

HOBOKEN ZONING BOARD OF ADJUSTMENT
CITY OF HOBOKEN

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SPECIAL MEETING OF THE HOBOKEN :March 31, 2015
ZONING BOARD OF ADJUSTMENT :7 p.m.
----- X

Held At: 94 Washington Street
Hoboken, New Jersey

B E F O R E:

- Chairman James Aibel
- Vice Chair Elliot H. Greene
- Commissioner Antonio Grana
- Commissioner Carol Marsh
- Commissioner Diane Fitzmyer Murphy
- Commissioner John Branciforte
- Commissioner Tiffanie Fisher
- Commissioner Owen McAnuff
- Commissioner Frank DeGrim

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

- Kristin Russell, Planning Consultant
- Jeffrey Marsden, PE, PP
Board Engineer
- Patricia Carcone, Board Secretary

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1 CHAIRMAN AIBEL: Good evening,
2 everyone.

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

11 Please join me saluting the flag.

12 (Pledge of Allegiance recited)

13 CHAIRMAN AIBEL: So we have a few
14 administrative matters.

15 VICE CHAIR GREENE: Roll call?

16 CHAIRMAN AIBEL: Thank you, Elliot.

17 MS. CARCONE: Commissioner Aibel?

18 CHAIRMAN AIBEL: Here.

19 MS. CARCONE: Commissioner Greene?

20 VICE CHAIR GREENE: Here.

21 MS. CARCONE: Commissioner Cohen is
22 absent. Commissioner DeFusco is absent.

23 Commissioner Grana?

24 COMMISSIONER GRANA: Here.

25 MS. CARCONE: Commissioner Marsh?

1 COMMISSIONER MARSH: Here.

2 MS. CARCONE: Commissioner Murphy?

3 COMMISSIONER MURPHY: Here.

4 MS. CARCONE: Commissioner Branciforte?

5 COMMISSIONER BRANCIFORTE: Here.

6 MS. CARCONE: Commissioner Fisher?

7 COMMISSIONER FISHER: Here.

8 MS. CARCONE: Commissioner McAnuff?

9 COMMISSIONER MC ANUFF: Here.

10 MS. CARCONE: Commissioner DeGrim?

11 COMMISSIONER DE GRIM: Here.

12 CHAIRMAN AIBEL: All right. We have

13 four applications on tonight. One has been

14 withdrawn. 502-510 Madison Street has submitted a

15 letter by counsel advising that they are withdrawing

16 their application.

17 I believe we need a motion to accept

18 the withdrawal without prejudice.

19 COMMISSIONER BRANCIFORTE: Motion --

20 well, can I vote first of all?

21 MS. CARCONE: Yes.

22 COMMISSIONER BRANCIFORTE: Motion to

23 accept and withdraw without prejudice.

24 COMMISSIONER GRANA: Second.

25 CHAIRMAN AIBEL: Can we do an all in

1 favor?

2 MR. GALVIN: Yes, I think we can.

3 CHAIRMAN AIBEL: All in favor?

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

6 CHAIRMAN AIBEL: Anybody opposed?

7 Okay. Thank you.

8 We will do one resolution of
9 memorialization of the resolution of denial for --
10 no --it is a resolution of approval --

11 MR. GALVIN: For the HOPES School.

12 CHAIRMAN AIBEL: -- for the HOPES
13 School, 301 Garden Street.

14 MR. GALVIN: Mr. Grana, Mr. McAnuff,
15 Mr. DeGrim and Chairman Aibel are eligible to vote.

16 Is there a motion?

17 COMMISSIONER GRANA: Motion to approve.

18 COMMISSIONER DE GRIM: Second.

19 COMMISSIONER BRANCIFORTE: Second.

20 MS. CARCONE: Who seconded?

21 MR. GALVIN: Mr. DeGrim.

22 MS. CARCONE: Okay.

23 MR. GALVIN: Mr. Grana?

24 COMMISSIONER GRANA: Yes.

25 MR. GALVIN: Mr. McAnuff?

1 COMMISSIONER MC ANUFF: Yes.

2 MR. GALVIN: Mr. DeGrim?

3 COMMISSIONER DE GRIM: Yes.

4 MR. GALVIN: Chairman Aibel?

5 CHAIRMAN AIBEL: Yes.

6 MR. GALVIN: That one is done.

7 CHAIRMAN AIBEL: We will hold the

8 variances until the end, Jeff.

9 So do you want to ask Mr. Burke to come
10 up.

11 (Continue on next page)

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HOBOKEN ZONING BOARD OF ADJUSTMENT
CITY OF HOBOKEN

----- X
RE: 263 7th Street : SPECIAL MEETING
APPLICANT: Richard Alashaian : March 31, 2015
Preliminary & Site Plan Application :Tuesday 7:20 p.m.
C & D Variances :
----- X

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Hoboken, New Jersey

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8 235 Hudson Street
9 Hoboken, New Jersey 07030
10 (210) 610-0800
11 BY: JAMES J. BURKE, ESQUIRE
12 Attorneys for the Applicant.

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1 MR. GALVIN: Mr. Burke?

2 MR. BURKE: Yes.

3 MR. GALVIN: Thank you for attending
4 this evening.

5 You guys may all remember that on 7th
6 Street, not too long ago, the night that we had the
7 Stevens application, we had a vote on that case. It
8 was a four-story structure that was being taken out
9 of the flood zone, and it was also seeking a rear
10 140 foot -- 144 square foot addition to the rear
11 next to a dry cleaner.

12 The vote was four in favor and three
13 against. Because it required a D variance for
14 stories, and that was the only D variance it
15 required, it was denied.

16 One of the things that I will tell you
17 parenthetically is that although we treat stories as
18 a height variance, we are the only community in the
19 entire state that does that. The reason why we do
20 that is because a ruling was made by the Former
21 Assignment Judge, Judge Gallipoli, and we are
22 subordinate to his jurisdiction. Since it was a
23 Hoboken case, where he made that finding, we have to
24 follow it until the ordinance is changed or until
25 another Superior Court Judge comes along and makes a

1 different finding.

2 It is possible that if we went on a
3 case such as this where it only involves this D
4 variance for a story, that a Superior Court Judge
5 might see it differently than Judge Gallipoli, and I
6 think based on my understanding of the Municipal
7 Land Use Law, there is a high probability. Okay?

8 Mr. Burke is following a procedure,
9 which is unusual, but not that unusual, and I have
10 used it in the past, which is when there is
11 information that a court, in this case the Zoning
12 Board, was unaware of at the time of the hearing
13 that if you had been aware of that information, it
14 may have somehow affected the outcome of the
15 decision-making of the tribunal. It is called a
16 motion for reconsideration. In the Superior Court
17 you have to file it within ten days.

18 I have done it. Probably about half of
19 the time, the judge says "Get out of here," and the
20 other half of the time the judge says, "Come on back
21 in and let's take another look."

22 So the question here is, and I am going
23 to give Mr. Burke an opportunity to speak in a
24 second, do we think that Mr. Burke has presented us
25 with information that if you had had at the time of

1 the hearing, it may have affected your decision.

2 Now, you wouldn't be reversing your
3 decision tonight. What you would be doing is you
4 would be agreeing to reopen the hearing, and then we
5 would set it down for another night, and they would
6 have to renotice everybody within 200 feet, and then
7 we would take another crack at it to see if we could
8 do it better.

9 So with that, Mr. Burke, do you have
10 some reasons why the Board should reconsider its
11 decision on newly discovered information?

12 MR. BURKE: Well, yes, several.

13 Thank you for letting me speak.

14 I spoke to Dennis earlier, so I really
15 didn't prepare a lot for tonight, and I know you
16 have other matters.

17 But basically the definition of
18 "Story," which appears in the ordinance section,
19 doesn't match with what appears in the flood
20 prevention section. So my contention is that we
21 presented an application for three stories, which
22 met the ordinance, and not four.

23 And I presented a memo to Eileen
24 Banyra, you know, and I see her colleague here,
25 hello.

1 She disagreed with my analysis, but the
2 key to her disagreement is that one section says one
3 thing, and one says another, and they don't mesh.
4 But in the interpretation section of the Hoboken
5 ordinance, it specifically says that they do mesh,
6 so if you have confusion from one definition, you
7 have to look to the other section for clarity.

8 In this case the lowest floor is used
9 for storage purposes only, does not constitute a
10 floor and doesn't constitute a story.

11 So when you have to raise a building to
12 meet the new flood prevention section of the code,
13 that begins the first story, and what is below it,
14 if it is not a living quarters, does not constitute
15 a story.

16 So I presented that in writing, but
17 that is basically the gist of it.

18 CHAIRMAN AIBEL: Let me just respond
19 quickly, and I will not debate the legal niceties,
20 but as far as I understand, the Board that decided
21 this matter followed the interpretation that is
22 currently applicable to us, so, you know, I do think
23 we did exactly what we were required to do.

24 My understanding is that you have some
25 additional information from the zoning officer that

1 you would like to show us that might persuade people
2 to think otherwise about providing the variance
3 relief that you were seeking.

4 MR. BURKE: Well, the zoning officer, I
5 had submitted an OPRA request, and Ms. Holtzman had
6 submitted on May 20th, 2014, she had submitted a
7 two-page memo to the Board, both Boards, and without
8 going through the whole memo, you know, essentially
9 she agrees with my interpretation.

10 She is saying that the lowest floor
11 does not constitute a story, if it is used for
12 storage purposes only, and that is what we had
13 before us with the Seventh Street application.

14 She is also saying that you have to
15 work together. These two sections of the Hoboken
16 code have to work together, you know, so there is a
17 transitional period here in the city.

18 You know, we are trying to build new
19 structures that meet the flood prevention measures,
20 and in fact, you can't come before this Board if you
21 present something that has a living quarter that
22 doesn't meet the base flood elevation.

23 So you are prohibited from coming
24 before this Board, if you do that. But if you do
25 that and you raise it up, now the Board says, well,

1 that's a story, so you have a D variance and it
2 doesn't mesh.

3 CHAIRMAN AIBEL: Well, I guess my
4 understanding is that the code may not have caught
5 up with the FEMA regulations.

6 So I guess really the question, Mr.
7 Burke, is whether the Board is inclined to reopen
8 and have you come in to try to persuade us that you
9 should get the relief you were seeking.

10 MR. BURKE: Well, Mr. Chairman, you
11 know, I touched upon this, but in the interpretation
12 section of the ordinance, it uses the Latin term, in
13 pari materia. All right?

14 The definition of that from Black's Law
15 Dictionary is that those sections are to be read
16 together, and when there is an inconsistency in one,
17 you should look to the other to resolve that
18 inconsistency, and that is what we did here.

19 There is a definition of "story" in the
20 zoning ordinance, but there's no definition of
21 "Floor." But there is a definition of "floor" in
22 the flood prevention section, and that definition
23 says, if it is used for storage, it doesn't
24 constitute a floor. So to have a story, you need a
25 floor. It is floor to ceiling. That's a story.

1 CHAIRMAN AIBEL: I understand, Mr.
2 Burke. I just don't know whether the zoning officer
3 has the power to reverse Judge Gallipoli.

4 So I guess what I am suggesting is that
5 the Board consider offering you another opportunity
6 to come in, not on the legal issue, but to persuade
7 us that --

8 MR. BURKE: Yes. No, I understand
9 that.

10 CHAIRMAN AIBEL: -- you can get a
11 variance -- if you deserve a variance.

12 MR. GALVIN: So who are the people who
13 voted on that case?

14 MS. CARCONE: I don't have the
15 information with me.

16 VICE CHAIR GREENE: I know it wasn't
17 me.

18 COMMISSIONER DE GRIM: Michael
19 definitely voted on --

20 MS. CARCONE: I can run upstairs and
21 grab it, if you need it, if you don't have it with
22 you.

23 CHAIRMAN AIBEL: No, don't do that.

24 MR. BURKE: I can tell you. I have the
25 transcript.

1 MR. GALVIN: That will help, Mr. Burke.

2 MS. CARCONE: That will help.

3 (Laughter)

4 MR. GALVIN: I am just saying that I
5 think that the group that decided the case should be
6 the ones that decide to reopen it.

7 COMMISSIONER FISHER: I am slightly
8 unclear, though, what you just said what we -- what
9 would happen with that.

10 MR. GALVIN: You would give them
11 another bite at the apple. You would let them --

12 COMMISSIONER FISHER: It's the -- so
13 there is this legal disagreement on a point, and
14 then there is just the general merits of what they
15 want to build --

16 MR. GALVIN: Correct.

17 COMMISSIONER FISHER: -- so we've
18 already kind of opined on the merits what they
19 wanted to build generally --

20 MR. GALVIN: Right.

21 COMMISSIONER FISHER: -- and so if
22 nothing is changing, they are just going to come
23 back and restate the same merits again, so --

24 MR. GALVIN: Pretty much, I think, plus
25 adding this bit what Ann told him that you didn't

1 have in front of you.

2 COMMISSIONER FISHER: -- right.

3 So now we have -- so it really is
4 opining on this legal interpretation, so it is not
5 really the merits. If nothing else over here
6 changes, it is this additional, you know, back and
7 forth.

8 MR. GALVIN: Well, they are trying to
9 get you to -- I thought it was a close vote --

10 COMMISSIONER FISHER: Yup.

11 MR. GALVIN: -- I thought it was a
12 close call. I think that they are trying to show
13 you this additional information that might affect
14 your -- that they said if you had, it may have
15 affected your decision.

16 The reason why we have to go on notice
17 and reopen the hearing is because that is the proper
18 way to do it.

19 COMMISSIONER FISHER: Of course.

20 MR. GALVIN: There may be neighbors or
21 objectors that were satisfied with the outcome that
22 they would be upset if we just reversed it somehow,
23 so --

24 COMMISSIONER MURPHY: But if I remember
25 correctly, there wasn't just that issue that was

1 being discussed. It was also lot coverage, and that
2 might be one of the reasons that not necessarily the
3 storage reason -- I mean, the height --

4 MR. GALVIN: Here is the thing, too, is
5 that the height -- right, you clearly could have
6 turned it down for the other reason, like you may
7 not have liked the addition in the rear on the first
8 floor. That might have been a reason why you turned
9 it down. That has nothing to do with a D variance.
10 But if there wasn't a D variance here, the
11 application would pass in a 4-3 vote.

12 COMMISSIONER MURPHY: Oh, I see what
13 you are saying, right. The D variance made the
14 difference.

15 MR. GALVIN: So all I am saying -- and
16 listen, if you are uncomfortable with reopening it,
17 then you don't, and then what will happen is Mr.
18 Burke's client has a denial, and then the logical
19 thing for them to do, if they are not happy with our
20 decision or they think they have merit in their
21 argument, they would appeal it. I am not afraid of
22 that. Let them do it.

23 COMMISSIONER FISHER: I guess the two
24 questions I have on this are: One is even if we go
25 in and hear it again, we have this new information

1 that -- how do we -- how are we determining if that
2 should or should not be relevant?

3 It is a legal position on an
4 interpretation of the language in our -- sounds like
5 our ordinance versus our code or FEMA or whatever.
6 Like that is just information that we rely on
7 counsel to advise us what that interpretation is,
8 right? So how do we -- why --

9 MR. GALVIN: No. I think in this case
10 I think what the -- I am not giving you -- I am not
11 necessarily telling you that the ordinance is wrong.
12 I mean, the ordinance probably needs to be amended
13 and improved. That is not what -- that is not my
14 job. My job is to tell you what the law is, and I
15 have done that.

16 If I thought -- at one point in this, I
17 gave it some consideration, and I thought that there
18 was an argument that that first floor might be
19 viewed as a basement, and as I gave it more
20 consideration, I don't think I can support that
21 legal argument.

22 However, if you deny this variance,
23 they were able to have three stories of living
24 space, and now, although they are complying with the
25 FEMA, they won't be able to have three stories of

1 living space. They would only be able to have two.

2 Okay?

3 Ann Holtzman is giving you an argument
4 that might be the basis for you to consider granting
5 a variance.

6 If you want to entertain that, like a
7 judge, you can entertain that.

8 I think the question on a motion on a
9 reconsideration is: Has enough information been
10 presented to you that you think that you might want
11 to reopen the case and reconsider your decision
12 based on this newly discovered information, in this
13 case, Ann Holtzman's letter.

14 If you feel it is, then you vote yes to
15 reopen.

16 If you feel it isn't, then you vote no.

17 CHAIRMAN AIBEL: So who among you are
18 entitled to vote?

19 MR. GALVIN: I would say --

20 CHAIRMAN AIBEL: Mr. Burke, can you --

21 MR. BURKE: Commissioner DeFusco voted.
22 Commissioner Cohen, Commissioner Grana, Commissioner
23 Murphy, Commissioner Branciforte, Commissioner
24 Fisher, and Chairman Aibel.

25 MR. GALVIN: Okay. So you guys --

1 normally it would be the people who voted no I think
2 would be the ones that would be -- who were the --
3 one of them was Mr. DeFusco.

4 MR. BURKE: The Chairman and Mr.
5 DeFusco and Mr. Branciforte who are here.

6 COMMISSIONER GRANA: I have a question.
7 So if we voted in favor of this
8 application, which I did, I am not really the debate
9 here, is it --

10 MR. GALVIN: It's usually if you went
11 to Robert's Rules of Order, if somebody is going to
12 undo a motion, usually you would look to the people
13 who voted in the negative.

14 COMMISSIONER GRANA: Okay. So --

15 CHAIRMAN AIBEL: Well, three of us are
16 here.

17 MR. GALVIN: Well, two of the three.

18 MS. CARCONE: Two.

19 MR. GALVIN: Mr. DeFusco is not here.

20 (Everyone talking at once.)

21 COMMISSIONER MURPHY: There is always a
22 chance that somebody that voted in the other --

23 MR. GALVIN: No, I don't think so --

24 COMMISSIONER MURPHY: -- could go in the
25 other direction.

1 MR. GALVIN: -- no, I think I would go
2 with the five people that were here the night of the
3 hearing. I think that is what we should do.

4 CHAIRMAN AIBEL: Can I have a motion?

5 COMMISSIONER GRANA: So I am not sure I
6 understand what the motion is.

7 MR. GALVIN: The question is do we
8 reopen the case.

9 COMMISSIONER MURPHY: I motion that we
10 reopen the case and hear the case again.

11 COMMISSIONER GRANA: Let me ask a
12 question, though.

13 Even though there are people who voted
14 no, the fact is that even if it is reopened, it is
15 still going to reopen with a D variance on the
16 application --

17 MR. GALVIN: Correct.

18 COMMISSIONER GRANA: -- and, in fact,
19 even though some people may have objected based on
20 the C variance request, it's still going to require
21 a minimum set of votes, and so -- I mean, I am
22 supportive, but I am not sure that I am seeing it
23 would make a big difference.

24 COMMISSIONER MURPHY: If we have a full
25 Board, it might turn out differently.

1 COMMISSIONER GRANA: I supported the
2 applicant, but I don't know that it makes a big
3 difference.

4 COMMISSIONER FISHER: But is it a
5 motion --it is for the full Board again, or it's the
6 same seven people that vote again?

7 MR. GALVIN: I would prefer to keep it
8 the same seven people, if I could, but we have to
9 play that by ear. I don't know --

10 COMMISSIONER MURPHY: I think you
11 should go by what happened that night --

12 MR. GALVIN: I think it should be the
13 same seven people.

14 COMMISSIONER FISHER: But that is --
15 then what you are doing is a motion for
16 reconsideration and have a different audience hear
17 the same exact thing with a potential for a
18 different outcome on the merits of the case.

19 MR. GALVIN: I am definitely not doing
20 that. That is the worst case scenario what is being
21 proposed. If you don't want to reopen the case,
22 just say you don't want to reopen the case. It's
23 okay.

24 I said that you -- do you think there
25 was enough information provided by Mr. Burke for you

1 to say you didn't have that information and you want
2 to reopen the case.

3 I really want you to see me as a
4 neutral. I am not for or against any case.

5 COMMISSIONER FISHER: I don't think
6 we're challenging that, but I think some of us are
7 just slightly confused as to what the implications
8 are.

9 CHAIRMAN AIBEL: Well, I think we're
10 hearing --

11 MR. GALVIN: Wait a minute. Let me
12 just say this: If we don't reopen the case, then
13 their next step is to go file an appeal, and that is
14 it.

15 COMMISSIONER MARSH: But if you reopen
16 the case, and the same outcome happens, that's the
17 same result.

18 MR. GALVIN: Then they'll have to --
19 that will be the same result, right, and there is no
20 guarantee that the result will be different just
21 because they reopened the case --

22 COMMISSIONER FISHER: Well, except for
23 the one thing, which is if you reopen the case, are
24 we requiring that it is the same people voting,
25 because if it is different people voting, it is a

1 different process --

2 MR. GALVIN: I don't want them cherry
3 picking the judge. I prefer to keep it the same. I
4 think you guys can decide that. I think it should
5 be the same people hearing the case.

6 COMMISSIONER GRANA: So if we were to
7 entertain a motion, we would entertain a motion from
8 this Board to either open or not reopen, and if we
9 do reopen, it will be with the same voting members
10 in the original case.

11 MR. GALVIN: Correct.

12 The only thing I would say to you is
13 don't reopen, if you don't think there has been
14 enough information provided for the purpose of
15 reopening. We are not going to reopen cases --
16 everybody who gets a loss could come back and ask us
17 to reopen the case.

18 I thought in this case that there were
19 issues here. There were questions about this
20 information that you didn't have, that if you had,
21 maybe you would have felt --

22 CHAIRMAN AIBEL: Well, I am considering
23 that new information, so I would be inclined to
24 reopen, and I am prepared to make a motion.

25 Any reason we can't?

1 MR. GALVIN: No. Go ahead.

2 CHAIRMAN AIBEL: So who is voting on
3 this?

4 MR. GALVIN: It's Mr. Grana, Mr.
5 Branciforte, yourself, Ms. Fisher, and Ms. Murphy.

6 CHAIRMAN AIBEL: Motion to reopen the
7 hearing to allow Mr. Burke to present some new
8 evidence with notice.

9 MR. GALVIN: A notice to the public,
10 and we will pick a date.

11 VICE CHAIR GREENE: Does the motion
12 include the fact that only the same seven people can
13 hear it?

14 MR. GALVIN: And it includes -- Mr.
15 Chairman, would you amend your motion that it be the
16 same seven voting members?

17 CHAIRMAN AIBEL: Amended.

18 COMMISSIONER FISHER: Second.

19 VICE CHAIR GREENE: Is there any
20 discussion?

21 COMMISSIONER GRANA: I think there is a
22 little bit more discussion here because I know we
23 are taking time, but here is where I am torn.

24 I supported the application. I thought
25 the applicant warranted relief, but I don't

1 necessarily believe that reopening changes anything.

2 MR. GALVIN: Then don't -- you know,
3 listen, I don't want this process to be misused. I
4 thought that there was important information that
5 was being presented to you, that at least I asked
6 Mr. Burke to send you the letter and information, so
7 that you had it. But if you don't feel like it
8 rises to that level, don't reopen it just because
9 you are being asked to reopen it. Reopen it because
10 you feel there is sufficient information upon which
11 people might consider it, and I am not saying if it
12 is or it isn't. I am leaving it to you guys to make
13 the call.

14 CHAIRMAN AIBEL: We have a motion and
15 we have a second.

16 Want to do a roll call?

17 MS. CARCONE: Commissioner Grana?

18 COMMISSIONER GRANA: No.

19 MS. CARCONE: Commissioner Murphy?

20 COMMISSIONER MURPHY: Yes.

21 MS. CARCONE: Commissioner Branciforte?

22 COMMISSIONER BRANCIFORTE: Yes.

23 MS. CARCONE: Commissioner Fisher?

24 COMMISSIONER FISHER: Yes.

25 MS. CARCONE: Commissioner Aibel?

1 CHAIRMAN AIBEL: Yes.

2 MR. GALVIN: Okay. So we will have to
3 pick a date, and we will let you know, and you will
4 have to notice for that.

5 VICE CHAIR GREENE: You need to pick a
6 date when those seven people are here.

7 MR. GALVIN: We have to pick a date
8 when those seven people will be here.

9 COMMISSIONER BRANCIFORTE: Also, is
10 there a length of time that they have to be heard by
11 now?

12 MR. GALVIN: I would like to hear them
13 right away. I want to get it over with and either
14 vote them up or vote them down.

15 CHAIRMAN AIBEL: I'm sure there are
16 time restraints for Mr. Burke to extend --

17 (Board members talking at once.)

