

1 STATE OF NEW JERSEY  
2 COUNTY OF HUDSON  
3 SEPTEMBER 14, 2014  
4 REGULAR MEETING  
5 COMMENCING AT 7:10 P.M.

6  
7 HOBOKEN ZONING BOARD OF : TRANSCRIPT  
8 ADJUSTMENT : OF  
9 ----- PROCEEDINGS

10 B O A R D M E M B E R S P R E S E N T :  
11 JAMES AIBEL, CHAIRMAN  
12 ELLIOT GREENE, VICE CHAIRMAN  
13 PHIL COHEN, COMMISSIONER  
14 MIKE DeFUSCO, COMMISSIONER  
15 ANTONIO GRANA, COMMISSIONER  
16 CAROL MARSH, COMMISSIONER  
17 DIANE FITZMYER MURPHY, COMMISSIONER  
18 TIFFANIE FISHER, ALT. #2  
19 OWEN McANUFF, ALT. #3

20 A L S O P R E S E N T :  
21 EILEEN BANYRA, P.P.,  
22 Board Planner  
23  
24 JEFF MARSDEN, P.E.,  
Board Engineer  
25  
26 PATRICIA CARCONE,  
27 Board Secretary

28 A P P E A R A N C E S :  
29 GALVIN LAW FIRM  
30 By: DENNIS M. GALVIN, ESQUIRE  
31 Attorney for the Board

32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80  
81  
82  
83  
84  
85  
86  
87  
88  
89  
90  
91  
92  
93  
94  
95  
96  
97  
98  
99  
100

1 CHAIRMAN AIBEL: Good evening, everyone.

2 It's 7:10. I would like to advise all those present  
3 that notice of the meeting has been provided to the  
4 public in accordance with the provision of the Open  
5 Public Meetings Act and that notice was published in  
6 The Jersey Journal and city Web site.

7 Copies were provided in the Star Ledger,  
8 The Record, and also placed on the bulletin board in  
9 the lobby of City Hall.

10 If you could join me in saluting the  
11 flag.

12 (Flag Salute.)

13 We're at a Regular Meeting of the  
14 Hoboken Zoning Board of Adjustment. Pat, you want to  
15 do the roll call.

16 (Roll call.)

17 CHAIRMAN AIBEL: Great. We have no  
18 minutes. I understand we have no waivers to  
19 consider. So we can move to a couple other issues.

20 First, Dennis wanted to do the  
21 withdrawals.

22 MR. GALVIN: Yeah. We had two cases  
23 earlier this year that were filed, I'd say, in April.

24 And both by Mr. Burke and he's asked for both of them  
25 to be withdrawn. 706 Madison Street and 713 Monroe

3

1 Street.

2 So I'd like a motion and a second to  
3 accept the withdrawal of these matters.

4 COMMISSIONER COHEN: Motion to accept  
5 the withdrawal of those two matters.

6 COMMISSIONER GRANA: Second.

7 CHAIRMAN AIBEL: All in favor?

8 MR. GALVIN: It's mostly due to  
9 administrative.

10 CHAIRMAN AIBEL: Now we'll do a few  
11 resolutions. We have a resolution for 29 Willow  
12 Court.

13 MR. GALVIN: Mr. Greene, Mr. Cohen, Mr.  
14 Branciforte, Ms. Marsh, Ms. Murphy, and Chairman  
15 Aibel are eligible to vote on 29 Willow Court South.

16 Is there a motion?

17 COMMISSIONER COHEN: Motion.

18 COMMISSIONER GRANA: This is a motion to  
19 deny, right?

20 MR. GALVIN: It was, resolution of  
21 denial.

22 COMMISSIONER GRANA: Resolution to deny.

23 MR. GALVIN: You're actually voting to

24 memorialize the resolution. You're voting that I did  
25 a good job drafting it.

4

1 COMMISSIONER GRANA: I make a motion  
2 that Dennis did a good job.

3 COMMISSIONER COHEN: Second.

4 MR. GALVIN: Mr. Greene.

5 COMMISSIONER GREENE: Yes.

6 MR. GALVIN: Mr. Cohen.

7 COMMISSIONER COHEN: Yes.

8 MR. GALVIN: Mr. Grana.

9 COMMISSIONER GRANA: Yes.

10 MR. GALVIN: Ms. Marsh.

11 COMMISSIONER MARSH: Yes.

12 MR. GALVIN: Ms. Murphy.

13 COMMISSIONER MURPHY: Yes.

14 MR. GALVIN: And Chairman Aibel.

15 COMMISSIONER AIBEL: Yes.

16 Motion for 22 Park. Before we do this,  
17 Dennis, is this the one -- we have new renderings.

18 MR. GALVIN: This one is the new  
19 renderings.

20 CHAIRMAN AIBEL: Mr. Matule, you want to  
21 present the new rendering?

22 MR. MATULE: Good evening, Mr. Chairman,

23 Board Members. Robert Matule.

24 I represented the applicant and the

25 evening we were here, there was a discussion about

5

1 the 5 -- setting the top floor back 5 feet from the  
2 face of the building, which is already set back 5  
3 feet from the property line, and it was determined  
4 that we should bring renderings of both the building  
5 set at the 5 foot setback, all the way up, and one  
6 with the building 5 feet back and then the top floor  
7 10 feet back.

8 And Mr. Minervini has provided exhibits  
9 there, so if you -- I don't know if the board has had  
10 an opportunity look at them or not.

11 MADAM SECRETARY: Are they the same?

12 MR. MATULE: One shows the top floor set  
13 back an additional 5 feet and the other the same as  
14 the facade of the rest of the building.

15 And I think the motion that was passed  
16 and the approval that was given was with the top  
17 floor setback of 5 feet, but I think the board wanted  
18 to just see what that would look like visually before  
19 they adopted a resolution memorializing their vote.

20 We have Mr. Minervini here if we need  
21 any explanations.

22 CHAIRMAN AIBEL: I think the decision

23 was -- Antonio?

24 COMMISSIONER GRANA: I guess the  
25 question is, I think we -- we accepted this with this

6

1 condition; is that right? We approved this with this  
2 condition?

3 MR. GALVIN: Yes.

4 CHAIRMAN AIBEL: With the setback.

5 COMMISSIONER GRANA: We did approve it  
6 with the setback, so this is a confirmation.

7 CHAIRMAN AIBEL: Confirming that we're  
8 okay with the rendering.

9 COMMISSIONER GRANA: Okay.

10 MR. GALVIN: Yes, right.

11 CHAIRMAN AIBEL: Everybody has had a  
12 chance to look at the renderings. Is there  
13 commentary or concern about our original decision to  
14 approve the full setback?

15 Hearing none, I guess we'll take a vote.

16 MS. BANYRA: Mr. Matule, did you say  
17 that the top floor was set back 10 feet?

18 MR. MATULE: Ten feet from the property  
19 line.

20 MS. BANYRA: Okay. So the resolution  
21 reads the floor is to be set back 5 feet but I think

22 it should maybe be clarified, Dennis, to say --

23 MR. MATULE: Well, it's 5 feet from the  
24 face of the building.

25 MS. BANYRA: It says 5 feet.

7

1 MR. MATULE: From the face of the  
2 building.

3 MR. GALVIN: The building is set back 5  
4 feet, so it's actually 10 feet.

5 MS. BANYRA: It says the top floor is to  
6 set back 5 feet. So the building right now is set  
7 back 5 feet. Is that what you just said, Mr. Matule?

8 MR. MATULE: Correct.

9 MS. BANYRA: The top floor was set back  
10 another 5 feet.

11 MR. MATULE: Yes, that's correct.

12 MS. BANYRA: I just wanted to make sure  
13 as we are doing this.

14 COMMISSIONER GREENE: We added the word  
15 "additional" to line 11 on page 8?

16 MS. BANYRA: No, I think it's okay.

17 MR. GALVIN: I think it's okay and the  
18 drawings are as submitted, so it's --

19 COMMISSIONER GREENE: Let's be clear,  
20 it's the 5 additional feet that's being submitted,  
21 because you also gave us the originals. Not to beat

22 a dead horse.

23 COMMISSIONER FISHER: I think if you

24 just put "additional" in front of "5," that solves

25 it.

8

1 CHAIRMAN AIBEL: Is it clear on the

2 record and will the --

3 MR. GALVIN: I'm happy to add that but

4 I'm not saying I understand it.

5 CHAIRMAN AIBEL: Will the new plans

6 reflect the setbacks?

7 MR. MATULE: The signature sets of plans

8 that we submitted reflect the 10 foot setback on the

9 top floor.

10 COMMISSIONER GREENE: Let's leave it the

11 way it is.

12 CHAIRMAN AIBEL: Fine.

13 MR. GALVIN: All right.

14 CHAIRMAN AIBEL: Let's get a motion.

15 MR. GALVIN: When it's math we're in

16 trouble, guys. So we have a motion then?

17 COMMISSIONER GRANA: Motion to approve.

18 COMMISSIONER MURPHY: Second.

19 MR. GALVIN: Mr. Greene.

20 COMMISSIONER GREENE: Yes.

21 MR. GALVIN: Mr. Cohen.  
22 COMMISSIONER COHEN: Yes.  
23 MR. GALVIN: Mr. Grana.  
24 COMMISSIONER GRANA: Yes.  
25 MR. GALVIN: Ms. Marsh.

9

1 COMMISSIONER MARSH: Yes.  
2 MR. GALVIN: Ms. Murphy.  
3 COMMISSIONER MURPHY: Yes.  
4 MR. GALVIN: And Chairman Aibel.  
5 COMMISSIONER AIBEL: Yes.  
6 Then we have a resolution for 74 Madison  
7 Street.  
8 MADAM SECRETARY: It was e-mailed, yeah.  
9 COMMISSIONER GREENE: When was it  
10 e-mailed?  
11 MADAM SECRETARY: It was e-mailed on  
12 Friday.  
13 MR. GALVIN: 74 Madison Street?  
14 COMMISSIONER GREENE: I'll get it.  
15 MR. GALVIN: Mr. Greene, Mr. Cohen, Mr.  
16 Grana, Ms. Marsh, Ms. Murphy, and Chairman Aibel.  
17 CHAIRMAN AIBEL: We need a motion to  
18 approve.  
19 MR. GALVIN: We need a motion.  
20 COMMISSIONER GRANA: Motion to approve

21 74 Madison.

22 COMMISSIONER MURPHY: Second.

23 MR. GALVIN: Mr. Greene.

24 COMMISSIONER GREENE: Yes.

25 MR. GALVIN: Mr. Cohen.

10

1 COMMISSIONER COHEN: Yes.

2 MR. GALVIN: Mr. Grana.

3 COMMISSIONER GRANA: Yes.

4 MR. GALVIN: Ms. Marsh.

5 COMMISSIONER MARSH: Yes.

6 MR. GALVIN: Ms. Murphy.

7 COMMISSIONER MURPHY: Yes.

8 MR. GALVIN: Chairman Aibel.

9 COMMISSIONER AIBEL: Yes.

10 Thanks, everybody. Any other

11 administrative business anybody wishes to bring up?

12 Mr. Matule, 704 Madison Street.

13 MR. MATULE: Mr. Chairman, if I might,

14 one of the matters we have on, 819 Bloomfield Street,

15 it's a minor matter, I have no planning testimony.

16 It's for rear stairs. But there are some neighbors

17 who are here to speak on the project. I would just

18 ask if you prefer to take that one first. There's no

19 public here, that I'm aware of, on the other two

20 applications.

21 CHAIRMAN AIBEL: You're representing the  
22 other two applicants?

23 MR. MATULE: I am.

24 CHAIRMAN AIBEL: So I take it they have  
25 no objection?

11

1 MR. MATULE: No, they don't.

2 CHAIRMAN AIBEL: We'll start with 1819  
3 Bloomfield.

4 MR. MATULE: Thank you, Mr. Chairman.

5 (Whereupon, this portion of the meeting  
6 is concluded.)

7

8

9

10

11

12

13

14

15

16

17

18

19

20  
21  
22  
23  
24  
25

1           C E R T I F I C A T E

2  
3

4           I, JOANNE M. OPPERMANN, a Certified  
5 Court Reporter and Notary Public of the State of New  
6 Jersey, do hereby state that the foregoing is a true  
7 and accurate transcript of my stenographic notes of  
8 the within proceedings, to the best of my ability.

9  
10  
11

12           \_\_\_\_\_

13           JOANNE M. OPPERMANN, C.C.R.  
14           License No. XI01435

15  
16  
17  
18

19

20

21

22

23

24

25

1 HOBOKEN ZONING BOARD OF ADJUSTMENT  
2 SEPTEMBER 14, 2014  
3 REGULAR MEETING

3  
4 IN THE MATTER OF: :  
5 516 MONROE STREET : TRANSCRIPT  
----- OF  
6 PROCEEDINGS

6 B O A R D M E M B E R S P R E S E N T:  
7 JAMES AIBEL, CHAIRMAN  
8 ELLIOT GREENE, VICE CHAIRMAN  
9 PHIL COHEN, COMMISSIONER  
10 MIKE DeFUSCO, COMMISSIONER  
11 ANTONIO GRANA, COMMISSIONER  
12 CAROL MARSH, COMMISSIONER  
13 DIANE FITZMYER MURPHY, COMMISSIONER  
14 TIFFANIE FISHER, ALT. #2  
15 OWEN McANUFF, ALT. #3

11 A L S O P R E S E N T:  
12 EILEEN BANYRA, P.P.,  
13 Board Planner  
14 JEFF MARSDEN, P.E.,  
15 Board Engineer  
16 PATRICIA CARCONE,  
17 Board Secretary  
18  
19  
20  
21  
22  
23  
24

1 A P P E A R A N C E S:  
GALVIN LAW FIRM  
2 By: DENNIS M. GALVIN, ESQUIRE  
Attorney for the Board  
3  
ROBERT C. MATULE, ESQUIRE  
4 Attorney for the Applicant

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

3

1 TABLE OF CONTENTS

2 Witness Sworn

3 FRANK MINERVINI 5

KEN OCHAB 38

4

5 E X H I B I T S

6 Number Description Page

7 B-1 Letter 5

8 A-1 Photo board 6

9 A-2 Photo board 11

10 A-3 Photo board 39

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

4

1 CHAIRMAN AIBEL: We're back on the  
2 record.

3 Mr. Matule, 516 Monroe Street.

4 MR. MATULE: Yes. Good evening,  
5 Mr. Chairman, Board Members. Robert Matule,  
6 appearing on behalf of the applicant.

7 This property is at 516 Monroe Street.  
8 The applicant is proposing to build a rear extension  
9 on an existing building at a top floor. As I  
10 understand it. As I understand it, the building is  
11 four stories now but it will be four stories with the  
12 new story, because it's being brought out of the  
13 basement, but Mr. Minervini will testify to that.

14 MR. GALVIN: Time out. You distributed  
15 a letter? Have you had a chance to look at Ann  
16 Holtzman's letter?

17 MR. MATULE: I'm not aware of any.

18 MADAM SECRETARY: I think, Frank, you  
19 did get it.

20 MR. MINERVINI: Yes, it's with regard to  
21 floodplain management.

22 MR. MATULE I'll have to clarify. Have

23 you seen this letter?

24 MR. MINERVINI: Yes, I have.

25 MR. MATULE: Mr. Minervini will address

5

1 it.

2 MR. GALVIN: We're going to mark that

3 letter as B-1.

4 (Exhibit B-1 marked into evidence.)

5 FRANK MINERVINI, having been duly sworn,

6 was examined and testifies as follows:

7 MR. GALVIN: State your full name for

8 the record, spell your last name.

9 THE WITNESS: Frank Minervini,

10 M-I-N-I-E-R-V-I-N-I.

11 CHAIRMAN AIBEL: Begin.

12 MR. MATULE: Thank you, Mr. Chairman.

13 MR. GALVIN: We're going to move -- the

14 reason why I stopped it and brought this in is

15 because you were saying -- Mr. Minervini is going to

16 get into his position as it relates to Ms. Holtzman's

17 statement.

18 CHAIRMAN AIBEL: Thanks.

19 EXAMINATION BY MR. MATULE:

20 Q. All right. Mr. Minervini, you've been

21 qualified; so could you please describe the existing

22 building and the surrounding neighborhood?

23 A. Yes. Starting with a photo board.

24 MR. MATULE: I will mark that photo  
25 board, A-1.

6

1 (Exhibit A-1 marked into evidence.)

2 THE WITNESS: This is a photo board with  
3 a combination of photographs taken by me today, as  
4 well as some Internet Web sites.

5 516 Monroe is a 25 foot wide by 100 foot  
6 deep property that currently has a three-family  
7 residence on it. This is the building and we've got  
8 floor number one, two and three. There's a partially  
9 subterranean basement which is part of a duplex.

10 So we've got a duplex apartment at the  
11 basement and first floor, we've got a second floor  
12 and third floor. Building as it exists goes back  
13 about 40 feet.

14 What we're proposing to do is vacate  
15 that basement space, which is well within the  
16 floodplain, raise up the first floor a bit, and I'll  
17 get into the details as we get into the drawings. So  
18 that first floor will be raised, taking it out of the  
19 floodplain.

20 The second floor will remain where it  
21 is. The third floor will remain where it is. And

22 what was the basement space, we're now proposing to  
23 put on the top of the building.  
24 So, in essence, at the end of this  
25 project, if approved, it will be a four-story

7

1 building. It will match the lower of the two  
2 adjacent properties. So this one is four and a half  
3 stories, this one is five stories. Again I've got a  
4 street elevation, I've described that.

5 In terms of the addition, we're  
6 proposing a complete fourth story, which will take us  
7 back from zero lot line back to 60 feet, so that  
8 depth is 60 feet. And I think, to keep that thought  
9 going, I'll start with Sheet Z-5, which I think is  
10 the best description of what we're proposing.

11 So Sheet Z-5 has, down at the bottom  
12 right-hand corner, a schematic section of the  
13 proposed building.

14 So you can see it's shaded with this  
15 hatching but I will use a highlighter and show what  
16 the existing building is.

17 So this section here is existing  
18 building. This is the street, this is basement,  
19 living space, attached to this first floor apartment,  
20 so that's one apartment, two apartments, and three  
21 apartments.

22           What we're proposing to do is no  
23 longer -- is to vacate this habitable, as it exists,  
24 basement space, relocate it up here and add 20 feet  
25 to the back of the building which brings it. In

8

1 total, then the building will be 25 feet by 60 feet  
2 in depth at four stories.

3           The number of units will increase from  
4 three to four, and here's a diagram of the street.  
5 We're matching the building to our left and this  
6 faces the south and about a story below that, a story  
7 below would be building to our right. The Zoning  
8 Ordinance takes that into consideration and allows us  
9 to match the lower of the two adjacent properties in  
10 terms of height.

11           So now we'll look at floor plans.

12           Actually I should continue with the  
13 context. I mentioned that there's two buildings, to  
14 right and left, are of the same height. As you go  
15 down the street, there's a four-and-a-half-story  
16 building, a five-story building, a good mix of  
17 heights but ours is certainly not anywhere the  
18 tallest. This is directly across the street on  
19 Madison. Again the Zoning Ordinance contemplates and  
20 allows us to match the lower two adjacent buildings.

21           So, in terms of the floor plans, I guess  
22 go to Z-2. The building as it exists, and here's the  
23 properties he's talked about, 516 Monroe Street,  
24 which is the west side of Monroe between Fifth and  
25 Sixth. As it exists, it's 40 feet in depth. What

9

1 we're proposing is to add a 20-foot addition right  
2 here, which is this (indicating.) As well as a small  
3 egress there. This is slightly different -- actually  
4 largely different from the previous project in that  
5 the existing condition on this building is fire  
6 escapes on the front of the building. Two fire  
7 escapes at the front of the building which protrude  
8 passed the property line. We're proposing to remove  
9 those, rebuild the facade, and I'll get to that, and  
10 construct a rear egress stair as opposed to a fire  
11 escape.

12           This is different from the last project  
13 for another reason: It's only 6 feet 6 by 19 feet 8.  
14 So we have taken it in 2 feet off of the north side,  
15 taking it in 3 feet 4 inches off the south side. The  
16 amount of outdoor space is about 60 square feet, so  
17 that's very small. Again I'm discussing this so it's  
18 relative to the previous project.

19           So starting at Sheet Z-4, drawing, we're  
20 calling it "Basement Plan #1," this was -- it's about

21 45 feet, 43 feet, this was part of a duplex  
22 apartment, this is the first floor and second floor.  
23 This is only going to become storage, can't be used  
24 for use, it has to be put up on the first floor which  
25 is above Base Flood Elevation. That floor will be

10

1 raised to meet the Base Flood Elevation requirements.  
2           So this becomes a two-bedroom apartment  
3 of 1,257 square feet, with this 19 foot 7 addition,  
4 and that's the same for the third floor as well as --  
5 I'm sorry, for the second, third and fourth floors,  
6 in terms of size. The fourth floor doesn't exist.  
7 This is new construction proposed. Again matching  
8 the height of the adjacent buildings. Rear egress  
9 stairs was a fire escape at the front of the  
10 building, is now being relocated to the rear of the  
11 building and to become an actual stair as opposed to  
12 a fire escape. Certainly a safer condition. As well  
13 as 60 feet of outdoor space.

14           Rear yard will be completely landscaped  
15 and I've got a plan showing that.

16           We get to the Roof Plan.

17           So the building again will be -- as  
18 proposed, 25 feet by 60 feet. It's at zero lot line.  
19 We've got a stair bulkhead as required by the fire

20 code, some condensing units and the majority of the  
21 remainder of the roof will be green roof similar to  
22 the last project and many of the projects that we  
23 propose. It's an extensive green roof, which means  
24 that it's not walkable. Provides the positive  
25 attributes that we'll bring forth.

11

1 Still on Z-5, the section drawing is a  
2 very good description of what we're proposing. So  
3 this is the existing building. The section is a  
4 slice through the building. This would be the front,  
5 this would be the rear. This apartment space no  
6 longer is being used, we're going to move that to the  
7 top of the building. And then add 19 feet 7 to the  
8 rear as well as this fourth floor.

9 Q. Frank, on the basement plan, I don't  
10 know if you're going to get to it or not, you're  
11 showing a new retention system.

