

CITY OF HOBOKEN
PLANNING BOARD

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REGULAR MEETING OF THE HOBOKEN : June 3, 2014
PLANNING BOARD : 7:06 p.m.
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Held At: 94 Washington Street
Hoboken, New Jersey

B E F O R E:

- Chairman Gary Holtzman
- Vice Chair Frank Magaletta
- Commissioner Stephen Marks
- Commissioner Ann Graham
- Commissioner Dan Weaver
- Commissioner Sasha Conroy

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

- David Glynn Roberts, AICP/PP, LLA, RLA
Board Planner
- Joseph R. Venezia, PE, PP, CME
Board Engineer
- Patricia Carcone, Board Secretary

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I N D E X

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PAGE

Board Business 1

RESOLUTION:

38-40 First Street 6

HEARING:

Pier 13 (Carried to 7/1/14) 5

93 Grand Street 7

1 CHAIRMAN HOLTZMAN: All right. Good
2 evening, everybody. Good evening.

3 This is the Hoboken Planning Board
4 Regular Meeting. It is June 3rd, 2014. It is 7:06.
5 We are going to call this meeting to order.

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

14 Pat, please call the roll.

15 MS. CARCONE: Commissioner Holtzman?

16 CHAIRMAN HOLTZMAN: Here.

17 MS. CARCONE: Commissioner Magaletta?

18 VICE CHAIR MAGALETTA: Here.

19 MS. CARCONE: Commissioner Marks?

20 COMMISSIONER MARKS: Present.

21 MS. CARCONE: Commissioner Graham?

22 COMMISSIONER GRAHAM: Here.

23 MS. CARCONE: Commissioner Weaver?

24 COMMISSIONER WEAVER: Here.

25 MS. CARCONE: Commissioner Conroy?

1 COMMISSIONER CONROY: Here.

2 CHAIRMAN HOLTZMAN: All right.

3 We had on our agenda this evening a
4 hearing for Pier 13 for modifying the resolution.

5 I have a note here from Meghan Burke,
6 the attorney for that applicant. I will read it
7 onto the record. It says:

8 "Dear Pat,

9 "This firm represents Shipyard
10 Associates, LP, owners of the above-noted property.
11 A public hearing on a proposed settlement related to
12 Shipyard's resolution of amended preliminary and
13 final site plan approval application is scheduled
14 for June 3rd.

15 "We respectfully request that the
16 hearing be postponed, and settlement be adjourned
17 until the July 1st Planning Board meeting.

18 "Thank you for your consideration."

19 I understand that there was some
20 difficulty with public notice, and they are going to
21 give it a pass.

22 MR. GALVIN: It had something to do
23 with utilities. They failed to notice the
24 utilities, and they couldn't get the waivers from
25 the utilities quickly enough, so they are going to

1 renotice.

2 CHAIRMAN HOLTZMAN: Okay, great.

3 We also have a resolution for 38 First
4 Street. This was the Verizon application. Everyone
5 should have had a copy of that.

6 Were there any questions or comments
7 from any of the Commissioners on that?

8 That being said, is there a motion to
9 accept that resolution?

10 COMMISSIONER MARKS: So made.

11 CHAIRMAN HOLTZMAN: Is there a second?

12 COMMISSIONER WEAVER: Second.

13 CHAIRMAN HOLTZMAN: Pat, please call
14 the vote.

15 MS. CARCONE: Commissioner Magaletta?

16 VICE CHAIR MAGALETTA: Yes.

17 MS. CARCONE: Commissioner Marks?

18 COMMISSIONER MARKS: Aye.

19 MS. CARCONE: Commissioner Weaver?

20 COMMISSIONER WEAVER: Yes.

21 MS. CARCONE: Commissioner Conroy?

22 COMMISSIONER CONROY: Yes.

23 CHAIRMAN HOLTZMAN: Commissioner
24 Holtzman?

25 CHAIRMAN HOLTZMAN: Yes.

CITY OF HOBOKEN
PLANNING BOARD

- - - - - X
 93 Grand Street : June 3, 2014
 Applicant: Alfredo D'Innocenzo : 7:10 p.m.
 Minor Site Plan, Conditional Use :
 - - - - - X

Held At: 94 Washington Street
Hoboken, New Jersey

B E F O R E:

Chairman Gary Holtzman
 Vice Chair Frank Magaletta
 Commissioner Stephen Marks
 Commissioner Ann Graham
 Commissioner Dan Weaver
 Commissioner Sasha Conroy

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WITNESS	PAGE
ALFREDO D'INNOCENZO	11
JENSEN VASIL	21

E X H I B I T S

EXHIBIT NO.	DESCRIPTION	PAGE
A-1	Dept. Of Justice Handout	29

1 CHAIRMAN HOLTZMAN: Mr. Burke, are you
2 ready for us?

3 MR. BURKE: Yes, we are.

4 CHAIRMAN HOLTZMAN: Terrific.

5 This will be for the hearing for 93
6 Grand Street.

7 MR. BURKE: Thank you.

8 Jim Burke. I am representing the
9 applicant, Alfredo D'Innocenzo.

10 I am going to have two witnesses
11 tonight, the applicant himself, and then the
12 architect, Mr. Jensen.

13 So without further adieu.

14 MR. D'INNOCENZO: I'm Alfredo
15 D'Innocenzo.

16 MR. GALVIN: Time out.

17 (Laughter)

18 Raise your right hand.

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

22 MR. D'INNOCENZO: I will -- I'm
23 sorry -- I do.

24 MR. GALVIN: Just say yes.

25 (Laughter)

1 MR. D'INNOCENZO: Yes.

2 A L F R E D O D ' I N N O C E N Z O, having been
3 duly sworn, testified as follows:

4 MR. GALVIN: Okay. Awesome.

5 Now, state your name --

6 THE WITNESS: Like in the movies.

7 (Laughter)

8 MR. GALVIN: Exactly.

9 -- state your name.

10 THE WITNESS: Alfredo D'Innocenzo.

11 MR. GALVIN: Now, spell your last name.

12 THE WITNESS: D'Innocenzo,

13 D-I-n-n-o-c-e-n-z-o.

14 MR. GALVIN: Very good.

15 Please tell us what you want to tell
16 us.

17 MR. BURKE: I pronounced it correctly.

18 I want to say that was no small feat for me.

19 All right. You own the property,
20 correct?

21 THE WITNESS: Yes.

22 MR. BURKE: What are you proposing for
23 this site?

24 THE WITNESS: I'm proposing a coffee
25 shop. I am Italian, so I would like to make the

1 coffee shop authentic with some Italian espresso and
2 some local roasting, and some original food and also
3 ingredients that you don't find in the usual
4 franchise chains.

5 I work in the food industry or I worked
6 in the food industry for 20 years for different
7 Italian companies. The last one I work now is
8 Lavazza. It's a coffee company. It is the number
9 one coffee company in Italy, and I have presented
10 for all U.S., so our clients in Hoboken --

11 COMMISSIONER GRAHAM: What did you say
12 the name of the company was?

13 THE WITNESS: Lavazza.

14 CHAIRMAN HOLTZMAN: Lavazza.

15 THE REPORTER: How do you spell that?

16 THE WITNESS: L-a-v-a-z-z-a.

17 CHAIRMAN HOLTZMAN: Just take it a
18 little slower, so the court reporter can get it
19 down.

20 THE WITNESS: Oh, yes. I'm making her
21 life difficult.

22 (Laughter)

23 CHAIRMAN HOLTZMAN: We appreciate your
24 excitement.

25 MR. GALVIN: It's good.

1 THE WITNESS: So, yeah, so I am in the
2 food industry with also clients in Hoboken, like
3 Johnny Pepperoni, and I have clients, national
4 clients, like the Hilton Hotel chain, so I go all
5 over the spectrum in food service and also retail,
6 so Kings Supermarket, ShopRite, you name it.