18 MR. GALVIN: Can you waive whatever
19 time limits could possibly be --

20 MR. BURKE: Well, I will extend it to
21 the date --

22 MR. GALVIN: No. Then we are not
23 reopening. I'll have the Board call it --

24 MR. BURKE: Well, I can't. I can't
25 extend it indefinitely.

1 MR. GALVIN: -- well, we are not going
2 to hold you indefinitely --

3 MR. BURKE: All right.

4 MR. GALVIN: -- and I don't think you
5 have any rights to a timetable.

6 MR. BURKE: I will agree to extend it
7 for 60 days. That is an adequate period of time.

8 MR. GALVIN: All right. Over my
9 objection. There's no law for that.

10 COMMISSIONER FISHER: But if we don't
11 meet in 60 days, there's no like deemed approval or
12 anything. This is just then they go back to --

13 MR. GALVIN: Then we will --

14 COMMISSIONER FISHER: -- to the
15 courts --

16 MR. GALVIN: -- we'll take as many of
17 you Board members as are available, and we will deny
18 the application and leave them to their rights.

19 They won't get an automatic approval.
20 We are not going to allow that to happen on any
21 case.

22 CHAIRMAN AIBEL: So we will communicate
23 with you, Mr. Burke.

24 MR. BURKE: Thank you. Thank you, all.

25 (The matter concluded.)

C E R T I F I C A T E

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

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

s/Phyllis T. Lewis, CCR, CRCR

 PHYLLIS T. LEWIS, C.C.R. XI01333 C.R.C.R. 30XR15300
 Notary Public of the State of New Jersey
 My commission expires 11/5/2015.
 Dated: 4/3/15
 This transcript was prepared in accordance with
 NJAC 13:43-5.9.

HOBOKEN ZONING BOARD OF ADJUSTMENT
CITY OF HOBOKEN

----- X
 RE: 409 Jefferson Street : SPECIAL MEETING
 APPLICANT: 409 Jefferson St., LLC :March 31, 2015
 Minor Site Plan Review and :Tuesday 7:30 p.m.
 C & D Variances :
 ----- X

Held At: 94 Washington Street
Hoboken, New Jersey

B E F O R E:

- Chairman James Aibel
- Vice Chair Elliot H. Greene
- Commissioner Antonio Grana
- Commissioner Carol Marsh
- Commissioner Diane Fitzmyer Murphy
- Commissioner John Branciforte
- Commissioner Tiffanie Fisher
- Commissioner Owen McAnuff
- Commissioner Frank DeGrim

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

- Kristin Russell, Planning Consultant
- Jeffrey Marsden, PE, PP
Board Engineer
- Patricia Carcone, Board Secretary

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1 CHAIRMAN AIBEL: Thank you, everybody,
2 for your patience.

3 We have 409 Jefferson to be followed by
4 108-110 Jefferson.

5 VICE CHAIR GREENE: Have you announced
6 that 502 withdrew?

7 CHAIRMAN AIBEL: And we have announced
8 that 502 has been withdrawn.

9 MR. MATULE: Good evening, Mr.
10 Chairman, and Board members.

11 Robert Matule appearing on behalf of
12 the applicant.

13 This is the application for 409
14 Jefferson street. It was previously scheduled, I
15 believe, for February 17th, and I think we didn't
16 get reached, and then it was carried through today
17 with no further notice.

18 It is an application to construct a new
19 four-story, four residential unit building.

20 I have two witnesses, James McNeight,
21 and our planner, Mr. Ochab.

22 MR. GALVIN: Raise your right hand.

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

1 MR. MC NEIGHT: I do, yes.

2 J A M E S M C N E I G H T, having been duly
3 sworn, testified as follows:

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

6 THE WITNESS: James McNeight,
7 M-c-N-e-i-g-h-t.

8 MR. MATULE: Mr. McNeight, just before
9 we start, are you going to have any exhibits, other
10 than the working plans that were submitted?

11 THE WITNESS: No.

12 MR. MATULE: I don't have any labels.

13 MS. CARCONE: I'm digging them out.

14 MR. MATULE: All right.

15 Mr. McNeight, could you describe for
16 the Board members the existing site and the
17 surrounding area?

18 THE WITNESS: This is a conforming 25
19 by 100 foot deep site on the side of Jefferson,
20 three buildings -- four buildings up from the corner
21 of Fourth Street.

22 Currently there is a three-story and
23 basement framed dwelling that has six units in it, I
24 believe, which is proposed to be demolished, and
25 this new five-story building built there.

1 As you just heard, this has a story on
2 the bottom that is used for nothing but storage and
3 as the lobby for the building, and then there is
4 four levels of apartments above that, one apartment
5 with a floor.

6 There is no parking proposed on the
7 site. The bulk of the building is 60 feet deep. It
8 has an exterior stair off the back, which increases
9 the lot coverage by five and a half percent.

10 There is an interior stairway that
11 leads you down to the first floor, and there is an
12 exterior stairway in the backyard that also leads
13 you down to the first floor and brings you out
14 through this gated entrance here.

15 The reason the building is up this high
16 is because we are deep into the flood plain, and
17 this building has been the subject of discussions
18 with the zoning officer.

19 Should we bring that up at this time?

20 MR. MATULE: Sure.

21 The Flood Plain Administrator?

22 THE WITNESS: Yes.

23 With the new flood plain being at 13
24 above sea level, the stoops to get up to the first
25 floor of living are getting so gigantic, that they

1 are imposing on the street scape of the given
2 context and fabric of Hoboken.

3 So the thought process here is to pick
4 the building up high enough that you could have a
5 legal ceiling on that first level, so that the
6 stairways can simply come down within the body of
7 the building and then exit through the face of the
8 building on the front, so that it doesn't have to
9 have any big stoop on the front.

10 All of the historic stoops in Hoboken
11 that are pleasant, normally don't get above eye
12 level. That is sort of how it works when you walk
13 down the street, that any stoop that's higher than
14 eye level, you know, becomes a visual encroachment
15 that isn't pleasant to behold.

16 So that long-winded story is why this
17 first part of this building is set at 15 and a half
18 feet above sea level, to create that eight-foot
19 ceiling that we need on the first floor in any event
20 to meet a means of egress.

21 MR. MATULE: So just, you know, if I
22 can to make it clear.

23 When you had originally designed the
24 original submission on this, you had designed it
25 with exterior stairs?

1 THE WITNESS: Yeah. The building would
2 have been two foot shorter basically, but it would
3 have this gigantic encroachment on the city's
4 property.

5 MR. MATULE: And based on comments from
6 the Flood Plain Administrator, you revised the plan
7 to have what is presently being shown to the Board?

8 THE WITNESS: That's correct.

9 MR. MATULE: Thank you.

10 Could you take us through the other
11 site features and then through the floor plans?

12 THE WITNESS: Well, on this site plan
13 the building is built all the way forward on the
14 site, so that it lines up with the other buildings
15 on the street.

16 In this particular case, the lot to the
17 south is used as an automobile fix-it shop, that has
18 a curb cut in the front and an open driveway
19 courtyard in front of it full of cars, and the
20 actual shop is all the way in the back.

21 The building next door is also a
22 three-story frame building, and it has an existing
23 one-story concrete block building all the way in the
24 back, so this rear yard is pinned in on both sides
25 by existing one-story buildings at the moment.

1 So we have 60 percent lot coverage on
2 our main building, and the balance of the backyard,
3 except for the exterior stair tower, it has a paved
4 area in the middle, and then it goes up to a
5 landscaped grassy plateau there basically.

6 In the front we are going to put in a
7 street tree. We are going to have plantings below
8 the bay that -- this is a bay window that sticks out
9 30 inches. You see it in the floor plans, but that
10 planting is below that bay window down at the lowest
11 level.

12 MR. GALVIN: Does the bay window
13 encroach into the city right-of-way?

14 THE WITNESS: Yes, it does, and we have
15 notes to that effect that it needs an encroachment.

16 MR. MATULE: You have an on-site
17 detention system?

18 THE WITNESS: Yes, we do.

19 Underneath the building, we have the
20 proposed on-site detention to hold the stormwater
21 for a period of time and slowly enters into the
22 sewer system.

23 Technically Z-2 is just the information
24 with people of 200 feet of the property.

25 The street scape, when this was done

1 originally, there was a two-story building on the
2 corner of Fourth Street. There is currently a
3 five-story building under construction there.

4 This is the blank site, where the auto
5 fix-it shop is pushed back.

6 This is that existing frame building on
7 either side.

8 Fiore's parking lot comes out here on
9 this site, and at the other end of the site there is
10 a five-story masonry corner building.

11 So this is the first floor plan. The
12 back end of the 60 foot building, as I said, we have
13 this stairway. The reason that it is slightly
14 deeper than seven feet, eight feet in this case, is
15 because I tried to pinch it this way, so that when
16 you are out on this stairway, you don't have the
17 ability to look around the corner into anybody's
18 window on either side.

19 So when that stairway lands in the
20 backyard, they come through this graded corridor,
21 and that is the second means of egress, this fire
22 rated corridor that will deliver you all the way
23 back to the right-of-way on Jefferson Street.

24 The other doorway leads you into the
25 stairway. That is the interior stairway that brings

1 you up to each of the four levels.

2 Up on the roof is the fire department
3 access. There is three air-conditioner condensers
4 and one package up on the roof as well as the usual
5 exhausts and vents of the plumbing system.

6 MR. MATULE: No decks or anything are
7 proposed to be up on the roof?

8 THE WITNESS: No decks, correct.

9 It has a ten foot bay that projects 30
10 inches off the face of the building on each of the
11 upper three levels -- four levels. I'm sorry.

12 As we said before, that is an
13 encroachment on city property that fits in with the
14 allowable encroachments for this size of a building.

15 If you look at the center diagram,
16 there is a very faint line here. The base flood
17 elevation at 12, which is just about at the top of
18 the entrance doors, so because of the structure
19 necessary to span the 25 feet and to have a clear
20 eight foot ceiling in that lowest level, the first
21 floor is set at 15.5 feet above sea level. So you
22 will hear from the planner why we are asking for a
23 height variance in feet, it is because of that
24 discussion we had about eliminating the big stoop in
25 the front.

1 This is the rear elevation of that
2 exterior stairway that brings you all the way down
3 to the rear yard, and this is the information on the
4 adequacy of the fenestration and the masonry.

5 The rear yard, as I said, has a paved
6 area that's drained when you come down the stairway,
7 and then it is -- it goes down a few steps to a
8 grassy yard there.

9 We don't need fencing on either side
10 because of the one-story buildings, but there is a
11 fence across the back of the site, and there is
12 peripheral planting all the way around the exposed
13 sides.

14 As I said, we have a street tree in the
15 front. We have adequate lighting at both entrances,
16 and at the rear of the building, the second means of
17 egress.

18 MR. MATULE: Just if we could, Mr.
19 McNeight, just to touch back on the fenestration.
20 In fact, the masonry we are asking for a variance
21 from the 75 percent requirement because we are only
22 at 72.7 percent?

23 THE WITNESS: Yes. That is a function
24 of the bays. When you have a projected bay like
25 that that's cantilevered, it can't be made out of

1 masonry without some very dramatic structure to hold
2 it up, so in this case the metal cladding of the bay
3 is what throws that calculation off as far as the
4 masonry is concerned.

5 But at one point when we used to do
6 these calculations, because this whole bay stuck
7 out, when the whole bay is counted as fenestration,
8 but it was changed since we first started making
9 these calculations, so now you just take the
10 windows, the A and the B type windows, and subtract
11 it out, but that is where that slight variance comes
12 from as far as the masonry is concerned.

13 MR. MATULE: And did you receive Mr.
14 Marsden's review letter of November 17th?

15 THE WITNESS: I did.

16 MR. MATULE: And do you have any issues
17 addressing any of the items he raised in that
18 letter?

19 THE WITNESS: None whatsoever.

20 MR. MARS DEN: If I may just say, that
21 was revised February 11th.

22 MR. MATULE: Yes.

23 MR. MARS DEN: Okay.

24 MR. MATULE: The February 11th
25 revision, no issue making those revisions?

1 THE WITNESS: No issues.

2 MR. MATULE: Thank you.

3 And as far as the ground floor goes,
4 the bays with the flood vents and everything, the
5 Flood Plain Administrator has approved the wet flood
6 proofing and dry flood proofing as the case may be,
7 correct?

8 THE WITNESS: That's correct.

9 Everything on that first floor is made
10 out of inorganic materials that can't be damaged by
11 the flood plain. It has the relief and the
12 necessary amount of relief, front and back vents to
13 let the water go through.

14 MR. MATULE: Okay. No further
15 questions.

16 CHAIRMAN AIBEL: Board members?

17 COMMISSIONER BRANCIFORTE: So why do we
18 need -- from an architectural standpoint, why do we
19 need that top floor?

20 THE WITNESS: From an architectural
21 standpoint?

22 COMMISSIONER BRANCIFORTE: Yeah. I
23 mean, what does it add to the building that
24 justifies --

25 THE WITNESS: Well, it is sort of

1 because of the new flood plain, the new landscape is
2 now above your head when you are walking down the
3 street as far as usable land.

4 So aside from all of the discussions
5 about whether or not this is a story, that can't be
6 used for any habitable purpose. It is basically a
7 four-unit four-level building. The same paradigm
8 that has existed all over Hoboken for a long time.
9 It is just that now four stories are picked up to a
10 point where they will not be damaged by a flood.

11 CHAIRMAN AIBEL: But the ordinance says
12 three stories, and I am sure you can build a
13 beautiful conforming three-story building there.

14 THE WITNESS: That is true.

15 CHAIRMAN AIBEL: Anybody else?

16 COMMISSIONER FISHER: Yeah.

17 You mentioned the need to have the
18 eight and a half feet on the first floor. Is it
19 eight and a half or nine feet?

20 THE WITNESS: It's eight on the nose,
21 yeah.

22 COMMISSIONER FISHER: Eight feet, and
23 that is just so you can have a door and enter,
24 right?

25 THE WITNESS: That can be the legal

1 means of egress for those --

2 COMMISSIONER FISHER: Right.

3 But do you need to elevate the whole
4 building, or could it just be shorter, and that
5 first floor apartment drops down, it is just
6 smaller, so the windows on the right-hand side drop,
7 and the windows on the left-hand side go away, like
8 that square footage in front?

9 THE WITNESS: Well, the portion over
10 the two doors here would still make this third floor
11 come in at that level.

12 So I mean, you could drop this half of
13 the apartment down.

14 COMMISSIONER FISHER: And just lose the
15 other half of the apartment is my point.

16 THE WITNESS: Oh, just to lose it, it
17 would just be too small to do that. I mean, it
18 would be --

19 COMMISSIONER FISHER: Isn't it 1500
20 square feet? You can't have a smaller -- each floor
21 is like --

22 THE WITNESS: Let me look at the floor
23 plan. This is the floor plan basically.

24 So you are saying get rid of this swath
25 here?

1 COMMISSIONER FISHER: No. Get rid of
2 the swath on the left.

3 COMMISSIONER BRANCIFORTE: Where the
4 stairway is?

5 COMMISSIONER FISHER: Yes.

6 THE WITNESS: Oh, where the stairway
7 is. I see what you mean. You know, that's a
8 possibility.

9 COMMISSIONER FISHER: Then you don't
10 have a height variance. You can drop it and you're
11 at whatever feet, and you can stay at 40 feet at
12 least. You just lose some square footage. It seems
13 like -- I mean, I'm not an architect, but is there a
14 way to do it would be the question --

15 THE WITNESS: Hum...

16 COMMISSIONER FISHER: -- because we
17 have seen in other applications, I think, Mr.
18 Matule, we have seen other applications that have
19 put the stairs inside, like you have done for some
20 of the same reasons. But often that first initial
21 staircase is six steps or something to the first
22 floor, and the first floor starts, you know, just a
23 few feet above as opposed to a full ten or nine feet
24 above.

25 THE WITNESS: In my opinion, the

1 difference I could only drop it by two, two and a
2 half feet, so to me, it doesn't make all of that
3 much sense to do it that way.

4 CHAIRMAN AIBEL: Elliot?

5 VICE CHAIR GREENE: The secondary means
6 of egress, that is below the base flood elevation?

7 THE WITNESS: The final piece of it is,
8 yes.

9 VICE CHAIR GREENE: So that if in fact
10 there was a serious flood event, like we experienced
11 a few years ago, there would be water in that
12 passageway?

13 THE WITNESS: For some period until it
14 recedes.

15 VICE CHAIR GREENE: What if, God
16 forbid, there was a fire in the building, how do the
17 occupants get out if they are blocked by flood
18 water?

19 THE WITNESS: That is the terror of
20 flooding. That is the condition all over the town,
21 if that is the case. The building has to deliver
22 you to the right-of-way. If the right-of-way has
23 four feet of water on it, that is what is going on
24 with the right-of-way at that point.

25 VICE CHAIR GREENE: Okay. I am not

1 sure that is the answer I was looking for, but okay.

2 CHAIRMAN AIBEL: Okay?

3 VICE CHAIR GREENE: Yes.

4 CHAIRMAN AIBEL: Anybody else?

5 COMMISSIONER GRANA: Chair?

6 CHAIRMAN AIBEL: Go ahead.

7 COMMISSIONER GRANA: Can I take you

8 back to Z-1 for a second?

9 THE WITNESS: Sure.

10 COMMISSIONER GRANA: Just a question

11 with regard to the architectural element.

12 You indicated that there shouldn't be a

13 stoop in this location because stoops should not

14 generally rise above eye level. Did I understand

15 that correctly?

16 THE WITNESS: Yes.

17 COMMISSIONER GRANA: Are there

18 locations in town where stoops do rise above eye

19 level?

20 THE WITNESS: Yes.

21 COMMISSIONER GRANA: Do they cause a

22 visual environment impairment when they rise above

23 eye level?

24 THE WITNESS: I believe so.

25 CHAIRMAN AIBEL: You don't like my

1 house.

2 (Laughter)

3 COMMISSIONER GRANA: So
4 architecturally, you don't feel that a stoop is
5 appropriate either -- either -- is it esthetic or is
6 it logistic?

7 THE WITNESS: Well, the bigger the
8 stoop gets, then the further the building should be
9 pushed back from the street.

10 You know, like on the upper west side
11 of New York, there are lots of those high stoops,
12 but the buildings are all pushed back to where those
13 stoops create sort of like a semi-private zone
14 between the buildings and the sidewalk.

15 But in Hoboken, where you are dealing
16 with, you know, 14, 15-foot sidewalks, once the
17 stoop gets above eye level, then to me, it doesn't
18 make sense.

19 Like the mega buildings back by
20 ShopRite, where the ordinance mandated these giant
21 stoops, you never see anybody near them. There is
22 just a whole punch of steps all over the place with
23 no purpose.

24 COMMISSIONER GRANA: But theoretically,
25 the egress could not come straight to the street.

1 It could, you know, go from left to right on the
2 side of the building --

3 THE WITNESS: That's true.

4 COMMISSIONER GRANA: Okay. On Z-2 --
5 was a plan ever made showing the staircase in that
6 fashion?

7 THE WITNESS: Yes. That was the
8 original --

9 COMMISSIONER GRANA: From left to
10 right.

11 THE WITNESS: -- the original zoning
12 drawings had that --

13 COMMISSIONER GRANA: On Z-2, just for
14 clarification, the applicant is seeking a variance
15 for the proposed height of the building, and what is
16 that?

17 THE WITNESS: The proposed height of
18 the building is 43 feet six inches above BFE where
19 40 feet is allowable.

20 COMMISSIONER GRANA: Okay. Thank you.

21 And on Z-3, is there a roof coverage
22 variance on this type application?

23 THE WITNESS: No. It is less than ten
24 percent.

25 COMMISSIONER GRANA: How will the roof

1 be treated? Will there be any green elements or
2 white elements?

3 THE WITNESS: It would be a white roof
4 to reflect the heat. We are not proposing any sort
5 of plantings up there.

6 COMMISSIONER GRANA: So it would be a
7 white covering?

8 THE WITNESS: Correct.

9 COMMISSIONER GRANA: Lastly, on Z-5,
10 the paver patio, is that material porous,
11 semi-porous, hard?

12 THE WITNESS: Hum, it is a hard
13 surface. It is brick, but it doesn't have mortar
14 between it. It lets the water sink down, and there
15 is drainage underneath it, as well as a floor drain
16 or an area drain in this case being outside to take
17 the surface water.

18 COMMISSIONER GRANA: So it has the
19 capacity to absorb some surface water?

20 THE WITNESS: Correct. And whatever
21 comes through goes down into these pipes and goes
22 down into our 5,000 gallon storage tank here.

23 COMMISSIONER GRANA: So theoretically
24 water on the paver would drain down, would enter
25 pipes and go into the retention?

1 THE WITNESS: Correct.

2 COMMISSIONER GRANA: Thank you.

3 COMMISSIONER MARSH: I have a question.

4 CHAIRMAN AIBEL: Sure.

5 COMMISSIONER MARSH: You said if you
6 couldn't put the egress on the first floor, it would
7 require an encroachment on the sidewalk? That
8 would --

9 THE WITNESS: Yes.

10 If you exited the building on the
11 second story, if you came out of a door here as
12 opposed to down here, you would need, you know, X
13 amount of steps to get down to grade.

14 COMMISSIONER MARSH: But those steps
15 would have to be approved by the council, no?

16 THE WITNESS: Correct.

17 CHAIRMAN AIBEL: Board members, anybody
18 else?

19 Diane?

20 COMMISSIONER MURPHY: So on Z-5 or the
21 landscaping, I just wanted to understand that.

22 How many feet out from underneath the
23 bay windows were you planning on having some kind of
24 plantings?

25 THE WITNESS: Six -- oh, I'm sorry.

1 Seven feet.

2 COMMISSIONER MURPHY: Seven feet out?

3 THE WITNESS: No. Six feet.

4 COMMISSIONER MURPHY: Six feet out?

5 THE WITNESS: Yes.

6 COMMISSIONER MURPHY: So if you had a
7 stoop, how many feet out would it have to come?

8 THE WITNESS: About seven feet.

9 COMMISSIONER MURPHY: So about a foot
10 wider than the little bay there?

11 THE WITNESS: Correct.

12 COMMISSIONER MURPHY: And that would be
13 if it came down directly?

14 THE WITNESS: If there was a stoop out
15 front, then the overall height of the building would
16 drop 30 inches.

17 COMMISSIONER MURPHY: Right.

18 But if you don't have -- I mean, I
19 don't know -- I am just asking architecturally, if
20 you had steps that maybe came down and turned, so
21 they weren't out so far, how far out do you think
22 they would go out?

23 THE WITNESS: Like I said, seven feet.
24 They would have to be what they call a bullnose
25 stair, where you go down to a landing, at 180

1 degrees and --

2 COMMISSIONER MURPHY: So seven is as
3 small as it could --

4 THE WITNESS: Well, they have to be 36
5 inches clear, and they have to cross each other, and
6 then railings, and so it is seven feet.

7 COMMISSIONER MURPHY: That's what I
8 mean.

9 Thank you.

10 VICE CHAIR GREENE: Just following up
11 on the paver patio, is there really any reason why
12 you couldn't do a surface that allowed water to
13 drain a little better than having essentially an
14 impervious patio?

15 THE WITNESS: Well, the whole backyard
16 could be grass.

17 VICE CHAIR GREENE: I understand why
18 you want a patio there, but considering the fact
19 that this is, as you put it, deep in the flood zone
20 to create that amount of surface that doesn't drain
21 or minimum drainage, to me, it doesn't make any
22 sense.

23 THE WITNESS: I think you are better
24 off with this design that is going to pick up the
25 surface drainage and put it where it is not going to

1 bother anybody into this tank here, other than if it
2 was all grass, for instance, and it was a heavy
3 storm, you know, the percolation of this area, the
4 water table is right below the surface of the
5 ground, so the water would sit there. The water
6 would sit there longer if it was all grass than it
7 would with this system.

8 VICE CHAIR GREENE: So your testimony
9 is this is a better option?

10 THE WITNESS: Yes, I believe so.

11 VICE CHAIR GREENE: Okay.

12 COMMISSIONER FISHER: One more
13 question.

14 On the bottom, and my apologies, if you
15 already mentioned it, I know you are talking about
16 putting some vegetation across the -- what looks to
17 be a concrete block --

18 THE WITNESS: Yeah. There would be a
19 planting bed right here. It is about 12 feet wide
20 and six feet deep.

21 COMMISSIONER FISHER: But is that wall
22 just going to be -- what is the wall going to be
23 made out of, and can it be made to be something
24 other than --

25 THE WITNESS: The wall is going to be

1 made out of limestone facing basically, and just
2 have these flood plains that have to be within 12
3 inches of grade to allow the water to come in and
4 out.

5 COMMISSIONER FISHER: I guess my
6 question is, when I think about vegetation, it may
7 be difficult to maintain or may die or something
8 over time, and so is there a way to make -- if we
9 are going to keep that wall, and that big of a wall,
10 is there a way to make the wall just have a better
11 street appearance, because right now we're relying
12 on vegetation to almost hide it. It's just like a
13 solid flat wall.