12 A. Yeah. Although not a requirement,  
13 because this is a rehabilitation and an addition,  
14 we're proposing a stormwater retention system to this  
15 building, as if it were in the building. It's not a  
16 new building, we're going to reuse the majority of  
17 the structure and I'll describe that relative to Ms.  
18 Holtzman's letter. Facade is completely new and I  
19 brought -- I've got a rendering, pardon me.

20 (Pause.)

21 So this is what we're proposing as  
22 facade: Metal panels, lots of glass, balconies here  
23 and semblance of brick which passes it back in some  
24 way to traditional Hoboken.

25 (Exhibit A-2 marked into evidence.)

12

1 I think that, relative to the existing  
2 condition, which is a three-story brick with vinyl  
3 siding, a brick veneer, and two fire escapes at the  
4 front of the building. Certainly a much more  
5 attractive, we think, proposal.

6 So, to conclude, we've got a building  
7 with three stories -- four stories, three and one  
8 half above ground. It's got a basement space which  
9 is within the floodplain. We're proposing to vacate  
10 that for obvious reasons. That living space will  
11 then be moved to the top of the building. While at  
12 four stories it is still space, the lower of the two  
13 adjacent buildings, which means we're permitted that  
14 height. Number of apartments there are three now,  
15 will be increased to four and the apartments, and  
16 they exist on floors two and three, are less than 800  
17 square feet. The duplex apartment, about 12 and  
18 change because of only part of the first floor is

19 used with the lobby, takes out residential space.

20 The structure is being reused, so

21 relative to Ms. Holtzman's letter, and I'll describe

22 it -- I guess we'll use this rendering, which is

23 slightly different than that.

24 What we're keeping is the rear wall.

25 We're going to be adding to it, we're proposing new

13

1 penetration, but the rear wall, the rear foundation

2 will stay. The two sidewalls will stay in its

3 entirety. The first floor as it exists, which is

4 right here, is being removed and then relocated to

5 this level. Second floor is exactly as it exists.

6 The third floor is exactly as it exists and the

7 fourth floor will be new construction.

8 Ms. Holtzman has concerns about the

9 viability of the structure because just a portion of

10 the structure walls, especially the two sidewalls,

11 are wood studs. We have no issue with converting

12 that to masonry up to the flood elevation line. That

13 was one of her concerns and we're happy to do that.

14 We're also, as she suggests, we're going

15 to, within the lobby area, we'll make it wet

16 flood-proof as well as giving it the flood vent. And

17 the thought there, and I've had discussion with her

18 specifically about this, the thought there is that

19 water will come in but at least then it will equalize  
20 pressure with the vents so people can still get out  
21 and egress. Even in a flood condition, people can  
22 still escape the building. It's a different way of  
23 handling the flood than Mr. Marsden and I have  
24 discussed or that the DEP and NJDEP has been  
25 requiring. The majority of the building is staying.

14

1 Where its within the floodplain, it will be changed  
2 to masonry, as she suggested, and floors two and  
3 three remaining, sidewalls remaining, new roof and  
4 new 20-foot section to the rear. The stormwater  
5 retention system is being proposed as part of this  
6 application. It's not a requirement but we're  
7 proposing it.

8 Q. And you received Mr. Marsden's report of  
9 July 11th?

10 A. Yes, yes.

11 Q. One of the points he raised in his  
12 letter was he said there's currently an ADA parking  
13 space in front of the building.

14 A MEMBER OF THE AUDIENCE: That's the  
15 previous owner. It's been removed.

16 MR. MARSDEN: It has been removed?

17 MR. MATULE: Just for the record, the

18 applicant is indicating that that was for the  
19 previous owner of the property. In Hoboken they are  
20 individual, so since he's no longer there it's been  
21 removed.

22 MR. MINERVINI: It has been removed.

23 MR. MARSDEN: Okay.

24 MR. MATULE: One of the other things Mr.  
25 Marsden raised a question about was street trees. I

15

1 don't think we're showing one on the plan, I'm just  
2 wondering if that was --

3 THE WITNESS: We can certainly provide a  
4 shade tree as per Shade Tree Commission requirement.  
5 Absolutely, yes.

6 MR. MARSDEN: If I may get a little bit  
7 more detail.

8 DEP does not allow a space to fill with  
9 floodwater without having it drain completely by  
10 gravity.

11 THE WITNESS: Yes.

12 MR. MARSDEN: How will that space drain  
13 by gravity?

14 THE WITNESS: I didn't want to get into  
15 this discussion, but there is a disparity between the  
16 Hoboken regulation and DEP regulation. Are you aware  
17 of that?

18 MR. MARSDEN: DEP rules, no question.

19 You will need --

20 THE WITNESS: The standard way that we

21 have at this board taken care of that issue is with

22 flood panels, as described in the last meeting.

23 However, it's come to my attention that the

24 construction official does not like them because they

25 inhibit egress in the case of a flood.

16

1 So with that in mind, the way the

2 floodplain manager sees it, is that as opposed to

3 having those panels, we make the areas that will be

4 flooded, we prepare them, wet flood-proof so that

5 water comes in. It won't do any particular damage

6 when it does recede and the flood vents will allow it

7 to recede. With the thinking that people could still

8 egress because the water inside and outside will be

9 of equal pressure.

10 MR. MARSDEN: Isn't the basement floor

11 lower than grade?

12 THE WITNESS: Yes. I'm not discussing,

13 I'm not talking particularly about the basement

14 floor.

15 MR. MARSDEN: I'm talking about the

16 basement.

17 THE WITNESS: My apologies. We have no  
18 proposal for any habitation. Nothing but storage in  
19 the basement.

20 MR. MARSDEN: You can't allow floodwater  
21 into a basement that will not drain by gravity.

22 THE WITNESS: Okay. If that's the  
23 case --

24 MR. MARSDEN: You may have to fill the  
25 basement, what --

17

1 THE WITNESS: Or a flood panel. I will  
2 suggest to this board that we'll do whatever DEP  
3 requires us as part of that application. It sounds a  
4 little like there is a question because depending on  
5 who you talk to, there's a different answer.

6 MR. MARSDEN: You will need to obtain an  
7 individual permit either way.

8 THE WITNESS: Yes.

9 MR. MARSDEN: I'm just --

10 THE WITNESS: Understood.

11 MR. MARSDEN: Because I've been very  
12 clearly defined by higher level DEP gentleman that  
13 they'll not allow water to flow into a basement if it  
14 will not flow out by gravity, even if it's not  
15 occupied.

16 THE WITNESS: But they'll allow that

17 condition if we have flood panels.

18 MR. MARSDEN: Yes.

19 THE WITNESS: Yes.

20 MR. MARSDEN: Which is what this board

21 has seen in the past. And a pump.

22 THE WITNESS: Yes.

23 MR. MARSDEN: Okay.

24 MR. MATULE: If that's what has to be

25 done, that's what you'll do.

18

1 THE WITNESS: That's what we're doing.

2 MR. MATULE: Okay.

3 THE WITNESS: So everyone on the board

4 understands, we couldn't get construction permits

5 without doing it the right way, that's not a

6 possibility.

7 COMMISSIONER FISHER: Is there an

8 aesthetic? We've had this conversation where there's

9 been flood panels since I joined the board. Is there

10 a significant aesthetic difference by going from

11 flood panels to whatever this new solution is?

12 THE WITNESS: Well, the new solution is

13 really of spaces that are not below grade, so your

14 question is whether the flood panel which stops water

15 from going inside completely or you have flood vents

16 which equalizes the amount of water inside the water  
17 and out.

18 COMMISSIONER FISHER: So it's still  
19 effectively a panel, one is vents and one not?

20 THE WITNESS: Vents placed in the front  
21 wall or also the back wall in this case.

22 MR. MARSDEN: It won't be a panel. If  
23 they are putting in flood vents, it will be vents in  
24 the walls if they are putting in flood vents.

25 THE WITNESS: Yes, within the wall.

19

1 MR. MARSDEN: If they are going for dry  
2 flood-proofing, it will have panels, guides where  
3 they can drop the panels in.

4 COMMISSIONER FISHER: For example, on  
5 the last application, where that entire ground floor  
6 is storage -- how does that work when it's --

7 THE WITNESS: It's permitted to get wet.  
8 What we can do, just as designed, flood panels and be  
9 done with it or we can have it so that the lobby area  
10 is separate from those other areas so that part --

11 COMMISSIONER FISHER: Lobby area could  
12 be vented and --

13 THE WITNESS: Exactly, exactly right.  
14 That's different because it's not below grade. This  
15 in particular is below grade.

16 COMMISSIONER FISHER: You mentioned the  
17 undoing of something that you've been talking about  
18 for the last, you know, seven months.

19 THE WITNESS: Well, this is work in  
20 progress for us too. Although it seems clear, it's  
21 not necessarily clear.

22 MR. MARSDEN: Clear as mud.

23 THE WITNESS: You should have a  
24 discussion with the floodplain manager. Hoboken  
25 ordinance is different than what your understanding.

20

1 MR. MARSDEN: Understand that.

2 THE WITNESS: Yes.

3 MR. MARSDEN: I'm just saying ordinances  
4 aside, local ordinances aside, DEP rules.

5 THE WITNESS: Yeah. All of our designs  
6 have been geared towards DEP approval.

7 COMMISSIONER MARSH: I'm looking at this  
8 picture and I'm looking at this -- this picture looks  
9 like these two buildings on either side are the same.  
10 Don't they? They look like they are the same.

11 COMMISSIONER GREENE: Yes.

12 COMMISSIONER MARSH: On here, this one  
13 shows this is wider and has an indent.

14 THE WITNESS: Z-3, which is based off

15 the property survey, is absolutely the accurate  
16 description of the adjacent buildings. You're  
17 looking at it from a perspective view there. This is  
18 a planned view and based off a property survey.

19 So the building to our north, at it's  
20 further point, is back, but there's an indent here  
21 and maybe that's what you're saying.

22 COMMISSIONER MARSH: No, I'm actually --  
23 it's hard to see where the indent is. Can I ask, in  
24 the future, you take a picture of the backyard?

25 THE WITNESS: Okay. Understood.

21

1 COMMISSIONER MARSH: We go through this  
2 every time.

3 THE WITNESS: I'll explain why we don't  
4 and why I thought this was more appropriate because  
5 this gets a better view of the overall donut. I'm  
6 happy to make them, I'll give them.

7 COMMISSIONER MARSH: Nothing that says  
8 you can't do both, right?

9 THE WITNESS: Fair enough.

10 COMMISSIONER MARSH: Because you have a  
11 little square thing over it, it's hard to see what's  
12 actually there. You have this white thing marking --

13 THE WITNESS: The site.

14 COMMISSIONER MARSH: -- the site.

15 THE WITNESS: Yeah. Mr. Ochab probably  
16 has photographs as well. Maybe that can help. But  
17 in terms of what the building footprint is next door,  
18 this is the accurate condition.

19 COMMISSIONER MARSH: Okay. If I may  
20 clarify, I want to make sure it's clear that I am not  
21 disagreeing with Ms. Holtzman, okay? It clearly  
22 states in the her letter, basements are not allowed.

23 THE WITNESS: Yes.

24 COMMISSIONER MARSH: Okay. What I'm  
25 saying is you either have to prevent the water from

22

1 getting into the basement or you have to fill the  
2 basement to outside grade.

3 THE WITNESS: Understood.

4 COMMISSIONER MARSH: The only way the  
5 water can get out by gravity is if the lowest level  
6 in the basement is at the same level as outside  
7 grade. That's what she refers to --

8 MR. GALVIN: Has to comply with the  
9 floodplain managers and with NJDEP.

10 MR. MARSDEN: Yes.

11 THE WITNESS: Yes.

12 MR. GALVIN: That's the trick.

13 THE WITNESS: Understood. So, yes, I

14 think before that was the street tree and we're  
15 absolutely proposing a street tree as well as new  
16 sidewalks.

17 COMMISSIONER GRANA: I was going to  
18 reinforce the part about the street trees, but we  
19 have addressed that.

20 THE WITNESS: Okay.

21 COMMISSIONER GRANA: This building does  
22 not have an elevator proposed and that is --

23 THE WITNESS: Existing structure.

24 COMMISSIONER GRANA: Thank you.

25 COMMISSIONER GREENE: I guess in Ms.

23

1 Holtzman's letter she contests whether or not it's an  
2 existing structure.

3 THE WITNESS: Well, I mean I've  
4 described what it is. We're relocating the first  
5 floor as existing, front wall and back wall will be  
6 rebuilt, only because of new window penetration,  
7 obviously new additions, sidewalls, foundation, as  
8 well as second and third floors. That can hardly be  
9 considered a new building.

10 COMMISSIONER GREENE: In her letter it  
11 says --

12 COMMISSIONER FISHER: It says new  
13 construction versus --

14 COMMISSIONER GREENE: -- it says  
15 including demolition of the entire 1910 frame  
16 structure including foundation, roof, front and rear  
17 facades and all interior floors. She's claiming that  
18 the foundation is being --

19 THE WITNESS: I don't know why she would  
20 think that. It's not part of any of our proposal.  
21 We're not proposing any new foundation. What happens  
22 is when a structural analysis, I've done visual  
23 analysis but a real analysis will be done later. If  
24 we have to add to the foundation, we do that but we  
25 certainly don't replace the foundation. That will

24

1 remain in use.

2 MR. MARSDEN: If I may add to that,  
3 because I have a question on Item 6. The same thing  
4 is, what percent modification is going to be done to  
5 the building. The way I looked at it, it was  
6 probably going to be more than 50 percent of overall  
7 modification. You're adding conditions in the back,  
8 adding the floor and modifying the first floor. If  
9 that's the case, then it's considered new  
10 construction.

11 THE WITNESS: Not by the construction  
12 code it's not, absolutely wrong.

13 MR. MARSDEN: As far as DEP is concerned  
14 I'm saying.

15 THE WITNESS: With that in mind,  
16 we're -- most renovations, so this board understands,  
17 don't need DEP approval. This one, because there's a  
18 question whether it's 50 percent changed or not,  
19 we're going to put the application in.

20 MR. GALVIN: I think we have to  
21 understand that, in this capacity, Ms. Holtzman is  
22 speaking as the flood person.

23 THE WITNESS: Yes.

24 MR. GALVIN: Based on what Jeff just  
25 said, that's what she's pointing out to us, for the

25

1 purposes of floodplain management it's now  
2 construction. For our purpose, and I was saying this  
3 to you guys at the planning board the other night, it  
4 doesn't matter to me, you know. I guess when you are  
5 going to take the whole building down, why shouldn't  
6 you comply with the ordinance when you have a  
7 completely blank slate. But regardless, in this  
8 instance, we're granting variances, so the whole  
9 building is in front of us. There's no preservation  
10 of any of the preexisting nonconformities. It's  
11 practical. If somebody is at a zero lot line and the  
12 building is there, you are probably going to let them

13 continue that. You could make an argument that they  
14 wanted a new variance, you could make them eliminate  
15 things in any given case. That's why we have to  
16 point out all the preexisting nonconformities.  
17 Everything is considered.

18 COMMISSIONER FISHER: Correct me if I'm  
19 wrong, does this definition of new construction  
20 somehow require a new elevator and it's the building  
21 code that determines that?

22 THE WITNESS: Right, two separate codes.

23 COMMISSIONER FISHER: Is that what you  
24 were thinking? I was confused by it, so...

25 Q. Mr. Minervini, if I'm understanding this

26

1 correctly, for the record, for the purpose of the  
2 flood management and the flood regulations, the  
3 amount of renovation that you're doing to the  
4 building kicks it into the, quote/unquote, new  
5 construction category in terms of compliance with  
6 those regulations.

7 A. Yes.

8 Q. Under the IBC?

9 A. Yes. 2008, correct.

10 Q. The International Building Code and the  
11 definitions thereunder, the amount of new renovation

12 and new construction you're doing, doesn't trigger  
13 new construction requirements from the building code  
14 perspective not a floodplain perspective?

15 A. Yes. We're absolutely conforming with  
16 what the floodplain manager was asking for. I was  
17 suggesting it's not a new building considering the  
18 structure that is there. We're conforming with her  
19 requests.

20 Q. I want to make it clear that we're  
21 talking about two different things and we're not --  
22 it's not just semantics, we're talking about two  
23 different codes?

24 A. Yes, yes.

25 Q. One is one way and one is the other way?

27

1 A. Yes.

2 MR. MATULE: Thank you.

3 CHAIRMAN AIBEL: You're finished with  
4 your witness?

5 MR. MATULE: I am.

6 CHAIRMAN AIBEL: Members, questions for  
7 Mr. Minervini?

8 COMMISSIONER MARSH: Yes, I do have a  
9 question. How far out from the back of this -- in  
10 this picture?

11 CHAIRMAN AIBEL: Z-2.

12 COMMISSIONER MARSH: Well, only because  
13 Z-2 is the only one that has the buildings next door.  
14 Where is the deck? I know this is the first floor,  
15 but where would the deck go out to on this picture?

16 COMMISSIONER GRANA: Z-2?

17 COMMISSIONER MARSH: Z-2 shows the  
18 ground floor, shows the ground.

19 THE WITNESS: Z-3 shows, in the center  
20 drawing, our deck relative to the adjacent buildings.  
21 To make it easier to see, I'll color it.

22 So that's the line of the building to  
23 our south. This is the line to the building to our  
24 north.

25 COMMISSIONER MARSH: That picture is the

28

1 end of the --

2 THE WITNESS: This is the end of our  
3 deck.

4 COMMISSIONER MARSH: Okay. That's what  
5 I wanted to know. So that sticks out what?

6 THE WITNESS: Sorry about that.

7 COMMISSIONER MARSH: It sticks out maybe  
8 2 feet further than that?

9 THE WITNESS: Approximately,  
10 approximately. I would say it's 2 feet further

11 passed the building to our south, 2 feet -- the  
12 building 2 feet to our north is 2 feet closer to the  
13 rear property line.

14 CHAIRMAN AIBEL: Are there any windows  
15 on the interior of the building to the north?

16 THE WITNESS: I think there's a deck,  
17 surprisingly, that there's a deck there, although  
18 it's not permitted by construction code. There's a  
19 deck there and some of the photographs should show  
20 it. I mean it's here but it's so dark you can't see  
21 it. This is a small deck. It's right here. With  
22 that in mind, we proposed a privacy screen and I've  
23 got it detailed on this side and this side. Although  
24 on this side we got mostly wall but here's the  
25 privacy screen design.

29

1 COMMISSIONER MARSH: That's a ground  
2 floor deck?

3 THE WITNESS: No, this is a deck that  
4 goes up each floor.

5 COMMISSIONER MARSH: On the building  
6 next door?

7 THE WITNESS: Yes, it's a very  
8 interesting condition that they set in the side of  
9 the buildings, it's probably 10 or 15 years old and  
10 they built a deck at the side property line which

11 would not be permitted these days. Nevertheless,

12 it's there, and we're proposing a screen right there.

13 CHAIRMAN AIBEL: Your door is to allow

14 people to get their apartments to --

15 THE WITNESS: Yes. What I want to

16 propose, and this is something that came up after our

17 initial submission, what we're thinking is with that

18 in mind, we could just slide this entire unit down to

19 give us another 3 feet 4, so that the side of our

20 deck is 5 feet 4 off the property line and then an

21 additional 8 feet or so from their wall. If this is

22 a concern, that would I think help alleviate that.

23 In essence, what we have got shown as deck, we'll

24 slide that to the blank wall of the building that's

25 of equal height right here and give a bit more space

30

1 to this right here (indicating.)

2 CHAIRMAN AIBEL: How would the decks on

3 the two buildings align; will they be virtually at

4 the same level on each floor?

5 THE WITNESS: The floor levels don't

6 align because that building has a garage at the

7 ground floor so therefore it's a very standard 10

8 feet floor to floor, ours is raised up 4 feet off of

9 grade, because of the Base Flood Elevation. We're

10 close because our floor heights are 9 feet, then  
11 relative to the last application, as opposed to their  
12 10 feet. They don't align but they're not 5 feet  
13 off, they are probably 3 or 4 feet off.

14 COMMISSIONER McANUFF: That condition of  
15 not aligning, that deck on the existing building only  
16 occurs at that one level, right?

17 THE WITNESS: It occurs on two, three,  
18 four and five.

19 CHAIRMAN AIBEL: So will the people on  
20 the building to the north be looking down into the  
21 decks on your building?

22 THE WITNESS: You're looking up at one  
23 and you're looking down at another. Yeah.

24 COMMISSIONER McANUFF: And the whole  
25 existing deck system is illegal?

31

1 THE WITNESS: It's not illegal, it would  
2 be considered grandfathered. I was making the point  
3 that I couldn't come to you and ask for this deck.

4 COMMISSIONER McANUFF: I understand.  
5 Okay.

6 THE WITNESS: It has the right to be  
7 there now and I'm not making any suggestion otherwise  
8 and someone is using it as an outdoor space, of  
9 course.

10 CHAIRMAN AIBEL: Privacy fence, privacy

11 will be a 6-foot?

12 THE WITNESS: Sorry, I thought -- sorry,

13 here it is. Here's our privacy fence detail which is

14 6 feet. That's Z-3.

15 CHAIRMAN AIBEL: Basically your

16 testimony is the privacy screen will be about 8 feet

17 from the building to the north?

18 THE WITNESS: Will be more than that

19 because what we're doing, as I'm proposing to amend

20 what you see in front of you, so what I'd like to do

21 is take this entire back stair unit, slide it over 3

22 feet 4 inches, which brings it to this property line

23 which then increases this to 5 feet 4 inches from the

24 property line and I suggest that this is about

25 another 8 that they are off the property line, their

32

1 wall. So we'll be 5 feet 4 inches from the property

2 line, an additional 8 feet after that from the wall.

3 COMMISSIONER GRANA: Privacy screen.

4 THE WITNESS: Privacy screen will be at

5 the property line at our 5 feet 4.

6 CHAIRMAN AIBEL: Say that one more time.

7 THE WITNESS: The privacy screen will be

8 at this new line right here, which is 5 foot 4 off

9 the property line.

10 COMMISSIONER GRANA: At the indented  
11 line, the new red line?

12 THE WITNESS: Correct, the new line.

13 CHAIRMAN AIBEL: Not the property line.

14 THE WITNESS: Right, exactly 5 feet 4  
15 off the property line.

16 CHAIRMAN AIBEL: Commissioners, any  
17 other questions for Mr. Minervini?

18 MS. BANYRA: I have a couple questions  
19 relative to the plans. I think there is going to be,  
20 I don't know -- I have 2/4/14. Correct; is that the  
21 plan set?

