

HOBOKEN ZONING BOARD OF ADJUSTMENT
CITY OF HOBOKEN

----- X
REGULAR MEETING OF THE :
HOBOKEN ZONING BOARD OF :October 21, 2014
ADJUSTMENT :Tuesday 7 p.m.
----- X

Held At: 94 Washington Street
Hoboken, New Jersey

B E F O R E:

- Chairman James Aibel
- Vice Chair Elliot H. Greene
- Commissioner Phil Cohen
- Commissioner Antonio Grana
- Commissioner Carol Marsh
- Commissioner Diane Fitzmyer Murphy
- Commissioner John Branciforte
- Commissioner Tiffanie Fisher

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

- Eileen Banyra, Planning Consultant
- Jeffrey Marsden, PE, PP
Board Engineer
- Patricia Carcone, Board Secretary

PHYLLIS T. LEWIS
CERTIFIED SHORTHAND REPORTER
CERTIFIED REALTIME REPORTER
Phone: (732) 735-4522

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

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

DENNIS M. GALVIN, ESQUIRE
730 Brewers Bridge Road
Jackson, New Jersey 08527
(732) 364-3011
Attorney for the Board.

ROBERT C. MATULE, ESQUIRE
89 Hudson Street
Hoboken, New Jersey 07030
Attorney for the Applicant.

I N D E X

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

PAGE

BOARD BUSINESS

1 & 108

316 Park Avenue

16

720 Clinton Street

72

1 CHAIRMAN AIBEL: All right, Board
2 Members.

3 Good evening, everybody.

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

12 Please join me in saluting the flag.

13 (Pledge of Allegiance recited.)

14 CHAIRMAN AIBEL: We will start with a
15 little administrative business. We have two
16 resolutions.

17 MS. CARCONE: Are you going to do the
18 roll call?

19 CHAIRMAN AIBEL: Yes, thank you.

20 MS. CARCONE: Commissioner Aibel?

21 CHAIRMAN AIBEL: Yes, here.

22 MS. CARCONE: Commissioner Greene?

23 VICE CHAIR GREENE: Here.

24 MS. CARCONE: Commissioner Cohen?

25 COMMISSIONER COHEN: Yes.

1 MS. CARCONE: Commissioner DeFusco is
2 absent.

3 Commissioner Grana?

4 COMMISSIONER GRANA: Here.

5 MS. CARCONE: Commissioner Marsh?

6 COMMISSIONER MARSH: Yes.

7 MS. CARCONE: Commissioner Murphy?

8 COMMISSIONER MURPHY: Here.

9 MS. CARCONE: Commissioner Branciforte?

10 COMMISSIONER BRANCIFORTE: Here.

11 MS. CARCONE: Commissioner Fisher?

12 COMMISSIONER FISHER: Here.

13 MS. CARCONE: Commissioner McAnuff is
14 absent, and Commissioner Trimitiedi is absent.

15 CHAIRMAN AIBEL: Thanks, Pat.

16 MR. GALVIN: All right. The first
17 matter is 501 Washington Street, and those voting in
18 favor are Mr. Greene, Mr. Cohen, Ms. Murphy,
19 Ms. Fisher and Chairman Aibel.

20 I point out that Mr. Grana and Mr.
21 Branciforte voted and were opposed to this
22 application.

23 Can I have a motion?

24 COMMISSIONER COHEN: Motion to approve.

25 MR. GALVIN: Thank you.

1 Could I have a second?

2 COMMISSIONER FISHER: Second.

3 MR. GALVIN: Thank you.

4 Mr. Greene?

5 VICE CHAIR GREENE: Yes.

6 MR. GALVIN: Mr. Cohen?

7 COMMISSIONER COHEN: Yes.

8 MR. GALVIN: Ms. Murphy?

9 COMMISSIONER MURPHY: Yes.

10 MR. GALVIN: Ms. Fisher?

11 COMMISSIONER FISHER: Yes.

12 MR. GALVIN: And Chairman Aibel?

13 CHAIRMAN AIBEL: Yes.

14 MR. GALVIN: Then we had a denial, and

15 that is for 704 Madison. That is Mr. Greene, Mr.