14 Can you put something in, like a fake
15 window or just something that makes it --

16 THE WITNESS: Yes. We could introduce
17 a window there.

18 COMMISSIONER FISHER: It is about --
19 how wide is that wall?

20 THE WITNESS: Well, the building is 25,
21 so you know, it is about a 15 foot long solid wall
22 there.

23 COMMISSIONER FISHER: So it would be
24 like between these two columns, let's say, eight
25 feet high, just a flat wall?

1 THE WITNESS: The wall could either
2 have some, you know, punctures in it, as windows or,
3 you know, the whole wall could be screened and let
4 vegetation, you know, grow up along the wall as
5 well. But the way we had the landscaping designed
6 is it will be high enough that you won't really
7 notice that it is such a solid wall behind it.

8 COMMISSIONER MURPHY: One more thing.
9 So throughout Hoboken the old bay
10 windows are often masonry. Is that just something
11 that we don't do any more?

12 THE WITNESS: They are only masonry if
13 they come down and hit the ground, if you notice.

14 If they are projected, if they're
15 cantilevered, they are not made straight. They are
16 made out of copper, too, like the old ones.

17 COMMISSIONER MURPHY: And then they're
18 covered, what, in a brownstone or something like
19 that?

20 THE WITNESS: No, if you have --

21 COMMISSIONER MURPHY: I mean, I have
22 bay windows --

23 THE WITNESS: -- there is a beautiful
24 example right across the street here on the corner
25 of Bloomfield. That building has four sets of bays

1 coming off of it. They are all copper clad and
2 they're cantilevered. But, you know, in other parts
3 of town, like Park Avenue, you will see bays come
4 out that are masonry, but they come all the way down
5 and they have their own foundations. They hit the
6 ground, and that is still allowable under the
7 ordinance to encroach on the property --

8 COMMISSIONER MURPHY: No. I understand
9 that. I have a bay window that is masonry. It's
10 not three stories, but --

11 THE WITNESS: See if it's touching the
12 ground.

13 COMMISSIONER MURPHY: Yeah. It is not.
14 I walk under it every day.

15 CHAIRMAN AIBEL: Anybody else?

16 One second, Jeff, if you don't mind.

17 On your rear exit stairs, you are
18 showing that they are eight feet deep.

19 THE WITNESS: Yes.

20 CHAIRMAN AIBEL: Are there areas on the
21 stair landings that could be used for outdoor
22 purposes?

23 THE WITNESS: Not really. It has to be
24 kept free and clear for egress purposes, so there is
25 no extra room there for anything.

1 CHAIRMAN AIBEL: So what's the size of
2 the largest landing?

3 THE WITNESS: The size of the largest
4 landing -- you mean the little squares here and
5 here?

6 CHAIRMAN AIBEL: Yes.

7 THE WITNESS: Three foot square. That
8 is a legal minimum.

9 CHAIRMAN AIBEL: Okay. Jeff?

10 MR. MARSDEN: Yes.

11 I thought your testimony was the patio
12 will be brick, but they will have spaces and so
13 forth between them, so the water will infiltrate --

14 THE WITNESS: Yes. And --

15 MR. MARSDEN: -- and then be collected
16 in this and go into the storm sewer.

17 We refer to those as pervious pavers.
18 I think you need to provide a detail for that
19 showing that you do have the proper spacing, and
20 then, you know, if you could put pervious pavers,
21 which have nubs on them to keep the proper space
22 apart, okay, and they have a certain type of gravel
23 detail underneath it.

24 THE WITNESS: Right. We do have a
25 detail on the fifth page. Maybe it has to be

1 enhanced, but that is basically it -- oh, I'm sorry,
2 that's the utility --

3 (Laughter)

4 -- okay. I am sorry.

5 Well, that detail could be provided,
6 but it is pervious paving.

7 MR. MARSDEN: I think you need to call
8 it out as pervious pavers, and then show detail on
9 how much stone is underneath and the right types of
10 stone and the right spacing.

11 COMMISSIONER MC ANUFF: I just want to
12 go back to something on Z-3 regarding Chairman
13 Aibel's question.

14 There is a portion of the back
15 staircase that is going to be wider than three feet.
16 The landing where it says, for instance, says Stair
17 B --

18 THE WITNESS: Correct.

19 COMMISSIONER MC ANUFF: -- it is three
20 foot one, plus the rest of the projection.

21 THE WITNESS: Correct.

22 COMMISSIONER MC ANUFF: I don't know if
23 that makes a difference to you or not.

24 CHAIRMAN AIBEL: Thank you for the
25 clarification.

1 COMMISSIONER MC ANUFF: It is probably
2 about five feet.

3 COMMISSIONER BRANCIFORTE: So, Mr.
4 McNeight, on those drawings on the deck that you
5 show and the staircase you show in the rear, that
6 area where you wrote in stairway or whatever is
7 written in --

8 THE WITNESS: Stair B.

9 COMMISSIONER BRANCIFORTE: -- is that a
10 solid area where people can stand on?

11 THE WITNESS: Yes. The way it is
12 drawn, it is solid.

13 If that bothers anyone, that long
14 rectangular there where the, you know, the U-shape
15 of that stair is, it can be a void.

16 CHAIRMAN AIBEL: Do you have doors
17 opening up to the fire escape?

18 THE WITNESS: Yes. It has sliding
19 glass doors opening to that.

20 COMMISSIONER MURPHY: So they're more
21 like a duck --

22 CHAIRMAN AIBEL: Okay. Let's keep it
23 rolling here or let's get it rolling.

24 Seeing no more questions from the Board
25 and the professionals, let me open it up to the

1 public.

2 Anybody have questions for Mr.
3 McNeight?

4 Questions only.

5 Seeing none.

6 COMMISSIONER GRANA: Motion to close
7 public portion.

8 COMMISSIONER MURPHY: Second.

9 CHAIRMAN AIBEL: All in favor?

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

12 MR. MATULE: Mr. Ochab.

13 MR. GALVIN: Raise your right hand.

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

17 MR. OCHAB: Yes, I do.

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

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

22 THE WITNESS: Ken Ochab. That's
23 O-c-h-a-b.

24 MR. GALVIN: Mr. Chairman, do we accept
25 Mr. Ochab's credentials?

1 CHAIRMAN AIBEL: We do.

2 MR. MATULE: Mr. Ochab, I see you put
3 up a photo exhibit there.

4 Is that the only board you will have?

5 THE WITNESS: Yes, that's it.

6 MR. MATULE: All right. So can we mark
7 this as A-1 for identification.

8 (Exhibit A-1 marked.)

9 MR. MATULE: Could you just for the
10 record tell us what it is, and if you took the
11 pictures, and approximately when?

12 THE WITNESS: First of all, I have a
13 report that I had written on the application, dated
14 August 4th, and a supplemental letter, dated
15 February 7 of 2015.

16 So these are the photographs that I
17 took relative to the site and the surrounding area.

18 The upper left photograph is a
19 photograph of the building in question, which is the
20 blue building, the three-story blue building --
21 actually four-story. It has apartments on the upper
22 floors and an existing locksmith commercial use in
23 the basement cellar area.

24 Also showing the buildings to the north
25 along the street scape of Jefferson Street and the

1 adjacent building is again a commercial building
2 with residential above, and then we have residential
3 pretty much on the rest of the block. We will get
4 back to this in a second.

5 The upper right photograph is a
6 photograph of the building in question.

7 There is a 25 foot lot between the two
8 buildings looking to the south, and in that lot is
9 an existing auto repair garage with a one-story
10 building set all the way back to the rear property
11 line.

12 But then just to the south of that is a
13 five-story residential building, and just to the
14 south of that on this photograph at least, which was
15 taken last year, is an empty lot, but that has
16 approval for a five-story building on the corner of
17 Fourth and Jefferson.

18 The lower left photograph is a
19 photograph of the building directly across the
20 street from -- on Jefferson from the project site,
21 and again, this is a 75 foot lot with a six -- with
22 a five-story building, one, two, three, four, five,
23 a five-story building, and parking on the lower
24 level.

25 And then the photograph on the lower

1 right is a photograph of again the back end of the
2 building to the north, and again, you can see the
3 extension of that building, which covers a hundred
4 percent of the site and going all the way back to
5 the rear property line, and then the upper floors of
6 the building just to the left side of the
7 photograph.

8 So with respect to the variances here,
9 we have two D variances, one for building height for
10 number of floors and also for density, and we have a
11 number of C variances.

12 We have building height for physical
13 height, which is a C variance, because it doesn't
14 exceed ten percent of the 40 feet, which is 43.5
15 feet being proposed.

16 We also have a front yard variance,
17 zero feet, where five to ten feet is required.

18 Masonry facade percentage, which Mr.
19 McNeight talked about, and that pretty much is it.

20 So with regard to the D variance for
21 height, the key on the D variance for height is
22 based on the Grasso case and also Coventry, which
23 basically requires us to look at the context of the
24 neighborhood with respect to the buildings that are
25 within the neighborhood and the height of those

1 buildings.

2 So when we do that, again, the
3 photographs pretty much show that the newer
4 construction is predominantly five-story in nature,
5 so we have the building just to the south of us at
6 five stories.

7 This one has surface or parking at the
8 first level, and then I don't have the photograph of
9 it, but you approved last year a five-story building
10 on the corner of Fourth and Jefferson.

11 To the north we have -- again, the
12 older buildings are not necessarily five stories.
13 They are generally three and four stories. It's
14 just typical of any neighborhood within this
15 particular area, where the newer construction is a
16 little taller.

17 But beyond the photograph, we have a
18 five-story building at the corner of Fifth and
19 Jefferson, and of course, across the street you have
20 a 75 foot frontage and a five-story building.

21 As you see from the photograph, this
22 building pretty much dominates the street. You
23 know, it has got a presence because of the width and
24 the height of the building, and again, surface
25 parking on the lower level.

1 So with respect to what we are
2 proposing, we are proposing a building just four
3 over one. We have storage at the ground level, and
4 we have raised that building up to 43.5 feet in
5 order to get the clearance for the first story as
6 Mr. McNeight went through, so I won't bother to
7 reiterate that.

8 But in terms of the context of the
9 neighborhood with respect to the new construction,
10 it is pretty much all five stories in nature.

11 With respect to the density, it is
12 pretty much the same story.

13 Here our density requirement would be
14 3.79 units. We are proposing four units, and of
15 course, we are prohibited from rounding up, so we
16 can't round up to four.

17 But, again, if you look at the nature
18 of the neighborhood that we are in, and there is a
19 table in my report that pretty much goes through
20 that analysis, we have buildings to the south which
21 are all pretty much the same deviation with respect
22 to density that we are proposing.

23 There are several buildings to the
24 north, specifically the second and third building,
25 even though they are older, pretty much the same

1 density that we are proposing, four units on 2500
2 square foot. Four units on 2500 square feet.

3 Of course, across the street we have
4 the big one, which is a little bit higher in density
5 than we are proposing. That is 11 -- 14 units on
6 7500 square feet, so it is a little bit higher in
7 density, but again, it is very much imposing.

8 MR. GALVIN: God bless you.

9 MS. CARCONE: Thank you.

10 THE WITNESS: On the density analysis
11 here, and although I don't show it, the buildings on
12 either side of this building are pretty much of the
13 same density that we are proposing as well.

14 So we have Lot 59 and Lot 22, which is
15 to the south of us at five and a half percent
16 deviation, which is what our density deviation is.

17 And the building to the north is a
18 little bit higher than that. It has six units on
19 2500 square feet of lot area.

20 So with respect to density, we used the
21 Grasso criteria or the Coventry criteria, which
22 essentially is look at the character of the
23 neighborhood and do an analysis with respect to how
24 we fit into that character in terms of density and
25 height, and also do an analysis of whether or not

1 the site can accommodate any problems associated
2 with the height and density, and here again, I don't
3 think there is any particular problems that are
4 derived as a result of the increase in the height or
5 the density.

6 With respect to lot coverage, again,
7 the building, the principal building is 60 percent
8 coverage, which is allowable. It is the fire stairs
9 that put us over at five and a half percent.

10 The front street setback is typical.
11 We line ourselves up with the street scape and
12 buildings along that street scape, both the new and
13 the old.

14 You might note that there is an absence
15 of stoops along this side of Jefferson. I didn't
16 really think about that, but it came up during the
17 course of the testimony.

18 As far as the rear yard is concerned,
19 we don't need a rear yard variance. We have
20 sufficient rear yard.

21 The new building will come back -- on
22 the lower right photograph, the new building will
23 come back just about to where this window is on the
24 first floor of the building to the north. But I
25 also know that this section of the building is

1 indented from the side property line, so it is in
2 five feet or so and goes back to the rear line, and
3 then comes back out where the cinder block building
4 is located, but at that point our building is done,
5 so we are basically looking at the rear yard here.

6 So there shouldn't be any effect there
7 in terms of the effect of our building, which again
8 meets the lot coverage requirement with respect to
9 how it relates to the property to the north, and I
10 will just add, just for a note, that these buildings
11 to the north and probably the auto repair to the
12 south now are ripe for some sort of redevelopment,
13 since it looks like the entire block is beginning to
14 go in that particular pattern, so I will leave it at
15 that, and I'm happy to answer any questions.

16 CHAIRMAN AIBEL: Thanks, Mr. Ochab.

17 Board members, questions for Mr. Ochab?

18 COMMISSIONER FISHER: I have a
19 question.

20 Do you know the height, when you look
21 at your street scape, it looks like the five-story
22 to the right when you are looking to the building to
23 the right and the five-story a little bit down the
24 block, how tall are those, do you know?

25 THE WITNESS: I believe Mr. McNeight

1 has a plan that should show that.

2 COMMISSIONER FISHER: Well, maybe --

3 CHAIRMAN AIBEL: It says "not to
4 scale."

5 COMMISSIONER FISHER: -- then the
6 related question is just the big red and green one
7 across the street, how tall -- not stories, but the
8 height.

9 THE WITNESS: Well, it is five stories,
10 so I would say somewhere in the neighborhood of 45
11 to 50 feet.

12 Judging by the fact if you have ten
13 foot floors, that is 40 feet, and then you have
14 garage space, which should be at least another ten,
15 maybe a little less than ten, so somewhere in the
16 neighborhood of 45 to 50, and our building is 43 and
17 a half.

18 CHAIRMAN AIBEL: Is the fifth floor set
19 back in that building?

20 THE WITNESS: Yes, it is. But it's
21 just -- it looks like it is -- well, I think
22 actually yes, Mr. Chairman, because you can see
23 there is a little floor line on the --

24 MR. GALVIN: It's the same as the
25 centerpiece. The setback in the centerpiece --

1 THE WITNESS: Yeah. So it's just the
2 brick sections are pulled out a little bit further,
3 no doubt about it.

4 These were the bay windows that Mr.
5 McNeight was talking about.

6 COMMISSIONER FISHER: It only looks
7 like it is set back a couple of inches. It's not
8 meaningful.

9 CHAIRMAN AIBEL: Mr. Ochab, you
10 mentioned that the building on the corner of
11 Jefferson and Fourth is subject to approval by this
12 Board?

13 THE WITNESS: It was.

14 CHAIRMAN AIBEL: Are you familiar with
15 that property?

16 THE WITNESS: Am I familiar with it?

17 Only the fact that I know it was
18 approved for six units and five stories.

19 CHAIRMAN AIBEL: Are you aware that it
20 is a double sized lot?

21 THE WITNESS: Yes, I am.

22 CHAIRMAN AIBEL: Are you aware that the
23 fifth floor is substantially set back?

24 We have the architect here, so we could
25 possibly find out exactly by how much.

1 THE WITNESS: I didn't see the plan,
2 but I did see the resolution.

3 It didn't require a density variance,
4 and I didn't call that out --

5 CHAIRMAN AIBEL: That was built over a
6 hundred percent of the lot. Is that correct?

7 THE WITNESS: I believe so, yes.

8 CHAIRMAN AIBEL: Anybody else have
9 questions for Mr. Ochab?

10 COMMISSIONER BRANCIFORTE: I'll try to
11 make it quick.

12 Do you have Ms. Banyra's report in
13 front of you, the planner's report?

14 THE WITNESS: No.

15 MR. GALVIN: What page, John?

16 COMMISSIONER BRANCIFORTE: Well, it
17 starts on page one, surrounding pattern of
18 development and zoning.

19 You know, she speaks about three-story
20 buildings and she speaks about two-story buildings,
21 or one building that is four stories, but she
22 doesn't really mention anything about the flat wall.
23 She mentioned that the tallest building on the block
24 is at Fifth on the corner.

25 But, you know, it has always been my

1 understanding that the corners sort of get a pass on
2 height. They are supposed to be like the anchor of
3 the block, and I don't always find that true, but
4 that is the argument we always hear. Well, we're on
5 the corner, we should go a little bit bigger, where
6 the guise beyond the corner is the anchor. Now you
7 are saying, well, the corner unit -- the corner
8 building is five stories, so that could justify us
9 being five.

10 THE WITNESS: That is interesting. I
11 always made that argument, but I never managed to
12 make it succeed.

13 (Laughter)

14 COMMISSIONER BRANCIFORTE: Okay. No. I
15 am saying now do we need to --

16 THE WITNESS: I'll remember that.

17 COMMISSIONER BRANCIFORTE: -- is it
18 fair to really compare it to the corner lot -- the
19 corner buildings because --

20 THE WITNESS: Well, not by itself, but
21 I mean, certainly there are other buildings on both
22 sides of Jefferson with five stories --

23 COMMISSIONER BRANCIFORTE: Yeah, but
24 that's the thing. On the opposite side, sure. I
25 see it on the opposite side, but that probably

1 needed a variance in itself.

2 THE WITNESS: There is no doubt it did,
3 but it's the prevailing height. It's the prevailing
4 height that has been emerging there.

5 Certainly those two and three-story
6 buildings are not the prevailing emerging height
7 pattern. The older buildings certainly are.

8 COMMISSIONER BRANCIFORTE: There is a
9 whole question of, you know, what is the pattern.
10 If the Zoning Board is handing out variances and
11 creating a pattern, then really we are the ones who
12 are creating the pattern. We're the ones that could
13 stop it, so, you know, it is not like birds are
14 flying south, and that is the pattern that the birds
15 take. We have nothing to do with that, but we do
16 control the pattern, and I always wondered about
17 that.

18 Do you agree or disagree?

19 THE WITNESS: It is a good comment.

20 My view on it is that you have an
21 established pattern, and then that evolves into a
22 new pattern both in terms of density and height, and
23 that new pattern essentially, you know, for better
24 or worse, has been basically five stories, so we are
25 following in that pattern. That is your decision to

1 make, but that is my take on it.

2 COMMISSIONER BRANCIFORTE: That's fine.

3 VICE CHAIR GREENE: Sir, if I may, Mr.
4 Ochab, so I am referring to Ms. Banyra's report as
5 well.

6 So if you go under the assumption that
7 this is sort of setting the development guidelines
8 for this area, because there were so many, as you
9 pointed out, other lots ripe for development, do you
10 think it is appropriate that if the master plan
11 calls for green elements, and there are very few
12 here, and the master plan calls for preserving
13 stoops, and there's none here, that it makes sense
14 that this development makes sense in that context?

15 THE WITNESS: Well, in terms of the
16 open space, certainly there is a provision for open
17 space in the rear yard, so we are okay there.

18 With respect to stoops, I don't really
19 have an opinion one way or the other --

20 VICE CHAIR GREENE: I'm just
21 referring -- I don't have an opinion either. I am
22 just referring to the master plan, encouraging stoop
23 life, and we would be approving no stoop life on
24 this block essentially --

25 COMMISSIONER BRANCIFORTE: We would be

1 removing --

2 VICE CHAIR GREENE: -- and we would be
3 suggesting that it is okay for buildings not to have
4 green elements.

5 THE WITNESS: Well, that is a hard
6 question for me to answer.

7 I certainly do encourage stoops, but
8 when the pattern of the development along the street
9 scape is not stoop oriented, I don't know if it is
10 any advantage to start adding one, or two, or three,
11 where the predominant pattern is not stoop oriented.
12 That is up to you.

13 COMMISSIONER GRANA: Hum...

14 CHAIRMAN AIBEL: Mr. Grana?

15 COMMISSIONER GRANA: I have one
16 question.

17 Would you argue that this building
18 begins to reflect the prevailing evolution of the
19 block, the height and --

20 THE WITNESS: The building we are
21 proposing?

22 COMMISSIONER GRANA: Yes.

23 THE WITNESS: Yes, I do.

24 COMMISSIONER GRANA: So would it be a
25 benefit to the block for the prevailing of pattern

1 development to also include stoops, since that's
2 something that the master plan asks for?

3 THE WITNESS: It certainly could.

4 I mean, when I look to the south,
5 again, I don't think the building on the corner has
6 a stoop because it is wide. The one to the south
7 does not, and then because the older ones to the
8 north don't either. But I don't see --

9 COMMISSIONER GRANA: But we are
10 establishing a potential pattern.

11 THE WITNESS: -- I don't see any harm
12 in doing it.

13 COMMISSIONER GRANA: Thank you.

14 CHAIRMAN AIBEL: Are we also amending
15 the ordinance?

16 Are we also amending the ordinance by
17 basically saying that a fifth story is permissible
18 in a zone where the ordinance says three?

19 THE WITNESS: That is a broader
20 question, Mr. Chairman.

21 CHAIRMAN AIBEL: I will make it
22 rhetorical.

23 What are the special reasons for the
24 fifth story on this building?

25 THE WITNESS: Well, there is no real

1 special reason case here, because it is not a use
2 variance. It is both height and density, which go
3 under special criteria, under again, the Grasso case
4 and Grubbs and Coventry, which is you put the
5 pattern of the neighborhood, are we consistent with
6 the emerging pattern of the neighborhood with
7 respect to density and height. That's the issue.

8 CHAIRMAN AIBEL: You would agree with
9 me, though, that if we allowed five floors here in
10 this lot, which is indistinguishable from any of the
11 other lots north or south of it, we would be setting
12 a five-story standard for this block?

13 THE WITNESS: Well, every time I say
14 that, somebody says to me that we go on a case by
15 case basis.

16 CHAIRMAN AIBEL: That's usually our
17 counsel, yes.

18 MR. GALVIN: You go by a case by case
19 basis.

20 THE WITNESS: That somebody is right to
21 your left.

22 (Laughter)

23 CHAIRMAN AIBEL: Okay. Anybody else?

24 CHAIRMAN AIBEL: Professionals,
25 anything?

1 Let me open it up to the public.

2 Questions for Mr. Ochab?

3 Seeing none.

4 COMMISSIONER BRANCIFORTE: Motion to
5 close public portion.

6 COMMISSIONER MURPHY: Second.

7 CHAIRMAN AIBEL: All in favor?

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

10 MR. MATULE: Mr. Chairman, just a
11 couple of comments.

12 The plan, as originally Mr. McNeight
13 testified, indicated that the upper roof was going
14 to have a white roof on it.

15 While Mr. Ochab was testifying, and
16 based on some of the comments from the Board, I
17 asked the applicant if he would be willing to put a
18 full green tray roof system up there since there is
19 no roof decks or anything, and the applicant would
20 be willing to do that.

21 To try to address some of the other
22 comments, I mean, this really is a pretty typical
23 four-family house, and I know, you know, we have
24 this larger issue of the quote, unquote, fifth
25 floor, which is the whole emerging issue with

1 complying with the new flood ordinance. We are
2 three, I believe three feet four inches above the
3 permissible 40 feet, even though we are technically
4 at five floors, where we are only allowed to have
5 three.

6 The ordinance contemplates a volume of
7 40 feet above the base flood elevation. We are
8 required to have our first floor one foot above
9 that, so basically we have two and a third feet
10 variation that we are asking for the variance for,
11 and that is to put the stairs inside of the
12 building.

13 Now, in all fairness to the applicant,
14 when this was originally submitted, Mr. McNeight had
15 a return stairway out in front of the building
16 parallel to the face of the building.

17 When it was reviewed by the Flood Plain
18 Administrator, it was her recommendation that that
19 be removed because in a flooding event, she is of
20 the opinion that stoops create a blockage for the
21 flow of water and for debris to hang up on, and so
22 she is recommending that there not be a stoop there.

23 Frankly, I know in the master plan,
24 that's one of the many elements in the master plan
25 we talked about is having stoops, but this is now, I

1 guess maybe it goes back to a little bit of what Mr.
2 Burke was talking about earlier, where we have
3 conflicting regulations or conflicting ideas.

4 A master plan is a recommendation that,
5 you know, we have stoops. The flood regulations are
6 now saying they don't want stoops because they
7 create issues when there is a flooding event. The
8 revision of the plan by the architect was merely
9 trying to respond to the Flood Plain Administrator's
10 comments.

11 In terms of establishing a pattern
12 going forward, the principal building is at 60
13 percent, which I think is a good thing to establish,
14 even though we have a lot of preexisting
15 nonconforming conditions around us in terms of rear
16 yard. Hopefully as those lots are developed in the
17 future, the hole in the donut will have an
18 opportunity to be further opened up. It is
19 certainly a vast esthetic improvement to the street.