22 THE WITNESS: Correct.

23 MS. BANYRA: So I think there's a number  
24 of questions or corrections possibly to the plans. I  
25 think you probably have my memo from August 26th?

33

1 THE WITNESS: Yes.

2 MS. BANYRA: Garbage is going to be  
3 stored below?

4 THE WITNESS: Garbage will be in that  
5 space.

6 MS. BANYRA: The north wall has some  
7 exposure I think. How do you treat that?

8 THE WITNESS: You're referring to this

9 section here (indicating)?

10 MS. BANYRA: No, in the front I think.

11 There's a gap in the front between --

12 THE WITNESS: Here (indicating.)

13 MS. BANYRA: Yes. How do you treat that

14 wall adjacent to what would be the --

15 THE WITNESS: Again because this

16 building next to us is not the standard, that setback

17 that I just described in the back is the same in the

18 front although there's no outdoor space. It really

19 just is an alleyway. That will be a stucco wall.

20 MS. BANYRA: The same would be in the

21 back?

22 THE WITNESS: Correct.

23 MS. BANYRA: Would it be colored; do you

24 think?

25 THE WITNESS: Yes. I should be clear,

34

1 it may be a hardboard, not a stucco. It has a

2 similar look to stucco but much better in terms of

3 maintenance and we can certainly make that a color if

4 the board would like. Maybe a color matching the

5 front facade as we wrap around. Happy to do that.

6 Happily do that.

7 MS. BANYRA: I think you testified that

8 the elevator isn't required because it's an existing  
9 building. Correct?

10 THE WITNESS: It's a rehabilitation.

11 MS. BANYRA: You indicated that you'd  
12 put a street tree?

13 THE WITNESS: Yes.

14 MS. BANYRA: The rear yard ground cover,  
15 you should save and the wall material around the  
16 front planter and what's in the front planter?

17 THE WITNESS: Front planter, there's a  
18 detail, and it's not a wall per se, it's a small  
19 fence, and there's --

20 MS. BANYRA: That's on the outside or  
21 inside?

22 THE WITNESS: On the outside. Right  
23 here (indicating.) That's in keeping with what's  
24 existing there in terms of --

25 MS. BANYRA: Will there be something in

35

1 there?

2 THE WITNESS: We've got some small  
3 plantings proposed.

4 MS. BANYRA: They should be then shown  
5 on your detail as well.

6 THE WITNESS: Yes.

7 MS. BANYRA: That's all I have right

8 now. Thank you.

9 CHAIRMAN AIBEL: Before you sit down,  
10 Mr. Minervini, on the building, the four-story to the  
11 south --

12 THE WITNESS: Yes.

13 CHAIRMAN AIBEL: -- your testimony is  
14 that the fire escape/deck on your building will  
15 protrude by about 2 feet?

16 THE WITNESS: Yes, if you look at it on  
17 the same sheet, Z-3.

18 CHAIRMAN AIBEL: And so, if I were  
19 standing right in that corner, what am I looking into  
20 in the back of the four-story?

21 THE WITNESS: Just an edge of a stair.  
22 The outdoor space is further to the north, so you're  
23 just looking at the edge of the stair as it comes  
24 down and around. I could provide the same privacy  
25 screen there just to make it a bit more visually

36

1 appealing.

2 CHAIRMAN AIBEL: Strikes me as being --  
3 I guess my concern is people looking into windows on  
4 the building to the south standing on the edge of the  
5 deck.

6 THE WITNESS: Well, privacy screen will

7 stop them from doing that.

8 CHAIRMAN AIBEL: Yeah, yeah. That's a  
9 possibility.

10 THE WITNESS: Actually we do show that  
11 but it's set in. Now the whole thing is moved to the  
12 property line, so absolutely.

13 MS. BANYRA: I have one more question.  
14 Mr. Minervini, I think on the survey, I think it  
15 shows that there's a fence offsite. It looks from  
16 the survey that it looks like the fence that goes  
17 around this property continues off to the rear. Not  
18 the front yard, in the rear yard.

19 THE WITNESS: Yes, there is, but that  
20 will be removed. The new fence will be on the  
21 property line as required.

22 MS. BANYRA: Okay.

23 THE WITNESS: Yeah. Z-3 again, there's  
24 a line showing where the existing fence is a bit  
25 further than it should have been.

37

1 MS. BANYRA: The survey shows that as  
2 well, so that needs to be --

3 THE WITNESS: Yes.

4 CHAIRMAN AIBEL: Anybody else? Anybody  
5 in the public have questions for the architect?

6 MR. EVERS: Yes. Michael Evers, 252

7 Second Street, Hoboken, New Jersey.

8 Mr. Minervini, how many units are you  
9 asking to build in this property?

10 THE WITNESS: Four.

11 MR. EVERS: Do you need a variance for  
12 that?

13 THE WITNESS: Yes.

14 MR. EVERS: How many could you build  
15 without the variance?

16 THE WITNESS: Three.

17 MR. EVERS: Are any of them affordable  
18 housing units?

19 THE WITNESS: No, they're not.

20 MR. EVERS: I don't have any other  
21 questions.

22 CHAIRMAN AIBEL: Any further questions  
23 from the public? Seeing none...

24 COMMISSIONER COHEN: Motion to close the  
25 public portion of this witness.

38

1 CHAIRMAN AIBEL: Second?

2 COMMISSIONER MURPHY: Second.

3 CHAIRMAN AIBEL: All in favor?

4 MR. MATULE: Mr. Ochab.

5 K E N O C H A B, having been duly sworn, was

6 examined and testifies as follows:

7 MR. GALVIN: State your full name for  
8 the record, spell your last name.

9 THE WITNESS: Ken, O-C-H-A-B.

10 MR. GALVIN: Mr. Chairman, do you accept  
11 Mr. Ochab's credentials?

12 CHAIRMAN AIBEL: Yes, we do.

13 MR. GALVIN: You may proceed.

14 EXAMINATION BY MR. MATULE:

15 Q. Mr. Ochab, you're familiar with the  
16 Zoning Ordinance and Master Plan of the City of  
17 Hoboken?

18 A. I certainly believe so.

19 Q. Are you familiar with this project and  
20 the surrounding area?

21 A. I am, yes.

22 Q. You prepared a report, dated March 3rd,  
23 2014?

24 A. Yes, I did.

25 Q. In support of this application?

39

1 A. Correct.

2 (Exhibit A-3 marked into evidence.)

3 Q. Could you go through your report, for  
4 the board, and give us your professional opinion  
5 regarding the professional variance relief?

6 I've already marked this photo board as

7 A-3. Did you take those pictures?

8 A. Yes, I did.

9 Q. Approximately when?

10 A. February, February or early March.

11 Q. Have you been by the site since then?

12 A. I have, yes.

13 Q. Do they still accurately represent the

14 existing site conditions?

15 A. Except for the snow, correct.

16 Q. Okay. So, if you would, take us through

17 your report.

18 A. So we have, as Frank indicated, an

19 existing building which is shown in the upper left

20 photograph, center of the photograph. So we have an

21 existing three-story -- actually four-story building,

22 one of the stories is below grade, that we're going

23 to raise. So this is the existing conditions, the

24 fire escape in front, three stories showing above

25 grade, and we're going to take that and construct an

40

1 addition which will provide a four-story building

2 totally above grade and instead of the three existing

3 units, we'll have four units. We're really adding

4 one residential unit to this project and increasing

5 the height of the building itself.

6 So, with respect to the upper left  
7 photograph then, we have a building that will be  
8 increased to the height of the building adjacent to  
9 the south. This building is actually one, two,  
10 three, four-story building, 45 feet in height from  
11 grade. So our building will come up to the 45 foot  
12 level and we still require a variance, because we  
13 have a four-story building instead of a three, as  
14 required by zoning.

15 And with respect to the opposite side,  
16 again we have our three-story, four-story building  
17 here and adjacent to that we have a five-story  
18 building, one, two, three, four, five, which is  
19 approximately 50 feet in height. So this is higher  
20 than our building, it would be about 5 feet below  
21 that.

22 Also, not immediately noticeable but  
23 there's an indentation or a setback offset of the  
24 building to the north. It's about 7 feet off the  
25 property line. So we have a 7 foot offset in the

1 front of the property, 7 foot offset at the rear of  
2 the property and in the middle is actually an access  
3 door entryway to that building to the residential  
4 units in that particular building. So it's very

5 unusual for Hoboken because we don't often see  
6 buildings with any sort of side yard setback other  
7 than zero. In this case we have that.

8           So in the rear of the property, again we  
9 look across towards the rear of the property, we have  
10 immediately adjacent to us, another five-story  
11 building, one, two, three, four, five. It is what it  
12 is, you can see it there.

13           And then probably the most important  
14 photograph is the lower right, which is a photograph  
15 of the rear of our property.

16           On the left side of this photograph it  
17 shows the building to the north, that's the building  
18 that's indented to the north, so this building is  
19 7 -- roughly 7 feet off of our property line and you  
20 can see -- sorry about the photograph, it's sort of  
21 difficult but you can see the corner of -- I wouldn't  
22 call them decks, I would call them terraces that have  
23 been constructed off that side of the building. So  
24 these are terraces on each floor on the south side of  
25 the north building. Our building is basically the

42

1 hole between the two buildings, so our building will  
2 be coming out to basically meet the south wall on the  
3 south building.

4           So, once we're constructed, if approved,  
5 once we're constructed, what will happen is the  
6 building, our proposed building will come out at 6  
7 feet in from the building on the south. And then  
8 there will be deck, small fire access deck, that  
9 Frank described, which will come out another 6 feet.  
10 It would be about a foot, maybe a foot and a half  
11 beyond the building to the south here.

12           As far as the building to the north is  
13 concerned, again our building itself will be further  
14 in from that building and the deck is actually then  
15 maybe a foot or two further set back from the rear  
16 line than the building to the north.

17           So we're just about even to the building  
18 to the south, a little bit further towards the street  
19 side building to the north, with respect to where the  
20 fire access deck is located there.

21           So we have the typical variances here.  
22 One for height, and again according to the Grasso  
23 criteria, the criteria essentially is, are we  
24 consistent with the properties around us. I would  
25 say absolutely we are in terms of the number of

43

1 stories and in terms of the -- we don't need actually  
2 a physical height variance because we're required or  
3 allowed to meet the lower of the two buildings on

4 either side of us.

5           So with respect to that, I think we are  
6 right on with respect to where we are at with the  
7 four stories. Obviously there's a public benefit in  
8 getting rid of that story below grade and moving the  
9 entire residential component of the project above the  
10 grade, above the flood elevation line.

11           With respect to density, again I think  
12 we are in pretty good shape here. Our proposed  
13 density is five and a half percent over the allowable  
14 density of again 3.7 units. The building to the  
15 north, that's this building here, is 18.9 percent  
16 above the allowable density. The building to the  
17 south is 42.6 percent above the allowable density.

18           So in terms of looking at the density of  
19 the immediate adjacent properties, we're clearly  
20 below the existing conditions there and that's one of  
21 the tests of the Grubbs case with respect to being  
22 consistent with the character of the neighborhood  
23 immediately surrounding us. I don't anticipate that  
24 there is any problems which the site cannot  
25 accommodate with respect to both the density and the

1 height of our variances.

2           The only other variances here are with

3 respect to again the front yard. The existing  
4 building is zero setback from the front yard. The  
5 proposed fourth story is also at zero setback.  
6 Fourth story requires a front yard variance because  
7 it's new, new construction. And obviously there are  
8 benefits to providing that clear and consistent  
9 facade on the street line with respect to where the  
10 fourth story is lining up with the lower three  
11 stories below it.

12           And that leaves the lot coverage  
13 variance. I think we do have a different situation  
14 here because of the way in which we are lining up  
15 with the buildings to our north and south. We're not  
16 extending beyond that, to any marginal degree or  
17 significant degree, other than the marginal foot and  
18 a half on the south side. So we have a different  
19 situation. We still leave that entire rear yard area  
20 as open space. We have 33 feet from the fire stairs  
21 or fire access to the rear line, which is sufficient  
22 and also consistent with the other buildings both  
23 north and south of us. And with respect to that, I  
24 think that the benefits, providing access stairs as  
25 well as maintaining that open area in the rear yard,

45

1 is important and consistent with the Master Plan.

2 Overall I think it's a good project because --

3 certainly from a planning and aesthetic standpoint,  
4 to remove the front fire stairs, reface the building,  
5 the new design for the building which matches the  
6 design on either side, and it improves the  
7 streetscape and overall character of the neighborhood  
8 here without unduly stressing the zone plan or the  
9 zoning ordinance.

10 Thank you, Mr. Chairman.

11 MR. MATULE: Thank you, Mr. Ochab.

12 CHAIRMAN AIBEL: Commissioners,  
13 questions for Mr. Ochab?

14 Ms. Banyra.

15 MS. BANYRA: Mr. Ochab, I know that the  
16 rear deck was just redesigned. Is that still five  
17 percent? It was just pulled in --

18 MR. MATULE: Frank, answer that  
19 question.

20 MR. MINERVINI: Yes, we are proposing to  
21 change the size of it just to relocate it so it's on  
22 the south property line.

23 MS. BANYRA: Thank you. I think you  
24 have a green roof on this one, as well?

25 MR. OCHAB: Yes.

1 MS. BANYRA: You have a variance,

2 probably. I don't know that I heard testimony but I  
3 think it should be noted that your variance for the  
4 green roof and it's as indicated that while we allow  
5 solar panels and the coverage from solar panels, the  
6 green roof didn't get picked up with that ordinance  
7 so you're still required to do the variance for that.

8 THE WITNESS: With respect to that, I'll  
9 just say that the mechanical component of the roof  
10 coverage is 9.9 percent, so it's under the 10 percent  
11 that would normally be allowed and the balance, of  
12 course, is a positive aspect of the application.

13 MS. BANYRA: That's all I have. Thank  
14 you.

15 CHAIRMAN AIBEL: Let me open it up to  
16 the public. Anybody in the public have questions for  
17 Mr. Ochab?

18 COMMISSIONER GREENE: Seeing nobody, I  
19 move we close the public portion.

20 COMMISSIONER McANUFF: Second.

21 CHAIRMAN AIBEL: All in favor?

22 Mr. Matule, before you sum up, we'll  
23 open it up to the public for comment, but can I ask  
24 Mr. Minervini one question?

25 60-foot buildings are the Holy Grail but

1 if you reduce this building to 59 percent and just

2 pull that deck in by a foot or so, what would the  
3 difference be in total lot coverage? You are another  
4 65 percent now.

5 MR. MINERVINI: It would reduce the  
6 footprint by 25 square feet. I'll have to do the  
7 math.

8 MR. MATULE: One percent, right.

9 MR. MINERVINI: Yeah, one percent. If I  
10 may ask the question of --

11 CHAIRMAN AIBEL: Let me ask you another  
12 question. Would that have an impact on creating  
13 three-bedroom apartments?

14 MR. MINERVINI: It certainly would. Of  
15 course I have to discuss this with the owner. Better  
16 solution would be to reorient the stairs. If I'm  
17 understanding correctly, the problem is the  
18 stair --

19 CHAIRMAN AIBEL: Again I think we can  
20 make some distinctions between the discussion we have  
21 on the prior application, because of the situation,  
22 but I still think maybe a small adjustment could get  
23 the excessive lot coverage to an immaterial or  
24 diminimis amount.

25 MR. MINERVINI: If I may?

1 CHAIRMAN AIBEL: Please.

2 (Pause.)

3 MR. MINERVINI: I think the solution  
4 that hopefully will be acceptable to the board, the  
5 concern is, as I understand it, is that these stairs  
6 go passed the edge of the rear building. So what I  
7 would suggest is we reduce the size of this outdoor  
8 space and we can reconfigure the stair so that the  
9 stair doesn't go passed that line. Of course we'll  
10 have to reconfigure it within that space here. It  
11 might require two turns but I think we can accomplish  
12 that.

13 COMMISSIONER MARSH: You mean nothing  
14 will stick out from the edge of the adjacent  
15 building?

16 MR. MINERVINI: Correct. Yeah.

17 COMMISSIONER MARSH: Okay. That would  
18 help.

19 MS. BANYRA: Can I ask one question,  
20 Mr. Chairman?

21 Mr. Minervini, did you say three of the  
22 walls are staying up, sides and rear?

23 MR. MINERVINI: The two sidewalls,  
24 semblances of the front and rear because there's no  
25 windows going in. So the actual is that requires new

1 framing for the most part. So the two walls,  
2 foundation, second floors, two and three. Where  
3 there's a roof now will become floor number four. So  
4 floor sections are staying, two sidewalls and I would  
5 certainly say 25 percent of the front and rear walls.

6 MS. BANYRA: Mr. Ochab testified that  
7 the front wall was staying and I wasn't clear that  
8 that's what your testimony was. Okay.

9 MR. MINERVINI: We're changing the  
10 design, the foundation is staying but to achieve that  
11 design in essence --

12 COMMISSIONER McANUFF: Just a  
13 clarification. When you're talking about  
14 reconfiguring stairs and not having them project past  
15 the adjacent building, did you also just say the deck  
16 is not going to protrude past it?

17 MR. MINERVINI: Yeah. That's what I  
18 think we're hearing and I spoke to the owner and he's  
19 okay. If you don't mind, I'll draw on this again.  
20 Perhaps a different drawing so it's more easily  
21 readable.

22 So, what I'm going to suggest, of  
23 course -- I will estimate where it is for purposes of  
24 the conversation.

25 What we'll do is this entire thing is

1 sliding down but I think we can do this, move a step  
2 there, put that like that, let this go perhaps a  
3 little further and then have this section up to  
4 there. What will happen is, we'll place a one  
5 straight run. The reality is it will be like that.

6 COMMISSIONER McANUFF: I follow, okay.

7 MR. MINERVINI: There's less stairs  
8 required than the north because we have a shorter  
9 floor-to-floor height. Yes, I'm confident we can do  
10 that. I mean pull the entire thing back to meet --

11 MR. GALVIN: The plan is to be revised  
12 to ensure that the stairs and deck will not exceed  
13 the adjacent building. The revised plan is to be  
14 shown to the board at the time of memorialization.

15 COMMISSIONER GREENE: The adjacent  
16 building to the south.

17 MR. GALVIN: Adjacent building to the  
18 south. Thank you.

19 MS. BANYRA: That will also reduce your  
20 coverage, as well, by approximately a percent, is  
21 that what you're thinking?

22 THE WITNESS: Two, three percent. I  
23 will figure that out exactly once we come up with the  
24 configuration, but I'm certain it can be done.

25 CHAIRMAN AIBEL: Any other questions?

1 We opened it up to the public. Mr. Evers isn't here.

2 I ask for a motion to close the public portion.

3 COMMISSIONER GREENE: Motion to close  
4 public portion.

5 COMMISSIONER GRANA: Second.

6 CHAIRMAN AIBEL: All in favor?

7 Mr. Matule.

8 MR. MATULE: I have nothing to add.

9 CHAIRMAN AIBEL: All right, Board.

10 COMMISSIONER GRANA: It's a quick --

11 MR. GALVIN: I wanted to quickly get  
12 these out.

13 CHAIRMAN AIBEL: Maybe that will answer  
14 the question.

15 MR. GALVIN: In addition to what I just  
16 read, which I will not reread, I have: The applicant  
17 is to plant a street tree; applicant is to comply  
18 with the review letters of the board's professionals;  
19 and the applicant must obtain an individualized DEP  
20 flood permit and comply with the requirements of the  
21 floodplain manager.

22 MR. MARSDEN: Individual permit.

23 MR. GALVIN: DEP flood permit?

24 MR. MARSDEN: DEP individual permit from  
25 Flood Hazard Area.

1 MR. MATULE: If I might, just for  
2 clarity, that would be a post-approval requirement,  
3 right? That's something we have to get before the  
4 resolution and the plans are signed.

5 MR. GALVIN: Not before the resolution  
6 is signed. I don't know about before the plans are  
7 signed. I don't know what the normal procedure is.

8 MR. MARSDEN: If you can't get that,  
9 you'll have to do a modification that will force you  
10 to come back to the board I would think.

11 MR. MATULE: I understand that, but I  
12 mean typically these things are post-approval  
13 conditions because they are third-party agencies that  
14 we have to deal with. I don't know how much time  
15 that takes.

16 MR. MINERVINI: It's a substantial  
17 amount of time, unfortunately.

18 MR. MATULE: That's why I'm trying to  
19 clarify that point. I don't want to have a situation  
20 where --

21 MR. GALVIN: I'm trying to think.

22 MR. MARSDEN: I'm okay with that.

23 MR. GALVIN: Okay with that?

24 MR. MARSDEN: With saying as long as  
25 they get it before they are issued a construction

1 permit. But I don't know how that would be enforced.

2 MR. MATULE: If I might, I can have Mr.

3 Minervini testify, but I don't believe the

4 construction official will issue the permit without

5 it.

6 MR. MINERVINI: Correct.

7 MR. MARSDEN: Okay.

8 MR. GALVIN: Applicant must obtain a DEP

9 individualized flood permit.

10 MR. MARSDEN: Individual permit, not

11 individualized.

12 MR. GALVIN: I'm trying. Individual

13 permit.

14 MR. MARSDEN: Right, that's correct

15 phrasing.

16 MR. GALVIN: Individual permit from DEP.

17 MS. BANYRA: Prior to --

18 MR. GALVIN: Okay, prior to the issuance

19 of a building permit.

20 MR. MARSDEN: I'm good with that.

21 MR. GALVIN: You're worried about Jeff

22 signing off on the plans?

23 MR. MATULE: If he's good with it, then

24 I'm interpreting that as he's going to sign off on

25 the plans.

1 MR. GALVIN: I'm trying to understand  
2 what the concern is.

3 MS. BANYRA: The other condition is  
4 about treating the sidewalk adjacent to the -- I  
5 guess on the north sidewalk --

6 MR. GALVIN: We'll talk about it later.

7 COMMISSIONER GRANA: Just my question;  
8 is there anything about Ms. Holtzman's letter?

9 MR. GALVIN: That's outside of the  
10 approvals.

11 COMMISSIONER GRANA: Other than  
12 flooding, is there anything about Ms. Holtzman's  
13 letter that we need account for in these conditions,  
14 specifically pertaining to the amount of the  
15 structure they would use?

16 MR. GALVIN: I thought we'll comply with  
17 the requirement of the floodplain manager, then  
18 whatever she's saying, I thought that was sufficient  
19 to cover it.