7 Before that, I was in the pasta
8 industry for 15 years. It is something that I
9 always did, and I have this place in Hoboken because
10 I wanted to open something that is different, local,
11 some important high end products, and I will have
12 some young people from the town to train them how to
13 be a barrister, how to be a real barrister, that
14 then you can go around and sell their knowledge,
15 let's say. That is what I do, because we train
16 barristers all over the country for different coffee
17 shops.

18 MR. BURKE: One second. You have a
19 little handout, right --

20 THE WITNESS: Yes.

21 MR. BURKE: -- that would explain some
22 of the products you intend to sell?

23 THE WITNESS: Yes. I made a few
24 copies, so --

25 MR. GALVIN: The other thing is we know

1 VICE CHAIR MAGALETTA: I'm sorry. Do
2 you own the business and the property, both?

3 THE WITNESS: Yes.

4 VICE CHAIR MAGALETTA: Okay.

5 That is all for now. That is it.

6 Thank you.

7 COMMISSIONER WEAVER: I'm sorry. You
8 are not going to bake on the premises?

9 THE WITNESS: No. Just usually we
10 bring in baked goods already prepared, and you just
11 finish them. Like it is part baked, so it's like a
12 minute or two, and it's ready. It's much easier.

13 COMMISSIONER WEAVER: So you will be
14 baking, but it's just not --

15 THE WITNESS: Yeah. It's like one
16 minute. It's like warm-up.

17 VICE CHAIR MAGALETTA: What do you use
18 to warm up the food?

19 THE WITNESS: Excuse me?

20 VICE CHAIR MAGALETTA: What do you use
21 to warm up the food?

22 THE WITNESS: Just like a little
23 electrical oven, nothing -- just really like a cafe,
24 and the cakes are frozen. We fill lines, but all
25 lines that are not represented in the U.S. or just

1 little, so the frozen line for Italian dessert, like
2 tiramisu, so it's just frozen. You take it out an
3 hour before, and they're ready. It's very high end
4 stuff.

5 I asked to be a coffee shop, so not too
6 much in the department of food because it gets
7 complicated. High end. I do realize that it's --

8 CHAIRMAN HOLTZMAN: Mr. Burke, I just
9 wanted to make sure, we are kind of moving in a
10 couple of different directions, so I just want to
11 make sure. The Commissioners are always very
12 concerned about the scope of the food preparation on
13 the premises.

14 MR. BURKE: Right.

15 CHAIRMAN HOLTZMAN: So there seems to
16 be some comments there that were kind of
17 contradictory.

18 We are not going to do any cooking and
19 baking on the premises, but we are going to do oven
20 finishing baking, so I just wanted to -- let's just
21 get it clear.

22 MR. BURKE: Okay.

23 Did you mean to say a microwave or an
24 electric oven?

25 (Loud voices of people in the hallway)

1 CHAIRMAN HOLTZMAN: Time out. One
2 second.

3 Phyllis, can you hear?

4 MR. GALVIN: Please, I'm sorry, it's so
5 loud.

6 THE REPORTER: I can barely hear.

7 VICE CHAIR MAGALETTA: Yes. I
8 apologize.

9 MR. BURKE: No. That's okay. I
10 understand.

11 CHAIRMAN HOLTZMAN: It's a circus
12 downstairs.

13 MR. BURKE: It's hard to transcribe it
14 as well.

15 MR. GALVIN: Right.

16 MR. BURKE: You mentioned an electric
17 oven. Explain that.

18 Do you mean is it a microwave --

19 THE WITNESS: It's a microwave. It's
20 one of these portable like home use, too, because
21 when you -- when you bake croissant, usually like
22 bake --

23 MR. GALVIN: Time out.

24 A microwave is okay.

25 MR. BURKE: Yes.

1 That is why I wanted to ask the
2 question because he said an electric oven, but I
3 don't think that was --

4 THE WITNESS: Well, it's more of --

5 COMMISSIONER WEAVER: Is this like a
6 Turbo Chef?

7 THE WITNESS: Excuse me?

8 COMMISSIONER WEAVER: Is this like a
9 Turbo Chef?

10 THE WITNESS: Well, it is the one that
11 they can make also -- they look like also
12 convectional, but they're just a little one,
13 electrical, that you plug in --

14 COMMISSIONER WEAVER: Yeah. It's like
15 a Turbo --

16 THE WITNESS: -- like a microwave.

17 COMMISSIONER WEAVER: -- if I may, I
18 think it is a Turbo Chef.

19 THE WITNESS: Yeah.

20 COMMISSIONER WEAVER: It's a
21 combination microwave-convection oven, the same kind
22 of thing that you have in Starbucks. It's looks
23 rather large --

24 CHAIRMAN HOLTZMAN: But it basically
25 just sits on the counter, right?

1 THE WITNESS: It's very small, yeah.

2 COMMISSIONER WEAVER: It sits on the
3 counter. It's a one -- it's generally not big
4 enough to do more than a few pastries at one time.

5 THE WITNESS: Yes, right.

6 CHAIRMAN HOLTZMAN: Okay.

7 It doesn't require venting or anything
8 of that nature?

9 THE WITNESS: No, it doesn't.

10 The only reason why I call that is
11 because the new one that they have -- they keep the
12 moisture, so a microwave will dry the croissant, but
13 this one, they have a system that they keep the
14 moisture with some ventilation, but it's still like
15 a homemade use, so...

16 CHAIRMAN HOLTZMAN: Okay.

17 So we are comfortable saying from a
18 conditional standpoint, no open flame cooking, no
19 frying, no baking, just sort of that type of
20 thing --

21 THE WITNESS: No, no, no.

22 MR. BURKE: Nothing requiring an
23 exhaust --

24 CHAIRMAN HOLTZMAN: -- nothing
25 requiring an exhaust.

1 MR. BURKE: Exactly.

2 THE WITNESS: No, it is too much.

3 CHAIRMAN HOLTZMAN: Right.

4 Frank, are you good with that?

5 VICE CHAIR MAGALETTA: I'm okay, yes.

6 CHAIRMAN HOLTZMAN: Okay.

7 Did any of the other Commissioners have
8 any questions specifically for the property owner
9 before we get into anything with the architect in
10 terms of the design or the property itself?

11 COMMISSIONER CONROY: No.

12 CHAIRMAN HOLTZMAN: Okay, great.

13 MR. BURKE: Mr. Chairman, someone did
14 walk in. I don't know if you want to -- I mean,
15 I'll start over --

16 CHAIRMAN HOLTZMAN: He is good.

17 MR. GALVIN: No, he is my associate.

18 MR. BURKE: Okay. All right. Good.
19 I wasn't sure.

20 CHAIRMAN HOLTZMAN: No problem. Thank
21 you.

22 MR. BURKE: All right. No other
23 questions.

24 Thank you.

25 (Witness excused)

1 MR. BURKE: Jensen.

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

5 MR. VASIL: I do.

6 J E N S E N V A S I L, 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: Jensen Vasil, V-a-s-i-l.

11 MR. GALVIN: Mr. Chairman, do we accept
12 Mr. Vasil --

13 CHAIRMAN HOLTZMAN: We know Jensen
14 rather well, yes.

15 Thank you.

16 MR. GALVIN: So we accept his
17 credentials.

18 MR. BURKE: That moves that along.

19 We talked about what is proposed here,
20 a cafe, and what we would like to get is first a
21 little background as to what was there, and then we
22 will get into the details and what is being
23 proposed.