20 Again, the density is marginal. I
21 think we are at 3.79, and we're asking for 4. But
22 again, it is sort of the prototypical four-story,
23 four-family Hoboken building. Obviously it would be
24 great if we could have the building down on grade,
25 but we can't.

1 But, again, I think the fact that we
2 are talking about a C variance for less than three
3 feet, and we have the hardship of dealing with the
4 deviation with our ordinance and now the flood
5 regulations that require the first floor to be one
6 foot higher than the base flood elevation, I think
7 makes a very strong case for a hardship created by
8 trying to comply with the regulation.

9 As far as the front of the building, we
10 leave it up to the Board. Mr. McNeight has
11 testified that the plantings are going to be of a
12 certain height that he thinks it will screen the
13 face of the building sufficiently to break up what
14 looks like kind of a monolithic limestone wall, but
15 if the Board would prefer to see a green screen on
16 there, rather than a planting bed, the applicant
17 would be more than happy to do that.

18 I know some recent applications we have
19 had here, we have made that change.

20 So having said that, I would ask the
21 Board to grant the approvals because I think it is
22 in keeping with the neighborhood fabric, and it is a
23 pattern of development, and frankly, I think it
24 would be setting a good precedent for the rest of
25 the block to be developed.

1 Thank you.

2 CHAIRMAN AIBEL: Thank you, Mr. Matule.

3 We neglected to open it up for public
4 comment, so I'm going to do that now.

5 MR. MATULE: All right.

6 CHAIRMAN AIBEL: If anybody in the
7 public wants to comment on the application, now is
8 your opportunity.

9 Thank you.

10 Are you coming up?

11 A VOICE: No, sir.

12 CHAIRMAN AIBEL: Seeing no public
13 comment.

14 COMMISSIONER BRANCIFORTE: Notion to
15 close public portion.

16 COMMISSIONER GRANA: Second.

17 CHAIRMAN AIBEL: All in favor?

18 (All Board members answered in the
19 affirmative.

20 MR. GALVIN: Mr. Matule, you are done
21 now, right?

22 MR. MATULE: Yes, I am. Thank you.

23 CHAIRMAN AIBEL: Let me open it up to
24 the Board. Anybody want to kick off?

25 COMMISSIONER MC ANUFF: I'll start.

1 I am not voting tonight, but if I were,
2 I would be voting no simply because you have a blank
3 canvass here, and by eliminating the top story you
4 eliminate three of the variances, two of the height
5 variances and the density variance.

6 I don't see a reason that we were
7 presented, a reason for the necessity for
8 essentially the fourth story of living space.

9 I am fine with the first floor. I
10 understand the need for it with the flood ordinance,
11 but I don't understand the additional fourth story.

12 CHAIRMAN AIBEL: Anybody else wish to
13 comment?

14 COMMISSIONER BRANCIFORTE: Yeah. I
15 agree. Not only is this a blank canvass, the entire
16 fire block is a blank canvass, and you know, I don't
17 even like the fact that the building next door is as
18 high as it is.

19 I think the extra unit means an extra
20 car, at least one extra car, if not two extra cars
21 on the street. That is, you know, creating more
22 parking problems in this neighborhood.

23 It's also height creep as far as I am
24 concerned, and losing the stoop to me, people might
25 think it is, you know, a silly thing, but you know,

1 stoop life is what holds a community, a block
2 together, and so I made my feelings clear I think on
3 this.

4 CHAIRMAN AIBEL: Mr. Grana?

5 COMMISSIONER GRANA: With regard to
6 density and the particular height, I actually think
7 that the relief that's being asked for, just in my
8 opinion, it is relatively small. It's between two
9 and three feet.

10 I guess I essentially agree with the
11 points made by Mr. Ochab and Mr. Matule in that, you
12 know, the new flood requirements are going to be a
13 challenge to anybody that previously might have been
14 able to build a four over one as a right.

15 I am not here to challenge the
16 ordinance. We're not here fix that problem. I'm
17 just saying I support the argument.

18 My two principal struggles I guess were
19 with the green elements of the roof. The applicant
20 has decided to address that.

21 That would lead me to the stoop. You
22 know, I don't want to penalize the applicant. The
23 applicant has been advised by the Flood Plain
24 Administrator that the stoop should not be present.
25 I am not sure it's my position to challenge that or

1 not. I'm not an expert. I don't actually see the
2 differences, four feet of water inside and four feet
3 of water outside of the building how that affects
4 ingress or egress. I don't know if it's enough for
5 me to not support the application, but I think the
6 lots are designed to go into these properties,
7 buildings is a problem.

8 Thanks.

9 CHAIRMAN AIBEL: Anybody else?

10 VICE CHAIR GREENE: Well, now that you
11 mentioned it, I mean, I think it is worthy of
12 further discussion, and frankly I don't know the
13 answer. But if the code requires two means of
14 egress, and you are putting up a residence, deep
15 into the flood zone, and you know that during a
16 flood there will not be two means of egress, are we
17 doing the right thing by approving it.

18 You know, I am throwing that up as a
19 question for my colleagues here and perhaps for
20 counsel, because I don't know the answer to it.

21 MR. GALVIN: Well, you have a fire
22 stair and a front door, so I think you still have
23 two means of egress and ingress, but --

24 COMMISSIONER BRANCIFORTE: Well, I have
25 to throw my two cents in this. I mean, if there is

1 a four foot flood there, I don't see how the fire
2 department is going to get in to rescue the people
3 without -- the two doors will be cut off to the fire
4 department. I don't see how they are going to be
5 able to get into the building.

6 MR. GALVIN: Here's the thing. I would
7 suggest that this Board navigate around the issue of
8 the stoop. Unless the stoop is really what your
9 essential issue is, I think if a reviewing court
10 looked at us, getting focused on what the Flood
11 Plain Administrator says and the issue of whether or
12 not you should have a stoop, you know, I really find
13 that to be a complication for me in defending this
14 decision.

15 I mean, to the extent that Mr. McAnuff
16 is positive of other reasons -- I mean, I know when
17 you are going through and you're checking down, if
18 you like a stoop, and they are not presenting a
19 stoop, and you think that's a reason, I think you
20 have a right to say it, but they are telling you
21 that they were told that they can't have one from
22 the Flood Plain Administrator --

23 COMMISSIONER FISHER: Was that because
24 it's a regulation or just her opinion, just like,
25 oh, I think it would be bad?

1 MR. MATULE: Well --

2 COMMISSIONER BRANCIFORTE: Should we
3 even go there?

4 COMMISSIONER FISHER: Then we have to
5 maybe think about getting rid of stoops in that
6 zone.

7 COMMISSIONER MARSH: And in the master
8 plan.

9 MR. GALVIN: I think that there is a
10 bigger picture here that somebody needs to address.
11 It's the first that I've heard that you can't have a
12 stoop.

13 MR. MATULE: I didn't say we couldn't
14 have one. I mean, I will be happy to quote to from
15 her letter of December 16th, but what the Flood
16 Plain Administrator says is: Code permits the
17 building entry to be located below the designed
18 flood elevation. This is an alternative that should
19 be considered at grade and to assist to enhance the
20 street scape and prevent detachment of elevated
21 structures from having a pedestrian scale. The
22 proposed stoop is also a substantial encroachment of
23 the public right-of-way. Other buildings on the
24 block have at-grade entrances, so the proposed stoop
25 is incongruous with the rest of the block frontage.

1 MR. GALVIN: I think that is an
2 opinion.

3 COMMISSIONER FISHER: That is an
4 opinion, and that doesn't --

5 COMMISSIONER BRANCIFORTE: Who signed
6 that, Bob?

7 COMMISSIONER FISHER: -- it's -- from
8 her flood plain --

9 MR. MATULE: This is Ann Holtzman,
10 Flood Plain Administrator.

11 COMMISSIONER FISHER: That's not a
12 regulation. That's baloney.

13 MR. MATULE: Well, I am not saying it
14 is a regulation. I am saying it is her opinion that
15 stoops create a negative situation in a flooding
16 event.

17 MR. GALVIN: But what I am saying to
18 you --

19 COMMISSIONER FISHER: Where does it say
20 that?

21 MR. GALVIN: -- just let me just say
22 this.

23 COMMISSIONER FISHER: Go ahead.

24 MR. GALVIN: If you have five or six
25 reasons, however you feel about this application, I

1 would prefer that your only reason not for denying
2 it not be based on the stoop, okay --

3 COMMISSIONER FISHER: Only.

4 MR. GALVIN: -- because I think you
5 don't want to give -- I think if the Board --
6 listen, I think if the Board liked this proposal and
7 you would want a stoop, I think Mr. Matule and Mr.
8 McNeight would go back and meet with Ms. Holtzman
9 and, you know, show a revised plan to show the
10 stoop.

11 COMMISSIONER GRANA: So just to add in
12 my comments, as I said, it wasn't enough to -- the
13 lack of a stoop isn't enough for me to not vote --
14 to not support the application, so I guess I don't
15 necessarily agree with the opinion. Put it at that.

16 MR. GALVIN: The opinion not to have a
17 stoop, you think it would be better with the stoop?

18 COMMISSIONER GRANA: Absolutely.
19 That's just an opinion.

20 MR. GALVIN: Okay.

21 CHAIRMAN AIBEL: Anybody else?

22 COMMISSIONER FISHER: Yeah. I will say
23 that I -- I guess my overall take-away is you have
24 seen a number of buildings in this situation. This
25 just feels that it pushes the envelope at all

1 points.

2 I agree with what other people said. I
3 have not heard justification for the fifth story. I
4 do think there's height creep, but we have seen
5 situations where there's a fifth story that's been
6 set back.

7 You know, this one I am still concerned
8 about the front of the building and vegetation. You
9 know, if we just approve the vegetation, it puts the
10 city council in a terrible position where if they
11 don't put the vegetation, then they have an ugly,
12 you know, front of the building, so I think we need
13 to have both of those options.

14 I just don't think the applicant did
15 enough to create something within what the ordinance
16 requires and just push the envelope at all levels.

17 So I'm concerned about the height. As
18 I mentioned, when I asked questions of Mr. McNeight,
19 it may only be a couple feet. But when you look it
20 at relative to the buildings next to it, it's taller
21 than the buildings next to it, and we've probably
22 seen other ways to be creative, that would let you
23 have a stoop, that would drop the door closer to the
24 ground and allow, you know, a better front of the
25 building and a lower building.

1 So I am concerned that generally the
2 application as a whole just pushes the envelope and
3 asks for too many variances, and I don't see where
4 it's justified relative to the street scape.

5 One last point: It may be consistent
6 with some of the prior buildings, but based on what
7 you mentioned, it doesn't seem that it is consistent
8 with the direction of what the master plan is asking
9 for on a go-forward basis. It's a look backwards.
10 Consistency is not necessarily a report, so I will
11 not support it.

12 CHAIRMAN AIBEL: Anybody else, Board
13 members?

14 COMMISSIONER MC ANUFF: I just wanted
15 to clarify my first comments.

16 My issue is not asking for the height
17 variance because it is only three and a half feet.
18 My issue is asking for the number of stories.

19 COMMISSIONER MURPHY: I would like to
20 agree with you. That's where I am sitting right
21 now. It's the whole extra story and density issue,
22 considering that we are starting with something that
23 we are starting from the ground up.

24 CHAIRMAN AIBEL: My two cents is I
25 don't agree that this is consistent with the

1 neighboring building. It is easy to look at the
2 Jefferson Street land -- street scape and see this
3 is a large building in the middle of a smaller scale
4 buildings. I am not sure we should be saying it
5 will be consistent with the way it will be developed
6 in the future. We are looking at a neighborhood
7 right now that I think is saying the extra story is,
8 you know, not welcome.

9 Anybody else have any comments?

10 MR. MARSDEN: Yes.

11 I just wanted to point one thing out
12 that the finished floor could be slightly lower,
13 approximately a foot lower, because the lowest cord
14 has to be one foot above flood, which is 12, makes
15 the low cord 13. The thickness of the cord is
16 thicker than a foot, plus maybe 14 inches, that
17 would put you closer to 14 plus, than 15 and 5.

18 Now, what I don't quite get is it looks
19 like the cord is six feet on the ground floor, and I
20 thought you needed seven and a half head height. Is
21 that what -- I am not sure if that is generating the
22 second floor elevation.

23 That's it.

24 MR. GALVIN: Okay.

25 VICE CHAIR GREENE: Is that a question

1 that the architect should address?

2 MR. GALVIN: No. I don't think it
3 affects the opinions at this point of the Board.
4 It's not necessary to --

5 CHAIRMAN AIBEL: Okay. I think we
6 heard everybody.

7 COMMISSIONER BRANCIFORTE: Motion to
8 deny.

9 VICE CHAIR GREENE: Well, should we
10 impose conditions first so that --

11 COMMISSIONER BRANCIFORTE: Well, no a
12 motion to deny would -- do we need conditions on a
13 motion to deny?

14 MR. GALVIN: No.

15 COMMISSIONER BRANCIFORTE: Motion to
16 deny.

17 CHAIRMAN AIBEL: Do we have a second?

18 COMMISSIONER FISHER: Second.

19 MS. CARCONE: Commissioner Greene?

20 VICE CHAIR GREENE: Yes.

21 MR. GALVIN: Yes, to deny?

22 VICE CHAIR GREENE: Yes.

23 MS. CARCONE: Commissioner Grana?

24 COMMISSIONER GRANA: No.

25 MS. CARCONE: Commissioner Marsh?

1 COMMISSIONER MARSH: Yes.

2 MS. CARCONE: Commissioner Murphy?

3 COMMISSIONER MURPHY: Yes.

4 MS. CARCONE: Commissioner Branciforte?

5 COMMISSIONER BRANCIFORTE: Yes.

6 MS. CARCONE: Commissioner Fisher?

7 COMMISSIONER FISHER: Yes.

8 MS. CARCONE: Commissioner Aibel?

9 CHAIRMAN AIBEL: Yes.

10 Okay. Somebody needs to take a break,
11 but I won't identify that lawyer.

12 (Laughter)

13 Be back in ten minutes at quarter to
14 nine.

15 (Recess taken)

16 (The matter concluded at 8:35 p.m.)

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C E R T I F I C A T E

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

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

s/Phyllis t. Lewis, CCR, CRCR

 PHYLLIS T. LEWIS, C.C.R. XI01333 C.R.C.R. 30XR15300
 Notary Public of the State of New Jersey
 My commission expires 11/5/2015.
 Dated: 4/5/15
 This transcript was prepared in accordance with
 NJAC 13:43-5.9.

HOBOKEN ZONING BOARD OF ADJUSTMENT
CITY OF HOBOKEN

----- X
 RE: 108-110 Jefferson Street : SPECIAL MEETING
 APPLICANT: 108 Jefferson, LLC :March 31, 2015
 Minor Site Plan Review and :Tuesday 9 p.m.
 C & D Variances :
 ----- X

Held At: 94 Washington Street
Hoboken, New Jersey

B E F O R E:

- Chairman James Aibel
- Vice Chair Elliot H. Greene
- Commissioner Antonio Grana
- Commissioner Carol Marsh
- Commissioner Diane Fitzmyer Murphy
- Commissioner John Branciforte
- Commissioner Tiffanie Fisher
- Commissioner Owen McAnuff
- Commissioner Frank DeGrim

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

- Kristin Russell, Planning Consultant
- Jeffrey Marsden, PE, PP
Board Engineer
- Patricia Carcone, Board Secretary

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I N D E X

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WITNESS

PAGE

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FRANK MINERVINI

109 & 162

6

EDWARD KOLLING

144 & 164

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E X H I B I T S

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12

EXHIBIT NO.

DESCRIPTION

PAGE

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A-1

Computer generated rendering

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A-2

4 Google Earth site photographs

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1 CHAIRMAN AIBEL: Back on the record.

2 Thanks.

3 Mr. Matule?

4 MR. MATULE: Mr. Chairman, before we
5 begin 108-110 Jefferson, I would like to, if I
6 could, address a calendar matter, if you will.

7 The third matter on tonight is 525
8 Jackson Street, which is similar to the first
9 application, except it has parking down below.

10 In light of the comments from the Board
11 on the first application, I would respectfully ask
12 that the Board let us carry that matter and revisit
13 it with the architect rather than taking up the
14 Board's time knowing, I think pretty close as to
15 where the application will be going.

16 MR. GALVIN: Which street address are
17 we talking about?

18 MR. MATULE: 525 Jackson.

19 We could certainly consent to any
20 extension of time the Board needed.

21 I also know you have a pretty crowded
22 calendar, so, you know, if we need to extend it for
23 a month or six weeks, whatever, we are sort of
24 amenable to that depending on what the Board's
25 schedule is. But I think it would be an

1 unproductive exercise to proceed with that
2 application this evening.

3 CHAIRMAN AIBEL: My only -- one second,
4 sir.

5 (Board members confer.)

6 My only concern is, you are not jury
7 shopping, I'm sure --

8 MR. MATULE: No.

9 CHAIRMAN AIBEL: -- and because it is
10 going to cause a downstream impact on our calendar,
11 I think we really need to have great latitude in
12 rescheduling this, so I don't want to be bound by 30
13 or 60 days, so we will get to you as quickly as we
14 can add you back onto the calendar.

15 MR. MATULE: Whatever you believe is a
16 reasonable window. We could -- I don't know if you
17 can put any preference out here today, 60 days?

18 MR. GALVIN: I think we should give
19 ourselves -- I think that gives us a lot of
20 latitude. 60 days from when you file?

21 MR. MATULE: Fine.

22 MR. GALVIN: I was thinking initially
23 at least 30, but I think --

24 CHAIRMAN AIBEL: 60 from today or --

25 MR. GALVIN: No, no. 60 from when the

1 plans are filed.

2 MR. MATULE: From when the plans are
3 filed?

4 MR. GALVIN: Yes, and we will try to
5 get you on as quickly as we can. If we've cleared
6 our calendar, then we will put you on quicker.

7 MR. MATULE: I understand.

8 I advised my client that still in all
9 likelihood would be more expedient than either being
10 denied and coming back or withdrawing and coming
11 back, and I appreciate the Board's consideration.

12 MR. GALVIN: I think so.

13 MR. MATULE: So if we are going to say
14 60 days from when we file, then the applicant would
15 consent to the time within which the Board has to
16 act to be 60 days from when the applicant files a
17 revised plan.

18 CHAIRMAN AIBEL: Before we go for a
19 vote, there was a gentleman in the audience.

20 Did you want to be heard on this issue?

21 UNIDENTIFIED VOICE: About 525 Jackson
22 Street.

23 MR. MATULE: Yes. We are asking that
24 the matter be carried.

25 UNIDENTIFIED VOICE: I didn't

1 understand what --

2 MR. GALVIN: They will have to
3 renotice.

4 UNIDENTIFIED VOICE: Okay.

5 MR. GALVIN: What happened is they saw
6 the first case not be successful, and they are going
7 to change their plan.

8 What we basically said is we won't hear
9 them until they submit a new plan, and we will have
10 60 days to hear them, sometime in that time period,
11 and they will give you new notice. Everybody will
12 get new notice.

13 COMMISSIONER GRANA: Okay. I'll make a
14 motion to extend 525 Jackson Street 60 days from
15 when the revised plans are filed with notice.

16 MR. GALVIN: When revised plans are
17 provided to Ms. Carcone and the Board's
18 professionals.

19 COMMISSIONER GRANA: And with complete
20 notice.

21 MR. GALVIN: I'm sorry?

22 COMMISSIONER BRANCIFORTE: The
23 application will be deemed complete at that point 60
24 days --

25 MR. GALVIN: The application has

1 already been deemed complete. I guess the -- I
2 can't think of --

3 MR. MARSDEN: It is deemed complete.

4 MR. GALVIN: -- they are going to
5 revise the architectural plans, and they will need
6 an amended planner's report probably, but I don't
7 think there should be anything that puts them back
8 to the checklist level.

9 CHAIRMAN AIBEL: So can we have a
10 second?

11 COMMISSIONER BRANCIFORTE: Second.

12 MS. CARCONE: Do you want a vote or all
13 in favor?

14 CHAIRMAN AIBEL: Please.

15 MR. GALVIN: No. Let's do a roll call.

16 MS. CARCONE: Commissioner Greene?

17 VICE CHAIR GREENE: Yes.

18 MS. CARCONE: Commissioner Grana?

19 COMMISSIONER GRANA: Yes.

20 MS. CARCONE: Commissioner Marsh?

21 COMMISSIONER MARSH: Yes.

22 MS. CARCONE: Commissioner Murphy?

23 COMMISSIONER MURPHY: Yes.

24 MS. CARCONE: Commissioner Branciforte?

25 COMMISSIONER BRANCIFORTE: Yes.

1 MS. CARCONE: Commissioner Fisher?

2 COMMISSIONER FISHER: Yes.

3 MS. CARCONE: Commissioner Aibel?

4 CHAIRMAN AIBEL: Yes.

5 MR. MATULE: Thank you. I appreciate

6 it.

7 Okay. 108 110 Jackson Street --

8 Jefferson, I'm sorry.

9 Robert Matule, appearing on behalf of
10 the applicant.

11 This is an application for minor site
12 plan approval and variances to construct a new
13 five-story building, four residential floors over
14 one floor of parking with four residential units and
15 six parking spaces.

16 I will be presenting the testimony of
17 Mr. Minervini and Mr. Kolling, our planner.

18 MR. GALVIN: Are you okay?

19 MR. MARSDEN: Yes.

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. MINERVINI: I do.

25

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

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

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

7 MR. GALVIN: Mr. Chairman, do we accept
8 Mr. Minervini's credentials?

9 CHAIRMAN AIBEL: We do.

10 MR. MATULE: Thank you.

11 All right. Mr. Minervini, I am just
12 going to ask you before we get into your testimony
13 if you are going to have any exhibits.

14 THE WITNESS: I have got two that the
15 Board has not seen.

16 MR. MATULE: Okay.

17 THE WITNESS: A computer generated
18 rendering of the front facade.

19 MR. MATULE: The computer generated
20 rendering, we are going to call that A-1.

21 (Exhibit A-1 marked.)

22 THE WITNESS: And some bird's eye --
23 four bird's eye photographs taken from an internet
24 site, Google Earth.

25 MR. MATULE: The Google Earth site, so

1 we will tall that A-2.

2 (Exhibit A-2 marked.)

3 MR. MATULE: All right. Then obviously
4 in your testimony, if you refer to them, just
5 identify them by their exhibit number.

6 Would you please describe the existing
7 site and the surrounding area for the Board?

8 THE WITNESS: Yes.

9 108-110 Jefferson Street is a 50 foot
10 wide by 100 foot deep property on the west side of
11 Jefferson Street between First and Second.

12 So if we are looking at Sheet Z-1, here
13 is our 50 foot width, our 100 foot depth, and that's
14 the site.

15 Here is First Street. Here's Second
16 Street.

17 Currently there is a two-story
18 structure, and I will switch to Sheet Z-3 as well as
19 the photographs.

20 There is a two-story structure that has
21 a ground floor commercial space, a garage on the
22 ground floor as well.

23 On the second floor there are four
24 residential units.

25 So the ground floor covers 100 percent

1 of the lot. It extends all the way back to the rear
2 property line, as well as to the two side property
3 lines.

4 What I have highlighted here in blue is
5 the shape of the second floor, so that is where the
6 four residential units are. It is better described
7 at A-2, as Mr. Matule and I just discussed,

8 MR. GALVIN: The four aerial maps.

9 So proceed.

10 THE WITNESS: Yes.

11 So this is the best view of it showing
12 the existing two-story structure here and the 100
13 percent here, so that correlates to this.

14 We are proposing to raze this
15 structure -- I should mention that the commercial
16 space has not been used since Sandy, since Hurricane
17 Sandy in 2012.

18 We are proposing to raze this
19 structure, build a five-story, which is four
20 residential floors above ground floor parking.
21 Five-story, four-unit building with 60 percent lot
22 coverage to the main structure.

23 Generally this Board sees a lot of
24 buildings of this size come here with six, seven or
25 even eight units. This is different because we are

1 proposing two large units per floor, and I will get
2 into that in more detail.

3 So our density, where 7.75 is
4 permitted, it is four units.

5 CHAIRMAN AIBEL: Is it 60 percent, the
6 main building?

7 THE WITNESS: 60 percent the main
8 building, and we are asking for -- again, as I get
9 to the drawings, it will make more sense, but on the
10 second floor we are asking for I believe it's 63
11 percent and a bit more above for outdoor spaces and
12 balconies, but I will describe that as I get to
13 those sheets.

14 VICE CHAIR GREENE: Doesn't it say 62?

15 CHAIRMAN AIBEL: Yes. Your zoning
16 table says 62.

17 THE WITNESS: 62 includes -- pardon
18 me -- that should say 60 percent. We may have been
19 including the spiral stair which connects down, but
20 the building itself is 60 feet in width.