20 COMMISSIONER GRANA: Isn't there a  
21 material difference between what is written in the  
22 letter and what Frank said? What is written in the  
23 letter is the entire foundation and the walls are  
24 coming down and --

1 it out with the floodplain manager to get her  
2 approval. What she's basically telling you, I think,  
3 without talking to her and -- she might say I'm  
4 totally wrong but I'm thinking what she's saying is  
5 because it's more than 50 percent of the project,  
6 treat it like new construction and they have to  
7 comply with the new construction rules for flood --  
8 whatever flood requirements are.

9 MR. MINERVINI: Exactly right.

10 MR. GALVIN: Not building construction.  
11 For our purposes, I don't care what either one of  
12 them want to do. If you think a substantial portion  
13 of the building is coming down, you don't have to  
14 necessarily take that lightly. I think you like this  
15 case, I got it, but in a different case you could  
16 say -- back to the argument from the last case. Why  
17 shouldn't you be able to comply and meet the  
18 requirements on a lot that you are substantially  
19 taking down the building. There was a case that came  
20 out last year where there was two walls standing in  
21 Seaside Heights and the court found that that was a  
22 substantial demolition and they lost all their  
23 nonconforming rights.

24 COMMISSIONER GRANA: The only other

25 thing that I would add is that the major issue here

56

1 seems to be around the (c) variance on lot coverage

2 which now seems to be --

3 MS. BANYRA: North wall between  
4 properties is going to be addressed? I don't think  
5 you have that as a condition.

6 MR. GALVIN: I don't know what that is.

7 MR. MATULE: Architect testified that on  
8 the wall where the gap was between the buildings in  
9 the front, that he would treat it with a material  
10 that was sympathetic with the front facade.

11 MS. BANYRA: Right, and adjacent  
12 property.

13 MR. GALVIN: The indented north wall?

14 MS. BANYRA: It's a sidewall, on the  
15 north side, sidewall. It's an exposed wall.

16 COMMISSIONER GREENE: Exposed wall.

17 MR. GALVIN: The exposed wall on the  
18 north side will be architecturally treated to be  
19 compatible with the existing building and adjacent --  
20 and harmonious with the adjacent building.

21 Architecturally treated to be --

22 MS. BANYRA: It won't conflict --

23 MR. MINERVINI: It will look like our

24 building not their building.

25 MR. GALVIN: The exposed wall on the

57

1 north side will be architecturally treated to be

2 consistent with the proposed architecture.

3 CHAIRMAN AIBEL: Anything else,

4 Commissioners?

5 COMMISSIONER GRANA: Not from me.

6 CHAIRMAN AIBEL: Deliberations. You're

7 going to leave it to me? Somebody should sum up.

8 COMMISSIONER GRANA: I summed up that I

9 thought we were down to one major (c) variance.

10 CHAIRMAN AIBEL: I appreciate the

11 architect and developer's accommodation because I

12 think it's consistent with what we were -- or some of

13 us were trying to say in the earlier application and

14 I think, based on the situation here, I could easily

15 live with it and thank you.

16 So, how about a motion to approve?

17 COMMISSIONER GRANA: Motion to approve

18 516 Monroe with conditions.

19 CHAIRMAN AIBEL: Second?

20 COMMISSIONER GREENE: I'll second.

21 MADAM SECRETARY: Commissioner Greene.

22 COMMISSIONER GREENE: Yes.

23 MADAM SECRETARY: Commissioner Cohen.

24 COMMISSIONER COHEN: Yes.

25 MADAM SECRETARY: Commissioner DeFusco.

58

1 COMMISSIONER DeFUSCO: Yes.

2 MADAM SECRETARY: Commissioner Grana.

3 COMMISSIONER GRANA: Yes.

4 MADAM SECRETARY: Commissioner Marsh.

5 COMMISSIONER MARSH: Yes.

6 MADAM SECRETARY: Commissioner Murphy.

7 COMMISSIONER MURPHY: Yes.

8 MADAM SECRETARY: Commissioner Aibel.

9 COMMISSIONER AIBEL: Yes.

10 Thanks, everybody.

11 Commissioners, anything else before we

12 close? See you next week, same time, same place.

13 Motion to close the meeting.

14 COMMISSIONER GREENE: Motion to close.

15 COMMISSIONER GRANA: Second.

16 CHAIRMAN AIBEL: All in favor?

17 (Whereupon, the proceedings are

18 adjourned at 10:38 p.m.)

19

20

21

22

23  
24  
25  
  
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

C E R T I F I C A T E

I, JOANNE M. OPPERMANN, a Certified

Court Reporter and Notary Public of the State of New

Jersey, do hereby state that the foregoing is a true

and accurate transcript of my stenographic notes of

the within proceedings, to the best of my ability.

\_\_\_\_\_

JOANNE M. OPPERMANN, C.C.R.  
License No. XI01435

23

24

25

1 HOBOKEN ZONING BOARD OF ADJUSTMENT  
2 SEPTEMBER 14, 2014  
3 REGULAR MEETING

3 IN THE MATTER OF: :  
4 704 MADISON STREET : TRANSCRIPT  
5 ----- OF  
6 PROCEEDINGS

7 B O A R D M E M B E R S P R E S E N T:

- 8 JAMES AIBEL, CHAIRMAN
- 9 ELLIOT GREENE, VICE CHAIRMAN
- 10 PHIL COHEN, COMMISSIONER
- 11 MIKE DeFUSCO, COMMISSIONER
- 12 ANTONIO GRANA, COMMISSIONER
- 13 CAROL MARSH, COMMISSIONER
- 14 DIANE FITZMYER MURPHY, COMMISSIONER
- 15 TIFFANIE FISHER, ALT. #2
- 16 OWEN McANUFF, ALT. #3

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

- 18 EILEEN BANYRA, P.P.,
- 19 Board Planner
- 20 JEFF MARSDEN, P.E.,
- 21 Board Engineer
- 22 PATRICIA CARCONE,
- 23 Board Secretary

24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80  
81  
82  
83  
84  
85  
86  
87  
88  
89  
90  
91  
92  
93  
94  
95  
96  
97  
98  
99  
100

1 A P P E A R A N C E S:  
GALVIN LAW FIRM  
2 By: DENNIS M. GALVIN, ESQUIRE  
Attorney for the Board  
3  
ROBERT C. MATULE, ESQUIRE  
4 Attorney for the Applicant

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

3

1 TABLE OF CONTENTS

2 Witness Sworn

3 FRANK MINERVINI 4

KEN OCHAB 32

4

5

6 E X H I B I T S

7 Number Description Page

8 A-1 Photo board (8) 5

9 A-2 Facade rendering 10

10 A-3 Photo board 32

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

4

1 CHAIRMAN AIBEL: Mr. Matule, 704

2 Madison.

3 MR. MATULE: Thank you, Mr. Chairman.

4 Good evening, Board Members. Robert Matule,

5 appearing on behalf of the applicant.

6 This is an application to construct a

7 new, four-story, four-residential unit building at

8 704 Madison Street. We'll have the testimony of Mr.

9 Minervini, our architect, and Mr. Ochab, our planner.

10 I'll let them take you through it and the variances.

11 If we can have Mr. Minervini sworn.

12 F R A N K M I N E R V I N I, having been duly sworn,

13 was examined and testifies as follows:

14 MR. GALVIN: State your full name for

15 the record, spell your last name.

16 THE WITNESS: Frank Minervini,

17 M-I-N-E-R-V-I-N-I.

18 MR. MATULE: Thank you, Mr. Chairman.

19 EXAMINATION BY MR. MATULE:

20 Q. Would you describe to the board members

21 the existing site and the surrounding area? And as

22 usual, if you're going to refer to exhibits, we need

23 to mark them.

24 A. I will start with a photo board which

25 needs to be marked.

5

1 (Exhibit A-1 marked into evidence.)

2 Q. We're marking this photo board with  
3 eight photos on it, A-1. Could you describe what it  
4 is, who took the pictures and approximately when?

5 A. Eight photos all taken from two separate  
6 Internet sites. Google and Bing are the two if  
7 anyone has an interest.

8 704 Madison Street currently, and I'm  
9 pointing to this photograph of the facade, it's a  
10 two-and-a-half story, two-unit building, residential  
11 building. There's a simplex apartment on the top  
12 floor and duplex apartment at the first floor and  
13 basement level. The building currently is 25 feet  
14 wide, the full width of the property, and it extends  
15 back just about 40 feet.

16 We're proposing to raise this building  
17 and construct a new, four-unit, four-story building.  
18 I say four stories, it's four stories raised above  
19 the basement elevation and the reality is, there's  
20 that fifth story space that is -- can't be used for  
21 residential use.

22 In terms of context, directly to our

23 south at the corner of Seventh and Madison, 700  
24 Madison, is the Mission Pentecostal Church. Directly  
25 to our north, although it shows in these photographs

6

1 two buildings, the reality is those buildings have  
2 been demolished and I'll now move to the drawings.  
3 Those buildings have been demolished in preparation  
4 for a new structure which we'll be coming to this  
5 board and actually we talked about it before, 706  
6 Madison.

7 So, here is our Sheet Z-1. Seventh  
8 Street, the Pentecostal church that I had mentioned,  
9 our proposal, four-story building above the Base  
10 Flood Elevation. These two structures were there  
11 when this project was submitted, the application was  
12 submitted. Right now this entire site is empty,  
13 adjacent to the west and the north. There will be,  
14 in front of this board, a five-story proposal but  
15 right now this is an empty lot.

16 So, we're flanked on the south by a  
17 one-story building, north by a series of empty lots.  
18 To the rear are two five-story buildings. To our  
19 east across the street, Madison, is the rear of the  
20 St. Ann's Church.

21 So this photograph here depicts St.

22 Ann's Church and it's got parking behind it, the  
23 actual church is on Jefferson Street.

24 Our building, this proposal, is for a  
25 four-unit, four-story above Base Flood Elevation

7

1 building, at zero lot line on the front, and that  
2 matches the Pentecostal church which is one story but  
3 it also covers 100 percent of the lot.

4 So if you look at our site plan, Sheet  
5 Z-2, here's our building, zero lot line, so building  
6 is being proposed at zero lot line, to extend back 60  
7 feet and we're proposing an egress deck and stair  
8 which I'll get into as we get to the plans, through  
9 the plan set. The adjacent building covers 100  
10 percent of the lot, and again that's the Pentecostal  
11 church. Although this shows a one-story masonry  
12 building, it has since been demolished.

13 Going through the drawings, I'll start  
14 with Z-4.

15 So again we're proposing four  
16 residential stories at 42 feet in height above the  
17 Base Flood Elevation. Base Flood Elevation here is  
18 at about 8 feet. I'll get into that in more detail.

19 As far as this proposal, we are  
20 proposing to raise our first floor, first residential  
21 floor, just about 2 feet above that Base Flood

22 Elevation. What that does, that allows us then to  
23 have a lobby space at grade level, as opposed to  
24 having stair which would require -- stair large  
25 enough to make up the difference in the vertical

8

1 height, that would be about 10 to 12 feet in length.

2           So this we think is a better  
3 architectural solution. We have a lobby at the  
4 ground floor, nothing else but lobby. There will be  
5 an elevator, recycle storage area and general  
6 storage. There's no habitable space proposed nor is  
7 any permitted and we will need DEP approval for the  
8 space.

9           The second floor level, one residential  
10 apartment at 1,280 square feet. Third and fourth are  
11 both residential apartments, two or three bedrooms,  
12 because they are convertible, at 1,330 square feet.

13           The rear, we're proposing an outdoor  
14 space. It's a small outdoor space meant to be used  
15 by the occupants of each apartment, as well as our  
16 second means of egress. So we're proposing to extend  
17 10 feet, which would leave us then 30 foot rear yard  
18 and we're having it set in 1 foot 6 on the south and  
19 1 foot 6 on the north.

20           So that is the same condition we're

21 proposing for the second, third and fourth floors.

22 In essence, it gives us an outdoor space  
23 that will be attached to an apartment. The building  
24 has an elevator use, so there's the possibility of  
25 people with children living here.

9

1 So we already described the third and  
2 fourth floor. As we get to the roof, no use for the  
3 roof in terms of the building occupants. They'll be  
4 condensing units and mechanical systems for the  
5 building there, the elevator bulkhead. The remaining  
6 area as shown and as described will have an extensive  
7 green roof. That's the tray system which is not  
8 walkable. This diagram here shows the extent of the  
9 extensive green roof as well as the elevator bulkhead  
10 and the stair bulkhead and condensing units.

11 Building elevation, and I've got a  
12 rendering but I'll go through this first, as I  
13 mentioned, our first floor will be 8 feet 2 inches  
14 above grade. Each successive floor, second, third  
15 and fourth will be 10 feet, for a total of 42 feet in  
16 height above the Base Flood Elevation. Materials  
17 are, glass, brick and metal panels. We're proposing  
18 projections that don't extend, there's no outdoor  
19 space, a surrounding glass door. The rear elevation  
20 is the majority glass, we've got sliding glass doors

21 on what would be the north side of the building, and  
22 the stair as mentioned on the south side of the  
23 building.

24 I've got a rendering to pass around to  
25 get a better idea of what the actual facade looks

10

1 like.

2 MR. MATULE: Mark that A-2.

3 (Exhibit A-2 marked into evidence.)

4 THE WITNESS: Same elevation. We have  
5 colored it to give the material some life. Proposing  
6 copper with copper-colored metal, a gray brick and as  
7 you can see, a majority of glass. You can pass this  
8 around if anyone is interested in looking at it more  
9 closely.

10 So at the end result, we're removing a  
11 building that has a basement living space which is  
12 part of a first floor duplex, we're removing that  
13 building where we'll be constructing a conforming in  
14 terms of Base Flood Elevation issues and DEP and  
15 FEMA, a conforming structure of four stories with  
16 four residential units, each nicely sized, served by  
17 an elevator. We'll have a conforming rear yard at 30  
18 feet and the building starts at zero lot line, ends  
19 at 60 feet, so the lot coverage of the building is 60

20 percent. Actual stair as proposed is an additional  
21 eight and a half percent, not quite nine. I think  
22 it's a good solution for a street that is soon to be  
23 developed.  
24 I didn't mention that further down,  
25 between Eighth Street and the empty lots that I did

11

1 talk about, there's a large residential building that  
2 although three stories is 50 feet in height. So  
3 there's an established building of the same height as  
4 we are proposing already.

5 Q. If I could, Mr. Minervini, a couple of  
6 detail questions. On the rear egress stair/deck, are  
7 you proposing privacy screens on both sides?

8 A. Yes, and I should have described that.  
9 We have them shown on the plan. Privacy screen is  
10 shown on Z-6.

11 So at this point, all the way down,  
12 which is the northern end of the building, and this  
13 point in the southern end, this privacy screen is  
14 proposed (indicating.)

15 Q. And then with respect to the roof  
16 coverage, you're asking for 72 percent roof coverage.  
17 Is that primarily being generated by the green roof  
18 tray system?

19 A. Yes. Again there's no use that we're

20 proposing for the roof. There would be no reason for  
21 anyone to go up there except for working on the  
22 mechanical systems. Extensive green roof that we're  
23 proposing is not walkable, so what we're proposing,  
24 other than that, is just the required elevator  
25 bulkhead, the required stair bulkhead, because one of

12

1 our stairs must go to the roof as a fire code  
2 requirement. And that's it, there's no other use  
3 proposed for the roof.

4 Q. Did you receive Mr. Marsden's letter of  
5 May 13th which was revised on September 10th?

6 A. Yes, yes.

7 Q. And do you have any issues complying  
8 with anything in his letter?

9 A. I don't recall anything that we couldn't  
10 comply with. So the answer is no.

11 MR. MATULE: That's a better answer.

12 MR. MARSDEN: You have to try harder.

13 MR. MATULE: Unless you have anything  
14 else to add, I don't have any further questions.

15 THE WITNESS: I should mention that  
16 there will be a new sidewalk, new curbing, as well as  
17 a street tree with a shade tree commissioning detail  
18 and specifications.

19 CHAIRMAN AIBEL: Thank you. Board  
20 members?

21 COMMISSIONER GRANA: I have a question.  
22 Mr. Marsden indicates, I don't know if this was  
23 addressed or not, that the survey incorrectly  
24 identifies BFE at 9 instead of 12 and I don't know if  
25 that was addressed and/or if this changes the height

13

1 of the structure?

2 THE WITNESS: I'm sure that's been  
3 addressed and this has been an ongoing issue with the  
4 local surveyor who sees things a bit differently than  
5 Mr. Marsden does. However, our drawings reflect the  
6 proper, as Mr. Marsden sees it, elevation.

7 MR. MATULE: If I may, we had submitted,  
8 on August 15th, corrected surveys with the new  
9 agreed-upon language between Mr. Caulfield and Mr.  
10 Marsden. I have a copy here tonight.

11 COMMISSIONER GRANA: It's addressed?  
12 It's addressed, okay.

13 THE WITNESS: We got a revision 8/13/14.

14 MR. MARSDEN: It was attached to an  
15 elevation.

16 MR. MATULE: Correct.

17 THE WITNESS: Our drawings always  
18 reflect the proper height.

19 COMMISSIONER GRANA: I guess it's a  
20 question for you, Dennis, I'm not sure. I admit my  
21 ignorance here, but this property is subjected  
22 potentially to the Riparian claims of the State of  
23 New Jersey. Do we know what that is?

24 MR. MARSDEN: Well, that was one of my  
25 questions. Apparently it's on the Riparian maps for

14

1 this area and that sounds like a Mr. Matule question  
2 in how he's going to address that issue.

3 MR. GALVIN: Sounds like he gets a lot  
4 of work.

5 COMMISSIONER GREENE: Is there an  
6 underground stream?

7 MR. MATULE: If I may, that is a no -- I  
8 stress could be, but to my knowledge, when we did the  
9 title search, it was unclaimed. I can follow up with  
10 Mr. Marsden and give him a copy of that.

11 MR. GALVIN: I'm normally looking for  
12 Riparian rights, I'm looking for properties that are  
13 adjacent to a waterway. This is several blocks away.

14 MR. MARSDEN: At one point this was  
15 either tidelands or Riparian and it was filled.

16 MR. GALVIN: All of Hoboken was filled.  
17 Well, two-thirds of the city.

18 COMMISSIONER GRANA: I caught it, I  
19 didn't understand it. I'm asking.

20 MR. GALVIN: No, it's a fair question.  
21 You deserve an answer. The answer is Mr. Matule  
22 searched it and it's a CYA from the surveyor.

23 COMMISSIONER GRANA: Done.

24 MR. GALVIN: Okay? We have checked it  
25 and there's no actual Riparian rights in question.

15

1 And on top of it, I don't think it's something that  
2 the board would be concerned with even if there were.  
3 That would be something that the owner would have to  
4 be concerned about, somebody that was going to assert  
5 their rights against the building.

6 MR. MATULE: Anecdotally, Mr. Grana, we  
7 have run into this issue with various properties on  
8 the western end of town and when it's been necessary,  
9 we actually go through a process with the state, it's  
10 quite a lengthy process, where you wind up buying the  
11 rights from the state, and depending on how much of  
12 the property has been flowed, you have to use special  
13 appraisers but there is a whole process. There's  
14 actually title counsel that reviews it and gives a  
15 grant and it gets recorded in the county clerk's  
16 office.

17 COMMISSIONER GRANA: That sounds like an

18 issue for the property owner not for this board.

19 COMMISSIONER GREENE: I have a question,

20 Mr. Galvin. Can you explain the specific for Ms.

21 Banyra, R-3 versus the R-1 and 2. This is in the R-3

22 zone. What does that mean as opposed to being in the

23 R-1 or other R-zone? What's the specific nature of

24 the R-3?

25 MS. BANYRA: There's a little difference

16

1 in some of the permitted use. R-1, for example,

2 doesn't allow parking. R-1 also is a 2,000 square

3 foot lot, I think the R-3 and 2 are 2,500. That's

4 what I know off the top of my head. But they are

5 slightly different zones and slightly different uses.

6 There's a few more uses in the R-3 zone as opposed to

7 R-1.

8 COMMISSIONER GREENE: Specifically to

9 this application.

10 MS. BANYRA: Specifically to this

11 application -- we have lots of applications that have

12 been before us in the R-3 zone, but the use, I would

13 say it's a residential use, residential use is a

14 permitted use.

15 COMMISSIONER GREENE: Thank you.

16 COMMISSIONER GRANA: Can I comment on

17 that? I mean the major difference I saw in the  
18 provision of R-1 and R-3 is R-1 is a conservation  
19 district and R-3 is attempting to create a viable  
20 residential district, hence, you know, the design for  
21 residential properties.

22 COMMISSIONER GREENE: Thank you.

23 COMMISSIONER GRANA: That was last week.

24 MS. BANYRA: It's a rehabilitation, at  
25 least historically that has been the note on it.

17

1 CHAIRMAN AIBEL: Questions for Mr.  
2 Minervini?

3 COMMISSIONER DeFUSCO: Yes, Mr. Chair.  
4 Frank, first of all, thank you for the  
5 green roof. I think that it's fantastic. Right off  
6 the bat, there it is.

7 Couple questions on the architecture,  
8 though, it's got a little more out there.

9 So 70 percent lot coverage on a block  
10 that's in development, it seems a little aggressive.  
11 Do you want to walk us through why you think 70  
12 percent lot coverage is applicable to this block?

13 THE WITNESS: We should be clear, it's  
14 68 and change percent lot coverage but nevertheless  
15 that is with the outdoor space and the second means  
16 of egress.

17 The building itself is 60 percent, so  
18 the thinking here is to have these apartments be more  
19 livable in terms of their size. You take the egress  
20 out of the building, you can -- you need two on a  
21 building like this. The second one we put at the  
22 rear of the building. Only one needs to be inside  
23 the building. If we decide that that is a viable way  
24 to have your second means of egress and this board  
25 has approved projects, which is one of the reasons we

18

1 think it's a viable way to handle it, we have already  
2 got the structure there, why not then give these  
3 apartments a semblance of outdoor space.

4 COMMISSIONER DeFUSCO: Didn't you  
5 testify that this could be potentially a  
6 three-bedroom building?

7 THE WITNESS: It could be.

8 COMMISSIONER DeFUSCO: It could be a  
9 very comfortable two-and-a-half-bath, two-bedroom  
10 building with the egress, is that a fair assessment?

