want it to be a principal
11 lounge.

12 All right. The principal use of this
13 space is as a restaurant, not a bar.

14 What is it, Mr. Pino?

15 (Laughter)

16 MR. PINO: Well, so we are talking
17 about the amplified music.

18 You know, are you saying amplified live
19 music, because obviously we are going to have music
20 playing inside of the restaurant.

21 MR. MATULE: That's not amplified.

22 MR. PINO: Well, it is coming through
23 speakers.

24 MS. BANYRA: We mean bands. We don't
25 want bands and/or --

1 MR. PINO: If we did anything live, it
2 would be acoustic, but there would definitely be
3 constant music coming through the speakers --

4 MR. MATULE: Like background music?

5 COMMISSIONER BRANCIFORTE: I mean,
6 there's going to be brunch on Sundays --

7 COMMISSIONER COHEN: If it won't be
8 amplified, it will be live music, is that what
9 you're saying?

10 MR. PINO: No. When you say amplified
11 music, so is that with reference to live music?

12 MR. MATULE: Yes. That is what Mr.
13 Cohen is saying.

14 COMMISSIONER COHEN: That's what I'm
15 saying.

16 MR. MATULE: There will be no amplified
17 live music.

18 MR. BANYRA: You are going to have
19 speakers playing music.

20 MR. GALVIN: The restaurant will not
21 have amplified live music. Acoustic music shall be
22 permitted -- live acoustic music shall be permitted.

23 CHAIRMAN AIBEL: This is called editing
24 by a committee, and it's never a good thing.

25 (Laughter)

1 MR. GALVIN: Amplified non live music?

2 Amplified --

3 (Board members all talking at once.)

4 MR. GALVIN: -- no, no.

5 I have: The restaurant will not have
6 amplified live music. However, this restaurant may
7 have background --

8 MS. BANYRA: I think you should just
9 leave it --

10 COMMISSIONER COHEN: Leave it at that.

11 COMMISSIONER FISHER: Just leave it.

12 MS. BANYRA: Just leave it. Don't go
13 any further than that.

14 MR. GALVIN: However -- however, live
15 acoustic music shall be --

16 MS. BANYRA: Permitted.

17 MR. GALVIN: -- permitted. Okay.

18 Thank you.

19 And then finally, the occupancy -- I
20 feel bad if they are not listening --

21 MR. MATULE: Pardon me?

22 MR. GALVIN: I just don't want to be
23 reading them, and then you don't agree with them.

24 The occupancy of this space is limited
25 to 213 people. This provision is intended to ensure

1 MR. GALVIN: -- and it's on the plan.

2 Your concern is valid.

3 COMMISSIONER FISHER: I just thought
4 you missed it. Sorry.

5 COMMISSIONER BRANCIFORTE: Are you
6 done, Dennis?

7 MR. GALVIN: Yes.

8 COMMISSIONER BRANCIFORTE: Because we
9 had the ivy on the deck also on the east facing --

10 MR. GALVIN: I got that --

11 MR. MATULE: He has that.

12 MR. GALVIN: -- not the way you are
13 saying it, but I got it as: The ivy is supposed to
14 be on the east wall.

15 COMMISSIONER BRANCIFORTE: Okay.

16 COMMISSIONER COHEN: I'll make a motion
17 to approve with those conditions.

18 COMMISSIONER DE FUSCO: I'll second it.

19 CHAIRMAN AIBEL: Pat?

20 MS. CARCONE: Okay. Commissioner
21 Cohen?

22 COMMISSIONER COHEN: Yes.

23 MS. CARCONE: Commissioner DeFusco?

24 COMMISSIONER DE FUSCO: Yes.

25 MS. CARCONE: Commissioner Grana?

1 COMMISSIONER GRANA: Yes.

2 MS. CARCONE: Commissioner Branciforte?

3 COMMISSIONER BRANCIFORTE: Yes.

4 MS. CARCONE: Commissioner Fisher?

5 COMMISSIONER FISHER: No.

6 MS. CARCONE: Commissioner Tremittedi?

7 COMMISSIONER TREMITIEDI: Yes.

8 MS. CARCONE: Commissioner Aibel?

9 CHAIRMAN AIBEL: Yes.

10 MR. MATULE: Thank you.

11 CHAIRMAN AIBEL: Any other business?

12 Eileen, nothing else?

13 MS. BANYRA: I don't think so.

14 CHAIRMAN AIBEL: Motion to close?

15 COMMISSIONER COHEN: Motion to adjourn.

16 COMMISSIONER BRANCIFORTE: Motion to

17 adjourn -- second.

18 CHAIRMAN AIBEL: All in favor.

19 (All Board members voted in the

20 affirmative.)

21 CHAIRMAN AIBEL: Thanks, everybody.

22 (The meeting concluded at 10:50 p.m.)

23

24

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C E R T I F I C A T E

I, PHYLLIS T. LEWIS, a Certified Court Reporter, Certified Realtime Court Reporter, and Notary Public of the State of New Jersey, do hereby certify that the foregoing is a true and accurate transcript of the proceedings as taken stenographically by and before me at the time, place and date hereinbefore set forth.

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

s/Phyllis T. Lewis, CSR, CRR

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PHYLLIS T. LEWIS, C.S.R. XI01333 C.R.R. 30XR15300

Notary Public of the State of New Jersey

My commission expires 11/5/2015.

Dated: 4/18/14

This transcript was prepared in accordance with NJ ADC 13:43-5.9.

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