16 Cohen, Mr. DeFusco and Mr. Grana who were in favor.

17 So those voting on the resolution will

18 be Ms. Marsh, Ms. Murphy, and Chairman Aibel.

19 Can I have a motion?

20 COMMISSIONER MURPHY: Motion to deny.

21 MR. GALVIN: Can I have a second?

22 COMMISSIONER FISHER: Second.

23 MR. GALVIN: Ms. Marsh?

24 COMMISSIONER MARSH: Yes.

25 MR. GALVIN: Ms. Murphy?

1 COMMISSIONER MURPHY: Yes.

2 MR. GALVIN: And Chairman Aibel?

3 CHAIRMAN AIBEL: Yes.

4 MR. GALVIN: There you go. The
5 resolutions are done.

6 CHAIRMAN AIBEL: Now we have several
7 waivers.

8 Jeff, do you want to address the
9 waivers?

10 MR. MARSDEN: Yes.

11 Okay. The first waiver is for 409
12 Jefferson Street, and they are requesting waivers
13 for the stormwater facility, showing the existing
14 and proposed stormwater facilities and because of
15 the nature of the plan, we felt it was necessary to
16 have that information existing in the proposed
17 features, and therefore, they are -- we recommend
18 that they don't grant that waiver.

19 VICE CHAIR GREENE: What is the nature
20 of the application?

21 MR. MARSDEN: That is a good question.
22 I don't have it here.

23 MS. CARCONE: 409 Jefferson is a new
24 five-story building. I don't have the plans with
25 me.

1 MR. MARSDEN: Yes. And they are
2 proposing not to show -- they're asking to not to
3 show --

4 VICE CHAIR GREENE: Is it a 50 by a
5 hundred lot?

6 CHAIRMAN AIBEL: No.

7 MS. CARCONE: I don't have the plans
8 with me.

9 VICE CHAIR GREENE: But you are
10 recommending that we deny the waiver?

11 MR. MARSDEN: Yeah. I think the
12 information should be added to the survey and the
13 existing features and then show the proposed
14 locations and inlets and the drainage system, which
15 is what we request of almost every applicant.

16 VICE CHAIR GREENE: I move for the
17 denial.

18 COMMISSIONER MURPHY: Second.

19 CHAIRMAN AIBEL: Thank you.

20 Can we do all in favor?

21 MR. GALVIN: Sure. That will work.

22 CHAIRMAN AIBEL: All in favor?

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

25 CHAIRMAN AIBEL: Thank you.

1 MR. MARSDEN: The next one is 808
2 Washington. I believe that was just a variance,
3 existing basement and a unit in the basement, and I
4 recommended that they grant the elevation cert
5 because they are above flood.

6 Present proposed topo, existing
7 proposed drainage, stormwater drainage area map and
8 stormwater drainage area plan, soil sediment
9 control, landscape and off track improvements. They
10 were just asking for approval of the unit in the
11 basement, so I recommend that they grant all of
12 those waivers.

13 CHAIRMAN AIBEL: Discussion?

14 Motion?

15 COMMISSIONER GRANA: Motion to approve
16 the waivers.

17 COMMISSIONER FISHER: Second.

18 CHAIRMAN AIBEL: All in favor?

19 (All Board members answered in the
20 affirmative.)

21 MR. MARSDEN: The next one would be
22 1410 Grand and 1405-1411 Adams for preliminary site
23 plan.

24 They again requested not providing an
25 elevation certification. They are below the flood

1 plain, and I believe that would be absolutely
2 necessary. Again, the stormwater management,
3 existing and proposed features, and the existing and
4 proposed topo, topography, and that was it.

5 That is what they were requesting
6 waivers for, and I recommended not granting those
7 because I believe they are necessary, especially the
8 certification, the elevation cert.