11 THE WITNESS: With the egress we'd  
12 probably lose, in terms of the floor area, 150, 20  
13 square feet.

14 COMMISSIONER DeFUSCO: From a layout  
15 perspective would take us then to a two-bedroom,

16 two-bath.

17 THE WITNESS: It will take us to a

18 two-bedroom, two-bath, yes.

19 COMMISSIONER DeFUSCO: But a livable

20 two-bedroom, two-bath.

21 THE WITNESS: Now, I would say livable,

22 yes, especially for a rental use. We're not sure

23 what this is going to be. It's in design for condo,

24 hence the elevator and hence the opportunity, but the

25 possibility for it to have a family here.

19

1 So my opinion is that this additional

2 lot coverage, although the number looks high at eight

3 percent, although I don't think it's so high, it's

4 very little impact. The structure is open, the

5 structure is light, it's not an actual building

6 structure. Light can still filter through it and it

7 gives people who will be living here someplace, an

8 outdoor space, which is again, as this board knows,

9 what people want.

10 COMMISSIONER DeFUSCO: I don't disagree

11 with that. I wonder if there's not a way to somehow,

12 you know, cut this, the rear setback down a bit.

13 Even if it's taking off a portion of the deck and

14 sliding in the rear egress a little closer to the

15 building or finding, I refer to you as the architect,

16 potentially ways to downsize this. My concern being  
17 that this is a block development and this could set a  
18 standard very well that future developments will kind  
19 of look to. So it's kind of important in that  
20 respect.

21 So the height is 41 feet and 10 inches.

22 THE WITNESS: I was calling it 42, but  
23 yes.

24 COMMISSIONER DeFUSCO: 42, okay. Above  
25 Base Flood Elevation?

20

1 THE WITNESS: Yes.

2 COMMISSIONER DeFUSCO: Again I'm trying  
3 to find ways to, you know, maybe save some variances  
4 here. Wouldn't it behoove you to take it down 2  
5 feet, 1 foot and 10 inches.

6 THE WITNESS: The 2 feet is because we  
7 have to in order to use that ground-floor space,  
8 which would be dead space at 6 feet in height if we  
9 didn't raise the building up.

10 So the thinking is we raise the first  
11 floor up 2 feet from the Base Flood Elevation, that  
12 makes that space usable at least for a lobby and at  
13 least from a trash storage. Otherwise it's not  
14 habitable, you can't even walk in it. With that in

15 mind, we went with the standard 10 feet floor to  
16 floor. If you wanted to reduce the height of the  
17 building, you could reduce the floor-to-floor height,  
18 hence reducing the ceiling heights within the  
19 apartment.

20 My opinion, and it's why it's designed  
21 this way, is that 2 feet is negligible considering  
22 what's across the street, what's further down the  
23 street and whether it's 40 or 42, in my opinion, is  
24 very, very -- has a very low impact, but yet to the  
25 outside of the building, but has a great impact to

21

1 the people living in the space.

2 COMMISSIONER DeFUSCO: It does improve  
3 the street level experience of the building if  
4 there's some sort of -- I don't want to call it  
5 livability. It's not liveable, but...

6 THE WITNESS: People will be entering  
7 and exiting from that as opposed to a blank wall with  
8 a set of stairs.

9 MR. GALVIN: Isn't there a fair question  
10 that we could ask in every case, that we don't, is  
11 that if you're going to have a blank slate, we're  
12 going to have a lot that conforms with the ordinance,  
13 why do we need as much variance relief as we are  
14 requesting? Is the ordinance so -- like, should we

15 change the ordinance?

16 THE WITNESS: Yes.

17 MR. GALVIN: In the ways that you're

18 suggesting?

19 THE WITNESS: Well, I mean --

20 MR. GALVIN: To make it 70 feet or --

21 MS. BANYRA: That's not the board's job.

22 MR. GALVIN: Well, it's my job on

23 another board.

24 I think -- let me say this to the board.

25 In other towns, I have heard them often say, why

22

1 can't you comply with the zoning if you're going to

2 take the building entirely down. Usually there's

3 some good answer as to why they need some relief that

4 they do, either it's because of the Base Flood

5 Elevation or the lot is not typical for the zone,

6 it's a little smaller or you need topographical

7 conditions. I'm just saying I want you to be

8 thinking about that, is that why can't they --

9 COMMISSIONER FISHER: Can't they build

10 it one story lower and a smaller footprint? You can

11 build something to conform with the zone, it's

12 possible, it just doesn't maximize the size of the

13 building. It's always going to be the tradeoff,

14 right?

15 MR. GALVIN: Well, we want to encourage  
16 them to redevelop this area of the town also, so you  
17 want to try to make it viable for them to take this  
18 building down and put up a new building. That's  
19 another factor.

20 THE WITNESS: If I can, there's another  
21 point for Commissioner DeFusco. The 42 feet in  
22 height is 2 feet of that is additional, of course.  
23 Twelve inches of that is because we have to raise a  
24 residential floor, any residential floor, anywhere in  
25 the floodplain, 12 inches above the Base Flood

23

1 Elevation. That counts for 12 inches. Other 12  
2 inches make that lobby space.

3 MR. GALVIN: I've seen this in other  
4 communities where you can pick up an inch or two -- a  
5 foot or two between the floors. What's the floor  
6 height elevations?

7 THE WITNESS: It's 10 feet floor to  
8 floor.

9 MR. GALVIN: Right. In other  
10 communities they might be 8 or 9 feet floor to floor.

11 THE WITNESS: And that's an option if  
12 the board --

13 MR. GALVIN: You can still make it

14 compliant.

15 THE WITNESS: Understood. If the board  
16 tells me that you've all got a problem with the  
17 additional 12 inches, we can then talk to the  
18 developer.

19 MR. GALVIN: By the way, we are having a  
20 higher-level conversation here, I'm not talking about  
21 your case. I want to make sure that my board members  
22 are seeing the big picture that when you're going to  
23 grant a variance you've got to see the reasons for  
24 granting the variance, that's all.

25 COMMISSIONER DeFUSCO: Just to finish up

24

1 quickly, your roof appurtenance, center roof, if I'm  
2 standing across the street, what am I going to see?

3 THE WITNESS: If you're standing across  
4 the street at street level, of course. I don't think  
5 if you're in front you're going to see them. To the  
6 side, of course right now you'll see them because  
7 there's an empty lot.

8 And one-story building. Those  
9 appurtenances are required. Again you got an  
10 elevator. And one of the other things that we were  
11 talking about, the size of the apartment, the  
12 elevator takes up over 100 square feet of space.

13 That doesn't, of course, matter so much to board  
14 members but it is a reality that you're providing one  
15 function that is needed, at the expense of another,  
16 potentially, which is with the bigger footprint.

17 COMMISSIONER DeFUSCO: In addition to  
18 the green roof, you have the seeded backyard?

19 THE WITNESS: Yes.

20 COMMISSIONER DeFUSCO: Which is  
21 permeable. Give it a thought about the rear setback.

22 THE WITNESS: And as you were describing  
23 it I looked over at -- whispered to the owner of the  
24 property and I think we really can't hone in and make  
25 the space usable, from front to rear. We can, if the

25

1 board likes, we can make it further off the side  
2 property lines, where we've got 1 foot 6.

3 COMMISSIONER DeFUSCO: I'd defer to the  
4 other commissioners right now. Let them ask their  
5 questions.

6 CHAIRMAN AIBEL: Mr. Grana.

7 COMMISSIONER GRANA: I have an opinion  
8 on this. Should I raise it now?

9 MR. GALVIN: Wait with your opinions  
10 until we get to deliberations. Now should be  
11 questions of Mr. Minervini, if you have any.

12 COMMISSIONER GRANA: Thank you.

13 CHAIRMAN AIBEL: Let me ask a question,  
14 Mr. Minervini. Do you know how deep the buildings  
15 are at Gotham City North?

16 THE WITNESS: You're referring to the  
17 buildings behind us on Madison?

18 CHAIRMAN AIBEL: The ones north of your  
19 site.

20 COMMISSIONER GRANA: The building to the  
21 north.

22 CHAIRMAN AIBEL: How deep is that  
23 building?

24 THE WITNESS: I've got it shown on Sheet  
25 Z-1. I'll look at the larger scale. That's probably

26

1 45 feet. Actually it's more than that. That's  
2 probably 55 feet. And rear yard of that is used for  
3 parking. The entire rear yard is parking for that  
4 particular building.

5 CHAIRMAN AIBEL: To Mr. DeFusco's point,  
6 we're talking about developing the rest of a block  
7 but we already do have a very significant dominant  
8 structure on the block right now and I'm questioning,  
9 as well, whether 70 percent lot coverage, we would  
10 presumably set the tone for the rest of the infill on  
11 that block, is not excessive in relation to what's

12 already there.

13           So that may be part of a comment. A  
14 question I guess would be, could the building be 58  
15 feet or 56 feet?

16           THE WITNESS: This all of course is a  
17 balance. It could be 22 feet. You know, it doesn't  
18 make it a better apartment at 22 feet, certainly not.  
19 But the building that will be coming, as we know  
20 there will be a development here, that is a large  
21 project. So those two stairs will be within the  
22 building.

23           Almost inevitably on a larger project  
24 it's very easy to have your two means of egress  
25 within the building at the end of a long corridor.

27

1 Problem becomes when you have a 25-foot lot, you have  
2 two stairs, you are required to have two full stairs.

3           So having two full stairs takes up an  
4 enormous amount of space. That's why I think it  
5 makes sense on a building of 25 feet, having this  
6 outdoor egress as well as small outdoor space  
7 relative to a larger building where it's much, much  
8 more easily planned to have the stairs inside.

9           COMMISSIONER GREENE: Does that then beg  
10 the question, was there any consideration of  
11 combining this lot with the adjacent lot to make it

12 one larger building?

13 THE WITNESS: It wasn't an option for  
14 this developer, yeah. He could certainly speak for  
15 himself, he's here. I know that wasn't an option.

16 CHAIRMAN AIBEL: Mr. Cohen.

17 COMMISSIONER COHEN: On the front, that  
18 zero lot line, the front of the building, it appears  
19 that that's the same as all the other buildings that  
20 are on the street. Is that correct?

21 THE WITNESS: It's the same as the two  
22 buildings to our north were prior to being demolished  
23 and it's the same as the building to the south which  
24 is 100 percent lot coverage and obviously it's at  
25 zero lot line and Gotham City North building that is

28

1 at zero lot line as well. That's at zero lot line as  
2 well.

3 COMMISSIONER COHEN: The height of the  
4 Gotham building, anything that looks like -- I mean  
5 that's almost a quarter of the entire block,  
6 something like a quarter of the block. What is the  
7 height -- actually it's maybe half the block.

8 COMMISSIONER McANUFF: Looks like half,  
9 yeah.

10 COMMISSIONER COHEN: What's the height

11 of the Gotham?

12 THE WITNESS: We did some quick  
13 measurements, using a laser measure so it's accurate  
14 except for the angle. It was over 50 feet, it was  
15 over 50 feet. Although it's three and a half  
16 stories, they are very tall stories.

17 COMMISSIONER COHEN: So it's about 8  
18 feet higher than the building you're proposing to  
19 build?

20 THE WITNESS: Yeah, yeah.

21 COMMISSIONER COHEN: That's all I've  
22 got.

23 CHAIRMAN AIBEL: Any other questions,  
24 Commissioners?

25 COMMISSIONER MARSH: No, I just wondered

29

1 if you had given -- I mean you could have provided  
2 outside space on the roof, right? That would have  
3 also been a variance, I understand that.

4 THE WITNESS: Yes, I guess you're right,  
5 there could have been an outdoor space of the roof  
6 and we weigh -- my thought is what this board would  
7 think of additional use of a roof in terms of height  
8 relative to the rear yard. In my opinion, the  
9 negative effect of that outdoor space towards the  
10 rear is less than the roof. Having said that, that's

11 an option.

12 Now, the elevator of course had to go to

13 the roof. If it's a public use, public common for

14 the building, we wouldn't have the green roof.

15 COMMISSIONER MARSH: I want to make sure

16 that I'm correct here. This general storage is

17 something that would be used by the residents, right?

18 THE WITNESS: Correct.

19 COMMISSIONER MARSH: Winds up being like

20 two, maybe 225 square feet per resident, right?

21 THE WITNESS: Depending on how it's

22 divided, yeah.

23 COMMISSIONER MARSH: That's a heck of a

24 walk-in closet, right? While you're adding in what

25 give and take, that's got to be added in. In a way,

30

1 the square footage for the apartment --

2 THE WITNESS: No, no.

3 COMMISSIONER MARSH: I understand that.

4 It's a useable space for somebody to keep storage?

5 THE WITNESS: Yes, that's half of the

6 purpose of raising that floor an additional 12

7 inches, because we can now walk into that space.

8 This floor has to be raised this high or this high.

9 So by raising it, of course I'm --

10 COMMISSIONER MARSH: Right. It's not  
11 time for comments.

12 THE WITNESS: I understand your point.

13 Let's be responsible for what the space really is,

14 it's storage space within a floodplain. There's

15 no --

16 COMMISSIONER MARSH: You're saying it's

17 going to be dry roof?

18 THE WITNESS: It is, it is.

19 Nevertheless it's within a floodplain so we can't use

20 it for anything except for particular types of

21 storage and we can't be -- it can't be outdoor space,

22 it can't be --

23 COMMISSIONER MARSH: I understand.

24 THE WITNESS: I'm making sure for

25 everyone else.

31

1 COMMISSIONER MARSH: I understand. A

2 lot of my --

3 THE WITNESS: Understood.

4 CHAIRMAN AIBEL: Last question in the

5 absence of anything else. There are significant

6 deviations requested for facade masonry and facade

7 glazing and the ordinance provides for 75 percent

8 masonry or 56 facade glaze, permitted 25 percent.

9 You're basically at 50 percent.

10 THE WITNESS: That 25 percent is a  
11 minimum for glass. We can have as much as we want.  
12 The Zoning Ordinance is the proponent of the more  
13 glass.

14 The reason for the masonry is because  
15 it's a modern look, it is a building in a  
16 neighborhood that doesn't have architecture in terms  
17 of facade material and facade design. It can  
18 certainly be all brick but we think this is a better  
19 design with a combination of different materials and  
20 then ask the board for that variance.

21 CHAIRMAN AIBEL: Okay. Anything else,  
22 Commissioners? I'll open it up to the public. This  
23 is questions for the architect. Comments will come  
24 later.

25 COMMISSIONER GREENE: Seeing no one,

32

1 move we close the public portion.

2 CHAIRMAN AIBEL: Second?

3 COMMISSIONER MURPHY: Second.

4 CHAIRMAN AIBEL: Thank you. All in  
5 favor?

6 MR. MATULE: Mr. Ochab.

7 K E N O C H A B, having been duly sworn, was  
8 examined and testifies as follows:

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

11 THE WITNESS: Ken Ochab, O-C-H-A-B.

12 MR. MATULE: Do we accept Mr. Ochab's  
13 credentials?

14 CHAIRMAN AIBEL: Yes.

15 MR. MATULE: For the record, I see  
16 Mr. Ochab has a photo board here, so I'm going to  
17 mark it A-3.

18 (Exhibit A-3 marked into evidence.)

19 MR. GALVIN: Mr. Ochab, you took those  
20 pictures?

21 THE WITNESS: I did.

22 MR. GALVIN: When did you take them?

23 THE WITNESS: I took them it would have  
24 been April or May of this year. Early spring.

25 EXAMINATION BY MR. MATULE:

33

1 Q. Mr. Ochab, if you would, you are  
2 familiar with the Zoning Ordinance and the Master  
3 Plan of the City of Hoboken?

4 A. Yes, I am.

5 Q. You're familiar with the proposed site  
6 and the neighborhood and the proposed project?

7 A. Yes.

8 Q. And you prepared a report, dated

9 February 9th, 2014, with respect to this application?

10 A. I did, yes.

11 Q. Could you go through your report for the  
12 board and give us your professional opinion regarding  
13 the requested variance relief?

14 A. Okay. First of all, as I normally do, I  
15 took photographs, that are in the report as well, and  
16 enlarged some of them for this evening's  
17 presentation. So if you just go through the  
18 photographs, it would help with the discussion.

19 The upper left photograph is a  
20 photograph of the site itself which is the building  
21 on the right and the church, to the left of that  
22 single-story church. Covers a hundred percent of the  
23 lot, property to the south.

24 The photograph on the upper right is a  
25 photograph of the side of the project building where

34

1 the project is. Building will be taken down, of  
2 course. Basically it's a three-story building with a  
3 one-story extension onto the rear of the property.  
4 In the background you can see the buildings on the  
5 other street to the west. Those are, of course,  
6 five-story buildings to the west of the site.

7 The lower left photograph is a little

8 bit closeup view of the rear of the properties,  
9 particularly the buildings again to the west and one,  
10 two, three, four, five stories. Some have decks in  
11 the corner of the buildings and there's some small  
12 decks out on the backs of that building as well.

13 Also shown in this photograph is the  
14 fact that the property adjacent to the north is  
15 vacant. I know that Frank had depicted two buildings  
16 there, but by the time I got there they were gone,  
17 obviously. So they are in fact gone.

18 And then to the lower right photograph  
19 is a photograph of the property across the street on  
20 Madison, and to the north, up at the north end, and  
21 it's a new building, one, two, three, four, five  
22 stories, basically 4/1, as is the buildings over on  
23 the west.

24 What is not shown is the -- but it is  
25 shown in my report, is a photograph of the building

35

1 to the north side of the street. The chairman  
2 mentioned the name of that building and now I can't  
3 recall what it is -- Gotham City North, that's what  
4 it is. Gotham City North is -- it should be shown.

5 MR. MATULE: It's Page 9.

6 THE WITNESS: So Gotham City North is to  
7 the northern end of the block. It does actually

8 consume about half of the block entirely and it  
9 appears to be a three-story building but it certainly  
10 is 50 feet in height as Frank indicated.

11           So, what we have, we have a building  
12 that's going to be taken down and basically the  
13 result of that, on our site, the result of taking  
14 that building down is going to be a one-story  
15 building to the south of the block and basically  
16 three stories, a 50-foot building at the north end of  
17 the block and then three -- at least three vacant  
18 parcels from that point to the south to the north.  
19 Ours is 25 feet in width, the next one is 50 feet and  
20 the one after that is 75 feet.

21           So in the context of looking at the  
22 nature of what we have in front of us, that's  
23 basically what we have.

24           On the opposite side of the street,  
25 directly opposite us, again in photographs in the

1 report, is St. Ann's Church, is the parking lot back  
2 end for St. Ann's Church and access there. And then  
3 to the north of St. Ann's Church, again we have at  
4 least two, possibly three, vacant parcels. So if St.  
5 Ann's Church is out here (indicating,) we have two,  
6 three vacant parcels and then this building to the

7 north.

8           So the setting basically is that the  
9 newer buildings, the larger buildings, are all  
10 basically five stories in height.

11           Also to keep in mind, I know Frank  
12 mentioned it a couple of times and I don't usually  
13 like to mention it but I think it's important here,  
14 is that there is an application that's been submitted  
15 for the property here next door. It's a 50-foot lot,  
16 100 percent coverage, five-story building. I'm not  
17 sure about the density, but basically five-story  
18 building. And again because it's a 50-foot lot,  
19 there will be parking at that ground level, which  
20 there can't be with a 25-foot lot.

21           COMMISSIONER GREENE: Did you just say  
22 100 percent coverage?

23           THE WITNESS: Yes, because of the nature  
24 of the parking on the ground floor. So the property  
25 next door will come in as 100 percent coverage for

37

1 the first floor. It's a typical 100 percent first  
2 floor and then 64 or 68 percent, you know, above  
3 that.

4           So that's the nature of again what we're  
5 looking at. So the proposal here is now to create  
6 four units, four-story building. So we have a height

7 variance for number of stories. If you consider the  
8 lower ground floor area as storage, which sometimes  
9 we do, then it's an additional story as well. The  
10 context of course here is to use the Grasso criteria  
11 or the Coventry criteria with respect to whether the  
12 site can accommodate the additional height. In this  
13 case, that really goes to what is the impact or the  
14 negative criteria, what is the impact of that  
15 additional floor.

16           In this case, what we have around us is  
17 basically a five-story building that exists or a  
18 five-story building which is about to be constructed  
19 and I think we have some degree of surety that there  
20 will be at least a four-story building there if not  
21 five. That will put that building about 10 feet  
22 higher than what we're proposing today in terms of  
23 its physical height.

24           So, with that in mind, then, the impact  
25 of one additional story would not be significant, in

38

1 my view, relative to the context of the neighborhood  
2 and the context of what's existing as far as new  
3 construction is concerned.

4           As far as the density is concerned,  
5 again we have 3.79 units permitted, we're proposing

6 four units, so we're 21 units away from an  
7 appropriate and permissible {sic} density, and this  
8 goes back to the court case, of course, which doesn't  
9 allow us to round up.

10 In my report I reviewed the densities in  
11 the surrounding area and I found that basically those  
12 densities are within again the range that we're  
13 proposing here. You can look at the table and they  
14 range from -- some of the older properties back on  
15 the property to the west are within the permissible  
16 {sic} density range. Some of these, we also have  
17 applications pending on, so that may change in the  
18 future. But basically we're proposing a density  
19 deviation of 5.5 percent and the surrounding area  
20 ranges from 5.5 percent to basically 8.4 percent on  
21 one of the properties and 18.9 percent on this  
22 property to the rear of us.

23 So we're in the right range of density  
24 with respect to again the character of this  
25 particular neighborhood.

39

1 So with that in mind, I think we can  
2 meet the Grubbs criteria.

3 With respect to lot coverage, again we  
4 have a 60 percent building, 60 percent coverage on  
5 the building and additional 8.8 percent for the deck.

6 I was listening to the deck discussion.  
7 The rationale for the increase in lot coverage, of  
8 course, is that again it goes to what the negative  
9 criteria is. Typically, when we have decks used for  
10 recreational purposes or passive recreational  
11 purposes, we look to see what is the impact of that  
12 deck on the neighboring properties and we've had  
13 plenty of discussions about screening, access and  
14 sunlight and light and air and openness.

15 In this case, we have a completely open  
16 slate, in my view, where there's no impact of those  
17 proposed decks on any adjoining properties. Again,  
18 we have decks opposite us but this property is set  
19 back at least 30 feet from the rear line. So we  
20 don't have an issue where the decks are right on top  
21 of each other, plenty of access and openness with  
22 respect to those decks. As Frank mentioned, the roof  
23 is currently being proposed as a green roof so there  
24 won't be any impact with respect to that as well.