21 MR. MATULE: Go to Z-1.

22 MR. GALVIN: So do I understand this
23 right, are you restoring the donut?

24 THE WITNESS: Exactly, and I will get
25 into it.

1 MR. GALVIN: So the building is
2 currently a hundred percent?

3 THE WITNESS: Correct.

4 So there's two things that are out of
5 the ordinary compared to what projects --

6 MR. GALVIN: Is that a positive?

7 THE WITNESS: Certainly it is a
8 positive. I wouldn't be discussing it otherwise.

9 We are restoring the hole in the donut.
10 So although there is a small deck we are proposing
11 off the 60 foot depth of the building, and that by
12 the way is a mistake. The building is 60 percent.

13 I think that extra two is to account
14 for a small stair that connects the second floor to
15 the rear yard, but the main building is 60 feet in
16 depth and 50 feet in width.

17 So where there is no hole in the donut,
18 as we have discussed and used that term, we are
19 proposing to restore 40 feet of backyard garden
20 space.

21 So back to Z-3, I already discussed the
22 shape of the existing structure. This is the second
23 floor. This larger rectangle is the first floor
24 because it does cover 100 percent of the lot.

25 What we are proposing is a 50 foot wide

1 by 60 foot deep building, so the main structure is
2 60 percent with a rear balcony and means of egress
3 off of it, set in eight feet from either property
4 line and extending ten feet.

5 So we are not contingent on the
6 required 30 feet rear yard. We are asking for
7 additional lot coverage on the residential floors,
8 two, three, four and five.

9 So I am going to flip ahead to the
10 ground floor plan, Sheet Z-6.

11 Again, we are on the west side of
12 Jefferson Street. In terms of context, the adjacent
13 building to our north is four and a half stories,
14 but the same height as we are proposing at 50 feet.

15 The adjacent building to our south here
16 is four stories and 40 feet.

17 The remaining sections of the street,
18 and I got photographs to show that, vary between
19 three and four stories.

20 Directly across the street is the
21 Hoboken Boys and Girls Club building, which also
22 houses the charter school, as well as three-story
23 and four-story buildings across the street. That
24 will be this side of the street, and I will pass it
25 around if anybody wants to see it more closely.

1 So our ground floor, six parking
2 spaces, our two means of egress. One comes off the
3 back of the building through this hallway. One is a
4 direct connection from the vertical stair and comes
5 out here.

6 Relating back to the previous
7 application, I think it may be a good time to
8 discuss how the code and the requirements are for
9 egress during a flood. This Board may remember that
10 post 2012 Sandy, we needed as part of this process
11 and for construction purposes, we needed DEP
12 approval.

13 At that time until about three or four
14 months ago, DEP was requiring flood barriers, and
15 what that is, and you may remember some of the
16 drawings that we have done, big metal panels set in
17 front of the building up to, in this case it would
18 be 14 feet above sea level with the intent on
19 keeping the building interior completely dry.

20 That was how in our probably ten
21 projects that got approved and were also approved at
22 the DEP with that in mind. That is the direction
23 the DEP required us to go.

24 Since then, building departments that
25 are in any of the cities that have a similar

1 condition, Jersey City, Weehawken, Hoboken, have
2 determined if you do that, then you are impeding
3 egress in an emergency. So with these flood panels,
4 although they stop water from coming in, they also
5 stop people from exiting in an emergency.

6 They rethought the process, and now the
7 requirement is for any of the spaces that are below
8 the flood plain to be wet flood proofed, which means
9 water comes in, water goes out, and nothing in terms
10 of the structure is damaged.

11 Also with that, each of the openings
12 must have a pressure relieving vent. So the thought
13 process is in case of relative to the last
14 application, if there is four feet of water outside,
15 that four feet of water will also be inside of the
16 building. You will come down the stairs, and
17 because there are pressure relieving vents in any of
18 the egress doors, those doors would still be
19 operable. You would be walking through three, four
20 feet of water depending on what part of town you are
21 in, but the process is still that the means of
22 egress work where they are.

23 Again, that is the absolute worst case
24 scenario, but that is the direction we and the
25 designer and have to go through from now on, so you

1 notice most of those drawings don't have those giant
2 flood panels shown any longer, and that's the
3 reason.

4 So with that in mind, our ground floor
5 would be wet flood proofed. So we would have
6 venting, pressure relieving venting in the garage
7 door beneath the windows, as well as the two means
8 of egress doors. Again, that allows for the doors
9 to be operable in case of deep water.

10 So six parking spaces, elevator,
11 refuse, landscaped rear yard. Similar to the last
12 project, we have got paver stones, but I have a
13 detail on part of these plans that show they are
14 permeable as well as seated areas, which obviously
15 are meant to be grass, so that is the ground floor.

16 Floors two, three, four and five are
17 all again 50 by 60, but -- I'm sorry -- there is one
18 apartment per floor. I mentioned two before. That
19 is incorrect. There is one apartment per floor.
20 2800 square feet on the second floor. They get
21 slightly bigger as you go up to floors three, four,
22 and five.

23 So they go from 2800 to 2920, and that
24 is because our meters and sprinkler valves and
25 anything in terms of building utilities must be

1 raised up at the flood plain, and they are all now
2 brought up to the second floor.

3 The rear deck, which is the same on
4 floors two, three, four and five as we are
5 proposing, ten feet deep, eight feet off either
6 property line to the side, and 30 feet from its rear
7 point to the rear property.

8 Again, remember in this condition as it
9 exists, this is 100 percent lot coverage. Pardon
10 me. Even with our rear deck, we are restoring 30
11 feet to the hole in the donut.

12 Floors three, four and five are just as
13 I described on floor two, save for the apartment
14 green space that was for utilities, so now those
15 apartments are 2,920 square feet, four or five
16 bedrooms. It works either way, and the deck.

17 To the roof, we are proposing a private
18 roof area at this roof level, so it would have
19 elevator access as well as one of the stairs.

20 The front portion of the deck, which
21 would be 635 feet, is set back six feet off the
22 property line to the front, and six feet off the two
23 sides. The rear portion is a private deck meant for
24 the sole use of the apartment at the fifth floor,
25 the same six foot setbacks.

1 What is not shown here, and I would
2 have to revise is that all of the remaining roof
3 area, where there are not condensing units in here,
4 is to be an extensive green roof, and remember, the
5 extensive green roof is the nonwalkable type, so it
6 cannot be used as outdoor space. It's meant just
7 for -- well, several reasons, but most importantly
8 in collecting water and slowing it returning back
9 into the system.

10 The building facade, we match exactly
11 the building to our north. We are one story above
12 the building to our south. Although the black and
13 white doesn't reflect it, the building isn't quite
14 as modern as it looks there.

15 Hudson River red brick, some glass bay
16 sections. This building does not need a facade
17 variance for either masonry or glass. We meet those
18 requirements.

19 The rear elevation, I have to correct a
20 mistake. This section of the rear elevation is the
21 secondary means of egress, which pertains to the
22 rear yard and back to a hallway to the front of the
23 building into the public right-of-way.

24 What is shown here is a straight run
25 stair, but in actuality, and our plans show as well

1 as referred to in the zoning tabulation chart, this
2 should be a spiral stair, which takes up less space,
3 but that accounts for that additional lot coverage
4 on our chart for the first floor, and that stair is
5 only to be used by the second floor apartment.

6 So to conclude, the 50 by 100 foot lot,
7 where the density calculation would allow us 7.5,
8 therefore seven apartments, we are proposing only
9 four instead of seven, so it would be one per each
10 floor.

11 We are proposing a height of 50 feet,
12 which is four residential stories above parking,
13 where 40 feet is allowed. We are asking for a lot
14 coverage variance, and our planner will go through
15 this in more detail, for outdoor space as attached
16 to each of these apartments to the rear, as well as
17 outdoor space of the roof.

18 And the reason for that, as I have come
19 to learn from the local real estate community, as
20 well as the development community, people who are
21 going to be buying these apartments, and there is a
22 need for them, which is why we are here for this
23 design, wants outdoor space. They need outdoor
24 space. As I have come to learn again, it is one of
25 the things that keeps them from moving out of

1 Hoboken, so we are trying to provide it,
2 understanding that there is a variance to be asked
3 for.

4 The building will be fully sprinklered.
5 It will meet all ADA requirements, and that is also
6 one of the reasons why the elevator goes to that top
7 fifth floor because once you got a public outdoor
8 space, which means it's not for the sole use of one
9 apartment, then ADA access is required.

10 MR. MATULE: Frank, if you could, I
11 don't know what sheet you had the garage door plan
12 on, but you're going to have stormwater detention --

13 THE WITNESS: Yes. The stormwater
14 detention is beneath the garage slab, and I show
15 that on Sheet Z-4. That is diagrammatically shown
16 here.

17 MR. MATULE: And you're going to have
18 the usual things that you put in your project, like
19 bicycle storage and --

20 THE WITNESS: Bicycle storage and I
21 have a detail showing that, and a car charging
22 station, as well as the LED pedestrian warning light
23 at the garage threshold.

24 MR. MATULE: And you are proposing two
25 new street trees in front of the property?

1 THE WITNESS: Two new street trees, and
2 a new concrete curb and a new concrete sidewalk, as
3 well as the required repair strips where the
4 utilities are installed.

5 MR. MATULE: And you received Mr.
6 Marsden's letter of January 23rd, revised March
7 23rd?

8 THE WITNESS: I have.

9 MR. MATULE: And no issues addressing
10 any of the questions raised by him?

11 THE WITNESS: No.

12 MR. MATULE: And has this also been a
13 subject of review by the Flood Plain Administrator?

14 THE WITNESS: Yes.

15 VICE CHAIR GREENE: And she said she
16 wanted a stoop.

17 (Laughter)

18 MR. MATULE: And the design is
19 acceptable?

20 THE WITNESS: The design is acceptable.
21 There are no stoops proposed.

22 MR. GALVIN: And why not?

23 (Laughter)

24 MR. MATULE: I have no further
25 questions.

1 CHAIRMAN AIBEL: Let me open it up to
2 the Board.

3 MS. RUSSELL: I have two questions.
4 Can you go to the elevation?

5 THE WITNESS: Yes.

6 MS. RUSSELL: On the portion of the
7 building where you have -- no -- down where there
8 is -- right, yes -- how would the slab between the
9 first and second floor appear in that glass?

10 THE WITNESS: I know. I apologize for
11 the way it printed out, but this is probably a
12 better visual description.

13 It would be Spandrel glass, which is
14 glass that is not -- it's opaque glass.

15 MS. RUSSELL: And perhaps you made
16 changes, but was there not a fenced-in garden area
17 at the front?

18 THE WITNESS: It is still here. I may
19 have forgotten to discuss that. Let me go back to
20 the site plan

21 Yes, and I apologize for that. I will
22 go to the appropriate drawing.

23 MR. GALVIN: Which is not shown on A-1,
24 though.

25 THE WITNESS: Z-4 shows a small

1 planting bed as well as a three-foot high railing.

2 MS. RUSSELL: Will that whole area be
3 some kind of pervious coverage or is that paved?

4 THE WITNESS: This is part of the
5 sidewalk with the exception of the two foot planting
6 area.

7 MS. RUSSELL: Because if you could
8 increase that to a greater amount of landscaping,
9 then it would absorb more water, and you would also
10 eliminate the concern of having storage or trash or
11 bikes or whatever in that space.

12 THE WITNESS: I would be happy to do
13 that. That is a good suggestion.

14 MR. GALVIN: Time out.

15 What are we doing?

16 THE WITNESS: I am proposing to revise
17 the drawings, so that the area within the three-foot
18 high wrought iron fence line would be all planting
19 in essence as opposed to a planting strip and some
20 concrete sidewalk.

21 MR. GALVIN: Is that on your property?

22 THE WITNESS: That's on city property.
23 We would need city council approval for that, as
24 well as for our bay projections.

25 For the Board's information, the

1 existing building has similar railings, wrought iron
2 fence, as does the adjacent property.

3 MR. GALVIN: Did you say pervious or
4 you mean planting material, right?

5 MS. RUSSELL: Preferrably planting
6 material.

7 MR. GALVIN: I mean, pervious could be
8 a -- it could be block, right, it could be --

9 MS. RUSSELL: Yeah. Well, I think even
10 that would be better than the sidewalk, you know,
11 the impervious sidewalk, but ideally it should be
12 some sort of rain garden.

13 MR. GALVIN: If you want it to be a
14 planting bed --

15 THE WITNESS: We could expand the
16 planting bed.

17 VICE CHAIR GREENE: I think it would be
18 referred to as a rain garden, isn't that pretty
19 descriptive of what we are looking for?

20 THE WITNESS: Happily.

21 (Laughter)

22 THE REPORTER: Did you say "happily"?

23 VICE CHAIR GREENE: H-a-p-p --

24 MR. GALVIN: We don't hear that word
25 here much.

1 (Laughter)

2 COMMISSIONER MC ANUFF: Was there any
3 consideration to making the rear yard one common
4 area to share with all of the residents rather than
5 private, which seems a lot larger than the -- which
6 is a lot larger than the --

7 THE WITNESS: It certainly could be
8 done, and I'm sure --

9 MR. MATULE: Here.

10 THE WITNESS: -- the Commissioner is
11 referring to the way it is split in terms of
12 proportions. I don't think the applicant would have
13 any issue rearranging that.

14 Again, the goal is for outdoor space
15 for all apartments. It could be adjusted.

16 COMMISSIONER MC ANUFF: And that would
17 eliminate the need for the spiral stair and decrease
18 your lot coverage --

19 THE WITNESS: Well, we would still need
20 the spiral stair if we wanted a physical connection
21 from that second floor --

22 COMMISSIONER MC ANUFF: Can't you use
23 this stair?

24 THE WITNESS: You can -- our thought
25 was to keep the egress stair always, but we

1 certainly could. The truth is, if that spiral stair
2 were to be removed, it would not have any negative
3 effect on the proposal and our thoughts on giving
4 the outdoor space.

5 COMMISSIONER MC ANUFF: Just a
6 question. On Z-7, maybe I missed the explanation.

7 Where is the -- if you could take me
8 where through where that secondary interior stair
9 goes.

10 THE WITNESS: This stair?

11 COMMISSIONER MC ANUFF: No, the other
12 one. Go to the left drawing, the typical floor
13 plan.

14 THE WITNESS: That is just a drafting
15 error. I'm sorry about that. That should not be
16 there, and that is why it is not colored in -- no,
17 no -- I apologize.

18 For the same reason, and I am going to
19 correct myself, for the same reason I mentioned
20 having a private stair, that private stair connects
21 this fifth floor apartment, apartment number 4, to
22 the roof, so you wouldn't then have to use the main
23 means of egress.

24 COMMISSIONER MC ANUFF: Is the roof
25 only -- no, the roof is for all of the units?

1 THE WITNESS: It's private here, and
2 common here, which if this entire roof deck were
3 private, we wouldn't need this elevator access.

4 Once it becomes a common roof deck,
5 then we are required to have ADA compliance.

6 CHAIRMAN AIBEL: So with all of the
7 outdoor space in the rear and on the roof, is there
8 a reason for the extra ten percent lot coverage for
9 your in effect balconies?

10 THE WITNESS: Well, the balconies allow
11 for outdoor space directly off the apartment as
12 opposed to floors three and four, which wouldn't
13 have that.

14 If we remove the balconies, the fifth
15 floor, apartment number 4 would have a direct
16 connection here. Apartment number 1 on floor two
17 would have a direct connection to the rear yard, but
18 those floors, three and four, would not have direct
19 access to any outdoor space. That is the purpose
20 for it.

21 CHAIRMAN AIBEL: They would have to go
22 through the parking?

23 THE WITNESS: Correct. If there is no
24 outdoor space there, that would be the result.

25 CHAIRMAN AIBEL: A Juliet balcony

1 really probably helps your lot coverage, but that is
2 a different issue.

3 THE WITNESS: Understood.

4 CHAIRMAN AIBEL: The last question for
5 me: On the site lines for your stair bulkheads, you
6 are showing a privacy fence I guess for the open
7 space. That's great, and so my question is: What
8 are you going to see of the bulkheads from the
9 street?

10 THE WITNESS: The bulkheads are set
11 into approximately the middle of the building, so if
12 you look at Sheet Z-8, it gives an outline of the
13 height of the relative stair bulkhead to the
14 elevator bulkhead.

15 I don't think you will see it from
16 anywhere in the street, in front or across the
17 street. Certainly further down to the south, you
18 would see it. You wouldn't really see it to the
19 north because the adjacent building as well as some
20 others are our height.

21 CHAIRMAN AIBEL: And the last question:
22 You are covering some lot line windows on the
23 building to the north, is that correct?

24 THE WITNESS: No. I don't think we
25 are -- oh, yes, we are. My apologies.

1 The building on the north has got two
2 floors of lot line windows, and thank you for
3 reminding me. What generally happens, the applicant
4 will agree to, and I could certainly be part of this
5 approval, if it were one, the applicant would agree
6 to be responsible for the finishing of the interior
7 space and certainly the closing of that as opposed
8 to putting the burden on the owners.

9 CHAIRMAN AIBEL: Thank you.

10 Anything else for Mr. Minervini?

11 MR. GALVIN: I need that condition.
12 What are we saying?

13 THE WITNESS: The applicant would be
14 responsible, if there were an approval, to close the
15 existing windows that are on the south property line
16 of the building to the north.

17 COMMISSIONER GRANA: I have two quick
18 questions.

19 On Z-8, the structure here to the
20 right, the one I am looking at here, down those
21 secondary means of egress --

22 THE WITNESS: Yes.

23 COMMISSIONER GRANA: -- that is from
24 all floors?

25 THE WITNESS: Yes.

1 COMMISSIONER GRANA: And that attaches
2 to the private deck for the units?

3 THE WITNESS: Correct.

4 COMMISSIONER GRANA: The depth of those
5 proposed decks is ten feet?

6 THE WITNESS: Ten feet.

7 COMMISSIONER GRANA: Then the secondary
8 staircase, which we agreed was not in the final,
9 which is proposed to be a spiral staircase, the
10 intent of that is to give essentially access from
11 the unit above it to open space?

12 THE WITNESS: It was purely meant as
13 access for apartment number one, access the rear
14 yard without using the emergency means of egress.

15 COMMISSIONER GRANA: Thank you.

16 On Z-1, real quick, this would then be
17 the -- this is Jefferson Street between First and
18 Second -- I'm sorry, on the elevation, this is
19 Jefferson between First and Second facing west?

20 THE WITNESS: Facing east, so our
21 facade is facing east. This view is looking west.
22 The facade to the east would be looking --

23 COMMISSIONER GRANA: This view is
24 looking west?

25 THE WITNESS: Well, we would call this

1 an east facing view, so the thought is what the
2 facade is facing.

3 If you are standing in front of the
4 building, in front of the charter school, you would
5 be looking west to look at this facade.

6 COMMISSIONER GRANA: Thank you.

7 CHAIRMAN AIBEL: Board members,
8 anything else?

9 COMMISSIONER DE GRIM: The stormwater
10 detention tank, how big is that and why --

11 THE WITNESS: I have not done the
12 calculations. That would be done after this part of
13 the process, and we are required to show that it
14 is -- the size of it, our civil engineer would size
15 that for us, and it is based on the number of
16 bedrooms -- I'm sorry -- the number of bathrooms.
17 That's what it's based on, the number bathrooms, as
18 well as the roof area, but I am not a civil
19 engineer, and I don't know the particulars other
20 than that.

21 COMMISSIONER DE GRIM: There is no
22 drainage from the backyard --

23 THE WITNESS: There is certainly the
24 backyard -- some of these areas will drain into it.
25 Most of this is pervious. The roof will drain into

1 this as well as other outdoor spaces.

2 MR. MARSDEN: If I may clarify that, it
3 is not a septic tank. Therefore, the bathrooms
4 shouldn't drain into it --

5 THE WITNESS: No. I didn't say
6 bathrooms. I said that is what the calculation is
7 based on. North Hudson Sewerage Authority bases
8 their --

9 MR. MARSDEN: Okay. I just wanted
10 to -- it sounded like you said --

11 THE WITNESS: I apologize. I did not
12 mean to infer that. There's no sewage going into
13 this. It's just meant for rainwater.

14 (Laughter)

15 CHAIRMAN AIBEL: John?

16 COMMISSIONER BRANCIFORTE: I am just
17 curious to hear about the fifth floor because it
18 sparks a D variance both in height and stories, and
19 I am wondering why do we need the extra story.

20 THE WITNESS: Well, I have heard this
21 Board many times. I heard the last application. I
22 think what this Board has to remember is the burden
23 of proof here is: Can this site handle this
24 particular project, so it is about context, and our
25 thought --

1 COMMISSIONER BRANCIFORTE: But that is
2 a planner's --

3 THE WITNESS: I am explaining how we
4 got to where we are. The planner will certainly do
5 a much better job than me.

6 In terms of the height and five
7 stories, we look at the context. We look at the
8 context. If this were two-story buildings all
9 around, we certainly wouldn't be at this Board with
10 a five-story building.

11 However, we have the four-and-a-half
12 story with the same height as ours, and the end
13 results here are four very large apartments, and I
14 won't use the term "family-friendly." We don't like
15 it any longer --

16 COMMISSIONER BRANCIFORTE: You just
17 used it.

18 THE WITNESS: I did.

19 But that's the reasoning for it.

20 Can a three-story be built here?

21 Of course.

22 Can a two-story building be built here?

23 Of course.

24 But I think in terms of context, this
25 makes perfect sense.

1 COMMISSIONER BRANCIFORTE: Do you
2 have -- offhand, do you know where the street
3 view -- do you have a street elevation?

4 THE WITNESS: Yes. Sheet Z-1 on the
5 bottom.

6 COMMISSIONER BRANCIFORTE: Thanks.

7 CHAIRMAN AIBEL: Diane?

8 VICE CHAIR GREENE: Go ahead.

9 COMMISSIONER MURPHY: Just kind of on
10 the issue of earlier today of a stoop, I know it is
11 a much wider building, and it has a garage, but is
12 there any way to put a stoop in the front of it?

13 There is a stoop in the building next
14 to it.

15 THE WITNESS: The building next to us
16 is about four feet out of -- above the sidewalk, and
17 it makes for a huge difference in the size of the
18 stoop.

19 Referring back to Mr. McNeight's
20 project, we were here last week with a one-family
21 home that had a similar requirement for a stoop as
22 we saw it, but the sidewalk wasn't really wide
23 enough, nor was the height -- I mean, we had to
24 raise the building eight feet. Did it make much
25 sense for the stoop to be that high?

1 So what we did in that case was we had
2 an open area and recessed the stoop.

3 Here, though, the difference would be
4 you would accessing just one apartment.

5 I absolutely understand. I've been in
6 this town since 1988. I understand what stoops
7 provide. And as Mr. McNeight had referred to, a lot
8 of the projects in the Northwest Redevelopment Zone
9 have stoops because it was a bonus, if you provided
10 a stoop. However, those stoops rise up ten feet.
11 They are not used, and they're not used specifically
12 because they are attached to one particular
13 apartment.

14 Stoops I think would be more likely to
15 be used and create some kind of street life when it
16 enters a common area. But in our case, because we
17 have egress stairs as a requirement, because we have
18 an elevator as a requirement, those have to move to
19 the center of the building, otherwise they take up
20 window frontage, and I think that is a simple reason
21 why you don't see it on buildings of this size.

22 Certainly if it made the approval more
23 likely, we would be here with stoops, but they
24 really don't make sense.

25 COMMISSIONER MURPHY: Okay.

1 VICE CHAIR GREENE: Given the size of
2 the apartment, how many bathrooms are you
3 contemplating per apartment?

4 THE WITNESS: Probably three. I don't
5 know quite yet, but probably it would be three.

6 And just as an anecdote, North Hudson
7 Sewerage Authority charges their connecting fee
8 based on the number of bathrooms, so the more
9 bathrooms you have, the much more expensive it is to
10 connect into the sewerage system.

11 CHAIRMAN AIBEL: Anything else, Board
12 members?

13 Professionals?

14 MR. MARSDEN: You mentioned you were
15 going to make your pavers in the backyard pervious?

16 THE WITNESS: Uh-huh.

17 MR. MARSDEN: So you'll add a detail
18 and --

19 THE WITNESS: Actually I got that there
20 already.,

21 MR. MATULE: The last guy who said that
22 got in trouble.

23 THE WITNESS: I know.

24 (Laughter)

25 THE WITNESS: Yes. Z-5 on the bottom,

1 I am calling them landscaping details, shows the
2 sand bed beneath the paving stone as well as
3 four-inch crushed stone, and that is the general
4 requirement for a pervious paver.