24 So just for a moment, describe what
25 happened there, the prior use, and then get into

1 your plans as to what is being proposed.

2 THE WITNESS: Sure.

3 The existing use since my client bought
4 the property was a commercial office, so it was a
5 real estate --

6 MR. D'INNOCENZO: Real estate or a
7 doctor's office --

8 THE WITNESS: -- you know, general
9 office space since he bought it.

10 But prior to that, at one point it was
11 a residence. We can only tell because of the
12 configuration of the bathroom.

13 MR. BURKE: All right.

14 So now a cafe is being proposed?

15 THE WITNESS: Correct. The proposed
16 use is a cafe.

17 MR. BURKE: All right.

18 It is in a flood zone, right?

19 THE WITNESS: Correct.

20 MR. BURKE: So please when you go
21 through this, make any comments regarding any
22 adaptation for flood zone requirements --

23 THE WITNESS: Certainly.

24 MR. BURKE: -- but let's move this
25 around, so the Board can see it.

1 CHAIRMAN HOLTZMAN: Good job, Pat.

2 MS. CARCONE: With what?

3 CHAIRMAN HOLTZMAN: I don't know.

4 Downstairs, whatever you did --

5 (Laughtger)

6 MR. GALVIN: There's a little kid
7 hanging on the wall down there.

8 (Laughter)

9 THE REPORTER: Can you bring the board
10 over here?

11 THE WITNESS: Sure.

12 THE REPORTER: Thanks. Thank you.

13 THE WITNESS: You don't like being away
14 from me, do you, Phyllis?

15 THE REPORTER: No.

16 (Laughter)

17 MR. GALVIN: Just talk louder.

18 Take the opportunity. It's quiet.

19 Let's go.

20 THE WITNESS: Okay.

21 So inside of the existing space, there
22 is an air handler and a water heater, and both of
23 those will be moved above the advisory BFE of 13.
24 Right now, they are currently -- the water heater is
25 on the ground, and the air handler is actually

1 above, so the air handler passes.

2 The level of the floor is 5.45 at ABD,
3 so it's pretty low, but thankfully we can move --
4 you know, the water heater could be moved to the
5 ceiling. There is not much cooking, so they can do
6 it horizontally --

7 MR. BURKE: Hang a second.

8 You said "not much cooking." We
9 already --

10 THE WITNESS: I'm sorry. There is no
11 cooking.

12 (Laughter)

13 MR. BURKE: Thank you.

14 THE WITNESS: So the hot water usage
15 will be relatively minor related to the bathroom and
16 just cleanup of utensils and whatnot, so that can be
17 easily moved to the ceiling in a horizontal --

18 CHAIRMAN HOLTZMAN: So it will stay in
19 the same place, but you can just raise it
20 vertically?

21 THE WITNESS: Correct.

22 CHAIRMAN HOLTZMAN: Okay.

23 COMMISSIONER WEAVER: Is it a slab on
24 grade?

25 THE WITNESS: Yes, it is.

1 CHAIRMAN HOLTZMAN: I'm sorry. What
2 was that, Dan?

3 COMMISSIONER WEAVER: Slab on grade, no
4 basement.

5 THE WITNESS: Yes, and it is elevated,
6 too. So the slab is, we are guessing, about ten
7 inches thick, but it's quite a bit above the grade
8 level outside, and there is -- we know that there
9 are some buried utilities where the gas comes in
10 here, and then once it hits the meter on the inside,
11 it goes back into the slab, and then runs to the
12 utilities, so there is definitely utilities
13 underneath.

14 MR. BURKE: All right.

15 So just the general description of the
16 size of the service area and any tables and chairs
17 that might be there --

18 CHAIRMAN HOLTZMAN: Hang on just one
19 second.

20 Are there any other construction
21 elements that you are building into the new cafe
22 here to take into consideration the potential for
23 the space actually flooding, since obviously the
24 space itself is well within the flood zone?

25 THE WITNESS: Correct.

1 CHAIRMAN HOLTZMAN: Are there any
2 measures to flood proof any of the floors, walls,
3 any of that type of work?

4 THE WITNESS: The walls themselves will
5 be replaced with -- they are metal studs. They
6 would be replaced with cement backer board instead
7 of regular sheet rock, and all of the materials that
8 would go into flooring would be flood resistant
9 tile.

10 CHAIRMAN HOLTZMAN: Is there any kind
11 of drain or anything in the floor, do you know?

12 THE WITNESS: There's currently not a
13 drain in that new space except for inside of the
14 mouth -- inside of the bathroom.

15 CHAIRMAN HOLTZMAN: So on top of the
16 concrete style wallboard, what goes on top of that
17 then?

18 THE WITNESS: It would be skim coated
19 or painted.

20 CHAIRMAN HOLTZMAN: Okay.

21 So hopefully this is a scenario that
22 can be then relatively hosed out, if there is a
23 flood event?

24 THE WITNESS: Correct.

25 CHAIRMAN HOLTZMAN: Okay.

1 THE WITNESS: And no insulation, you
2 know, below that, or if it is, it would be rigid
3 insulation, just so it's water resistant.

4 VICE CHAIR MAGALETTA: Getting back to
5 the drain, is there a check valve on those drains or
6 not --

7 THE WITNESS: No. This is I think of
8 what they were installing, but I did not see a check
9 valve anywhere --

10 VICE CHAIR MAGALETTA: Is there any way
11 to retrofit one there now easily, I should say?

12 THE WITNESS: No, not without cutting
13 open the slab. You would have to do like some radar
14 to find out where the pipe is at or a camera would
15 do it, to find out where that pipe is going and cut
16 it out and put a check valve in.

17 VICE CHAIR MAGALETTA: Thank you.

18 MR. BURKE: Are there tables and
19 chairs?

20 THE WITNESS: So tables and chairs, the
21 front two-thirds of the space, and the overall space
22 is 553 square feet. The front two-thirds is
23 dedicated to an entrance with a serving table, the
24 bathroom and a mop sink.

25 This front left-hand corner is the

1 entrance to the residential units, and there is six
2 seats at a retail -- at an eat-in -- I'm sorry -- at
3 an eat-at counter, and then also ten chairs,
4 two-seater tables in the back, the back third.

5 MR. BURKE: In the report that we
6 received, there was a question about ADA
7 requirements.

8 THE WITNESS: Correct.

9 MR. BURKE: Please address that.

10 THE WITNESS: So we looked at the
11 possibility of making this fully ADA compliant, and
12 given the lot width and the two entrances, it
13 wouldn't be possible without taking up half the
14 public -- over half of the public right-of-way.

15 We have eleven inches in grade change
16 between the existing sidewalk and the existing slab
17 level of that business. So in order to do it in any
18 configuration, you would have to be over half of the
19 public right-of-way.

20 On the interior of the space, we have
21 utility issues. We have a cut into the slab. It
22 would take up mostly the front third and also would
23 be I think very difficult considering the fact that
24 the gas lines -- or the gas line is buried, and also
25 we don't know how close the outlet for the sewer

1 might be, how high. So our proposal was to install
2 a ramp from the existing planter up to the door,
3 which would be considered a removal of -- making a
4 barrier more accessible.