25 Q. If I could, Mr. Ochab, this is in the

40

1 R-3 zone, on a lot that is at least 50 feet wide.

2 The zone permits 3/1?

3 A. It does, yes.

4 Q. Within a 40-foot envelope. Three

5 stories of residential over one floor of parking?

6 A. It does, yes.

7 Q. So it would be reasonable to assume that  
8 at that site to the north of this property, there  
9 will be at least a 40 foot high building there?

10 A. It is very reasonable to assume that. I  
11 think I had mentioned that my review of that plan  
12 indicated about a 50-foot building. Right. It would  
13 be about 8 feet higher than the building that's being  
14 proposed on this lot across from here (indicating.)

15 Q. That's subject to this board granting  
16 variance relief to that applicant?

17 A. Absolutely true, yes.

18 Q. The point of my question is, 40 feet,  
19 quote/unquote, as of right?

20 A. That's correct, yes.

21 Q. Thank you.

22 A. And as far as the -- the roof coverage  
23 we talked about, basically there's no excess coverage  
24 on that roof with respect to condensers or elevator  
25 stairway access and the like, so I think we are about

1 15 percent on that particular, this particular area,  
2 where 10 percent is permitted. Again it's just a  
3 function of putting all that mechanical equipment on  
4 the roof.

5 And the balance of the coverage is for  
6 the green open space/green roof area. And the area  
7 of the site in which the mechanicals are being put on  
8 the north end of the building so that when the other  
9 building is constructed next to it, there won't be  
10 any visibility of any of that mechanical -- well, the  
11 mechanical equipment is pretty low but the stair  
12 bulkhead and elevator bulkhead on the site when that  
13 occurs.

14 The only other variance for me is the  
15 front yard setback where 5 feet is required and zero  
16 feet is proposed. Whatever buildings are there  
17 currently, which again is the Gotham City North  
18 building and the church, those are both set on the  
19 front property line and it is a pretty much  
20 consistent design criteria for us to put the building  
21 on the property line as well. Also, moving it 5 foot  
22 back also moves the building 5 foot back to the rear  
23 so we save some additional open space by keeping the  
24 building up to the street line and resulting in a  
25 40-foot setback to the building line, 30-foot

42

1 setback, rear setback to the deck line.

2 So, Mr. Chairman, I'm going to stop  
3 there and I'd be happy to answer any questions.

4 CHAIRMAN AIBEL: Questions for

5 Mr. Ochab?

6 COMMISSIONER MARSH: I have a question.

7 I just want to make sure that I have this very clear.

8 When you keep talking about the building next door,

9 that's going to be 50 feet high and whatever it is,

10 that's all proposed, right?

11 THE WITNESS: It is proposed, yes.

12 COMMISSIONER MARSH: Have they even

13 submitted the application?

14 THE WITNESS: It has been submitted,

15 yes.

16 COMMISSIONER MARSH: It hasn't been

17 built or approved, there's nothing --

18 CHAIRMAN AIBEL: Well --

19 MR. GALVIN: It was withdrawn tonight.

20 CHAIRMAN AIBEL: The two lots adjacent

21 to the north were withdrawn this evening.

22 MR. MATULE: Was that the application

23 that was just withdrawn today?

24 MR. GALVIN: We don't know what that

25 means. It's just not being prosecuted at this time.

43

1 MS. BANYRA: They were submitted as two

2 independent applications, correct, Pat?

3 MADAM SECRETARY: Yes, two separate

4 applications.

5 MS. BANYRA: I think they may be

6 combining them.

7 MR. GALVIN: 713 Monroe and 706 Madison.

8 CHAIRMAN AIBEL: This is 706-708

9 Madison, so I assume it was the two lots north.

10 MADAM SECRETARY: They are two Jim Burke

11 applications. I didn't know they were consolidating

12 together. I don't know if that works out. I thought

13 that they had acquired more property on this site.

14 THE WITNESS: 706-708 was 50 feet in

15 width.

16 COMMISSIONER GREENE: That's the one

17 next door.

18 MADAM SECRETARY: Yeah.

19 COMMISSIONER GREENE: It's almost

20 irrelevant anyway.

21 MR. GALVIN: It's not relevant what

22 somebody might be proposing when we're deciding these

23 things, because they may come here and may not get

24 the variances approved.

25 MR. MATULE: That's why I asked the

1 question.

2 COMMISSIONER MARSH: I want to make sure

3 I understand what variances. The 40 feet that's now  
4 a 50 feet building because it's 10 feet above Base  
5 Flood Elevation, I realize my numbers are wrong, does  
6 that 10 feet count as variance or they get that as of  
7 right?

8 MR. GALVIN: They get that as of right  
9 because of the way the ordinance is written at the  
10 moment.

11 MR. MATULE: We're asking for 2 feet  
12 over what is permitted. The building code requires,  
13 even though our ordinance says 40 feet above BFE, we  
14 have to raise that first floor up to one foot above  
15 BFE so we typically come in and ask for a (c)  
16 variance for that one foot.

17 In this case, as Mr. Minervini has  
18 testified, he thought it was better design  
19 alternative to ask for the additional foot to get a  
20 more cohesive ground floor.

21 COMMISSIONER FISHER: The tops of the  
22 buildings, in your report, I thought you suggest that  
23 the top height of this building compares to Gotham  
24 building or similar. But I guess when you look at  
25 the rendering it doesn't look that way, it actually

1 looks like Gotham in the 50's, it is significantly  
2 higher.

3 COMMISSIONER GREENE: He said it was 50  
4 feet high.

5 THE WITNESS: From a physical standpoint  
6 they are about even because of the way that the  
7 application measures the height. So our application  
8 measures height by going up 7 feet, which is the Base  
9 Flood Elevation, and then 40 feet above that. So  
10 it's basically a 47-foot, in this case, plus two,  
11 49-foot building.

12 COMMISSIONER MARSH: Why does it look  
13 shorter?

14 THE WITNESS: It's barely shorter.  
15 That's how it looks from the grade or from the street  
16 level. That's not how we measure it in zoning, for  
17 zoning purposes.

18 COMMISSIONER FISHER: I understand you  
19 don't measure it from zoning terms but when you're  
20 looking at continuity, you are looking at how kind of  
21 the tops of the buildings kind of compare. But  
22 still, when you're looking at potential streetscape  
23 and just thinking of the continuity.

24 MR. MINERVINI: Our building is shorter  
25 by about 6 feet or so.

1 COMMISSIONER FISHER: Right. Thanks.

2 CHAIRMAN AIBEL: Mr. Ochab, do you know  
3 the lot coverage of the Gotham City North buildings?

4 THE WITNESS: I don't know the exact  
5 percentage of the lot coverage. I know that the  
6 entire site is covered with building or pavement.  
7 It's no open area in the rear.

8 CHAIRMAN AIBEL: No rear decks or fire  
9 escapes?

10 THE WITNESS: No. It might be a fire  
11 escape but there's no rear decks, there's no rear  
12 patio, it's either parking or building.

13 COMMISSIONER MARSH: Is the parking  
14 open? Is the parking open?

15 THE WITNESS: Yes, the ground level  
16 parking, surface parking.

17 COMMISSIONER MARSH: Surface parking.

18 CHAIRMAN AIBEL: And from a planning  
19 perspective, what's your feeling about granting 70  
20 percent lot coverage to this building and then also  
21 granting 70 percent lot coverages to the next six  
22 lots north of the building? What is the impact going  
23 to be on the donut, light and air?

24 THE WITNESS: I think, first of all, I  
25 don't necessarily have an issue with the granting of

1 the variance for -- well, 68 percent in this case, 70

2 percent, for the rear decks here because again the  
3 effect of granting the rear deck is minimal, in my  
4 view, with respect to how it may impact adjoining  
5 properties. If these are ownership units, I  
6 appreciate that deck area even more because they  
7 provide open space area, passive open space for the  
8 residents of those units.

9           What happens to the north and across may  
10 be entirely different because of the size of those  
11 properties and the way they may be developed.

12           So, for instance, if the property to the  
13 north has a parking garage, it will basically be 100  
14 percent coverage at the ground level and whatever  
15 open space is developed there may be on the roof of  
16 the first floor as opposed the continuation of decks.  
17 Of course, each application is different and the  
18 design may be completely different, it may be more  
19 cut out or may be more varied in the back than this  
20 one is. This is a pretty much standard, you know,  
21 box and deck situation. The buildings to the north  
22 may not be that way. So I wouldn't just put all my  
23 eggs in every development from here on out would  
24 deserve to have 70 percent coverage, because we know  
25 that's never the case.

1 CHAIRMAN AIBEL: Commissioners, anything  
2 else for Mr. Ochab?

3 Professionals? Go ahead, Eileen.

4 MS. BANYRA: Mr. Ochab, existing there  
5 right now, there's a one-story building to the south  
6 and there's two vacant lots to the north. Can you  
7 give your planning opinion as to how the set -- it  
8 does appear to set a precedent. When you're looking  
9 even at the streetscape there and both yourselves and  
10 the architect have testified to what's happening on  
11 the adjacent property and you're showing almost a  
12 uniform cornice going across, a uniform line going  
13 across at five stories which is not permitted. Could  
14 you maybe weigh on how you think this is, you know,  
15 setting a tone or not setting a tone for the  
16 neighborhood?

17 THE WITNESS: Well, it certainly is an  
18 opportunity because we very rarely see this much  
19 vacant land area in one block. So it certainly sets  
20 a situation where there's plenty of opportunity for  
21 creative design and somewhat of a blank canvas with  
22 respect to the properties to the north as they come  
23 in.

24 I don't think that this building,  
25 though, is the benchmark that will determine how the

1 rest of the block looks. Because the property is  
2 small, it's only 2,500 square feet, 25 feet in width.  
3 Other properties are 50 and then 75 and then after  
4 that we have got the Gotham City building which I  
5 think is about 125 feet of frontage. So, if  
6 anything, that building kind of sets at the north end  
7 where things would be and at the south end I don't  
8 think that this building actually sets that.

9           So there's plenty of opportunity for  
10 some good, creative planning and design here within  
11 the context, architecturally and from a planning  
12 perspective, how this side of the street is going to  
13 look, but this building I don't think sets the  
14 guideline as to what happens in the future with the  
15 other lots.

16           MS. BANYRA: Then the question I also  
17 have, is the building that we're talking about, the  
18 really big building on the corner, is that not an  
19 adaptable use? I'm looking at the streets profile,  
20 it appears to be like it was a school or something.  
21 It looks like an adaptive reuse.

22           THE WITNESS: It certainly was  
23 something, I couldn't determine what it was. It  
24 certainly is an adaptable use.

25           MS. BANYRA: I would think that height

1 and that building is different in terms of the  
2 character maybe on the neighborhood.

3           The last question I have was relative  
4 to, I think something Mr. Minervini said regarding  
5 the stairs and elevator taking away usable space in  
6 the apartments. I didn't hear anything about  
7 family-friendly apartments this time and I'm  
8 wondering why these can't be family-friendly and take  
9 off the top, hypothetically. There's four stories,  
10 there's three units, it's family friendly, you get  
11 all the space that you need and -- we're hearing  
12 family-friendly a lot and we're not hearing it on  
13 this one and this also happens to have a lot of --  
14 each one is small but it's incrementalism I guess.  
15 Maybe you could chat on that a little bit.

16           THE WITNESS: Well, you get a little gun  
17 shy talking about family-friendly on every  
18 application, because not everyone could be or wants  
19 to be, so you have different marketing concepts,  
20 different design concepts for each and programs for  
21 each development.

22           So the fact that this not  
23 family-friendly, it's not bothersome to me. That's  
24 why sometimes you need a little bit bigger unit that  
25 caters to non-family households, which Hoboken wants

1 to encourage, as well as family households.

2 From a design standpoint, I would turn  
3 to Frank more than myself to discuss how that could  
4 be run.

5 MS. BANYRA: From a variance point of  
6 view, because there's a number of variances requested  
7 here so that's really more -- that's where I'm going  
8 at a review.

9 THE WITNESS: They're not, but they're  
10 not any more than a typical application that we see,  
11 where we do talk about family-friendly. We typically  
12 do have several variances with respect to these.

13 MS. BANYRA: Thank you.

14 CHAIRMAN AIBEL: Mr. Marsden, anything?

15 MR. MARSDEN: I have a question I think  
16 more for Frank.

17 MR. MATULE: I'm going to be bringing  
18 him back up when Mr. Ochab is done.

19 COMMISSIONER GREENE: I have a question,  
20 Mr. Chairman. Is your testimony that these  
21 apartments are not family-friendly?

22 THE WITNESS: No, just that we  
23 haven't --

24 COMMISSIONER GREENE: I don't know what  
25 that means, by the way, but it sounded to me like you

1 were arguing that these aren't family-friendly and we  
2 shouldn't consider them family-friendly. That in  
3 itself, is that a negative?

4 THE WITNESS: No, not at all, not at  
5 all. From that standpoint, the family-friendly  
6 units, certainly it's more conducive to have the deck  
7 space so that families can enjoy whatever openness is  
8 at that level of living space. I think that's  
9 certainly a positive element here.

10 But no, I didn't say they were not  
11 family-friendly, I just said that we didn't push that  
12 issue because it becomes redundant, it becomes too  
13 redundant.

14 MS. BANYRA: I raised it, I raised it.

15 CHAIRMAN AIBEL: Let me open it up to  
16 the public. Anybody have questions for Mr. Ochab?

17 Please, come forward if you wish.

18 MR. EVERS: Michael Evers, 252 Second  
19 Street, Hoboken, New Jersey.

20 CHAIRMAN AIBEL: Just questions.

21 MR. EVERS: Good evening, Mr. Ochab.  
22 Two questions. Without variance relief, how many  
23 units could be built on this lot?

24 THE WITNESS: Three.

25 MR. EVERS: With variance relief you're

1 hoping to build how many?

2 THE WITNESS: Four.

3 MR. EVERS: Which would be a one third  
4 increase, practically speaking?

5 THE WITNESS: We had this question last  
6 time.

7 MR. EVERS: I know.

8 THE WITNESS: I don't look at it that  
9 way.

10 MR. EVERS: Recognizing your math, in  
11 fact it is reasonable to say that you could build  
12 four with variance relief and three without, correct?

13 THE WITNESS: That's reasonable, yes.

14 MR. EVERS: Are any of these affordable  
15 units?

16 THE WITNESS: No.

17 MR. EVERS: No more questions. Thank  
18 you.

19 CHAIRMAN AIBEL: Anyone else wish to ask  
20 Mr. Ochab a question? Seeing none, may I have a  
21 motion?

22 COMMISSIONER COHEN: Motion we close the  
23 public portion for this witness.

24 COMMISSIONER GRANA: Second.

25 MR. MATULE: I would like to call Mr.

1 Minervini back up. While Mr. Ochab was testifying,  
2 Mr. Minervini was discussing options with the  
3 applicant vis-a-vis the rear deck, both in terms of  
4 depth and size, and I think he's come up with a  
5 proposal to try to tone that down a little bit.

6 MR. MINERVINI: As proposed the deck is  
7 10 feet off the rear of the building, 18 inches off  
8 each side property. We revised that, we're proposing  
9 now to decrease the size of the deck, in terms of the  
10 back to front dimension, to 8 feet. That will then  
11 bring the lot coverage of the deck to seven percent.  
12 Building is still six percent and deck itself will be  
13 seven percent. In essence, we're increasing the rear  
14 yard by 2 feet.

15 MR. MATULE: In essence, a 32-foot rear  
16 lot?

17 MR. MINERVINI: Yes, 32 foot. It's  
18 approximately, it would look like this (indicating.)

19 MR. MATULE: That would still provide a  
20 modicum of outdoor space as well as second means of  
21 egress?

22 MR. MINERVINI: Exactly.

23 MR. MATULE: You are asking to amend the  
24 application accordingly?

25 MR. MINERVINI: Yes.

55

1 COMMISSIONER GRANA: I have a question.

2 What do you believe will be -- let me phrase this the

3 right way. What do you believe would be the

4 difference of having a 10 foot available space, for

5 residents to enjoy some outdoor space, versus 8 feet?

6 MR. MINERVINI: From the residents'

7 perspective or --

8 COMMISSIONER GRANA: From the residents'

9 perspective, is it negligible, is it --

10 MR. MINERVINI: Certainly it's

11 noticeable.

12 COMMISSIONER GRANA: Is it noticeable?

13 MR. MINERVINI: I think it's noticeable.

14 It makes it more difficult to have a chair and some

15 tables out there. Having heard what the board said,

16 this is what we're revising.

17 COMMISSIONER GRANA: There would be less

18 outdoor space to be able to enjoy?

19 MR. MINERVINI: Correct. The stairs are

20 a fixed dimension so they cannot change. Space that

21 we're losing would be the outdoor space that the

22 residents would be using.

23 COMMISSIONER GREENE: What is the

24 dimension of the usable space?

25 MR. MINERVINI: This dimension is 11

56

1 feet 2 and that's not changing, this would be 8 feet

2 and that is changing (indicating.)

3 COMMISSIONER GREENE: Thank you.

4 MR. MARSDEN: If I may?

5 CHAIRMAN AIBEL: Yes.

6 MR. MARSDEN: Mr. Minervini, the  
7 discussion has been height-wise between the Gotham  
8 building and your building and you were talking yours  
9 is 42 feet and you were talking 50 some-odd feet in  
10 the Gotham.

11 MR. MINERVINI: Yes.

12 MR. MARSDEN: Is that 50 feet above base  
13 flood or total 50 feet?

14 MR. MINERVINI: Total height.

15 MR. MARSDEN: So it would be 40 feet  
16 above base flood where your building is 42 feet above  
17 base flood?

18 MR. MINERVINI: Yes, approximately, but  
19 they've got living space within the flood zone.

20 MR. MARSDEN: I'm talking the way you're  
21 talking heights --

22 MR. MINERVINI: I was describing the  
23 total height of the building, I wasn't

24 describing --

25 MR. MARSDEN: Your total height would be

57

1 49 feet?

2 MR. MINERVINI: Yes, yes. Our building,

3 and I wasn't discussing at all, I didn't discuss that

4 building relative to Base Flood Elevation, I was just

5 talking about the overall heights of the two.

6 COMMISSIONER MARSH: Yours is 49 and --

7 MR. MINERVINI: It's about a 5 or 6 feet

8 differential. Just as the drawing describes.

9 COMMISSIONER McANUFF: What is the

10 ceiling heights inside the units?

11 MR. MINERVINI: This would be about 9

12 feet. You have 10 feet floor to floor, it's typical

13 2 inches for structure.

14 COMMISSIONER McANUFF: Any consideration

15 to go with an 8-foot ceiling height and eliminate

16 that need for the height variance, to save 2 feet

17 over the whole thing?

18 MR. MINERVINI: We could, but it makes

19 again those spaces much more friendly.

20 COMMISSIONER McANUFF: I think it's

21 still --

22 MR. MINERVINI: Yes.

23 COMMISSIONER McANUFF: -- a good size.

24 CHAIRMAN AIBEL: Mr. Grano, question?

25 COMMISSIONER GRANO: Are we trying to

58

1 modify this application, are we --

2 COMMISSIONER McANUFF: If it comes up as

3 a point, why not?

4 CHAIRMAN AIBEL: The modification was to

5 reduce the size of the deck.

6 MR. MATULE: Right. You want to permit

7 it?

8 MR. GALVIN: I don't think we should do

9 that. I think if you want my advice, I think we

10 should see if anybody has any questions of Mr.

11 Minervini and then open to the public and then go

12 into deliberations and then you can discuss which

13 alternatives you prefer or you can vote the case up

14 or down based upon what was presented.

15 CHAIRMAN AIBEL: Any additional

16 questions for Mr. Minervini? I'll open it up to the

17 public. Anybody in the public want to ask Mr.

18 Minervini a question?

19 COMMISSIONER GREENE: Seeing no one,

20 move to close the public portion.

21 COMMISSIONER MURPHY: Second.

22 CHAIRMAN AIBEL: All in favor?

23 MR. GALVIN: The public then?

24 CHAIRMAN AIBEL: Yes. Now it's time for  
25 comments, sir.

59

1 CHRISTOPHER PADURANO, duly  
2 sworn.

3 MR. PADURANO: Christopher,  
4 P-A-D-U-R-A-N-O.

5 MR. GALVIN: Street address?

6 MR. PADURANO: 707 Monroe Street,  
7 Hoboken, New Jersey.

8 I apologize in advance, this is my first  
9 attendance at a zoning board meeting, so I apologize  
10 if I run afoul of any protocols.

11 But I live in the building directly west  
12 of 704 Madison. I spoke to a couple of folks in my  
13 building and we do have a concern with the height of  
14 the structure, the variance requested. Many of our  
15 concerns have been pretty much addressed already by  
16 the board, but I respectfully submit and I think  
17 you've all hit on it, that you can't view this  
18 particular variance in a vacuum. There's that large  
19 vacant lot directly north of 704 Madison. No one  
20 really knows what's going to be built there but we  
21 can anticipate something larger than what's here.  
22 Directly north of that empty lot is a parking lot,

23 it's an existing parking lot, a fenced parking lot,  
24 that we all could foresee someone purchasing that lot  
25 and wanting to build there, which is directly south

60

1 of Gotham.

2 In addition, I attended a town hall  
3 meeting about two months ago regarding the Pino  
4 property and some of the development that's  
5 contemplated in that area, and even behind the Monroe  
6 Center.

7 The concern that we had in our building  
8 at 707 Monroe, we're going to be ensconced in  
9 darkness. It's a neat area, I'd like to see Mayor  
10 Zimmer's vision of green space in that portion of  
11 Hoboken. My concern is that the variances requested  
12 here -- I mean it looks like it's a beautiful  
13 building but my concern is you just can't view this  
14 particular variance request in a vacuum.

15 Thank you for your time.

16 MR. MATULE: If I might Mr. Padurano, I  
17 have one question, just so I understand it.

18 Is this --

19 MR. PADURANO: That's my building. I  
20 own a unit there.

21 MR. MATULE: Your building, and I'm

22 showing him Page 11 of Mr. Ochab's report. So

23 you're --

24 MR. PADURANO: Directly west.

25 MR. MATULE: -- directly to the rear of

61

1 us, if you will, on Monroe. You're on Monroe Street?