5 MR. MARSDEN: But you are going to call
6 it out as pervious?

7 THE WITNESS: I will call it out as
8 pervious. I'll add that designation.

9 COMMISSIONER FISHER: I apologize, if
10 you mentioned it already.

11 What portion of the roof is a green
12 roof?

13 THE WITNESS: Oh, yes. Now, as I
14 mentioned, as we get into the drawing set, I am
15 trying to find the roof plan.

16 COMMISSIONER FISHER: 7.

17 COMMISSIONER BRANCIFORTE: 7.

18 THE WITNESS: Thank you.

19 So all of the remaining area, and this
20 blue area I was describing last time, so it is all
21 of the setback areas, with the exception of this
22 area where the condensing units are, so it is all
23 here, here, here and here will be the extensive
24 green roof.

25 COMMISSIONER BRANCIFORTE: What does

1 that -- you sort of have a border line drawn there,
2 a rectangle, a squiggly line --

3 THE WITNESS: That is a cloud line
4 meaning that there was a revision to the original
5 submitted plan.

6 COMMISSIONER BRANCIFORTE: Okay.

7 COMMISSIONER FISHER: In general, when
8 you have that green roof, is there a physical
9 separation like between the rest of the roof and
10 that or just by the nature of what it is that
11 creates that --

12 THE WITNESS: Yes, and I apologize for
13 not having the detail. Most of our plans do have
14 that detail on them. It is a raised tray system
15 with about two or three inches clear between the
16 green roof system and the main roof, so it is raised
17 up off the roof,

18 COMMISSIONER FISHER: So it's not
19 something -- this is a question I had before, but I
20 am not sure I asked.

21 You know, this is three years from now,
22 so my guess is a condo building, or five or ten
23 years from now, some period of time, four owners
24 just agree that they want to get rid of it, right?

25 Is it is a difficult thing to convert

1 into additional open space for them --

2 THE WITNESS: If they were so inclined,
3 they could just let it die, and I think there has to
4 be an enforcement system, which we probably have
5 discussed in some way. I can --

6 COMMISSIONER FISHER: It is more of
7 a -- it's less about -- well, it's two parts. One
8 is clearly letting it die, and the second is
9 converting it into, you know, more space to use.

10 THE WITNESS: Well, it is not walkable.
11 You would have to remove the entire tray system, and
12 then what you would be left with is a roof system
13 because assuming an approval, just for this
14 discussion, this railing would already have been
15 built,

16 COMMISSIONER FISHER: Okay. Thank you.

17 VICE CHAIR GREENE: The rest of the
18 roof, the hatched area, what is that material?

19 Is it decking?

20 THE WITNESS: It's wood decking, a
21 composite wood decking.

22 VICE CHAIR GREENE: Not Epay?

23 THE WITNESS: Probably not Epay. I
24 would never suggest to anyone to use Epay. It is
25 incredibly maintenance intensive to have it on a

1 deck of my building.

2 COMMISSIONER BRANCIFORTE: There is
3 irrigation to the green roof and irrigation of a
4 water system to the green roof?

5 THE WITNESS: The extensive green roofs
6 do not require any irrigation, other than natural.

7 COMMISSIONER BRANCIFORTE: The reason I
8 asked is the people upstairs -- I'd like to see
9 people start growing stuff on the roofs rather than,
10 if they wanted plants up there and stuff --

11 COMMISSIONER MURPHY: You mean like
12 tomatoes?

13 (Laughter)

14 COMMISSIONER BRANCIFORTE: -- well, any
15 type of greenery up there. It's fine. I mean, they
16 are going to need irrigation. They are going to
17 need water.

18 THE WITNESS: We can provide hose bibs
19 to these outdoor spaces, which I think is a very
20 good suggestion, even just for small potted plants.

21 COMMISSIONER BRANCIFORTE: To me, it is
22 sad to see someone's roof deck, and there's no
23 greenery on it, because there is no water supply.

24 THE WITNESS: I agree.

25 COMMISSIONER FISHER: Is there the

1 ability -- kind of related to having some supply.

2 Is there like a gas supply or
3 something, can they have any type of --

4 THE WITNESS: The construction code
5 does not allow there to be barbecues on these
6 spaces, so we won't provide a gas line.

7 COMMISSIONER FISHER: I heard that
8 recently, although I understand that's being
9 debated, so I'm --

10 THE WITNESS: That may be the case, and
11 it could be just a local interpretation.

12 COMMISSIONER FISHER: No. What you
13 said is true, but we know people have them.

14 VICE CHAIR GREENE: You have to use the
15 electric --

16 THE WITNESS: Certainly an electric
17 system could be used.

18 CHAIRMAN AIBEL: Is there a parapet in
19 the front?

20 THE WITNESS: I don't think we proposed
21 a parapet that would allow us to match the adjacent
22 height.

23 CHAIRMAN AIBEL: I guess my question
24 is: Are the condensers, which appear to be very
25 close to the front of the building, going to be in

1 fact prominent?

2 THE WITNESS: No. It is only 30
3 inches, and I can provide, if you want, a sight line
4 diagram. That 30 inches in height, you would
5 absolutely not see them.

6 The reason we put them here as opposed
7 to here is our thought was it would be more likely
8 to have some kind of a sound intrusion on the
9 adjacent property from here, rather in the front,
10 where you are far enough from the other properties,
11 and in this case the school directly across the
12 street.

13 CHAIRMAN AIBEL: Thank you.

14 Okay. Seeing no questions from the
15 Board, let me open it up to the public.

16 Anybody in the public have questions
17 for the architect?

18 Seeing none.

19 VICE CHAIR GREENE: Move to close
20 public portion for the architect.

21 COMMISSIONER GRANA: Second.

22 CHAIRMAN AIBEL: All in favor?

23 (All Board members answered in the
24 affirmative)

25 MR. MATULE: Mr. Kolling.

1 MR. GALVIN: Raise your right hand.

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

5 MR. KOLLING: Yes, I do.

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

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

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

12 MR. GALVIN: Mr. Chairman?

13 CHAIRMAN AIBEL: Yes.

14 MR. MATULE: Mr. Kolling, you are
15 familiar with the zoning ordinance and the master
16 plan of the city?

17 THE WITNESS: Yes, I am.

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

20 THE WITNESS: Yes.

21 MR. MATULE: And you prepared a
22 planner's report, dated October 28th, in support of
23 the requested variance relief?

24 THE WITNESS: That's correct.

25 MR. MATULE: Could you please go

1 through your report for the Board and give us your
2 professional opinion regarding the requested
3 variance relief?

4 THE WITNESS: As Frank discussed, the
5 property is 5,000 square feet, 50 by a hundred.

6 Currently on the site is a commercial,
7 almost quasi-industrial looking building. It covers
8 a hundred percent of the lot. It's out of character
9 with the residential neighborhood, and plus being a
10 hundred percent lot coverage, it is nonconforming.

11 The proposed development, Frank has
12 already described for you thoroughly. I don't think
13 I need to go through that in very much detail, but
14 suffice it to say that this will recreate the
15 Hoboken donut in the interior. The building is
16 actually set back from the rear property line 40
17 foot, given the balconies or the emergency egress is
18 30 feet, so that is fully compliant with the size of
19 the rear yard.

20 The surrounding area is mostly a
21 residential neighborhood. As Frank described, there
22 are four-story and four-and-a-half story buildings
23 on the block. I don't think there is another
24 five-story, but in terms of height and linear feet,
25 there's at least a half dozen on our side of the

1 street alone. Behind us there are on additional
2 buildings of that height, so it is not out of scale.

3 Also, the added height will not create
4 any additional density or intensity of development.

5 As Frank mentioned, 7.57 or something
6 along those lines, number of units permitted, and we
7 are proposing only four, six parking spaces on the
8 ground floor.

9 You know, the intent of the zoned
10 district is to advance the achievement of a viable
11 residential neighborhood, to encourage conservation
12 and rehabilitation of existing sound residential
13 blocks, and support residential revitalization by a
14 variety of housing types and related uses.

15 Obviously, the removal of this
16 commercial quasi-industrial building and replacing
17 it with a residential development is consistent with
18 that intent of the zone plan.

19 In terms of the variances, we do need a
20 D6 height variance for both number of stories and
21 for height in linear feet, and we are well below the
22 density, as I mentioned.

23 The bulk variances are lot coverage
24 because even though we have 60 percent of coverage
25 of the main building, the deck and egress brings us

1 over the top there. As I said, though, it is a
2 great improvement over what is existing.

3 We also need the variance for the front
4 yard, which is pretty common. We have a zero front
5 yard, which is pretty much consistent with the rest
6 of the block, and we have a roof coverage variance
7 primarily because of the roof decks, but also
8 because now of the green roofs.

9 The master plan has several
10 recommendations in terms of promoting compatibility
11 in scale and density, design and orientation between
12 new and existing developments. I think we achieved
13 that. Our building matches the building next door
14 and some of the other buildings in height. We are
15 taller than some of the others.

16 We have five stories, but four of them
17 are residential, and I think you will find that many
18 of the buildings on this block, although only four
19 stories, they are all residential, so there are four
20 floors of residential on a lot of these buildings.

21 We hide the parking within the
22 building. It is a disguise within the architecture,
23 and that is another recommendation of the master
24 plan. Also, there is the idea of providing open space
25 on the interior blocks by providing and protecting

1 rear yards. In this case we are providing a rear
2 yard, where one never existed, so I think we meet
3 that recommendation.

4 It should also be noted that in the R3
5 zone plan -- zone district, when it talks about the
6 required 30 foot rear yard, it is also a
7 recommendation in there or a requirement that access
8 be provided to that space for occupants, and that
9 the space be landscaped, so we meet that criteria
10 and that intent of the zone plan as well.

11 We provide street trees, which is
12 consistent with the master plan, and then we also
13 provide these larger units, which are consistent
14 with many of the recommendations and the housing
15 element of the master plan, so I think we meet many
16 of the recommendations and the intent of the master
17 plan as well.

18 Again, in terms of the proofs for a
19 height variance, we are not showing specific special
20 reasons, as you would for a use variance, because
21 the use isn't that permitted as is the density.
22 Instead, we are showing how this property is suited
23 to accommodate any additional height without
24 substantial detriment to the character of the
25 neighborhood or to the zone plan. I think that is

1 evident here because we do match the height of the
2 adjacent building and other buildings on the block.
3 It is not out of character. It would not have a
4 substantial detriment.

5 The number of units being created is
6 not greater than what we would be permitted, and in
7 fact lesser, so I think we kind of blend in well
8 with the combination of the character of the zone
9 plan by promoting compatibility in scale, density,
10 and design, and we also advance the purpose of
11 achieving a vital residential neighborhood.

12 The lot coverage is actually a rather
13 minor issue in terms of the amount of lot coverage.
14 The result is a substantial improvement over what is
15 there today.

16 I think that advances the purpose of
17 the zone plan. I think that shows that it is a
18 benefit to the community, and that the benefits
19 would outweigh any detriment, and we are also able
20 to, in terms of having that amount of coverage, are
21 able to hide the parking on the ground level, which
22 is also consistent with the master plan, and provide
23 open space in the rear yard consistent with the
24 master plan.

25 The front yard again is zero. It's

1 consistent with the street scape. It's consistent
2 with the block. It provides I think a more
3 appropriate approach by not having the building
4 being pushed back and say out of scale or out of
5 character with the street scape, so I think it is a
6 better approach to design, and again, that falls
7 under the C2 criteria, where the benefits outweigh
8 any detriment.

9 And then you come to the roof coverage.
10 My understanding of the roof coverage requirement is
11 really more geared to height and the amount of
12 things that are on the roof that might exceed the
13 height, that from my understanding is so that you
14 don't end up with expanded structures up there that
15 could turn into additional living space. That is
16 certainly not what is going on here, so I think we
17 meet the intent of the zoned plan in that regard.

18 Instead, these spaces are open to the
19 air. They don't create additional living space and
20 there is also the positive of the roof decks
21 providing additional outdoor living space for the
22 families that will occupy these units, and of
23 course, the green roof does help in terms of
24 reducing stormwater runoff, which is in keeping with
25 the green design and recommendations of the master

1 plan.

2 So I think that we have met both the
3 positive and negative criteria in terms of both the
4 D6 variance and the C variances.

5 The C variances can be granted under
6 the C2 criteria, and I think that the D6 criteria
7 also has been met.

8 I think we also advance certain
9 purposes of the Municipal Land Use Law, removing
10 this nonconforming structure and replacing it with a
11 residential building that supports the intent of the
12 zone plan, I think is an action that would guide the
13 appropriate use of development of this site, would
14 promote the general welfare, which is consistent
15 with sub paragraph 2(a) of the Municipal Land Use
16 Law.

17 The project also provides quality
18 housing, family-friendly units, and ADA accessible
19 units, which I think also is positive and
20 beneficial, has a density in keeping with the
21 criteria. So therefore, I think we meet 2(e), which
22 is to promote the establishment of the appropriate
23 population densities.

24 I think we provide sufficient space in
25 an appropriate location for this type of use. A

1 5,000 square foot lot is certainly adequate to
2 accommodate this project, and I think we also
3 promote a desirable visual environment again by
4 removing this building, which is essentially
5 nonconforming and out of character with the
6 residential neighborhood and replacing it with the
7 residential building.

8 So, again, I think we have met the
9 proofs for the granting of these particular
10 variances.

11 MR. MATULE: Thank you.

12 CHAIRMAN AIBEL: Thanks.

13 Board members?

14 COMMISSIONER FISHER: I have a
15 question.

16 CHAIRMAN AIBEL: Before you go, give me
17 one question.

18 I think it is on page one and
19 elsewhere, you are showing the first floor lot
20 coverage of 69 percent?

21 THE WITNESS: Yes. That was from a
22 previous plan. I think Frank mentioned that there
23 was some bubbled things out, so this report was
24 written based on a previous plan, but it has been
25 reduced to the 60 percent and the extra coverage

1 percent for the other decks.

2 CHAIRMAN AIBEL: Thanks.

3 Tiffanie?

4 COMMISSIONER FISHER: Do you know the
5 buildings that are four-and-a-half stories that are
6 substantially close to the height on the same side
7 of the block, do you know generally when they were
8 built?

9 THE WITNESS: They looked to be your
10 fairly typical turn of the century tenement style of
11 smaller apartment buildings. I would say they are
12 probably in the 1890s.

13 COMMISSIONER FISHER: So this is
14 something I think we struggle with whenever we have
15 a discussion of height, et cetera, and when you show
16 those buildings as the ones that are comparable, yet
17 they were built, you know, 80 years or whatever
18 before the master plan, which says we like to see a
19 height of 40, I guess, what is your response to
20 that?

21 THE WITNESS: Well, the zone plan says
22 the height of 40 --

23 COMMISSIONER FISHER: Right, sorry.

24 THE WITNESS: -- my reaction to that is
25 that I think the height -- my recollection of when

1 this zone was changed, the height and the density
2 was almost like a knee jerk reaction that happened,
3 and it was done across the table for every district.

4 If you go into like the R1 district
5 especially, you will have smaller buildings that are
6 narrower and more historic in nature. They're a
7 little lower.

8 There are other parts of Hoboken, where
9 these tenant style building were more the norm, and
10 I think probably would have been a better approach
11 to do it more in keeping with what the character of
12 that area was, because that is what zoning is
13 supposed to do.

14 Zoning is supposed to take into account
15 the existing character of the area with setting the
16 height standards, so I think what you end up having
17 then, because it was done across the board, you will
18 have neighborhoods like this, where there is more in
19 R3 than anywhere, in my opinion, and you will have a
20 greater percentage of these older tenement style
21 buildings that are going to be out of scale with
22 what the zone plan says.

23 COMMISSIONER FISHER: Thank you.

24 COMMISSIONER BRANCIFORTE: I am a
25 little curious that you said it was knee jerk.

1 I mean, isn't there a process before
2 these laws are changed, there's open public hearings
3 and public hearings, and discussion in front of the
4 Council and the Planning Board?

5 THE WITNESS: To my knowledge, these
6 changes were not made in reaction to any change in
7 the master plan or anything. It was just something
8 that was proposed quickly.

9 It would have had to have gone to the
10 Planning Board for them to review it and then back
11 to the City Council for their final review, but to
12 my knowledge, those amendments were never done in
13 response to say an overall master plan or approach.

14 It was just hitting that one particular
15 issue, having it proposed, sending it to the
16 Planning Board, having it come back and voting on
17 just that issue.

18 COMMISSIONER BRANCIFORTE: You said
19 there are a half dozen other buildings on the block
20 that are four and a half stories.

21 How many other buildings are say three
22 stories?

23 THE WITNESS: If you look down the
24 block, there are actually some newer ones that are
25 at a lower level, especially as you go towards the

1 northern end, like four in a row. I think there are
2 only three-story buildings there.

3 COMMISSIONER BRANCIFORTE: Well, let me
4 make this easier for you.

5 Do you agree that there are seven
6 three-story buildings, two four-story buildings, and
7 six four-and-a-half story buildings on that side of
8 the building -- on that side of the street?

9 THE WITNESS: It looks -- yes, that's
10 probably -- I am not counting as we are going, but
11 that sounds pretty close.

12 COMMISSIONER BRANCIFORTE: Okay. So
13 you say there's six four-and-a-half story buildings,
14 but there is seven three-story buildings, so I am
15 not sure how your argument that it is okay to give
16 you five stories because everybody else is at
17 four-and-a-half.

18 THE WITNESS: It looks like there was I
19 guess seven threes, two fours, and then six four and
20 a halves.

21 CHAIRMAN AIBEL: What is on the
22 opposite side of the street?

23 THE WITNESS: The opposite side of the
24 street is where the school is, so most of that block
25 or the recreation center, most of the block is taken

1 up by that. Towards the southern end of the block
2 are low buildings, and I think at the northern end
3 is a couple of threes as well.

4 CHAIRMAN AIBEL: Antonio?

5 COMMISSIONER GRANA: Thank you, Chair.

6 Mr. Kolling, can we just agree that
7 there are six buildings on that side of the block,
8 that are four-and-a-half stories in height?

9 THE WITNESS: Correct.

10 COMMISSIONER GRANA: What is their
11 actual height?

12 THE WITNESS: I would guess they would
13 have to be at least 50 feet because there are four
14 or five -- maybe four feet out of the ground and
15 then four stories above that. The heights of the
16 ceilings in buildings that were of that era, usually
17 the ceiling heights were higher, so I guess
18 somewhere close to 50.

19 COMMISSIONER GRANA: So 17 lots on the
20 block, and six of those lots already have 50 feet
21 heights?

22 THE WITNESS: Yes.

23 COMMISSIONER GRANA: Thank you.

24 COMMISSIONER MARSH: Mr. Ochab?

25 CHAIRMAN AIBEL: Go ahead.

1 COMMISSIONER MARSH: Since that the
2 height reduction, that was 2000 maybe?

3 THE WITNESS: Excuse me?

4 COMMISSIONER MARSH: When was the
5 height reduced?

6 COMMISSIONER MARSH: I don't recall
7 this being a knee jerk reaction, but...

8 THE WITNESS: It might have been in the
9 1990s.

10 COMMISSIONER MARSH: I would think it
11 was 2000.

12 But at any rate, if I am not -- am I
13 correct in thinking that there has been a master
14 plan and two reexamination reports since then?

15 THE WITNESS: At least the master plan
16 and a reexamination report, depending when it was
17 done. If it was done in the '90s, there may have
18 been another reexamination report before the full
19 master plan, yeah.

20 COMMISSIONER MARSH: I didn't review
21 them all, but have any of those done anything except
22 recommending keeping the height at 40 feet?

23 THE WITNESS: I remember there were
24 earlier reexamination reports that were done, where
25 there were recommendations looking at certain areas

1 of the city to --

2 COMMISSIONER MARSH: Earlier than what?

3 THE WITNESS: Earlier than the --

4 COMMISSIONER MARSH: I'm asking about
5 any that were done following that reduction in
6 height.

7 THE WITNESS: Following, no.

8 COMMISSIONER MARSH: They all said keep
9 it at 40 feet, right?

10 THE WITNESS: I don't think they -- I
11 don't know if they actually had the same exact
12 number, but they said maintain the height.

13 MR. GALVIN: As a matter of statutory
14 construction, the fact that the height has been
15 reduced, you reviewed the master plan, and if they
16 felt that there was something wrong with it, they
17 would ordinarily make a recommendation to change it,
18 to increase it or decrease it, so --

19 COMMISSIONER MARSH: I think they all
20 specifically recommended keeping it, if I am not --
21 I know one of them did.

22 MR. GALVIN: Mr. Kolling is presenting
23 a point of view --

24 COMMISSIONER MARSH: I just -- and I am
25 asking if there was -- if that point of view was

1 supported in any reexamination reports or master
2 plan that came since then, and I think the answer is
3 no.

4 Thank you.

5 MR. GALVIN: Okay.

6 COMMISSIONER GRANA: I just have one
7 more question, Mr. Kolling.

8 There are in fact further down the
9 block, there are four structures that are three
10 stories in height?

11 THE WITNESS: Yes.

12 COMMISSIONER GRANA: Are you familiar
13 at all with those structures?

14 THE WITNESS: It was a while ago when I
15 went out there, but I can't remember which side of
16 the street they were on, because they are a little
17 unusual, and they have almost a wall of garage
18 doors.

19 COMMISSIONER GRANA: Right.

20 I don't know, but the intent there was
21 to create four family-friendly-type structures with
22 private parking.

23 THE WITNESS: Possibly.

24 COMMISSIONER GRANA: Possibly.

25 THE WITNESS: I didn't look at the

1 number of dwelling units in each one of them.

2 COMMISSIONER GRANA: Thank you.

3 COMMISSIONER DE GRIM: I have a
4 question.

5 Is there already a curb cut at this
6 location?

7 THE WITNESS: Yes.

8 COMMISSIONER DE GRIM: Thank you.

9 THE WITNESS: The ground floor was
10 previously used for automobile and truck storage or
11 parking.

12 COMMISSIONER DE GRIM: Okay.

13 CHAIRMAN AIBEL: I have not heard any
14 testimony about the rear yard conditions.

15 You know, what do the neighbors
16 opposite the building, what are their backyard
17 configurations? What are the sizes of those
18 buildings?

19 THE WITNESS: Well, I wasn't able to
20 get back there because the building is at a hundred
21 percent. I think you have to look at the aerial
22 photography. I believe that there are rear yards on
23 the adjacent buildings.

24 MR. MATULE: I could have Mr. Minervini
25 come back and maybe he could address that better.

1 CHAIRMAN AIBEL: Would you mind?

2 MR. MATULE: Not at all.

3 F R A N K M I N E R V I N I, having been
4 previously sworn, testified further as follows:

5 MR. MATULE: Mr. Minervini, did you
6 hear the Chairman's question about the conditions of
7 the rear yard?

8 THE WITNESS: Yes. If I can --

9 MR. MATULE: You need your exhibit?

10 THE WITNESS: Yes, and I think the
11 floor plan will help as well.

12 CHAIRMAN AIBEL: You want everything.

13 THE WITNESS: The adjacent building to
14 our south is slightly longer than 60 feet. Our
15 building is 60 feet. I will start with this
16 drawing.

17 So to our south --

18 CHAIRMAN AIBEL: No, Frank. I
19 apologize. I am asking about is it Adams on the
20 other side?

21 VICE CHAIR GREENE: The rear.

22 THE WITNESS: Oh, okay. I understand.

23 MR. MATULE: I misunderstood, too. I
24 apologize.

25 COMMISSIONER FISHER: It's Madison.

1 CHAIRMAN AIBEL: It's Madison.

2 Thank you.

3 THE WITNESS: These are the two
4 structures along Madison that are directly behind
5 us, and they are about 60 feet in depth, maybe a bit
6 shorter, 60 feet with balconies it looks like, so
7 they do have approximately a 40 foot rear yard.

8 CHAIRMAN AIBEL: Do you know how tall
9 those buildings are?

10 THE WITNESS: I don't, but I could look
11 it up.

12 MR. MATULE: Look over here.

13 THE WITNESS: Yes, it does. Okay. So
14 the other buildings are one, two, three,
15 four-and-a-half, four-and-a-half, and then one is
16 one, two, three, four, five, so this is all
17 five-story, which would be here, and these are
18 four-and-a-half, and as described by Mr. Kolling,
19 the standard is about 50 feet in height for a
20 four-and-a-half story building, because the
21 floor-to-floor heights are larger than the ten foot
22 floor to floor we propose.

23 CHAIRMAN AIBEL: Thank you.

24 COMMISSIONER BRANCIFORTE: Frank, can I
25 just see that real fast?

1 Thanks.

2 CHAIRMAN AIBEL: Any questions?

3 COMMISSIONER BRANCIFORTE: No, not for
4 Mr. Kolling, but I do have a question, though, for
5 Mr. Minervini. I don't know if we're done with Mr.
6 Kolling.