5 I did look at a Department of Justice
6 handout about readily achievable barrier removal,
7 and they did have a description or a diagram showing
8 an entrance with a similar configuration, where a
9 ramp was proposed instead of a step.

10 MR. GALVIN: We are going to mark that
11 as A-1.

12 (Exhibit A-1 marked.)

13 MR. BURKE: So in your opinion, you
14 worked with the space the best you could, and that
15 was the solution that you would propose?

16 THE WITNESS: Correct.

17 MR. BURKE: Okay. All right.

18 Another question came up about a second
19 means of ingress and egress. Can you address that?

20 THE WITNESS: Yes.

21 There is no need for a second means of
22 egress. The space is only 31 occupants. Less than
23 50-foot travel distance more than meets the
24 requirements for one means of egress.

25 MR. BURKE: And you are speaking of the

1 building code?

2 THE WITNESS: Correct. It's Table
3 1015.

4 MR. BURKE: Now, the applicant is
5 seeking approval for a conditional use, which is the
6 cafe, pursuant to 196-33, so let me ask you some
7 questions about that.

8 Are there two other retail businesses
9 on the same block?

10 THE WITNESS: Yes, there are.

11 There's one directly across the street,
12 and one on the corner of Observer.

13 MR. BURKE: All right.

14 Will this coffee shop or cafe, I should
15 say, be located on the ground floor or in the
16 basement of the dwelling?

17 THE WITNESS: Yes.

18 MR. BURKE: All right.

19 And is the customer sales or service
20 area less than 1000 square feet?

21 THE WITNESS: Yes.

22 MR. BURKE: Okay. Thank you.

23 Do all utilities exist at the site?

24 THE WITNESS: Yes.

25 MR. BURKE: So nothing needs to be

1 brought in?

2 THE WITNESS: Correct.

3 MR. BURKE: Now, let's talk a little
4 about parking.

5 This is now categorized, even though it
6 is a cafe, because there are tables and chairs, and
7 we have been through this a few times, where it is
8 still technically a restaurant because the
9 definitions don't make that -- doesn't distinguish
10 between the two at this point.

11 So, therefore, the report is saying
12 that a 6.5 parking space -- 6.5 parking spaces need
13 to be provided since it is characterized as a
14 restaurant.

15 Can any parking be provided?

16 THE WITNESS: No.

17 MR. BURKE: All right.

18 So I do not know if that constitutes a
19 need for a C2 variance, but if it does, then the
20 applicant would have to amend the application to
21 include that.

22 MR. GALVIN: Did you notice?

23 THE WITNESS: Yes.

24 MR. BURKE: Well, the notice said minor
25 site plan and any and all variances needed that the

1 Board deems fit.

2 I did speak to Mr. Roberts earlier, and
3 he was -- I don't want to speak for him, but --

4 MR. GALVIN: Well, since he is not
5 here, do the best you can --

6 MR. BURKE: Yeah, he said --

7 MR. GALVIN: -- no, no. I was just
8 kidding. He is right there.

9 (Laughter)

10 MR. BURKE: Oh, I'm sorry. I didn't
11 see you there.

12 I'm sorry. You said hello when I
13 walked in, and I forgot.

14 You know, you might want to --

15 CHAIRMAN HOLTZMAN: Dave, do you want
16 to give us an update on this?

17 MR. ROBERTS: Yes.

18 The point in our report was that we
19 were looking for the differential preexisting use on
20 the ground floor space, which also didn't have
21 parking, and the proposed change to the cafe, which
22 has a different parking requirement.

23 Any differential technically would
24 require, we were asking the applicant to kind of
25 give us the information who would know whether it

1 was required, and if so, how many spaces. But
2 clearly, there is no parking on the property. The
3 building occupies every part of the lot, very
4 typical of a Hoboken situation in residential,
5 and it's actually predominantly in a residential
6 area, so there is parking on the street, as would be
7 the case in any other Hoboken neighborhood, so we
8 don't have any particular concerns about it, but we
9 just wanted it to be clear for the record.

10 CHAIRMAN HOLTZMAN: Thank you.

11 MR. BURKE: Dave, you mentioned 6.5
12 spots in your report --

13 MR. ROBERTS: Based on 25 seats, that
14 is assuming that that is greater than the square
15 footage calculated.

16 MR. BURKE: All right.

17 I think for the sake of the
18 application, we would just amend it to request a
19 variance for 6.5 parking spaces, which would be a C2
20 variance.

21 And any other comments or questions
22 that you would want?

23 THE WITNESS: No.

24 MR. BURKE: Okay.

25 Any questions of the architect?

1 CHAIRMAN HOLTZMAN: Do any of the
2 Commissioners have questions for the architect?

3 Ann, sure.

4 COMMISSIONER GRAHAM: Yes.

5 I noticed on David Roberts' report that
6 the applicant is showing gooseneck lighting on the
7 front facade on the building. The applicant should
8 provide testimony related to the adequacy of the
9 lighting in front of the proposed use and the
10 conformance to the ordinance.

11 I assume that you were concerned about
12 adequate lighting, and I believe you would be, but I
13 wonder if it is necessary to use gooseneck lighting.
14 Gooseneck is --

15 COMMISSIONER WEAVER: Do you have an
16 elevation?

17 THE WITNESS: Yes.

18 COMMISSIONER GRAHAM: What did you say,
19 Dan?

20 COMMISSIONER WEAVER: Does he have an
21 elevation?

22 COMMISSIONER GRAHAM: Could we use
23 something different that would be more in keeping
24 with the neighborhood that is not gooseneck?

25 THE WITNESS: I guess we could

1 certainly put sconces on either side of this.

2 We had proposed three gooseneck
3 lighting units over the side of this band, this
4 existing band, but I don't think we are at all
5 opposed to doing sconces, which is a much more
6 residential use.

7 COMMISSIONER GRAHAM: Yes.

8 MR. BURKE: The historic district seems
9 to lean towards the gooseneck, but we are not in
10 historic, so, you know --

11 COMMISSIONER GRAHAM: That is up for
12 debate.

13 (Laughter)

14 We have tried to change that, and I
15 feel this is a residential area, and gooseneck is
16 not in keeping.

17 CHAIRMAN HOLTZMAN: So the sconces
18 would be on either side of the windows then at that
19 point, is that correct?

20 THE WITNESS: That's correct.

21 CHAIRMAN HOLTZMAN: So in terms of
22 lighting the actual sign, there doesn't seem to be a
23 solution for that, or is there anything that we can
24 propose or suggest or --

25 COMMISSIONER WEAVER: What is the

1 security camera? It appears in the photograph, but
2 it doesn't appear --

3 THE WITNESS: Was that in your space
4 or --

5 MR. D'INNOCENZO: The camera was there,
6 but it's not working.

7 (Laughter)

8 THE WITNESS: So we were proposing -- I
9 was just determining -- we were proposing to get rid
10 of that.

11 COMMISSIONER WEAVER: So that would be
12 removed?

13 THE WITNESS: Yes.

14 COMMISSIONER WEAVER: It looks like
15 there's an air-conditioning unit.

16 Is that an air-conditioning unit
17 underneath the window, is that true?

18 THE WITNESS: Yes. It's through the
19 wall, and that would go away as well.

20 COMMISSIONER WEAVER: Then how do you
21 propose to provide air-conditioning?

22 THE WITNESS: The actual unit itself
23 has -- has a sleeve -- this was an old sleeve. I
24 don't think -- there's not even a unit in there.