2 MR. PADURANO: Yes, sir.

3 MR. MATULE: Thank you.

4 MR. PADURANO: Thank you for your time.

5 CHAIRMAN AIBEL: Thank you. I think --

6 did we close the public portion?

7 A MEMBER OF THE AUDIENCE: Can I speak

8 on the first application?

9 MR. GALVIN: That matter is concluded.

10 A MEMBER OF THE AUDIENCE: I'm not here

11 to speak on the matter but I'm speaking about

12 something that is similar and so I wanted to hear the

13 discussion about 819 which I missed because I thought

14 that was the last application to be heard.

15 MR. GALVIN: Eventually what will

16 happen, there will be a transcript that will be in

17 the zoning office, so you'll be able to read the

18 transcript if that helps you.

19 A MEMBER OF THE AUDIENCE: This would

20 help but I'd like to actually still have public

21 comment about it.

22 MR. GALVIN: We're not the governing  
23 body so it has to be a judicial hearing and they're  
24 not here to defend themselves.

25 A MEMBER OF THE AUDIENCE: It's not on

62

1 the application per se --

2 MR. GALVIN: Is it okay -- you're the  
3 chairman, you tell me what to do.

4 CHAIRMAN AIBEL: Let's try to finish  
5 this application and if you would be so kind as to  
6 wait a few minutes and then have a conversation with  
7 counsel.

8 A MEMBER OF THE AUDIENCE: Okay.

9 MR. MATULE: Close the public portion?

10 COMMISSIONER GREENE: Motion to close  
11 the public portion.

12 COMMISSIONER COHEN: Second.

13 CHAIRMAN AIBEL: All in favor?

14 MR. MATULE: I would like to try to  
15 address some of the comments we have heard here.  
16 Obviously Mr. Padurano, I appreciate his concern but  
17 he happens to live in a five-story building to the  
18 west of us. And frankly, with the 60-some feet  
19 between the two buildings, I don't know that this  
20 would have any substantial impact.

21 I think one of the things we have to  
22 bear in mind is what we're really asking for in terms  
23 of height here. In feet, it's 2 feet. The ordinance  
24 allows 40 feet above Base Flood Elevation, so  
25 wherever that brings the roof slab, that's where it

63

1 brings it and that's the envelope a property owner is  
2 allowed to build to as of right.

3 The one foot is being driven by the  
4 flood regulations because New Jersey says you have to  
5 be one foot above BFE, your first residential floor.  
6 Unfortunately I think the intent of the Zoning  
7 Ordinance, when they put that 40 feet above BFE in,  
8 was to recognize the flood regulation and to deal  
9 with them but the ordinance has now fallen behind the  
10 regulations.

11 So I mean the reality is we're talking  
12 about one foot difference and I would submit to the  
13 board, the question is, is the one foot a better  
14 zoning alternative; does it give us a more  
15 aesthetically pleasing, more usable building;  
16 frankly, is it more attractive than having a set of  
17 stairs going 6 or 7 feet up in the air like a lot of  
18 the buildings that we have to deal with in the flood  
19 zone.

20 So I just want to keep that in context,

21 that we're talking about a 2 foot difference.

22 As far as the deck is, I think that  
23 speaks for itself. The applicant has tried to pull  
24 it back, but again it provides individual outdoor  
25 space to the residents of the building with minimal

64

1 impact on the surrounding properties, because the  
2 deck is open, it's not like a walled-in structure  
3 with a mass.

4 The other variances we're talking about,  
5 the roof coverage variance is driven primarily by the  
6 green roof, again another disconnect in the ordinance  
7 where it has to be counted as roof coverage. One  
8 would think that's illogical but that's the way the  
9 ordinance currently reads. One would think that they  
10 would be encouraging property owners to do that and I  
11 guess by granting the variance you would be  
12 encouraging the property owner to do that. Zero  
13 frontyard foot setback, again it's what the street  
14 line is. I don't think you should really put too  
15 much emphasis on the fact that the applicant is  
16 asking for six variances versus four variances. I  
17 think you have to look at it as an overall package  
18 and I'm using that as a figure of speech. I don't  
19 know how much variance we're asking for, so please

20 don't continue and tell me I said the wrong number.

21           But again I think, at the end of the  
22 day, it's what is a better zoning alternative. As  
23 far as the density goes, again this is a situation  
24 where the ordinance has not caught up with reality.  
25 When the density ordinance was put in, it was always

65

1 both the intention of the person who wrote the  
2 ordinance, and it has always been the practice, that  
3 you either round it up or you round it down. We all  
4 know, because of a court case, a judge determined  
5 because it said it in this part of the ordinance  
6 rather than that part of the ordinance, he didn't  
7 think it applied. The reality is again it went to  
8 the intent. This is sort of the typical, four  
9 stories, four-family building that Hoboken has  
10 evolved to build over the years and it's a good  
11 application. It fits well in here. What's going to  
12 go next door, we don't know, but as Mr. Ochab  
13 testified, minimally as of right the applicant can  
14 build a 40 foot high building, three floors of  
15 residents over one floor of parking. Of course, when  
16 you have the parking you don't measure from the BFE  
17 anymore, you measure from grade. So minimally that  
18 building would be 40 feet high with no variances  
19 being granted. So actually, if they separated those

20 lots and built buildings without parking, they would  
21 all be higher than that.  
22 So, I mean that's the way the ordinance  
23 reads. We have to deal with it the way it's written.  
24 I think Mr. Minervini talked to that a little bit  
25 about the fact that the ordinance is the framework we

66

1 try to work in but also try to come up with a better  
2 product. This is not like a question where it's such  
3 a massive abuse of the ordinance, but really it's  
4 just a better design and a better product for the end  
5 user.

6 So, as amended, I would ask that you  
7 grant the variance relief.

8 CHAIRMAN AIBEL: Commissioners?

9 COMMISSIONER GREENE: Can I ask one  
10 question of Mr. Minervini?

11 CHAIRMAN AIBEL: Sure.

12 COMMISSIONER GREENE: I don't believe,  
13 and if you did maybe I was not paying attention, I  
14 don't believe we heard any testimony as to how you're  
15 going to accomplish the flood-proofing?

16 MR. MINERVINI: The same as DEP requires  
17 on every project. In this case, there would be flood  
18 panels. They were shown on the drawings. It's

19 typical to every project that Hoboken will have to  
20 approve.

21 COMMISSIONER GREENE: Your typical  
22 solution to this condition that we have heard  
23 testimony --

24 MR. MINERVINI: Yes, yes.

25 COMMISSIONER GREENE: -- in the past?

67

1 MR. MINERVINI: Yes.

2 COMMISSIONER GREENE: Thank you.

3 CHAIRMAN AIBEL: Anybody want to start  
4 with comments?

5 Mr. Cohen.

6 COMMISSIONER COHEN: In my mind I think  
7 this is really about one major variance. I think  
8 that the density you were talking about, it's  
9 permitted to build 3.79, I don't think to go to four  
10 is a major issue. Being zero lot coverage, given the  
11 fact that all the other buildings on the block,  
12 especially the one that takes up half the block, I  
13 don't see that as a major issue. It's 2 feet above  
14 what's permitted in a situation where you have  
15 something that's with the largest structure on the  
16 block, it takes up almost half a block, is more than  
17 5 feet taller than it.

18 I think what the big issue on this

19 application and what the other commissioners have to  
20 wrestle with is the fact that you are permitting  
21 outdoor space in the backyard that goes into the lot.  
22 It was originally 10 percent beyond what was  
23 permitted, now it's 10 feet. Seven feet into the  
24 donut, if it were.

25 COMMISSIONER McANUFF: Seven percent.

68

1 COMMISSIONER COHEN: I'm sorry, seven  
2 percent into the donut, and whether that's something  
3 that people find acceptable. To me I think it's  
4 markedly better design than what's on the block right  
5 now. It's a beautiful building, it's going to be a  
6 nice addition, it's got a green roof and going to  
7 have a green backyard and if you look at what's out  
8 there on that block, it's basically impervious  
9 parking lot and not particularly attractive  
10 structures. Maybe that will change in the future but  
11 I think when you talk about setting a standard, this  
12 sets a good standard for a block that could use one.  
13 So, on the whole, you know, my view is I  
14 think the benefits outweigh the impact on the  
15 neighborhood, but I think you have to acknowledge  
16 that there's an impact here and in my mind I think  
17 the benefits outweigh the negative impact. But, you

18 know, I'm interested to hear what my fellow  
19 commissioners say about that.

20 CHAIRMAN AIBEL: Antonio.

21 COMMISSIONER GRANA: A lot of similar  
22 thinking as Commissioner Cohen with regard to the  
23 Grasso criteria. This building will be not even  
24 probably anywhere near the height of many of the  
25 other properties that are in the immediate area to

69

1 the north and the northeast, which are all 50 feet or  
2 higher structures. So I think it is consistent  
3 there. I think that the (c) variance on the roof,  
4 that's a benefit, having green coverage on the roof,  
5 so that's not a concern to me.

6 With respect to the facade, we could  
7 debate the architecture. I did take a walk through  
8 that neighborhood. There's no one, set architectural  
9 standard in the neighborhood. Actually there were a  
10 number of other structures that resembled this one so  
11 I didn't see it as being out of line or setting some  
12 different architectural standard more for density,  
13 it's not a significant increase and as a side bar  
14 it's the best practice to increase density within a  
15 quarter mile of a transit stop. I did a Google  
16 search and it's less than a quarter mile of a transit  
17 stop. Real issue is going to be on the decks in the

18 back.

19 I admit this is a balancing act here.

20 Vision of having the district create residential

21 viability, part of that comes with people having

22 units with access to open space. People want that,

23 people ask for that, I get that from people in the

24 community. I mean it's going to step out into the

25 donut but it's actually going to create open space

70

1 for each potential unit. It's a balancing act, but I

2 think on the whole I would support the application.

3 COMMISSIONER MARSH: I agree about the

4 height and I agree about the roof and I agree about

5 the facade except I'm not sure why everything has to

6 look the same. I personally like more glass. But I

7 actually -- you know, the Zoning Ordinance says a

8 10-foot setback and a 60 percent lot coverage and

9 30-foot rear yard. I get the 10-foot setback but I'm

10 not sure why you automatically gain 10 feet out of

11 that. Whether I like it or not, I mean this is going

12 to -- there are other lots that are going to be

13 dependent on this and there's a Zoning Ordinance in

14 place, it says 60 percent lot coverage. So I am a

15 little bit -- I'm not sure about it. I do feel like

16 we're changing the Zoning Ordinance without being the

17 governing body. I'm not sure I support that.

18 CHAIRMAN AIBEL: Anybody else wish to  
19 comment?

20 COMMISSIONER GREENE: I'm not going to  
21 repeat any of the comments that I agree with. First  
22 of all, I think that from the design elements, adding  
23 that extra foot, so that there's a connection between  
24 the entryway and the street, is a very positive  
25 aspect of it so you're not -- there isn't a

71

1 disconnect between the entryway and the streetscape.

2 So the one issue that I think should be  
3 focused on is the lot coverage. Here we are talking  
4 about seven percent and if we allowed -- if the decks  
5 were eliminated and it was just the stairwell for a  
6 secondary egress, it would probably be four or five  
7 percent.

8 So what we're asked to do is provide  
9 this additional benefit of outdoor space for the  
10 apartment dwellers, for the unit dwellers, at the  
11 cost of perhaps three percent lot coverage. And that  
12 lot coverage is not solid, not impervious, it's open  
13 and doesn't really have the same visual impact as if  
14 there were a building with that lot coverage. And so  
15 weighing the positive and negatives of this one  
16 aspect of the application, I don't really have a

17 problem with it.

18 COMMISSIONER MARSH: May I ask a  
19 question?

20 CHAIRMAN AIBEL: Sure.

21 COMMISSIONER MARSH: Why does the egress  
22 not count -- does that not count in lot coverage?

23 CHAIRMAN AIBEL: You want to explain the  
24 position?

25 MS. BANYRA: No, it does count.

72

1 COMMISSIONER MARSH: Personally I love  
2 the outdoor space. I wish they would cut the  
3 building back and leave the outdoor space.  
4 10-by-20-foot closet, even two floors down is  
5 fabulous, right? That gives you a lot more room in  
6 your apartment no matter what. So it isn't four  
7 percent, and it's not even seven percent, it's 8.8.

8 MS. BANYRA: I think they reduced it.  
9 The testimony was it was all reduced to seven  
10 percent.

11 COMMISSIONER MARSH: Right. That's if  
12 we decide -- I mean I'm still listening.

13 CHAIRMAN AIBEL: Anybody else,  
14 Commissioners?

15 COMMISSIONER DeFUSCO: You know, I think

16 that sizing down the interior of the building would  
17 be beneficial if we weren't limiting the potential  
18 for the use of that residential space. By saying a  
19 bedroom and a half, we're then limiting, quite  
20 frankly, a growing family that could potentially live  
21 there. I'm not calling this family-friendly, they  
22 haven't called it family-friendly, but I do know from  
23 personal experience that, you know, two bedrooms, two  
24 baths, offer growing potential and that's what we  
25 need this community to do, especially in this area

73

1 that's definitely growing.  
2 I don't think the seven percent addition  
3 on the deck is adverse but I do think taking that  
4 seven percent off of the interior space is going to  
5 limit the building. That's my opinion, you know, and  
6 if this -- if they were able to assume the next-door  
7 lot, I think they would be able to do something else.  
8 But the relief that I'm considering, as my opinion,  
9 is that they can't. This is their lot, this is what  
10 they are working with and I think the benefit to the  
11 community is a two full bedroom, two full bath,  
12 that's where this community is going and I think is  
13 where -- I'd like to try to support them. That's my  
14 opinion on that front.  
15 CHAIRMAN AIBEL: Anybody else wish to

16 comment?

17 COMMISSIONER FISHER: My only comment is  
18 it doesn't have the Hoboken feel because of lack of  
19 space, right. Everyone is saying it looks like  
20 everything in the neighborhood and everything in the  
21 neighborhood doesn't -- it's my own personal opinion,  
22 I don't think it has enough Hoboken feel.

23 CHAIRMAN AIBEL: I'll say that --

24 COMMISSIONER McANUFF: I'm not voting  
25 tonight but I support the project. I think the deck,

74

1 with the change to seven percent, is fine. In my  
2 opinion, maybe the Zoning Ordinance has to be changed  
3 as to what contributes to lot coverage. Is the  
4 building -- maybe there could be some change made to  
5 accommodate egress stairs and deck rather than  
6 building area. It's just my opinion.

7 COMMISSIONER MURPHY: I think that Carol  
8 makes a valid point when you talk about storage on  
9 the first floor, which is a great addition to the  
10 building. Because a lot of buildings don't have that  
11 idea of being able to leave your stroller downstairs,  
12 not in the hallway, or bikes, etcetera. So in  
13 reality, the use of the space upstairs has this great  
14 closet downstairs and I am concerned about extending,

15 you know, lot coverage and the idea that we are  
16 beginning to think that 70 percent is okay, or close  
17 to it.

18 So I'm undecided at the moment. I'm  
19 concerned because it's nice and it's open in area and  
20 decking at the moment, but somebody else is going to  
21 want to put a building, you know, a completely  
22 closed-in space and there's a lot of development  
23 still going on in that area so I'm just concerned  
24 that we're bending the rules a little bit much.

25 COMMISSIONER DeFUSCO: We would say this

75

1 building is going to give back the light and the air  
2 of this proposed building. So it's all in tandem. I  
3 think that the real issue and what we should really  
4 talk about is what's too much and what do they need  
5 to make this building truly a livable space to a  
6 family.

7 COMMISSIONER FISHER: On the point of  
8 family, does it really have to be a family? We talk  
9 about it all the time, because it's something that  
10 Hoboken wants, but I think even Mr. Ochab said that  
11 not everything has to be completely family-friendly.  
12 I mean Hoboken has a lot of, you know, people that  
13 are earlier in their lives and don't yet have a  
14 family.

15 COMMISSIONER MURPHY: Or later in life.

16 COMMISSIONER FISHER: Right. I'm not  
17 sure we always have to solve to that certain size and  
18 perfect for the family, so...

19 CHAIRMAN AIBEL: There is a Zoning  
20 Ordinance that says 60 percent. There hasn't been  
21 any testimony that a very ample unit couldn't be  
22 built with a smaller building. These are 1,300  
23 square foot apartments. I think by any measure, that  
24 is certainly ample. We have heard testimony from  
25 people in town who have come in with 500-foot

76

1 apartments, with kids, and said they'd like more  
2 space too but they are living happily in Hoboken.  
3 I'm concerned about the open space in  
4 the rear. We have this creeping zoning lot coverage  
5 issue. We're consistently being pushed to it. At  
6 some point I think, in my view, the point, we need to  
7 say a developer or a property owner has -- buys a  
8 property, knows what he or she can develop on that  
9 property in order to assume that, and where there are  
10 needs for slight deviations or deviations that we can  
11 accommodate, we'll try to accommodate them. But in  
12 my view, you have a large building at the end of the  
13 block that to me shows probably 50 or 55-foot

14 buildings at best keeping a very open donut, we have  
15 six blocks that are -- six lots that get infilled  
16 between this proposed building and that large Gotham  
17 City building at the north of the block and I feel  
18 very strongly that this is a case where the building  
19 could be built at 55 or 56 feet and still provide  
20 wonderful apartments, but we have, again, the push to  
21 develop a building as fully as possible and I am  
22 persuaded that the mass that will come from a  
23 building built at 60 percent lot coverage with  
24 another seven percent decks and then the line of six  
25 or so lots that are going to be developed right after

77

1 it will make a very heavy impact and probably a  
2 detrimental one on the rear yards and donut of this  
3 block.

4           So I would not be in favor and that's  
5 all I have to say.

6           So, I don't know, anybody else want to  
7 comment or let's make a motion. Do we need to  
8 consider whether we want to --

9           MR. GALVIN: Whoever makes the motion  
10 can do that.

11           CHAIRMAN AIBEL: Do I have a motion?

12           COMMISSIONER GREENE: Well, do we have  
13 conditions?

14 MR. GALVIN: I only have two at the  
15 moment.

16 One, the applicant is to replace the  
17 curbs and sidewalks and plant a shade tree in  
18 consultation with the Shade Tree Commission.

19 Two, revise the plan to reduce the deck  
20 width to 8 feet or 7 and 1/2 feet --

21 MR. MINERVINI: Eight feet.

22 MR. GALVIN: Is that what makes it seven  
23 percent?

24 MR. MINERVINI: Yes.

25 MR. MATULE: Yes, because it's not

78

1 full-out width.

2 MR. MARSDEN: Does that also include the  
3 modifications to the plans to show the buildings are  
4 gone or are we not going to be -- the adjacent  
5 buildings are shown on the plans when they're not  
6 right there right now.

7 MR. GALVIN: You want the plan revised  
8 to remove those buildings?

9 MR. MARSDEN: I would think so. To the  
10 existing conditions, the plans and the survey.

11 MR. GALVIN: And subject to the board  
12 professionals' reports.

13 MS. BANYRA: Right. They have addressed  
14 some of them.

15 CHAIRMAN AIBEL: Ready for a motion.

16 COMMISSIONER GREENE: I'll move for  
17 approval subject to the conditions.

18 COMMISSIONER GRANA: Second.

19 MR. GALVIN: Before we vote, you  
20 recognize there's a (d) variance here so you need a  
21 minimum of five votes to pass this matter.

22 CHAIRMAN AIBEL: Pat.

23 MADAM SECRETARY: Commissioner Greene.

24 COMMISSIONER GREENE: Yes.

25 MADAM SECRETARY: Commissioner Cohen.

79

1 COMMISSIONER COHEN: Yes.

2 MADAM SECRETARY: Commissioner DeFusco.

3 COMMISSIONER DeFUSCO: Yes.

4 MADAM SECRETARY: Commissioner Grana.

5 COMMISSIONER GRANA: Yes.

6 MADAM SECRETARY: Commissioner Marsh.

7 COMMISSIONER MARSH: No.

8 MADAM SECRETARY: Commissioner Murphy.

9 COMMISSIONER MURPHY: No.

10 MADAM SECRETARY: Commissioner Aibel.

11 COMMISSIONER AIBEL: No.

12 MADAM SECRETARY: It's four to three.

13 (Whereupon, the proceedings are  
14 adjourned.)

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

80

1 CERTIFICATE

2  
3  
4  
5  
6  
7  
8  
9  
10  
11

I, JOANNE M. OPPERMANN, a Certified

Court Reporter and Notary Public of the State of New

Jersey, do hereby state that the foregoing is a true

and accurate transcript of my stenographic notes of

the within proceedings, to the best of my ability.

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

---

JOANNE M. OPPERMANN, C.C.R.  
License No. XI01435

1 HOBOKEN ZONING BOARD OF ADJUSTMENT  
2 SEPTEMBER 14, 2014  
3 REGULAR MEETING

3 IN THE MATTER OF: :  
4 819 BLOOMFIELD STREET : TRANSCRIPT  
5 ----- OF  
6 PROCEEDINGS

- 5 B O A R D M E M B E R S P R E S E N T:
- 6 JAMES AIBEL, CHAIRMAN
- 7 ELLIOT GREENE, VICE CHAIRMAN
- 8 PHIL COHEN, COMMISSIONER
- 9 MIKE DeFUSCO, COMMISSIONER
- 10 ANTONIO GRANA, COMMISSIONER
- 11 CAROL MARSH, COMMISSIONER
- 12 DIANE FITZMYER MURPHY, COMMISSIONER
- 13 TIFFANIE FISHER, ALT. #2
- 14 OWEN McANUFF, ALT. #3

- 11 A L S O P R E S E N T:
- 12 EILEEN BANYRA, P.P.,
- 13 Board Planner
- 14 JEFF MARSDEN, P.E.,
- 15 Board Engineer
- 16 PATRICIA CARCONE,
- 17 Board Secretary.

16  
17  
18  
19  
20  
21  
22  
23  
24

1 A P P E A R A N C E S:  
GALVIN LAW FIRM  
2 By: DENNIS M. GALVIN, ESQUIRE  
Attorney for the Board  
3  
ROBERT C. MATULE, ESQUIRE  
4 Attorney for the Applicant

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

3

1 TABLE OF CONTENTS

2 Witness Sworn

3 JENSEN C. VASIL 4

LISA FIORITO MACKESSY 17

4 MICHAEL J. MACKESSY 20

5

6 EXHIBITS

7 Number Description Page

8 A-1 Photo board (7) 7

9 A-2 Screen sample 24

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

4

1 MR. MATULE: Good evening, Mr. Chairman,  
2 Members of the Board. Robert Matule, appearing on  
3 behalf of the applicant. Thank you for juggling the  
4 agenda.