7 CHAIRMAN AIBEL: Is everybody finished
8 with Mr. Kolling?

9 MS. RUSSELL: I just have one comment
10 that we may have already talked our way out of.

11 E D W A R D K O L L I N G, having been previously
12 sworn, testified further as follows:

13 CHAIRMAN AIBEL: Okay.

14 MS. RUSSELL: The planner's report
15 indicated that there was a variance for signage
16 because the code says: Signs applied to the facade
17 of a building, which cover any portion of a window,
18 are prohibited.

19 Earlier Mr. Minervini kind of explained
20 that the entry way of the lobby actually had
21 Spandrel glass bisecting the windows, so having -- I
22 didn't realize that before, which is why the
23 variance was called out.

24 Would you argue that that Spandrel
25 glass makes the sign compliant?

1 THE WITNESS: Yes. I wasn't aware of
2 the signage variance. I think that if there is one,
3 we will make it compliant, so that we don't have
4 that variance.

5 MS. RUSSELL: I do think that the
6 Spandrel glass addresses the intent of the zoning
7 and would bring it into compliance. But having only
8 found out tonight that that is what it is signed, I
9 just wanted to bring up a possibility.

10 VICE CHAIR GREENE: Is that technically
11 a sign? I mean, it is the address, right?

12 MS. RUSSELL: Hum, I don't know.

13 MR. GALVIN: It could be a sign. I
14 mean, sometimes if you ever drove down Route 9,
15 there is a big "9" on a building. It is normal
16 signage, and then there's beyond normal signage.

17 MS. RUSSELL: It had a building name,
18 too, I think.

19 VICE CHAIR GREENE: It says "108 Jeff."

20 MR. GALVIN: Well, that is a like a
21 hipster sign. Now you are identifying the condo,
22 so --

23 COMMISSIONER BRANCIFORTE: I never
24 thought of you as the hipster culture.

25 (Laughter)

1 MR. GALVIN: I don't know where I got
2 that.

3 VICE CHAIR GREENE: He may not be, but
4 he knows one when he sees one.

5 MR. GALVIN: That is one of those, the
6 shoe does not fit.

7 (Laughter)

8 VICE CHAIR GREENE: But you are
9 satisfied that it doesn't require a variance in any
10 event whether you call it a sign or not?

11 MS. RUSSELL: Yes. I think whether or
12 not it is a sign is probably an argument for a
13 different conversation, but I think that what I had
14 previously thought was a variance probably is not
15 any more.

16 MR. GALVIN: See, when I looked at that
17 plan, I thought it was a typo.

18 COMMISSIONER BRANCIFORTE: Yeah, I
19 thought the same thing until --

20 (Everyone talking at once.)

21 MR. GALVIN: I didn't think it was an
22 actual physical structure on the building.

23 (Board members confer)

24 COMMISSIONER BRANCIFORTE: I just had a
25 question for Frank about the egress on the garage.

1 You know, how are we going to make this
2 thing a safe exit with the school across the street,
3 the charter school across the street?

4 MR. MINERVINI: Well, we implemented
5 the things that we have talked about at this Board,
6 which most recently is the LED warning system, with
7 one system at the threshold. I think that and the
8 other visual aid is really all we can do, but --

9 COMMISSIONER BRANCIFORTE: That is
10 fine. But the thing is I didn't see the LED
11 mentioned in your notes.

12 MR. MINERVINI: It is there --

13 COMMISSIONER BRANCIFORTE: If it's
14 there, I just can't see it. Okay. If you say it is
15 there --

16 MR. MINERVINI: -- and I could point it
17 out --

18 COMMISSIOENR BRANCIFORTE: -- then I'll
19 read --

20 COMMISSIONER MURPHY: How about those
21 lights and mirrors?

22 COMMISSIONER MC ANUFF: John, it's on
23 Z-5 on the top.

24 COMMISSIONER BRANCIFORTE: Thank you.

25 MR. MINERVINI: Thank you.

1 COMMISSIONER MURPHY: Since we have
2 you, I just wanted to make one comment about the
3 bicycle idea.

4 I mean, I would hope that I would be
5 riding a bicycle until the day I am done, but there
6 is already a day that I can't go like this and put a
7 bike up, and then showing it as a hanging rack.

8 MR. MINERVINI: Yes. We have those as
9 well as a ground located rack.

10 COMMISSIONER MURPHY: Okay. Because
11 some day I can't --

12 MR. MINERVINI: If you can't lift them,
13 we will use the ground located rack.

14 COMMISSIONER MURPHY: Okay.

15 (Laughter)

16 CHAIRMAN AIBEL: Okay. Bringing
17 everybody to order, does anybody have questions for
18 Mr. Kolling?

19 Seeing none, let me open it up to the
20 public.

21 Anybody have questions for Mr. Kolling?

22 Seeing none.

23 COMMISSIONER GRANA: Motion to close
24 the public portion.

25 COMMISSIONER MURPHY: Second.

1 CHAIRMAN AIBEL: All in favor, aye?

2 (All Board members answered in the
3 affirmative.)

4 CHAIRMAN AIBEL: Anybody in the public
5 have comments?

6 MR. MATULE: Before we go to public
7 comment, I would like to make a couple of comments
8 and maybe a couple of proffers to the Board. While
9 Mr. Kolling was testifying, I had Mr. Minervini
10 doing some math.

11 He talked about increasing and putting
12 an extensive green roof on the balance of the roof
13 around where the decks are. That is generated under
14 our ordinance. It counts as roof coverage, because
15 we have not gotten to the point where that has been
16 exempted yet, so that is going to create more
17 coverage. Approximately 95 percent --

18 MR. GALVIN: I want to speak for the
19 Board on this.

20 I think any time that we are getting
21 something that we see as what we are asking for, and
22 it generates a variance condition, we are probably
23 going to be okay with that.

24 MR. MATULE: Well, we are already
25 asking for a 60 percent roof coverage variance --

1 MR. GALVIN: I understand that.

2 MR. MATULE: -- I just wanted to make
3 the record clear that it's going to change the
4 number.

5 The second comment was about the rear
6 decks, and I have asked Mr. Minervini if they could
7 be reduced down, and what he is suggesting is
8 reducing them down approximately, so there is
9 approximately 11 feet on either side.

10 The bottom line, I asked him to try to
11 get the number down from 7 percent to 5 percent, so
12 the rear decks would be 5 percent over and above 60
13 percent the building is covering.

14 And the third comment was that, you
15 know, if the Board -- if it is the Board's pleasure,
16 we can pull the top floor of the building back.

17 Mr. Minervini, how far, ten feet?

18 MR. MINERVINI: Ten feet is what we
19 have done in the past, and that is generally when we
20 weren't next to an adjacent property of the same
21 height, which is why we didn't do it in this case.
22 However, listening to some of the comments, I think
23 it might be a good suggestion.

24 MR. MATULE: So we are amenable to
25 that, if that is the Board's pleasure?

1 MR. MINERVINI: We'd still have 50 feet
2 in height, but that visual impact would be much less
3 with that top floor being set back.

4 COMMISSIONER BRANCIFORTE: Now, I'm
5 lost because your argument was in the beginning,
6 didn't I ask you why you needed a top floor, and you
7 gave me your case why it was necessary to see the
8 top floor. Now you're saying --

9 MR. MINERVINI: No. I didn't say why
10 it was necessary.

11 If you remember, I also said, you could
12 do a two-story building or a three-story building.
13 It is not necessary. What we are doing is reacting
14 to what we think the Board may want.

15 I think that five stories is absolutely
16 perfectly appropriate here. You heard, of course,
17 some of the comments, and an approval is better than
18 none. So we want to satisfy some of the concerns
19 the Board has, even though we on this end don't
20 necessarily agree that it is a concern.

21 COMMISSIONER GRANA: Can we cover that?

22 VICE CHAIR GREENE: Can we talk about
23 that because I happen to agree with Frank on this.
24 I think the building looks better fully built out
25 rather than set back.

1 COMMISSIONER MURPHY: I have a
2 question.

3 So if you were to bring it back ten
4 feet and in some applications, where people have
5 come already with that, then the idea is they would
6 like to have a front terrace, and I think we have to
7 figure out whether that's something that we are
8 thinking it is okay or not, too.

9 VICE CHAIR GREENE: Often we think not.

10 COMMISSIONER MURPHY: I know, and
11 sometimes we think yes.

12 COMMISSIONER DE GRIM: You cut down on
13 the amount of the roof that the rest of the building
14 can use if you set it back.

15 VICE CHAIR GREENE: Well, you cut down
16 on the green roof actually because that is all
17 proposed to be --

18 CHAIRMAN AIBEL: So let's do it in
19 deliberations.

20 VICE CHAIR GREENE: Okay.

21 CHAIRMAN AIBEL: Okay. Anything else?

22 COMMISSIONER MARSH: I had a different
23 comment, which is that --

24 CHAIRMAN AIBEL: Okay. One second,
25 Carol --

1 COMMISSIONER MARSH: Well, it's --

2 CHAIRMAN AIBEL: -- I just wanted to
3 figure out procedurally where we are, and then we
4 will go to comments.

5 MR. MATULE: We are done.

6 CHAIRMAN AIBEL: Do you want to do a
7 closing?

8 MR. GALVIN: Well, time out for a
9 second --

10 MR. MATULE: Public comments.

11 MR. GALVIN: -- he has made proffers.

12 Ms. Marsh, did you have something?

13 If it is in deliberations, let's leave
14 it in deliberations. But is it a question off of
15 what was just proffered?

16 COMMISSIONER MARSH: Yes, because I --
17 I mean in this -- particularly with this building,
18 it is the 50 feet on the back of the building that
19 actually affects more people than the 50 feet on the
20 front of the building, so setting it -- and I don't
21 know how I feel about whether it is better set back
22 or not, but --

23 MR. GALVIN: Well, they are willing to
24 set it back ten feet, so then you could discuss that
25 in deliberations, because if they are willing to

1 move it ten feet back from the front, they could
2 also leave it in the front and move it ten feet from
3 the back, so you guys can kick it around.

4 So then I think where we're at is I
5 think you open it up to the public to see if there's
6 any public comment.

7 CHAIRMAN AIBEL: We already did that, I
8 believe.

9 MR. GALVIN: Did I blow that?

10 Is there anybody here in the public who
11 wants to comment?

12 Seeing none.

13 The attorney doesn't know what he is
14 talking about.

15 (Laughter)

16 Do you have a closing argument?

17 MR. MATULE: Just a few comments.

18 I think to keep it very brief,
19 obviously we feel it is an extremely handsome
20 building and a terrific esthetic improvement to the
21 block.

22 I guess one of the biggest benefits in
23 terms of zoning alternatives here is the fact that
24 we are taking that nonconforming condition and
25 getting rid of it and opening up the hole in the

1 donut, and notwithstanding the cantilevered
2 balconies, we are having a 40 foot open space back
3 there where none existed. I think that is certainly
4 going to have a much more positive impact on the
5 neighbors and the surrounding properties than any
6 impact from the ten feet of the top floor.

7 Obviously, reasonable minds can differ,
8 but we think the building is in keeping with the
9 general fabric of the neighborhood. It's going to
10 have significant green features, a green roof,
11 stormwater detention, you know, all of the typical
12 conservation measures that go into new buildings,
13 low flow toilet fixtures, et cetera, and it also now
14 meets all of the current flood plain regulations. I
15 think that is one of the nice things about a 50 foot
16 wide lot is where you can have that space and also
17 make it usable space by having the parking and still
18 address the flood plain regulations.

19 So, you know, on balance, we think it
20 is a much better zoning alternative than what is
21 currently there.

22 CHAIRMAN AIBEL: Thank you.

23 VICE CHAIR GREENE: May I ask a
24 question of Mr. Matule --

25 CHAIRMAN AIBEL: Sure.

1 VICE CHAIR GREENE: -- following up on
2 his closing?

3 MR. GALVIN: Sure.

4 I was looking at the conditions.

5 VICE CHAIR GREENE: You mentioned low
6 flow toilets and green roofs, and various things,
7 but I heard no discussion of LEED certification.

8 MR. MINERVINI: It can be LEED
9 certification, but I sometimes don't mention it --
10 mostly don't mention it because LEED certification
11 happens after construction is approved and it's
12 occupied, so generally we speak to what we are
13 proposing as opposed to actual certification.

14 MR. GALVIN: I think that I see it as
15 problematic. I think it is a good thing. It would
16 be a special reason, if they are going to do
17 something significant in a building. Like when
18 they're going for platinum or silver, and then they
19 are doing extra things like solar panels. The green
20 roof is a feature.

21 They have already given you the green
22 roof. And like he said, the LEED certification is
23 coming well after the building is up, so it is not
24 like I can't hold the building permit up or hold the
25 CO up, and if they go into a conversation of LEED,

1 then the next thing I want to know is what are the
2 ten things that you are going to do that we are
3 going to absolutely put in the resolution, so I kind
4 of get why they are kind of like skimming that one.

5 MR. MINERVINI: I think as described,
6 the building would already meet the LEED
7 certification.

8 MR. GALVIN: Right. And I think that a
9 lot of buildings in Hoboken just because we are in
10 walking distance to transit, you know --

11 MR. MINERVINI: Helps.

12 MR. GALVIN: -- there's a lot of points
13 in there, right.

14 VICE CHAIR GREENE: I'm sorry.

15 MR. GALVIN: No, no. Don't be sorry.
16 If it was a bigger application, and they were going
17 to do more, then I think that they would be smart to
18 bring that up.

19 VICE CHAIR GREENE: Got you.

20 CHAIRMAN AIBEL: As we go into
21 deliberations, would everybody be okay if I just
22 made one comment on the -- what do you call it --
23 offset --

24 COMMISSIONER MARSH: Setback.

25 CHAIRMAN AIBEL: -- setback.

1 Thank you. I'm a little tired right
2 now.

3 One of my concerns generally with the
4 50 foot wide buildings and 50 feet and five stories
5 is the mass and the bulk.

6 So what I would throw out as possibly a
7 compromise between a full ten foot setback and none
8 might be something, you know, two feet or whatever
9 the architect thinks would tend to soften the
10 integration of this new large building in with the
11 three and four-story buildings on the one side of
12 it, and maybe segue to the more -- the sort of more
13 feminine or lighter old tenement buildings, except
14 one of those is not a light tenement building. I'm
15 sorry.

16 (Laughter)

17 MR. MINERVINI: I think to your point,
18 and there was some discussion whether a ten foot
19 front yard setback makes any sense at all, and I
20 don't think it does, but as a compromise, perhaps
21 the setback is just on the half, the 25 feet of the
22 building that it borders, that is adjacent to the
23 four-story building. So, therefore, we have this
24 continuation of this four-story height, 25 foot
25 point, and then we go back up to five stories, and

1 then we meet that one, so it is probably a more
2 gradual connection between the two buildings as
3 opposed to the entire front being set back that ten
4 feet.

5 CHAIRMAN AIBEL: I didn't mean to front
6 run anybody, so --

7 COMMISSIONER MC ANUFF: Are you
8 suggesting then this band would go here, down, and
9 across the back?

10 MR. MINERVINI: I would have to rework
11 the design of that upper cornice, if I may.

12 The intent here was to have this
13 section seem lighter than this in terms of materials
14 and colors, just so that we are acknowledging that
15 this is five stories, where this is four.

16 We would probably, of course, if this
17 Board allowed, set it back ten feet here and
18 redesign this section, so it would probably go like
19 this, because of what your point was, something like
20 that, which would then even more reinforce that
21 continuation of the four-story into the five-story.

22 COMMISSIONER FISHER: Is the part that
23 looks like the Van Halen sign, is that sticking out?

24 MR. MINERVINI: It's slightly sticking
25 out.

1 COMMISSIONER FISHER: So it's not flush
2 with the sign. It's kind of going like that?

3 MR. MINERVINI: Yes.

4 COMMISSIONER FISHER: So the part that
5 is flush, the brick goes all the way straight up and
6 then --

7 MR. MINERVINI: This is straight --

8 COMMISSIONER FISHER: -- and then this
9 other part goes --

10 MR. MINERVINI: -- yes.

11 What I am proposing as a reaction would
12 be to have this section physically set back, but I
13 would, of course, change some of this, but probably
14 just bring it down, so we would then reinforce this
15 cornice line matching the adjacent building.

16 COMMISSIONER BRANCIFORTE: So that
17 would be set back. That corner would be set back.

18 MR. MINERVINI: Yes, exactly.

19 Maybe the first point 25 feet to the
20 south, so this half of a 50 foot lot would be set
21 back ten feet, in essence making this look like a
22 four-story building from the street, and then this
23 section being a five-story matching the adjacent
24 50-foot building.

25 COMMISSIONER MC ANUFF: I think that

1 would be a good compromise.

2 CHAIRMAN AIBEL: I would throw it out
3 for comments --

4 VICE CHAIR GREENE: Now, may I?
5 So now where are you going to put the
6 condensers?

7 MR. MINERVINI: We would actually
8 reduce the size of the deck to accommodate it.
9 That's the answer. They wouldn't be on that front
10 section, lower front section. We would reduce the
11 size of the upper deck to accommodate them.

12 COMMISSIONER BRANCIFORTE: And then
13 another question that should be addressed is that
14 setback, would that setback be used as a deck for
15 that fifth floor apartment?

16 MR. MINERVINI: Well, maybe another
17 good compromise would be to have that be the outdoor
18 space for the fifth floor and remove the fifth floor
19 deck from the rear of the building, lessening that
20 visual impact to the property behind, which is what
21 I think you were referring to, that height section
22 that -- sorry --

23 COMMISSIONER MARSH: Well, the actual
24 height section, not the deck.

25 MR. MINERVINI: -- understood. But the

1 point being that it would lessen the visual impact
2 from the rear.

3 COMMISSIONER FISHER: I am not sure if
4 you want to have an outdoor space overlooking the
5 Boys and Girls Club directly across the street.

6 MR. MINERVINI: I think the reality is
7 that outdoor space would be used when the Boys and
8 Girls Club is not in use. That has been my
9 experience, and I have a lot of experience down
10 there, but that is for you, of course, to decide.

11 CHAIRMAN AIBEL: Let's have a
12 discussion.

13 Anybody want to kick off?

14 Mr. Grana?

15 COMMISSIONER GRANA: I seem to be
16 chomping at the bit.

17 I will offer an opinion. I am quite
18 familiar with the area, and I'm quite familiar with
19 the block, and I've done a site walk-through.

20 I will say that this neighborhood, as
21 an opinion, is screaming for this kind of
22 development, I guess is the word I'll use. It's an
23 opinion. There is a tremendous demand for what we
24 call family-friendly, even though that that word is
25 not desired.

1 You know, the intent of a lot of zone
2 plans is to create a viable residential district
3 that is rapidly happening here, and that district is
4 looking for this kind of development to sustain it.

5 With respect to the concerns about the
6 height, you know, there are in fact six other
7 structures on this block that are similar height.

8 On First Street at the corner, there
9 are structures of similar height or a higher height,
10 and directly behind this on Madison Street, there
11 are structures of similar height or a higher height,
12 and across the street from the building itself is
13 the Rec Center, which I don't think there will be a
14 direct impact from this building. So I guess from
15 that perspective, I am strongly in favor.

16 I don't always like to use architecture
17 as a reason to say something is positive, but I
18 think this architecture does enhance the civic
19 environment.

20 I guess if I had to vote, I will accept
21 the softening, if that is what the Commissioners
22 would need to approve, but I actually think that the
23 building as designed improves the street wall as
24 designed.

25 CHAIRMAN AIBEL: Anybody else wish to

1 weigh in?

2 COMMISSIONER FISHER: I mean, first of
3 all, I just want to commend the architect and the
4 developer.

5 I mean, it is not often that we see in
6 ground up construction where they don't use the
7 precedent full lot coverage as a starting point, so
8 the fact that they have given back the donut, I
9 think it's a huge positive here, and just great
10 because we never see it.

11 I think that -- I am not as familiar
12 with the area. I lived there a long time ago, but I
13 think this has a lot of positive attributes and a
14 lot of attributes that we asked for.

15 You know, we never like to see height
16 creep. That is height creep. I have a problem with
17 that, but at the same time I think there is an equal
18 amount of kind of low and high, and it's an area
19 that is going to continue to just see architectural
20 improvements, and I think there are more positives
21 than negatives in this application.

22 CHAIRMAN AIBEL: Anybody else?

23 VICE CHAIR GREENE: Yes.

24 I think that when we are looking at
25 height in stories, it is important to look at the

1 context of the building and the scale of the
2 building, and I think that these meet the criteria
3 of being within context and within scale.

4 Frankly, I think softening by -- the
5 concept of softening it by setting back part of the
6 top floor back by ten feet is a mistake.

7 I think what Frank has designed here
8 does the that softening in and of itself. However,
9 if the majority thinks that it should be set back, I
10 won't disagree with it.

11 I think the reduction of size, the
12 proffer of the reduction of size of the balconies --
13 of the decks is a good thing. I think it should
14 include a reduction of the width, however, perhaps
15 from ten feet to eight feet. That concerns me more
16 than the length because it is already set back from
17 either side, but I don't think it is -- because I
18 think that will soften some of the visual impacts.

19 CHAIRMAN AIBEL: Mr. Minervini?

20 MR. MINERVINI: What if, to respond to
21 that, we reduced that depth from ten to eight, as
22 you are suggesting, but kept that lot coverage at
23 five percent, so we would probably go back then in
24 width and still have an eight-foot side --

25 VICE CHAIR GREENE: I think that is a

1 better approach.

2 CHAIRMAN AIBEL: And I would be very
3 happy if the number were 62 and a half.

4 MR. MINERVINI: Then we will propose it
5 then at 28 feet in width and eight feet in depth.

6 CHAIRMAN AIBEL: And not to make too
7 fine of a point, you know, that strikes me as a
8 decent adjustment in this context.

9 MR. MINERVINI: Thank you.

10 VICE CHAIR GREENE: And I don't have
11 anything further.

12 CHAIRMAN AIBEL: Anybody else?

13 John?

14 COMMISSIONER BRANCIFORTE: I'm going to
15 wait until I hear everybody else.

16 CHAIRMAN AIBEL: Okay. So you are
17 going to be the last one?

18 (Laughter)

19 COMMISSIONER MC ANUFF: I think the
20 mass of the building can be handled by the
21 neighborhood and the height.

22 I think it is a mistake to adjust the
23 design of the front facade by doing any sort of
24 setback or adjusting that band that goes throughout
25 the building. If I were voting, I would be behind

1 it.

2 CHAIRMAN AIBEL: Frank?

3 COMMISSIONER DE GRIM: Yes, the same as
4 Owen and others. I think it is a mistake to have it
5 set back. I think the facade is great the way it
6 is.

7 CHAIRMAN AIBEL: Anybody else?

8 COMMISSIONER BRANCIFORTE: Yeah. You
9 know, I don't like the fifth story at all. I mean,
10 the setback is a compromise that is more -- a little
11 more palatable, but still looking at an elevator
12 bulkhead of 64 feet, I am not sure how that is going
13 to look from the street.

14 I keep thinking of what I call "The
15 Outhouse" at Sixth and Washington, that I always see
16 when I walk down the street, that big thing that
17 sticks out, and I am worried that the elevator will
18 be the same.

19 So I think the real problem for me is
20 the height and the number of stories in the end, and
21 the setback really doesn't do much for me.

22 VICE CHAIR GREENE: I am done. I think
23 it is up to you.

24 CHAIRMAN AIBEL: It's up to me, okay.

25 Well, you know, on this one, I think

1 that the fifth floor does work in the context of the
2 neighborhood. The giveback on the donut is clearly
3 a benefit, and I think that is a positive. You
4 know, this project brings to the table, I continue
5 to be concerned about the size of the building in
6 mass because they look beautiful and very fine on
7 paper, but when they get built, they are big.

8 I was not proposing a ten foot setback
9 at one end of the building. I was thinking of
10 something very, very modest. I'm not going -- I
11 didn't go to architecture school, so I am not going
12 to redesign the building. That was my one concern.

13 All in all, I guess I feel it is a net
14 positive for the neighborhood.

15 MR. GALVIN: Should I read off the
16 conditions?

17 VICE CHAIR GREENE: Yes, please.

18 MR. GALVIN: One: The plan is to be
19 revised, so that the area within -- the plan is to
20 be revised so the area within the fence located in
21 the front of the building will be a rain garden.

22 Two: The applicant must obtain the
23 governing body's approval for the encroachment into
24 the city's right-of-way including the rain garden
25 and the bay windows.

1 Three: The plan is to be revised to
2 show the balconies, the rear balconies, will be
3 eight feet in depth and 28 feet in length.

4 Did I get that right?

5 MR. MINERVINI: Yes.

6 MR. GALVIN: From the second floor and
7 above.

8 Four: The Board is aware that the
9 entire existing building is to be demolished in
10 order to construct the new building, so don't go
11 trying to save any of the old building. Let's see
12 how that works. That's a change.

13 (Laughter)

14 Five: The applicant agreed to be
15 financially responsible to enclose the existing
16 windows on the building along the southerly property
17 line.