25 COMMISSIONER WEAVER: So

1 air-conditioning is already provided --

2 THE WITNESS: Correct.

3 COMMISSIONER WEAVER: -- by a different
4 source, so there will be no further changes to the
5 facade?

6 THE WITNESS: Correct.

7 COMMISSIONER WEAVER: You were talking
8 about a ramp at the front door?

9 THE WITNESS: Yes. That's correct.

10 COMMISSIONER WEAVER: What is the slope
11 on that ramp?

12 THE WITNESS: It would be five and a
13 half per one foot.

14 (Someone whistles.)

15 COMMISSIONER WEAVER: The alternative
16 would be to have steps, right?

17 THE WITNESS: Correct.

18 VICE CHAIR MAGALETTA: So --

19 COMMISSIONER WEAVER: I know, but I'm
20 sorry -- Commissioner Magaletta brings up a point
21 that it's ADA, but it's not. I realize your
22 testimony is that sometimes that that is acceptable
23 to have a ramp in lieu of stairs, but it is not
24 that -- that slope is --

25 THE WITNESS: There is actually a

1 paragraph inside of that bulletin that mentions the
2 fact that except where the proposed condition would
3 be more hazardous than the original.

4 So a five and a half inch per one foot
5 slope is extraordinarily steep --

6 COMMISSIONER WEAVER: Yes.

7 THE WITNESS: -- but, you know, the
8 debate is whether that is more accessible for a
9 person, you know, in a wheelchair because of the
10 fact that you could roll them in versus having
11 steps.

12 COMMISSIONER WEAVER: More people trip
13 on the way out because --

14 CHAIRMAN HOLTZMAN: Joe, I know this
15 is --

16 MR. VENEZIA: Could it be extended
17 another foot out --

18 THE WITNESS: Oh, yeah.

19 MR. VENEZIA: -- because basically
20 you're two feet, which is five and a half inches --

21 THE WITNESS: Sure.

22 MR. VENEZIA: -- if you go to three
23 feet --

24 THE WITNESS: Not a problem.

25 MR. VENEZIA: -- then it brings it out

1 closer to -- sure --

2 CHAIRMAN HOLTZMAN: Frank?

3 VICE CHAIR MAGALETTA: Does the ramp --
4 does the ramp -- it comes straight out.

5 Can the ramp not go, you know, just go
6 across the property as opposed to straight out? Can
7 you do that?

8 THE WITNESS: It is so narrow, because
9 you have to have a turning radius -- you have to
10 have a landing that turns, you wouldn't really gain
11 anything by making an "L." You are better off
12 either going straight or --

13 VICE CHAIR MAGALETTA: But it would
14 make it less steep is my point. It may have the
15 same -- it may extend the same amount outward
16 because you have a platform, but it would be a safer
17 slope.

18 COMMISSIONER WEAVER: Or it is a
19 preexisting condition. You know, it is an existing
20 building. This is a major modification. You could
21 say that it doesn't need to be ADA. You don't
22 need -- it is not a requirement.

23 CHAIRMAN HOLTZMAN: An important part
24 of the consideration, I believe, is that the front
25 of the building is also the edge of the property

1 line, is that correct?

2 THE WITNESS: Correct.

3 CHAIRMAN HOLTZMAN: So the planter and
4 even the current steps that are there are
5 technically in the public right-of-way, so any ramp
6 that we are talking about or making the ramp longer
7 is again into the public right-of-way, so we need to
8 be just really --

9 VICE CHAIR MAGALETTA: I am mindful of
10 that, so --

11 CHAIRMAN HOLTZMAN: -- mindful of that,
12 yes.

13 COMMISSIONER CONROY: Because it might
14 be more dangerous to have a ramp going out into the
15 street --

16 COMMISSIONER WEAVER: Do we have -- Mr.
17 Galvin --

18 MR. GALVIN: Yes, sir.

19 COMMISSIONER WEAVER: -- do we have any
20 jurisdiction over anything in the public
21 right-of-way?

22 MR. GALVIN: Absolutely not.

23 (Laughter)

24 MR. GALVIN: I could be clearer.

25 CHAIRMAN HOLTZMAN: Joe, I know that --

1 COMMISSIONER WEAVER: Would you like to
2 put it another way?

3 MR. GALVIN: Yes. I will have a
4 condition that says that anything that we approve
5 has got to be approved by the governing body.

6 CHAIRMAN HOLTZMAN: -- Joe, I know this
7 was a concern that Andy was focused on. Was there
8 any additional insight or conversation that you had
9 with him in terms of potential solutions or what
10 might be proposed?

11 MR. VENEZIA: Yes.

12 I believe that if they were able to do
13 it internally, that would have been preferable.
14 However, the applicant indicated that that is not
15 technically feasible because of the existing
16 utilities and the number of other issues that are
17 within the slab.

18 COMMISSIONER WEAVER: Could we see
19 the -- could I see the existing plan?

20 THE WITNESS: Sure.

21 CHAIRMAN HOLTZMAN: So how far would
22 the ramp have to be to be at the normally accepted
23 ADA pitch?

24 If it started at the front, where the
25 new door is going to be and went into their space,

1 how far into their space? Can we ballpark that?

2 MR. VENEZIA: It should be one inch on
3 12, which is --

4 CHAIRMAN HOLTZMAN: So how far do we
5 have to go?

6 MR. VENEZIA: -- 11 feet out, there is
7 15 feet to the property line. However, you also
8 need a flat landing area of four feet right at the
9 building, so that would put the ramp all the way out
10 to the curb essentially.

11 CHAIRMAN HOLTZMAN: No, no.

12 What happens if we were bringing the
13 ramp into the building, how far in would it go?

14 MR. VENEZIA: Oh, the --

15 COMMISSIONER WEAVER: The door could
16 swing out, and then you could have -- you would have
17 to have four feet there, and another --

18 MR. VENEZIA: Four feet --

19 COMMISSIONER WEAVER: -- 11 feet, so
20 you're still at 15 feet --

21 MR. VENEZIA: 15 feet.

22 CHAIRMAN HOLTZMAN: So if it started at
23 the -- if the door went all the way down to the
24 grade at sidewalk --

25 MR. VENEZIA: Yes.

1 CHAIRMAN HOLTZMAN: -- the ramp would
2 have to be 15 feet long to gain those two steps.

3 Is that what we are trying to gain is
4 two steps?

5 MR. VENEZIA: Correct, yes.

6 CHAIRMAN HOLTZMAN: So that's -- and
7 this property is how deep?

8 THE WITNESS: 40 feet -- 41 feet.

9 CHAIRMAN HOLTZMAN: 41 feet?

10 THE WITNESS: Correct.

11 CHAIRMAN HOLTZMAN: It is taking up 15
12 feet of the 41 feet?

13 THE WITNESS: Right.

14 VICE CHAIR MAGALETTA: Well, it won't
15 because the platform would be existing, right?

16 CHAIRMAN HOLTZMAN: What platform?

17 VICE CHAIR MAGALETTA: If you get to
18 the top, right --

19 CHAIRMAN HOLTZMAN: What I understood
20 is it takes us 15 feet to go up that height.

21 MR. VENEZIA: It would be four feet
22 flat, and then 11 feet up.

23 VICE CHAIR MAGALETTA: So you're going
24 11 feet, because you're flat -- when you are inside,
25 you are flat, right?

1 THE WITNESS: Yes.

2 VICE CHAIR MAGALETTA: So it would be
3 11 feet to get inside really that we're talking
4 about.

5 COMMISSIONER WEAVER: I mean, plus you
6 would have to chop the slab up.

7 MR. VENEZIA: Right.

8 VICE CHAIR MAGALETTA: And you have to
9 grade that.

10 MR. VENEZIA: This is just
11 hypothetical --

12 COMMISSIONER WEAVER: I think this is
13 why you have the loophole that says, you know, if it
14 is an existing structure, it is --

15 CHAIRMAN HOLTZMAN: It seems a pretty
16 high encumbrance, yes.

17 COMMISSIONER WEAVER: And it's only two
18 steps.

19 COMMISSIONER CONROY: I agree.

20 COMMISSIONER WEAVER: I mean, where you
21 could do it, you know, when we talk about the Smoke
22 House on Willow when we asked them to do that, I
23 mean, I think because that was easily achievable and
24 the scale of the renovation that they were
25 contemplating, it kind of made sense to ask them to

1 do that.