5 This is an application where the  
6 property owners are requesting a (c)(2) variance for  
7 a rear yard depth variance in order to construct a  
8 small rear deck and stairs down into the rear yard  
9 from the second floor of the house.

10 I'm sure you're all familiar with that  
11 section on the east side of Bloomfield Street,  
12 there's three or four houses that are set back a  
13 distance.

14 I have Jensen Vasil, the architect,  
15 here, who can just take us through the construction  
16 and he's also got a photo board.

17 So if we can have Jensen sworn.  
18 J E N S E N C. V A S I L, having been duly sworn,  
19 was examined and testifies as follows:

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

22 THE WITNESS: Jensen Vasil, V-A-S-I-L.

23 MR. GALVIN: Mr. Chairman, do you accept

24 Mr. Vasil's credentials?

25 CHAIRMAN AIBEL: We do.

5

1 MR. GALVIN: Proceed.

2 EXAMINATION BY MR. MATULE:

3 Q. Would you describe the existing site and  
4 the surrounding area, obviously with emphasis on the  
5 rear yards? I know you've also got some photos so we  
6 can refer to them while you're giving your testimony.

7 A. The existing lot is about 24.3 feet wide  
8 by 72 feet deep so it's nonconforming in depth and  
9 lot area. It's a mid-block lot. It's an irregular  
10 shape and the existing building is set back from the  
11 front property line by about 13.1 feet. The area in  
12 question is actually at the rear yard, which is the  
13 egress from the building from the first and second  
14 floors which we are proposing to put a stair in.

15 Q. Just show the conditions in the back.

16 A. These are photos of the existing  
17 addition. This is the building right now, currently  
18 there's a sliding door at the first floor, a sliding  
19 door at the second, a door at the second floor for an  
20 exit sliding door. This is the next-door neighbor's,  
21 they have an existing spiral stair with a small, very  
22 small balcony off of that. And this goes also

23 looking north, you can see there's amassed that  
24 stair, the rest of the properties. These are all a  
25 group of properties, about four of them are built and

6

1 they all look the exact same, they are all set back  
2 the exact same and all of them have the same  
3 characteristics. Further up the block, two buildings  
4 up, it changes, there's a deeper loft and a deeper  
5 building.

6 Looking the opposite way, looking south,  
7 you could see again it's almost the same building  
8 repetitively two buildings down. In the rear, these  
9 are the buildings that are coming back from  
10 Bloomfield Street. There's an existing fence along  
11 that brick wall line. And here you can see looking  
12 south, it just goes into the other property.

13 Q. And that picture in the second row on  
14 the far left, that would be looking east?

15 A. Yes, this would be looking east towards  
16 Washington Street.

17 Q. Thank you.

18 Could you then go back to your drawings  
19 and show the proposed landing and stairs, unless  
20 there's questions?

21 COMMISSIONER MARSH: I can't see it.

22 MR. MATULE: I had submitted photos but  
23 these are copies, if I could hand them out, if you  
24 want to look at them specifically.

25 MADAM SECRETARY: Can we label those?

7

1 MR. GALVIN: Absolutely. We're going to  
2 mark them. We need to mark the pictures. We'll mark  
3 that as A-1.

4 (Exhibit A-1 marked into evidence.)

5 MR. MATULE: We'll collect them after  
6 the hearing?

7 MR. GALVIN: Sure. Seven photos?

8 THE WITNESS: There are, that's correct.

9 MR. GALVIN: So there's seven photos  
10 that are marked A-1. Who took the photos and when  
11 were they taken?

12 THE WITNESS: They were taken --

13 MR. GALVIN: Ballpark, guys. Doesn't  
14 have to be the exact date.

15 THE WITNESS: July 20th or something  
16 like that.

17 MR. GALVIN: The applicant took it?

18 THE WITNESS: Correct.

19 MR. GALVIN: Okay.

20 MR. MATULE: They were actually taken  
21 for the submission. We had submitted a set with the

22 original application.

23 THE WITNESS: So, on the following page,  
24 the Z-02, we're showing the existing condition which  
25 is at the lower level -- I'm sorry, the proposed

8

1 addition at the lower level which just shows the  
2 single step as the site plan. And then up above  
3 that, the upper level is the new deck which measures  
4 10 feet 3 by 6 foot, right off of the sliding door.  
5 And then an L-shaped stair that descends to the rear  
6 yard level. That deck would be made out of steel,  
7 painted steel railings. There would also be a  
8 privacy screen, between that deck and the adjacent  
9 deck, because they are separated by about a foot.

10 Q. That's going to be open below?

11 A. That's correct, it will be open below,  
12 it would project further into the rear yard, like 8  
13 feet, which is the return of the stair. And that  
14 leaves you with 15 foot 11 and 1/2 for the proposed  
15 rear yard.

16 Q. Is there going to be no other changes to  
17 the yard?

18 A. No other changes to the yard proposed.

19 Q. And you're still within the 60 percent  
20 total lot coverage permissible under the ordinance?

21 A. We are -- as a total percentage, we  
22 are -- yes, we are, we're under by -- just under by  
23 0.1 percent.

24 MR. MATULE: I have no further  
25 questions, unless the board has specific questions.

9

1 CHAIRMAN AIBEL: Board members?

2 COMMISSIONER McANUFF: It's  
3 straightforward.

4 CHAIRMAN AIBEL: No questions?

5 Mr. Vasil, let me ask a question. I'm  
6 comparing the step configuration on this building  
7 with the property to the north which has the spiral  
8 and seems to be a little bit more confined, it's not  
9 quite as broad, doesn't span the property, and this  
10 one put your steps right next to the property owner  
11 to the south.

12 THE WITNESS: Correct.

13 CHAIRMAN AIBEL: Has any consideration  
14 been given to that kind of design?

15 THE WITNESS: We did. We didn't like  
16 the spiral because it gets quite slippery and  
17 dangerous in wet weather and even as a larger 6 foot  
18 diameter they're not easy to get up and down. So  
19 while it was to be more compact, I think it fit the  
20 use a little better.

21 MR. MATULE: I also have the applicant  
22 here, who can testify, but in discussing that very  
23 question, besides having a young baby, the  
24 applicant's parents visit a lot and they just felt  
25 that a more standard configured stairway would be

10

1 easier to navigate than a spiral stairway for more  
2 senior residents.

3 CHAIRMAN AIBEL: How close are the steps  
4 to either the windows or door to the property to the  
5 south?

6 THE WITNESS: They would be  
7 approximately 5 feet, because they would end before  
8 this leader, so this window is at least 3 feet from  
9 that property line.

10 CHAIRMAN AIBEL: How about the ground  
11 floor doors?

12 THE WITNESS: The ground floor doors,  
13 they would be approximately 3 feet. My guess is they  
14 would be probably about 2 feet from there.

15 CHAIRMAN AIBEL: Has anybody had  
16 discussions with the neighbor?

17 A MEMBER OF THE AUDIENCE: Yes, yes.

18 CHAIRMAN AIBEL: Is this gentleman the  
19 neighbor?

20 MR. MATULE: We have the neighbor

21 present.

22 A MEMBER OF THE AUDIENCE: Two

23 neighbors.

24 MR. GALVIN: We'll continue. We'll get

25 to you guys.

11

1 COMMISSIONER MURPHY: I have a question.

2 I can't really tell with the spiral staircase, the

3 landing of that. How far over on that building does

4 that go?

5 THE WITNESS: The spiral staircase is

6 right against our property line.

7 CHAIRMAN AIBEL: The staircase, but it

8 goes to a deck of a sort?

9 THE WITNESS: Correct.

10 CHAIRMAN AIBEL: So how wide is that in

11 terms of how much does it take up of that backyard?

12 THE WITNESS: Takes up approximately 60

13 percent of the width and the depth is closer, so that

14 is about 8 feet.

15 CHAIRMAN AIBEL: Any other questions?

16 THE WITNESS: The Z-02, the proposed

17 site plan drawing shows the adjacent deck and you can

18 see our deck kind of in line with that.

19 COMMISSIONER GREENE: Are you proposing

20 any landscaping or any changes to the impervious

21 existing condition?

22 THE WITNESS: We're not currently, no.

23 CHAIRMAN AIBEL: Any other questions,  
24 Board Members? Professionals, any questions for the  
25 architect?

12

1 MS. BANYRA: Yes, I have some questions.

2 Mr. Vasil, have you looked at my memo  
3 and maybe you could kind of go through some of the  
4 questions with me?

5 THE WITNESS: Yes.

6 MS. BANYRA: The first question was the  
7 survey wasn't current and I just wanted you to I  
8 guess indicate that it's accurate and representing  
9 the existing conditions.

10 THE WITNESS: Survey represents the  
11 building property not the stairs in the rear. The  
12 stairs don't -- the stair configuration in the rear  
13 is incorrect on the survey.

14 MS. BANYRA: And then the fact that I  
15 guess your plans represent and the pictures now seem  
16 to represent that there's a cobble paver set up back  
17 there.

18 THE WITNESS: Correct.

19 MS. BANYRA: And the survey doesn't. I  
20 think you're probably going to need a new revised  
21 survey. Again your sheet didn't reference the  
22 survey.

23 The measurement on the zoning table, I  
24 think that you don't measure to the bottom step and I  
25 guess I have a question maybe for our attorney.

13

1 When we're doing the setback I wouldn't  
2 normally measure to a bottom step, I'd measure to  
3 like a landing of some sort. So if there was a  
4 landing at a certain height --

5 MR. GALVIN: Any projection from the  
6 building, I think we should measure from.

7 MS. BANYRA: From the bottom step?

8 MR. GALVIN: If it's raised.

9 MS. BANYRA: Okay. So then, okay.  
10 That's atypical from other communities, I just wanted  
11 to...

12 Then you gave us pictures. And then  
13 screening, did you have a picture of the screening?

14 THE WITNESS: I do. I brought it. It's  
15 a wood screen that would go between the two pieces,  
16 the two adjacent pieces. There would be one panel.

17 MS. BANYRA: Some light can come through  
18 there? Is it kind of an offset type of thing?

19 THE WITNESS: It's offset and there's  
20 spaces in between the panels. They can come through  
21 but you wouldn't be able to visually see through.

22 MS. BANYRA: Okay. I guess you've  
23 already testified that the patio on the site plan  
24 represents an upper and lower patio and the steps on  
25 the existing site plan. That was because of the

14

1 survey is not correct. Correct?

2 THE WITNESS: Correct.

3 MS. BANYRA: And then again I just had a  
4 question about the landscaping but Mr. Greene could  
5 ask that. So you have no intention of providing any  
6 landscaping?

7 THE WITNESS: Not at this time.

8 MS. BANYRA: Thank you.

9 CHAIRMAN AIBEL: What is the length of  
10 the new screening?

11 THE WITNESS: It would be 6 feet. It  
12 would be 6 feet long by 6 feet tall.

13 CHAIRMAN AIBEL: Jeff, anything?

14 MR. MARSDEN: No.

15 CHAIRMAN AIBEL: Let me open it up to  
16 the public. Does anybody in the public have  
17 questions for the architect?

18 Seeing none...

19 COMMISSIONER GREENE: I move we close

20 the public portion for the architect.

21 COMMISSIONER COHEN: Second.

22 CHAIRMAN AIBEL: Thank you.

23 All in favor?

24 MR. MATULE: I really don't have

25 anything further to present. There's a couple

15

1 neighbors here. I don't know if you want to take

2 comment from the public. After they give their

3 comment, I'll make a few closing remarks, but it's a

4 pretty straightforward (c)(2) variance application.

5 CHAIRMAN AIBEL: I'll open it up to the

6 public for comment.

7 MR. GALVIN: Love to hear from you.

8 V I N C E N T M A N E N T E, duly sworn.

9 MR. GALVIN: State your full name for

10 the record, spell your last name.

11 MR. MANENTE: M-A-N-E-N-T-E, Vincent,

12 823 Bloomfield Street, Hoboken.

13 MR. GALVIN: Go ahead.

14 MR. MANENTE: This is not affecting my

15 property at all, okay? Number one is I got a very

16 good neighbor here, okay? Whatever he does in his

17 backyard is also going to benefit me because we have

18 a two-year-old nephew in all four backyards. So I

19 want you to vote yes for this, okay?

20 MR. GALVIN: That's good. You're a good

21 neighbor.

22 MR. MANENTE: Thank you.

23 MR. GALVIN: Anybody else?

24 R O B E R T S T A N T O N, duly sworn.

25 MR. GALVIN: State your full name for

16

1 the record, spell your last name.

2 MR. STANTON: Robert Stanton,

3 S-T-A-N-T-O-N, 821 Bloomfield, just the house north

4 with the other deck that you can see in the pictures.

5 I just want to go on the record that I

6 have no objection to their proposed plan and I'm all

7 for it.

8 COMMISSIONER MURPHY: We don't have a

9 neighbor to the south?

10 CHAIRMAN AIBEL: Think we did.

11 MR. MATULE: Anecdotally, when we were

12 here for the deck that's 821 Bloomfield Street, the

13 neighbor was good enough to come and also testify, so

14 it's a pretty nice neighborhood. But it's a

15 straightforward, I think very simple (c)(2) variance.

16 I don't like to use the term, a "technical" variance,

17 but basically we have a nonconforming rear yard as it  
18 is and the interpretation of this board is that  
19 stairways count as encroachments into the rear yard.  
20 Consequently, that's what we're asking for, a  
21 variance for the reduced rear yard of 15 feet 11  
22 inches and I think Ms. Banyra may have alluded to it,  
23 if we need a variance for expansion of a  
24 nonconforming structure, if that's not subsumed into  
25 the (c)(2) for this, we would request that also but I

17

1 don't know that it's necessary.

2 MR. GALVIN: I couldn't do it without  
3 it, but you're getting the variance. I don't know  
4 where it stands but don't worry about it. I'll mark  
5 it down just so we're covered.

6 CHAIRMAN AIBEL: Let me just throw a  
7 small wrinkle here, I may have missed it. I don't  
8 think we have a neighbor from 817. Is that correct?

9 MR. MATULE: No, I don't believe we do.

10 THE APPLICANT: No, they are okay with  
11 it, though.

12 MR. MATULE: Lisa, maybe we can have you  
13 sworn. I don't want you to give hearsay.

14 L I S A F I O R I T O M A C K E S S Y, having been  
15 duly sworn, was examined and testifies as follows:

16 MR. GALVIN: State your full name for

17 the record, spell your last name.

18 THE WITNESS: Lisa Fiorito,

19 F-I-O-R-I-T-O, space, Mackessy, M-A-C-K-E-S-S-Y.

20 MR. GALVIN: You talked to the neighbors

21 next door?

22 THE WITNESS: Yes, yes.

23 MS. BANYRA: When you talked to them,

24 you got the impression that they were not opposed to

25 this application?

18

1 THE WITNESS: Correct.

2 MR. GALVIN: As opposed to saying what

3 did they say, which is hearsay.

4 MR. MATULE: Well done. Thank you.

5 MR. GALVIN: I'm stealing from somebody

6 else.

7 THE WITNESS: They're well aware that

8 we're doing it and they are okay with it.

9 COMMISSIONER GREENE: So, this is a very

10 nice backyard, but why is it that you have no

11 greenery at all and why is the entire backyard

12 essentially paved over?

13 THE WITNESS: We just had a baby when we

14 moved in and literally days right after I had the

15 baby so we didn't have a chance yet to do it.

16 COMMISSIONER GREENE: Are there plans to  
17 do so?

18 THE WITNESS: I might put some plants.  
19 We have basil, parsley, we have a little garden in  
20 between, which is why when -- there used to be a  
21 fence in between and we planted a lot of vegetables  
22 and things like that, that we share with Jimmy.

23 COMMISSIONER GREENE: When it rains  
24 heavily, do you get puddling back there? What is the  
25 runoff there?

19

1 THE WITNESS: No, we improved it. The  
2 drains are excellent, so we don't get any water or  
3 anything. But I don't know if you could see it but  
4 there's a patch where we plant all the vegetables,  
5 the tomatoes.

6 CHAIRMAN AIBEL: That's on the plan,  
7 right?

8 MR. MATULE: Is it visual in any of  
9 these plans?

10 THE WITNESS: Yes, it's here, it's  
11 behind the table right here (indicating.)

12 COMMISSIONER GREENE: And there's a  
13 tree?

14 THE WITNESS: Yeah, the tree.

15 MR. MATULE: That's the drain you're

16 talking about in the patio?

17 THE WITNESS: Yeah.

18 COMMISSIONER GREENE: Thank you.

19 I apologize, Mr. Vasil, could I ask a

20 question?

21 MR. VASIL: Sure.

22 COMMISSIONER GREENE: You're showing

23 privacy screens on the north side of the property.

24 Is there any reason why you might not consider a

25 privacy screen on the south side, especially near I

20

1 guess the doors that are opening to the backyard on

2 the neighbor to the south?

3 MR. VASIL: I guess we were thinking we

4 were a few feet away from that property line so it

5 wasn't as important. Also because when we're

6 standing on the deck, that's why we put the privacy.

7 When you're standing on the deck there's nothing to

8 the other side.

9 THE WITNESS: You're not going to stand

10 there, you're going to be going up and down.

11 A MEMBER OF THE AUDIENCE: That was the

12 reason.

13 CHAIRMAN AIBEL: I understand.

14 A MEMBER OF THE AUDIENCE: Can I say

15 something?

16 MICHAEL J. MACKESSY, having been duly

17 sworn, was examined and testifies as follows:

18 MR. GALVIN: State your full name, spell

19 your last name.

20 THE WITNESS: Michael Mackessy. Michael

21 John Mackessy.

22 MR. GALVIN: You may proceed.

23 THE WITNESS: Thank you.

24 We have an ongoing relationship with our

25 neighbors. Initially they had asked us not to put a

21

1 fence up, we didn't do that. We have an open

2 relationship to the degree that everything that we

3 do, we ask them what they want. So in all the

4 planning and everything else, it's been an open

5 dialogue with them. So as far as the privacy goes,

6 because they don't have a deck next to us, I don't

7 want to speak for Jimmy but he said whatever you

8 want, like that.

9 So I had been very conscious about

10 making sure that we're not upsetting them to the

11 degree, which is why we kept the tree. Because

12 initially it was causing problems with the root

13 system and the concrete in the back. So we rebuilt

14 around that just because of that reason. We also

15 left -- I just want you to understand the  
16 relationship here because we have also left in  
17 between, a space so that he can plant a garden as he  
18 wanted.

19 So, I don't know if that helps or if  
20 I'm --

21 CHAIRMAN AIBEL: It helps. Thank you.

22 Board Members, anything else?

23 I guess we're ready.

24 MR. GALVIN: You already summed, didn't  
25 you?

22

1 CHAIRMAN AIBEL: Did you sum up?

2 MR. MATULE: I did.

3 CHAIRMAN AIBEL: Ready for a motion.

4 COMMISSIONER GREENE: Are there any  
5 conditions?

6 MR. GALVIN: None on this case.

7 MS. BANYRA: The survey has to be  
8 revised to reflect the existing conditions. Revise  
9 the survey.

10 MR. GALVIN: You want an as-built  
11 survey?

12 MS. BANYRA: That would be fine. They  
13 can do it afterwards and then they are taken care of

14 and we're taken care of.

15 MR. MATULE: As-built?

16 MS. BANYRA: Yes. So you should submit

17 a plan, also, that reflects everything that was

18 discussed, the tree in the backyard and all that.

19 MR. GALVIN: Within 30 days?

20 MS. BANYRA: Whatever.

21 MR. GALVIN: Do we need a time? Prior

22 to the C/O?

23 MS. BANYRA: That sounds great. And

24 then my report indicated that the variance was 17

25 feet. Mr. Matule and the plans correctly represent

23

1 15.11 feet rear yard setback. So the plans are

2 correct.

3 MR. GALVIN: Okay.

4 CHAIRMAN AIBEL: Are we ready for a

5 motion with conditions?

6 MR. GALVIN: Yes, that one as-built

7 survey.

8 CHAIRMAN AIBEL: Anybody want to make a

9 motion?

10 COMMISSIONER MURPHY: Motion to approve

11 the application for 819 Bloomfield Street.

12 CHAIRMAN AIBEL: Do we have a second?

13 COMMISSIONER COHEN: Second.

14 MADAM SECRETARY: Commissioner Greene.  
15 COMMISSIONER GREENE: Yes.  
16 MADAM SECRETARY: Commissioner Cohen.  
17 COMMISSIONER COHEN: Yes.  
18 MADAM SECRETARY: Commissioner DeFusco.  
19 COMMISSIONER DeFUSCO: Yes.  
20 MADAM SECRETARY: Commissioner Grana.  
21 COMMISSIONER GRANA: Yes.  
22 MADAM SECRETARY: Commissioner Marsh.  
23 COMMISSIONER MARSH: Yes.  
24 MS. BANYRA: Commissioner Murphy.  
25 COMMISSIONER MURPHY: Yes.

24

1 MS. BANYRA: And Commissioner Aibel.  
2 COMMISSIONER AIBEL: Yes.  
3 MR. MATULE: Just a housekeeping  
4 question, Counselor. Do you want us to submit this,  
5 we'll call it A-2?  
6 MR. GALVIN: Yes.  
7 MR. MATULE: It's just an example of the  
8 screen that's going to be put on the deck.  
9 MR. GALVIN: Everybody here loves it but  
10 maybe there's somebody out there that didn't.  
11 (Exhibit A-2 marked into evidence.)  
12 (Whereupon, the proceedings are

13 adjourned.)

14

15

16

17

18

19

20

21

22

23

24

25

25

1                   C E R T I F I C A T E

2

3

4                   I, JOANNE M. OPPERMANN, a Certified

5 Court Reporter and Notary Public of the State of New

6 Jersey, do hereby state that the foregoing is a true

7 and accurate transcript of my stenographic notes of

8 the within proceedings, to the best of my ability.

9

10

11

12

\_\_\_\_\_

13           JOANNE M. OPPERMANN, C.C.R.  
License No. XI01435

14

15

16

17

18

19

20

21

22

23

24

25