18 Six: The plan is to be revised to
19 eliminate the spiral staircase --

20 MR. MARSDEN: Dennis, that is
21 northerly, I believe.

22 Is that right, Frank?

23 MR. MATULE: That is correct. It's the
24 southerly windows on the building to the north.

25 MR. GALVIN: Got it.

1 The plan is to be revised to eliminate
2 the spiral staircase and one of the roof bulkheads.

3 The plan will now show that the
4 recreational area on the roof is to be shared in
5 common with all residents of the building.

6 Is that correct?

7 VICE CHAIR GREENE: No, I don't think
8 that's correct.

9 MR. GALVIN: Help me out.

10 COMMISSIONER MC ANUFF: I said that
11 when I first asked about the backyard --

12 MR. MATULE: It's still going to --

13 VICE CHAIR GREEN: That is a spiral
14 staircase that is being added as opposed to the
15 straight staircase that was eliminated.

16 COMMISSIONER MC ANUFF: I had said to
17 combine both of the common areas. That would
18 eliminate one bulkhead on the roof and eliminate the
19 spiral staircase --

20 MR. GALVIN: So I could say to
21 eliminate the spiral staircase and one of the roof
22 bulkheads and just stop there.

23 COMMISSIONER MC ANUFF: And then the
24 yards and the roof deck are going to be commonly
25 shared.

1 VICE CHAIR GREENE: No, I don't
2 think --

3 MR. MINERVINI: No. I don't think we
4 proposed removing the second smaller bulkhead, which
5 is just for access from the top floor apartment --

6 COMMISSIONER MC ANUFF: So the roof
7 deck is going to be broken up?

8 MR. MINERVINI: The roof deck is two
9 pieces, yes, public and private.

10 MR. GALVIN: All right.

11 What I heard, I wrote it down, and the
12 planner heard it also, so, you know --

13 MR. MATULE: No. I think -- I think
14 the testimony of the architect was when somebody
15 asked about that second stairway, he said, oh, we're
16 not going to need that, but then he --

17 MR. GALVIN: I am not pushing for it.
18 I just want to make sure that I'm getting the right
19 stuff down.

20 So we are eliminating the spiral
21 staircase?

22 MR. MINERVINI: Correct.

23 MR. GALVIN: But we're not eliminating
24 the roof bulkhead?

25 MR. MINERVINI: That's right.

1 MR. GALVIN: And we're not doing
2 anything to control the recreation on the roof?

3 MR. MINERVINI: That was a comment. We
4 have setbacks -- I think there was a --

5 COMMISSIONER MC ANUFF: Combining the
6 spaces instead of having a public and private space
7 on that --

8 MR. MINERVINI: Have it all private?

9 COMMISSIONER MC ANUFF: -- have it as
10 one common space. The same with the backyard, the
11 rear yard.

12 MR. MINERVINI: That was never, if I
13 may, never part of our proposal to have it all
14 public space.

15 VICE CHAIR GREENE: I thought what you
16 had suggested, if I may, was more equal splitting of
17 the backyard space.

18 COMMISSIONER MC ANUFF: No. I was
19 suggesting just one big space.

20 CHAIRMAN AIBEL: I understood the
21 backyard to be totally common, but the roof to be
22 split.

23 MR. MINERVINI: We are going to split
24 both the rear and the roof, so what we got now as
25 part of the proposal is the majority of the rear

1 yard apportioned to the second floor apartment.

2 What I responded to, maybe incorrectly,
3 was that we would reduce the size of that private
4 yard and make it half and half approximately and
5 give the other space back to the public yard.

6 (Board members confer)

7 MR. GALVIN: I don't think we need to
8 get to the --

9 VICE CHAIR GREENE: That's a detail
10 that --

11 MR. GALVIN: -- right, is everybody
12 okay with that?

13 COMMISSIONER MC ANUFF: Yes.

14 MR. GALVIN: Okay. So we have the plan
15 is to be revised to eliminate the spiral staircase.

16 Seven: The roof deck is to provide a
17 hose bib, hose bibs?

18 MR. MINERVINI: Bibs.

19 VICE CHAIR GREENE: Bibs.

20 MR. GALVIN: You know, it seems like a
21 small thing, but I am sure it would be useful.

22 COMMISSIONER MARSH: That's because you
23 don't grow tomatoes on your roof.

24 VICE CHAIR GREENE: That's right.

25 Are you proposing hose bibs for the

1 ground level as well?

2 MR. GALVIN: I have a ground hog that
3 won't leave my tomatoes alone, but --

4 CHAIRMAN AIBEL: Come on. Let's go.
5 Keep reading.

6 VICE CHAIR GREENE: Dennis, there's
7 also hose bibs on the ground level, because I don't
8 think they were on the plans.

9 MS. CARCONE: Hose bibs for the rain
10 garden in case it doesn't rain.

11 MR. GALVIN: Stop it.

12 (Laughter)

13 VICE CHAIR GREENE: Yeah. That's what
14 I just said, backyard.

15 MR. GALVIN: Okay. I will get that.
16 All right. I will correct that on my own.

17 Eight: The plan is to be revised to
18 show an enhanced green roof. The revised plan is to
19 be reviewed and approved -- I was going to say by
20 the Board's planner, but why can't you provide that
21 to us at the time of memorialization?

22 MR. MINERVINI: Certainly. If I may,
23 it is an extensive green roof, which is the proper
24 term.

25 MR. GALVIN: We will be able to judge

1 backyard, too?

2 MR. MINERVINI: Yes.

3 CHAIRMAN AIBEL: Let me ask the
4 question, Mr. Matule: Are there construction code
5 requirements or limits for lights on roof decks,
6 requirements for size of fences, you know?

7 MR. MINERVINI: There are many.

8 CHAIRMAN AIBEL: I don't want to get
9 into the details, but --

10 MR. MINERVINI: I can answer simply.
11 42 inches is the railing height. We
12 are proposing that.

13 Lighting: The area has to be lit when
14 used. I can propose to show you a picture that is
15 shielded, so that it is directed only on our area
16 and not on adjacent properties.

17 (Everyone talking at once.)

18 VICE CHAIR GREENE: What about
19 amplifiers -- we'll leave that to code.

20 MR. MARSDEN: One other thing, pervious
21 pavers in the rear yard.

22 MR. GALVIN: Any pavers in the rear
23 yard are to be pervious.

24 CHAIRMAN AIBEL: Wait a minute, Jeff.
25 So is there an agreement on the lot

1 coverage percentage?

2 MR. MINERVINI: I didn't calculate it
3 in the dimensions that we gave --

4 CHAIRMAN AIBEL: My understanding is
5 it's going to end up south --

6 MR. MINERVINI: 65 is the number.

7 CHAIRMAN AIBEL: I thought we were
8 trying to drop it.

9 MR. MATULE: The Chairman wants it
10 lower.

11 MR. MINERVINI: I'm sorry.

12 CHAIRMAN AIBEL: I was hoping for
13 something like 62 and a half.

14 MR. MINERVINI: I can do a quick
15 application, if you'd like.

16 CHAIRMAN AIBEL: As long as you can get
17 to that.

18 MR. MINERVINI: 62?

19 CHAIRMAN AIBEL: 62 and a half.

20 THE WITNESS: We couldn't have the
21 stairs. The stairs itself would take us to two and
22 a half, an additional two and a half is the outdoor
23 space. The stair itself would bring us to two and a
24 half feet. They're egress stairs.

25 CHAIRMAN AIBEL: I think Mr. Greene's

1 suggestion was shortening it on the sides and
2 shortening the depth.

3 MR. MINERVINI: Yes, and that is what I
4 suggested. So instead of ten feet, we changed it to
5 eight feet as result of Mr. Greene's suggestion, and
6 it is 11 feet on the two sides, where it was eight.

7 CHAIRMAN AIBEL: And that is going to
8 generate a 65 percent lot coverage?

9 MR. MINERVINI: I'm sorry?

10 CHAIRMAN AIBEL: That is going to
11 generate a 65 percent lot coverage?

12 MR. MINERVINI: It's slightly less. It
13 would be less. 65 is what the original suggestion I
14 had was, which was just making it 11 feet on each
15 side. This would probably be 63 and a half to 64.

16 CHAIRMAN AIBEL: That's better than 65.

17 MR. GALVIN: 64? We could say not to
18 exceed 64.

19 COMMISSIONER DE GRIM: Well, you
20 already put the dimensions in.

21 MR. GALVIN: Eight feet?

22 COMMISSIONER DE GRIM: Eight, five, 28.

23 CHAIRMAN AIBEL: As long as it doesn't
24 generate a 68 percent lot coverage, yes.

25 MR. MATULE: Why don't we take the

1 dimensions out and just say eight feet deep, not to
2 exceed 64 percent lot coverage. Would that work?

3 MR. GALVIN: I have: The plan is to be
4 revised to show the rear balconies no deeper than
5 eight feet or wider than 28 feet in length from the
6 second floor and above.

7 MR. MATULE: Well, the problem with
8 that, I think Frank said it's going to be --

9 MR. MINERVINI: I'm sorry. I missed
10 that last section --

11 MR. MATULE: -- 28 feet wide and eight
12 feet deep. Is that going to be more than four
13 percent --

14 MR. MINERVINI: No, because at 28 feet
15 wide and ten feet in depth, it was five percent, so
16 this would be much less than five percent. I am
17 thinking three and three-quarter, four percent.

18 (Everyone talking at once.)

19 MR. GALVIN: No deeper than eight feet
20 or wider than 20 feet and will not exceed 64
21 percent --

22 MR. MINERVINI: Wider than 28 feet.

23 MR. GALVIN: -- right --

24 VICE CHAIR GREENE: Eight by 28. It's
25 224 square feet.

1 MR. GALVIN: I got it.

2 Thank you.

3 VICE CHAIR GREENE: It's 2.8 percent.

4 CHAIRMAN AIBEL: Thank you.

5 Does anybody care to make a motion?

6 COMMISSIONER GRANA: Motion to approve
7 108-110 Jefferson Street with the conditions.

8 COMMISSIONER FISHER: Second.

9 CHAIRMAN AIBEL: Commissioner Greene?

10 VICE CHAIR GREENE: Yes.

11 MS. CARCONE: Commissioner Grana?

12 COMMISSIONER GRANA: Yes.

13 MS. CARCONE: Commissioner Marsh?

14 COMMISSIONER MARSH: I guess.

15 MS. CARCONE: Commissioner Murphy?

16 COMMISSIONER MURPHY: No.

17 MS. CARCONE: Commissioner Branciforte?

18 COMMISSIONER BRANCIFORTE: No.

19 MS. CARCONE: Commissioner Fisher?

20 COMMISSIONER FISHER: Yes.

21 MS. CARCONE: Commissioner Aibel?

22 CHAIRMAN AIBEL: And what was Carol
23 Marsh's vote?

24 VICE CHAIR GREENE: I think she said,
25 "I guess."

1 COMMISSIONER BRANCIFORTE: "I guess."

2 COMMISSIONER MARSH: No. I said a
3 yeah, you know, so --

4 CHAIRMAN AIBEL: So it was a guess.
5 Yes.

6 MS. CARCONE: Okay. Five to two.

7 MR. MATULE: Thank you.

8 I appreciate it.

9 I'll try not to disappoint you.

10 (Laughter)

11 (The matter concluded at 10:30 p.m.)

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C E R T I F I C A T E

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

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

s/Phyllis T. Lewis, CCR, CRCR

PHYLLIS T. LEWIS, C.C.R. XI01333 C.R.C.R. 30XR15300
Notary Public of the State of New Jersey
My commission expires 11/5/2015.
Dated: 4/6/15
This transcript was prepared in accordance with
NJAC 13:43-5.9.

HOBOKEN ZONING BOARD OF ADJUSTMENT
CITY OF HOBOKEN

----- X
SPECIAL MEETING OF THE HOBOKEN :March 31, 2015
ZONING BOARD OF ADJUSTMENT :10:45 p.m.
----- X

Held At: 94 Washington Street
Hoboken, New Jersey

B E F O R E:

- Chairman James Aibel
- Vice Chair Elliot H. Greene
- Commissioner Antonio Grana
- Commissioner Carol Marsh
- Commissioner Diane Fitzmyer Murphy
- Commissioner John Branciforte
- Commissioner Tiffanie Fisher
- Commissioner Owen McAnuff
- Commissioner Frank DeGrim

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

- Kristin Russell, Planning Consultant
- Jeffrey Marsden, PE, PP
Board Engineer
- Patricia Carcone, Board Secretary

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

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4 Jackson, New Jersey 08527
5 (732) 364-3011
6 Attorney for the Board.

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1 CHAIRMAN AIBEL: Okay, Board members.

2 Gentlemen, we are still in session.

3 Thank you.

4 Okay, Jeff?

5 We have waivers.

6 MR. MARSDEN: We have two waivers that
7 we need to review and approve, which is 506
8 Jefferson and 7577 Madison.

9 506 Jefferson is requesting a
10 stormwater management plan, okay, and the stormwater
11 drainage area map, and both the C and D variances,
12 and the soil management plan, soil erosion plan and
13 cost estimates.

14 I recommend approval of all of those
15 with the condition, of course, the stormwater
16 management plan will be submitted prior and approved
17 by North Hudson prior to the final signing off of
18 the plans.

19 7577 Madison is requesting C variances
20 for stormwater management plan and D variances for
21 the -- under D variance, the stormwater drainage
22 area map, stormwater management plan and soil
23 erosion plan.

24 The soil erosion plan is not required
25 for less than 5,000 square feet, and the stormwater

1 management plan will be submitted as a condition and
2 approved by North Hudson prior to the issuance of
3 the building permit signing off on the plans.

4 CHAIRMAN AIBEL: So do we have a motion
5 to accept the recommendations of the engineer?

6 VICE CHAIR GREENE: So moved.

7 CHAIRMAN AIBEL: Second?

8 COMMISSIONER MARSH: Second it.

9 CHAIRMAN AIBEL: Do we need a vote or
10 can we do an all in favor?

11 MS. CARCONE: All in favor?

12 (All Board members answered in the
13 affirmative.)

14 CHAIRMAN AIBEL: Anybody opposed?

15 VICE CHAIR GREENE: Motion to adjourn.

16 CHAIRMAN AIBEL: Move to adjourn.

17 Is there a second?

18 COMMISSIONER GRANA: Second.

19 COMMISSIONER MARSH: There was some
20 discussion at this end of the table about how to
21 address remarks like the one about the debris
22 catching on the stoops.

23 Can we write a letter?

24 Can we -- there wasn't an engineering
25 opinion that that was a problem, right?

1 VICE CHAIR GREENE: Should we demand
2 the courtesy of a conversation with the person who
3 is giving the opinion, that we should be aware of?

4 COMMISSIONER MARSH: Should
5 recommendations that are contrary to the master plan
6 be addressed to the Planning Board at the very
7 least --

8 COMMISSIONER FISHER: Or they should be
9 required to have legal counsel, period, because she
10 has --

11 COMMISSIONER MARSH: -- or something, I
12 don't know what --

13 MR. MARSDEN: Yes. If I could just add
14 to that. It is not required in the new stormwater
15 ordinance. They don't mention stoops and catching
16 debris. The State of New Jersey and FEMA both don't
17 mention that with respect to debris, unless you are
18 in the flow area, which would be the flood way. We
19 are not. This is a flood plain. It raises, it
20 lowers. Very rarely do we have flow going through
21 in the streets. It is just a flood condition, so
22 therefore, if you are not in the flood way area to
23 be required to deduct floods, it is very -- it is
24 not regulated, so --

25 COMMISSIONER GRANA: So does that make

1 this an opinion?

2 COMMISSIONER FISHER: Yeah, it's an
3 opinion --

4 VICE CHAIR GREENE: It's definitely an
5 opinion --

6 (Everyone talking at once.)

7 MR. GALVIN: Things that go to the law,
8 things that go to what the regulations say, if Jeff
9 says to us, you can't put habitation below the base
10 flood elevation, that is not an opinion. That is
11 the law, okay?

12 And once Jeff or our Flood Plain
13 Administrator determines a given height, that is the
14 law, so then you can't do that.

15 There might be times when in giving out
16 what has to happen, opinions are given as to what
17 the better practice would be, and when that is done,
18 you don't have to follow that. That is only
19 advisory. Unless it is the law, unless it's a
20 regulation --

21 COMMISSIONER GRANA: Or if it is a
22 consideration --

23 COMMISSIONER FISHER: But I think -- I
24 think the issue is a different one, where you have
25 someone who supposedly falls under similar, you

1 know, conceptual group giving a different opinion,
2 but something is presented to us that we have not
3 approved before, and it puts us in a tough spot --

4 MR. GALVIN: I think --

5 COMMISSIONER FISHER: -- and that
6 shouldn't be the case --

7 MR. GALVIN: -- we are still in a
8 learning curve with the new flood regulations that
9 have come out, not just here, also in other
10 communities --

11 COMMISSIONER FISHER: -- but we are on
12 a learning curve together, but she is not on the
13 same team with us.

14 CHAIRMAN AIBEL: Well, before we go
15 down this road too far --

16 VICE CHAIR GREENE: We are still on the
17 record, don't forget.

18 CHAIRMAN AIBEL: -- I guess my question
19 is --

20 MR. GALVIN: But we don't want to --

21 CHAIRMAN AIBEL: -- it is really
22 hearsay evidence, so I would like to, if this is
23 part of the public debate, then it should be debated
24 in public.

25 MR. GALVIN: One of the things we could

1 ask for is that whatever is being provided to them
2 be provided to the Zoning Board. Maybe that is what
3 we should be asking Pat to go to Brandy and discuss
4 that, that we would like to have the Flood Plain
5 Manager's reports for these files, and then we would
6 be ahead of the game. Because if you read it and
7 you liked stoops, and you read a report that said
8 that the Flood Plain Manager doesn't think a stoop
9 is a good idea here for legitimate flood plain
10 reasons, we would be able to address it in advance.

11 COMMISSIONER FISHER: But isn't there
12 something that we can do that says, an opinion was
13 put on flood plains that was given to us, but is
14 based on nothing, and how can we get that to stop?

15 Do we have that ability to do something
16 like that, because that is what happened tonight.

17 I know I am stating the obvious,
18 but that's what happened.

19 COMMISSIONER GRANA: Just to pick up on
20 what Tiffanie is saying, I think the other issue is,
21 if you like stoops or don't like stoops, you have an
22 applicant that has changed their plan because they
23 heard stoops are not good. So if you don't like
24 stoops or you do like stoops, you are in danger of
25 penalizing the applicant.

1 COMMISSIONER FISHER: And when we talk
2 about stoops, we talk about it every single time
3 someone raises it, it's in conjunction with the
4 master plan, so we feel like we are generally making
5 this point --

6 MR. GALVIN: We are going to do our
7 annual report hopefully sometime in the not too
8 distant future, and that is something that you are
9 going to have to ask Eileen for.

10 I think we should get this done soon,
11 right away, and then what I would recommend to you
12 is we make four or five recommendations, and one of
13 the things we could be saying to the governing body
14 is: We have seen a couple of reports from the Flood
15 Plain Administrator that said stoops are
16 problematic, do you still want stoops, or do you
17 feel that -- do you agree that stoops are -- that is
18 not our decision -- listen, guys, that is not the
19 Zoning Board's place to decide whether we want
20 stoops.

21 COMMISSIONER MURPHY: But also, take
22 this to the thing that we talked about when we first
23 started tonight, and that is, what is that story
24 now, that is a way bigger issue, if the first floor,
25 and you know, a flood zone is now just not

1 considered a story at all, we need to have --

2 COMMISSIONER FISHER: We have a
3 different view --

4 (Everyone talking at once.)

5 MR. GALVIN: Listen, they got right on
6 it and solved some of the problems. They did what
7 we had to do in order to get into the flood grading
8 system. They passed these flood plain regulations.
9 They did a series of things that were really smart
10 and go to protect public safety from floods.

11 But what they did is, they didn't think
12 that much about what the impact was on the zoning
13 code, so now we will point out the one or two things
14 that we think that they should circle back and take
15 a closer look.

16 COMMISSIONER FISHER: But, Dennis, when
17 you say "they" --

18 MR. GALVIN: I meant the governing
19 body.

20 COMMISSIONER FISHER: -- right. And
21 we're suggesting that the zoning officer is part of
22 "they"?

23 MR. GALVIN: No, no, not at all, not
24 even remotely.

25 COMMISSIONER FISHER: -- okay --

1 right -- but if she is not, or he is not -- in this
2 case she, if she's not, then we have on a very
3 critical point two different views that was put in
4 front of us tonight.

5 MR. GALVIN: Listen, I made it clear
6 that when it come to the zoning official, I have a
7 conflict of interest, and I can point out the case
8 of Kane Properties, where Michael Gates, who was one
9 of the best lawyers in the state, screwed up because
10 he started discussing a case that he had a conflict
11 on, because -- let me just say this -- because the
12 conflict attorney wasn't there, and the Council
13 pressed him to keep talking about it, and we're
14 coming pretty close to that right now. You're
15 pressing me to talk about the zoning official.

16 I can talk about zoning in general. I
17 can explain the process in general as to how we can
18 do recommendations to the governing body, but I
19 think I have a conflict when it comes to the zoning
20 officer, and I really --

21 COMMISSIONER MARSH: Why do you have a
22 conflict?

23 MR. GALVIN: What's that?

24 COMMISSIONER MARSH: Why do you have a
25 conflict?

1 MR. GALVIN: Because her husband is the
2 Chairman of the Planning Board, and I represent the
3 Planning Board, and that is why when we had a review
4 of a decision she made, we got a conflict attorney
5 to handle that case.

6 MR. MARSDEN: And I just add one thing.
7 I mean, professionals, and I include Ann in that
8 situation, I give my opinion. I say, you know, it
9 may be a little safer to move this parking lot here
10 and this parking lot back.

11 I interpreted what I heard was, that
12 was just, in her opinion, that, you know, in this
13 particular case maybe stoops might catch debris. I
14 don't see that --

15 COMMISSIONER FISHER: I think this one
16 we are talking about the interpretation of stories,
17 the very first case that came, where she made a
18 different interpretation of what the ground floor
19 was. That was the --

20 MR. MARSDEN: Oh, okay. I was just
21 talking --

22 COMMISSIONER FISHER: -- which is
23 different than how we interpreted it --

24 MR. GALVIN: She may have thought that
25 when they changed that flood zoning, that it had

1 that impact.

2 COMMISSIONER FISHER: By the way, I am
3 not suggesting that's the wrong outcome. It's just
4 that right now we are sitting in a situation, where
5 we have two different views that we are faced with
6 from people that are influencing or influencing the
7 outcome here, and they are just different.

8 So it may be that Ann's interpretation
9 ultimately is a prevailing interpretation, and
10 Eileen comes on board, or it means Ann comes on
11 board, but we just have two different ones that just
12 makes it difficult. It was thrown at us tonight --

13 VICE CHAIR GREENE: Well, the issue
14 here was not that she gave an opinion, but she gave
15 an opinion to an applicant and didn't share that
16 with us, so we were caught off guard. Here we are
17 trying to interpret the master plan and enforce the
18 master plan, if you will, and --

19 COMMISSIONER FISHER: You just think
20 there would be a general continuity of approach
21 representing zoning between the zoning officer and
22 the Board, but maybe that is not the way it is, I
23 feel like it should be, but I haven't been doing
24 this long enough, but it feels like --

25 VICE CHAIR GREENE: With that --

1 CHAIRMAN AIBEL: Now, it is a good
2 discussion, but I am not sure this is the right
3 forum, so I think we can have a motion -- in fact,
4 thanks everybody, by the way, for getting a bunch
5 done tonight.

6 VICE CHAIR GREENE: I move for
7 adjournment.

8 COMMISSIONER MURPHY: I guess we've got
9 two of them done --

10 CHAIRMAN AIBEL: Anybody --

11 MR. GALVIN: No. You got three of them
12 done.

13 (Everybody talking at once.)

14 COMMISSIONER BRANCIFORTE: We can do
15 this off the record.

16 Move to close.

17 VICE CHAIR GREENE: Move to close.

18 THE REPORTER: Yes, because everyone is
19 talking at once anyway.

20 CHAIRMAN AIBEL: Motion to close.

21 VICE CHAIR GREENE: We're closed.

22 COMMISSIONER MARSH: Second.

23 VICE CHAIR GREENE: I'll see you all in
24 May.

25 (The matter concluded at 10:55 p.m.)

C E R T I F I C A T E

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

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

s/Phyllis T. Lewis, CCR, CRCR

- - - - -

PHYLLIS T. LEWIS, C.C.R. XI01333 C.R.C.R. 30XR15300
Notary Public of the State of New Jersey
My commission expires 11/5/2015.
Dated: 4/6/15
This transcript was prepared in accordance with
NJAC 13:43-5.9.

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