2 Here, I don't know that it does,
3 because there are other complications layered upon
4 this, which is, you know, in reality because of
5 where the door is, you would really like to have a
6 landing at least the entire width outside of the
7 planter, right?

8 And then you would like to have, you
9 know, two more steps to come down, because that is
10 what you have effectively on the other side, you
11 know, the existing door. That's why I wanted to see
12 the existing plan, right? Because right now you
13 have two steps, a landing, and then you can come
14 into the store.

15 I mean, I would actually prefer that
16 they keep that because then that's what cleans up
17 our questions about, you know, going out to the
18 public right-of-way.

19 And if they wanted to modify the window
20 to have more visibility, and they wanted to, you
21 know, put another awning on it to sort of tie the
22 two entrances together, I mean, that's up to them,
23 but it seems like when you do this, you know, I
24 understand why you might want to have an entrance of
25 your own right on, you know, with a high visibility,

1 but aren't there other ways to get that visibility,
2 and it might be a little bit easier for you, without
3 having to go to, you know, whatever governing body
4 you need to to make those changes, because it's not,
5 in my mind, it's not safe.

6 MR. GALVIN: I wouldn't encourage to go
7 to ask for any encroachments into the right-of-way,
8 but sometimes in Hoboken we need them. And when we
9 need them, they have to go to the City Council and
10 get their approval. But if you don't need them
11 here, then you are --

12 COMMISSIONER WEAVER: Can we go back to
13 that elevation?

14 MR. GALVIN: -- making it easier for
15 them to open this business.

16 MR. VENEZIA: And it also introduces
17 other hazards within the seating area, potential
18 tripping from the ramp. You would need planters
19 or --

20 CHAIRMAN HOLTZMAN: Railings or
21 something.

22 MR. VENEZIA: -- some barrier, a
23 railing, and it really takes up the right-of-way,
24 and it creates other unintended consequences.

25 COMMISSIONER WEAVER: In your mind, the

1 awning in the proposed -- the awning would be
2 removed?

3 THE WITNESS: No. This would actually
4 remain.

5 COMMISSIONER WEAVER: It is not
6 indicated on your elevation.

7 THE WITNESS: I'm sorry. It would
8 remain.

9 COMMISSIONER WEAVER: So, I mean,
10 that's -- and for me, talking about a residential
11 neighborhood, this is a residential neighborhood,
12 right? I mean, it is a little commercial looking to
13 have the sign right there just plastered above the
14 window. You know, I would prefer that you use, you
15 know, something softer like an awning to sort of
16 camouflage that --

17 THE WITNESS: This space?

18 COMMISSIONER WEAVER: Yeah, which I
19 guess is the ceiling of the spandrel zone above, so
20 you can't really have glass there. That is why they
21 did it, you know, but that would be a perfect place
22 for an awning, and you could put the lighting
23 underneath in the awning. I mean, I don't want to
24 design it here for you --

25 COMMISSIONER GRAHAM: But he will.

1 COMMISSIONER WEAVER: -- but I am
2 apparently.

3 (Laughter)

4 I'll just shut up in a minute.

5 But those are the problems -- those are
6 the challenges that I think you have. I think --
7 and maybe if you want have more visibility, you
8 could lower the sill of the window, right, because
9 that is relatively easy to do --

10 THE WITNESS: Sure.

11 COMMISSIONER WEAVER: -- easier than
12 raising the head.

13 CHAIRMAN HOLTZMAN: Okay.

14 So it seems like we kind of had the
15 conversation about the -- let's try to resolve the
16 conversation regarding the ADA compliance.

17 It sounds like it is a pretty high
18 potentially really dramatic change to the inside of
19 the property or into the public right-of-way to deal
20 with that. I just want to take a quick go-around
21 the room with the Commissioners, if that is
22 something that we need to talk about more, make a
23 potential condition, or if we are comfortable with
24 it as a preexisting condition to the property, and
25 we don't want to make it an encumbrance on this

1 person trying to open a coffee shop here.

2 COMMISSIONER WEAVER: I don't see why
3 we should further encumber it.

4 CHAIRMAN HOLTZMAN: Okay.
5 Frank?

6 VICE CHAIR MAGALETTA: If we can say it
7 is preexisting, and it is fine, then I have no
8 problem leaving it as is.

9 CHAIRMAN HOLTZMAN: Great.
10 Sasha?

11 COMMISSIONER CONROY: I agree.

12 CHAIRMAN HOLTZMAN: Stephen?

13 COMMISSIONER MARKS: I agree.

14 COMMISSIONER GRAHAM: Agree.

15 CHAIRMAN HOLTZMAN: Okay. Great. So
16 let's move on from that point.

17 COMMISSIONER GRAHAM: The lighting, did
18 we resolve the lighting?

19 CHAIRMAN HOLTZMAN: We certainly
20 haven't. I mean, that was certainly a good callout.

21 MR. GALVIN: Gees, I had: The plan is
22 to be revised to change the exterior lighting to
23 sconces and show the removal of the inoperable
24 security camera.

25 CHAIRMAN HOLTZMAN: Okay.

1 Does that sound --

2 MR. BURKE: The applicant agrees to
3 that.

4 CHAIRMAN HOLTZMAN: Great.

5 MR. D'INNOCENZO: It is residential,
6 but it's commercial, and the awning is fine. I
7 think it is even more in --

8 THE REPORTER: Wait, I can't hear you.

9 MR. GALVIN: Hold on.

10 Don't worry about it.

11 COMMISSIONER CONROY: I think the
12 awning is more in your face.

13 CHAIRMAN HOLTZMAN: Do any of the
14 Commissioners have any other questions for the
15 architect on any of his testimony?

16 Joe, did you have any other questions,
17 other than if the Commissioners are okay with the
18 preexisting condition of the ADA entrance, were
19 there any other callouts?

20 MR. VENEZIA: Just a few minor ones
21 just to confirm on the record, a grease trap will
22 not be required for the use.

23 THE WITNESS: Correct.

24 MR. VENEZIA: No cooking.

25 THE WITNESS: Correct.

1 MR. VENEZIA: And the applicant would
2 agree to do a video inspection of the sanitary sewer
3 line --

4 THE WITNESS: Yes.

5 MR. VENEZIA: -- to reflect its current
6 condition.

7 THE WITNESS: Correct.

8 MR. VENEZIA: That is all I have at
9 this time.

10 CHAIRMAN HOLTZMAN: Dave, do you have
11 any other callouts for us or anything?

12 MR. ROBERTS: Really just a point that
13 the three conditions or three requirements for the
14 commercial use in a residential zone, one of which
15 is the retail, have a separate door to the
16 outside --

17 CHAIRMAN HOLTZMAN: Okay.

18 MR. ROBERTS: -- and that is currently
19 the building has a shared doorway, where the ground
20 floor unit has a door off the same vestibule and
21 then the stairs to go up, so by putting the doorway
22 where they are proposing it, it will effectively
23 comply with the ordinance.

24 CHAIRMAN HOLTZMAN: Okay. Got it.

25 MR. ROBERTS: I just wanted to make

1 that clear.

2 CHAIRMAN HOLTZMAN: Dennis, you had a
3 couple of conditions.

4 Can you read what you have written down
5 so far?

6 MR. GALVIN: Yes.

7 No products are to be cooked or baked
8 on the site. This restriction shall not apply to
9 the use of the Turbo Chef of reheating and finishing
10 products, which does not require venting.

11 Two --

12 CHAIRMAN HOLTZMAN: Just hang on.

13 Turbo Chef is obviously some specific
14 brand name I'm assuming.

15 COMMISSIONER WEAVER: Yes.

16 CHAIRMAN HOLTZMAN: Is there some kind
17 of a generic word for that?

18 COMMISSIONER WEAVER:

19 Microwave-convection oven --

20 MR. BURKE: Mr. Chairman?

21 CHAIRMAN HOLTZMAN: Yes.

22 COMMISSIONER WEAVER: -- such as Turbo
23 Chef.

24 MR. BURKE: If I may interrupt one
25 second. I spoke to a gentleman earlier, and he is

1 here for this application, so I don't know at what
2 time --

3 CHAIRMAN HOLTZMAN: We are just reading
4 some conditions.

5 MR. BURKE: Okay. I just wanted to
6 make sure -- I understand --

7 MR. GALVIN: We want to see what the --

8 CHAIRMAN HOLTZMAN: We just wanted to
9 see where we are.

10 MR. BURKE: -- I just wanted to let you
11 know that he's here.

12 CHAIRMAN HOLTZMAN: No problem, Mr.
13 Burke. Thank you. Great, thank you

14 MR. GALVIN: All right.

15 Two: The plan is to be revised to
16 change the exterior lighting to sconces and show the
17 removal of the inoperable security camera.

18 We do have a little sub issue of do we
19 want an awning in that area or not and would that
20 change the lighting.

21 Do you understand?

22 I know you don't want the gooseneck, so
23 that's not --

24 COMMISSIONER GRAHAM: That is my major
25 concern.

1 CHAIRMAN HOLTZMAN: I think we are
2 going to leave it alone like that.

3 Are you okay with that, Ann?

4 COMMISSIONER GRAHAM: Yes.

5 MR. GALVIN: Just leave it alone, okay.

6 And the third condition I had is:
7 Anything constructed in the city's right-of-way must
8 be approved by the governing body.

9 I don't know, I think even your --

10 CHAIRMAN HOLTZMAN: Time out.

11 So that being said, that is the segua
12 for the next thing, which is the plans -- the
13 existing condition is that there is a planter in
14 front of the building that is in the public
15 right-of-way. I believe the plans and any of the
16 revisions show a planter in the public right-of-way.
17 Is that correct?

18 THE WITNESS: Yes.

19 MR. BURKE: Yes.

20 CHAIRMAN HOLTZMAN: And you want to
21 stay with that plan, so you are then going to need,
22 whatever happens here tonight, still needs to be
23 able to go to the City Council for their approval on
24 that. Is that correct?

25 THE WITNESS: Correct.

1 MR. BURKE: Correct.

2 MR. GALVIN: Let me ice it. Even the
3 step that he is putting in would require permission.

4 COMMISSIONER WEAVER: That is what I am
5 saying. If they keep the door where it is, and they
6 were to change the door, you know, for more
7 visibility, instead of a solid door, make it all
8 glass, they could even -- either way the corner of
9 the brick, right, that is on their property line, I
10 mean, that would be sep -- you know, that is not me.

11 I am just saying if they wanted more
12 visibility, there are ways to alter their own
13 property, right?

14 You could leave that planter exactly
15 where it is -- I'm looking for confirmation -- you
16 can leave that -- as long as you don't touch that
17 planter, right, or those existing steps, which are
18 in the public right-of-way, you don't need to go to
19 City Council.

20 MR. GALVIN: I agree. However, I don't
21 think it is that hard to go to City Council.

22 COMMISSIONER WEAVER: Okay.

23 THE WITNESS: Okay.

24 MR. GALVIN: You do?

25 THE WITNESS: No, no. I think it is

1 fairly easy, but I would just offer, it is a little
2 bit of an experience recently. I was just trying to
3 get coffee yesterday morning, and there was a line
4 of ten people deep trying to get in. If I am in the
5 building and I'm trying to get out, and there are
6 ten people waiting to get in line from residential,
7 you know, into the commercial space --

8 CHAIRMAN HOLTZMAN: Plus, Dave put on
9 the record that obviously the business entrance
10 should have its own separate entrance as well, which
11 I think is a reasonable thing to accommodate anybody
12 who lives in this building as well. I certainly
13 don't want anybody in my vestibule when I am trying
14 to get to work.

15 MR. ROBERTS: That is --

16 MR. GALVIN: No. He is making a good
17 suggestion.

18 COMMISSIONER WEAVER: Is there a door
19 on the street?

20 THE WITNESS: There's a door on the
21 street and one inside of the vestibule.

22 COMMISSIONER WEAVER: Oh, okay. I'm
23 sorry. I misread your photograph that indicated --
24 it looked like there was no door, it was just an
25 opening --

1 THE WITNESS: Just an opening.

2 COMMISSIONER WEAVER: Okay, I'm sorry.

3 CHAIRMAN HOLTZMAN: So you walk that
4 back, right?

5 COMMISSIONER WEAVER: I am walking it
6 back.

7 CHAIRMAN HOLTZMAN: Okay.

8 All right. So those are the three
9 conditions we have so far.

10 We do have some members of the public,
11 so are there any members of the public that wanted
12 to speak about this application?

13 No?

14 Mr. Doyle?

15 MR. DOYLE: No.

16 CHAIRMAN HOLTZMAN: Okay. So I guess
17 we will close the public session.

18 Mr. Burke, do you have anything else
19 for us?

20 MR. BURKE: No, just a summary.

21 The applicant is here for minor site
22 plan approval. We have amended the application to
23 request a C variance for 7.5 parking spaces, and the
24 criteria for conditional use under 196-33 has been
25 met, but we are also here seeking approval for that.

1 CHAIRMAN HOLTZMAN: Commissioners, or
2 any of our professionals, any additional questions
3 for the applicant, for the architect, for Mr. Burke?

4 Any other conditions that anybody is
5 looking to add to this application at this time?

6 Do we need to mention anything about
7 the entrance, Dennis, in terms of its lack of ADA
8 compliance, or if the team is okay with it as it is,
9 we just leave it as is.

10 MR. GALVIN: We leave it as is. Our
11 experts are telling us that we don't have to require
12 it, that it is not a big enough project to require
13 it, and applicants always have to be mindful of the
14 fact that somebody who feels like they are being
15 prevented from accessing the space, they have a
16 private right to bring a lawsuit, but I don't know
17 anything about that. The Board shouldn't be
18 concerned with that. We met our obligations, and I
19 think we are free to proceed on this.

20 CHAIRMAN HOLTZMAN: Ann, are you okay
21 with the lighting in the front, or was there any
22 other additional conversation you wanted to have
23 about that?

24 COMMISSIONER GRAHAM: No.

25 CHAIRMAN HOLTZMAN: Dan?

1 COMMISSIONER WEAVER: Sidewalk cafe
2 rules, do they agree to comply?

3 THE WITNESS: Yes.

4 MR. BURKE: It's a license --

5 CHAIRMAN HOLTZMAN: Do we need to
6 bother to put that in, Dennis, or it's sort of a --

7 COMMISSIONER WEAVER: We always put it
8 in. I don't know why.

9 VICE CHAIR MAGALETTA: It is the law.

10 CHAIRMAN HOLTZMAN: Then we don't need
11 to --

12 VICE CHAIR MAGALETTA: You don't have
13 to agree. You have to comply.

14 CHAIRMAN HOLTZMAN: -- you don't have
15 to agree, right?

16 MR. BURKE: It is an application.

17 CHAIRMAN HOLTZMAN: I'm sorry.

18 Joe, you had something for us?

19 MR. VENEZIA: Yes.

20 Just regarding the ADA access issue, I
21 would note that it is subject to the Building
22 Department's review and approval, all of the
23 improvements, and just for the record, you indicate
24 that it is your testimony that it is technically and
25 feasible to meet?

1 THE WITNESS: Correct.

2 MR. VENEZIA: Okay. Thank you.

3 MR. GALVIN: Thank you.

4 CHAIRMAN HOLTZMAN: It's good to get it
5 on the record.

6 COMMISSIONER WEAVER: What is the
7 status of the tree up front?

8 THE WITNESS: The tree would remain.

9 COMMISSIONER WEAVER: But what is the
10 current condition?

11 THE WITNESS: Its condition is that it
12 is in pretty good shape as I remember, the pear
13 tree.

14 COMMISSIONER WEAVER: And what is the
15 distance from the edge of the enclosure to the tree?

16 THE WITNESS: From the sidewalk?

17 COMMISSIONER WEAVER: To the tree pit?

18 THE WITNESS: It's four feet.

19 MR. BURKE: The applicant states that
20 the pear tree is alive and well.

21 CHAIRMAN HOLTZMAN: I did notice when I
22 was out there visiting the site, that the pavers in
23 front of the building have been heaved either from
24 frost heave or maybe from roots from the tree or
25 something like that.

1 Can we make sure that -- obviously you
2 are redoing the front of this whole building. Could
3 we make that inclusive of the conditions, just to
4 make sure that the front pavers are all at a good
5 level and in good repair?

6 MR. BURKE: Sure.

7 COMMISSIONER WEAVER: And while you are
8 doing that also, Dennis, they also confer with the
9 Shade Tree Commission and see if that -- while you
10 are working on the sidewalk, if you can modify that
11 tree pit, because normally now the tree pits are
12 located, they are along -- they are in the direction
13 of the street --

14 THE WITNESS: This is perpendicular.

15 COMMISSIONER WEAVER: -- this is in the
16 opposite direction. It is also causing a pinch
17 point from the fence of your sidewalk cafe, so
18 number one, it would provide a better environment
19 for the tree, if you enlarge the tree pit and meet
20 the requirements for the Shade Tree Commission.

21 CHAIRMAN HOLTZMAN: Yes. We can do one
22 better.

23 The Board Secretary can supply to you a
24 multi-page handout from the Shade Tree Commission to
25 give you the guidelines as to what they suggest. So

1 if you are redoing the pavers and everything in
2 front of this, I do recall that the pit around the
3 tree is undersized for what is the recommended pit
4 size, so if you are going to be pulling up some of
5 these pavers and everything else, maybe we can get
6 the pit to be the proper size as per the Shade
7 Tree's direction.

8 And then if you were so inclined, they
9 also give you suggestions to put in a barrier around
10 the tree pit as well. I wouldn't make that
11 conditional, but I would ask you, you're obviously
12 making a considerable investment in the building and
13 everything else, maybe that is something that you
14 would undertake.

15 MR. D'INNOCENZO: Of course. I work
16 with the Shade Tree Commission with my wife, so...

17 CHAIRMAN HOLTZMAN: Okay, great.

18 Pat, can you just make sure, and we
19 have that, and we have that electronically, so we
20 can forward that to them easily.

21 Okay. So we got the first three
22 conditions as Dennis read, and then Dennis has two
23 additional conditions.

24 MR. GALVIN: The applicant is to repair
25 the sidewalk pavers.

1 Five: The applicant is to consult with
2 the Street Tree Commission in order to improve the
3 tree pit to meet their requirements --

4 COMMISSIONER MARKS: Shade Tree.

5 MR. GALVIN: -- Shade Tree Commission.

6 I was so close.

7 (Laughter)

8 CHAIRMAN HOLTZMAN: So we have the five
9 conditions.

10 Are there any other questions or
11 comments from the Commissioners or the
12 professionals?

13 Is there a motion to accept the
14 application based upon the five conditions as just
15 read by Dennis?

16 COMMISSIONER GRAHAM: Yes.

17 COMMISSIONER WEAVER: Ann Graham.

18 Is there a second?

19 COMMISSIONER WEAVER: Second.

20 MR. GALVIN: Roll call.

21 MS. CARCONE: Commissioner Magaletta?

22 VICE CHAIR MAGALETTA: Yes.

23 MS. CARCONE: Commissioner Marks?

24 COMMISSIONER MARKS: Aye.

25 MS. CARCONE: Commissioner Graham?

1 COMMISSIONER GRAHAM: Yes.

2 MS. CARCONE: Commissioner Weaver?

3 COMMISSIONER WEAVER: Yes.

4 MS. CARCONE: Commissioner Conroy?

5 COMMISSIONER CONROY: Yes.

6 MS. CARCONE: Commissioner Holtzman?

7 CHAIRMAN HOLTZMAN: Yes.

8 Thank you.

9 We have taken the vote. It is fine.

10 I did want to just mention one other
11 "whoops." The measurement for the width of the
12 outdoor cafe is from the building or from the
13 planter?

14 THE WITNESS: It is from the building,
15 correct, from the -- this dimension you are talking
16 about?

17 CHAIRMAN HOLTZMAN: No.

18 VICE CHAIR MAGALETTA: From the front
19 of the building forward.

20 CHAIRMAN HOLTZMAN: No. Our
21 requirement is specific to that the --

22 THE WITNESS: Oh, it's from the
23 building, not from the planter.

24 CHAIRMAN HOLTZMAN: And what does it
25 measure?

1 THE WITNESS: Seven-foot-six.

2 CHAIRMAN HOLTZMAN: Because the
3 sidewalk is?

4 THE WITNESS: 15 feet.

5 CHAIRMAN HOLTZMAN: Okay, great.
6 Thank you.

7 MR. BURKE: Thank you.

8 CHAIRMAN HOLTZMAN: Thank you, Mr.
9 Burke.

10 VICE CHAIR MAGALETTA: Good luck.

11 CHAIRMAN HOLTZMAN: Is there a motion
12 to close?

13 COMMISSIONER CONROY: Motion to close.

14 COMMISSIONER WEAVER: Second.

15 CHAIRMAN HOLTZMAN: All in favor?
16 (All Board members voted in the
17 affirmative.)

18 (The meeting concluded at 7:50 p.m.)
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C E R T I F I C A T E

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

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

s/Phyllis T. Lewis, CSR, CRR

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

Notary Public of the State of New Jersey

My commission expires 11/5/2015.

Dated: 6/4/14

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