9 CHAIRMAN AIBEL: Motion to approve.

10 VICE CHAIR GREENE: No. Motion to deny
11 the waivers.

12 CHAIRMAN AIBEL: Motion to deny the
13 waivers.

14 COMMISSIONER COHEN: I will make that
15 motion.

16 CHAIRMAN AIBEL: Can I have a second?

17 COMMISSIONER FISHER: Second.

18 CHAIRMAN AIBEL: All in favor?

19 (All Board members voted in the
20 affirmative.)

21 MR. MARSDEN: And the third one or the
22 fourth one is 601-607 Park. I believe that is the
23 Hudson School application.

24 They were requesting a lot of waivers,
25 such as photos of the building, property lines

1 abutting properties, soil erosion, sediment control,
2 landscaping, stormwater management, any and all
3 other information needed for the approval.

4 The necessary waivers that I
5 recommended not granting, but since the issuance of
6 this, they have submitted all of the required
7 documents to be deemed complete.

8 We met with them today during an ARC
9 meeting, and we realized that they had just finally
10 submitted all of the information, so although I
11 recommended initially not to grant the waivers, they
12 have provided all of the information, so I would
13 deem them complete.

14 MS. BANYRA: They were deemed
15 incomplete. The waivers may be granted, but we
16 deemed them incomplete for other information at our
17 ARC meeting.

18 MR. MARSDEN: I thought they said they
19 provided that.

20 MS. BANYRA: Not for Hudson School,
21 right, Pat?

22 MS. CARCONE: You are correct.

23 MS. BANYRA: Yes.

24 MR. MARSDEN: Okay. I stand corrected.
25 I guess I wasn't listening.

1 MS. CARCONE: She's right.

2 MS. BANYRA: They're incomplete.

3 MR. MARSDEN: They're incomplete,
4 because they have not provided all of the
5 information that I thought they had.

6 MS. BANYRA: Some of the things they
7 asked for waivers, we may have given them a waiver
8 on, but they are incomplete for other information,
9 so...

10 COMMISSIONER FISHER: So we don't have
11 to rule on that, period, though?

12 MS. BANYRA: No.

13 COMMISSIONER FISHER: You're almost
14 like removing it from a vote?

15 MS. BANYRA: Yes. You don't need to
16 vote on that. We deemed them incomplete because
17 there were too many other issues, and they were in
18 agreement with that, and we told them as soon as
19 they get back, they would be back on the agenda.

20 CHAIRMAN AIBEL: Anything else, Jeff?

21 MR. MARSDEN: 113-121 Monroe. That is
22 a preliminary site plan, and they were asking not to
23 provide the existing proposed drainage information
24 and stormwater drainage area map.

25 I recommended granting the waiver for

1 the stormwater area map, but not granting the waiver
2 for showing the existing and proposed drainage, so
3 at this point we deem them incomplete.

4 VICE CHAIR GREENE: So what are we
5 asking for here?

6 COMMISSIONER GRANA: Is there any
7 action required from us?

8 MR. MARSDEN: Well, yes, you have to --

9 MS. BANYRA: The waiver --

10 VICE CHAIR GREENE: The waiver that you
11 agreed with, why is it that you agree they should
12 have a waiver on providing that?

13 MR. MARSDEN: Because it is an overall
14 stormwater area map, which is necessary for this
15 type of project. It was fairly small. It wasn't a
16 big one, but it doesn't involve proposed drainage.
17 It needs detention, and it also has existing
18 features in the areas that they were not showing,
19 so --

20 VICE CHAIR GREENE: That is the waiver
21 you wanted to deny, but the one that you want
22 granted, what was that?

23 MR. MARSDEN: That was the drainage
24 area map, the overall drainage area, which shows all
25 of the off-site drainage, that could be coming from

1 blocks away, and typically that is not necessary
2 because that will be covered under the information
3 when it's submitted to the NJSA.

4 VICE CHAIR GREENE: Okay. So you
5 want --

6 MR. MARSDEN: To deny.

7 VICE CHAIR GREENE: -- you want to deny
8 the one, and you want to approve the other?

9 MR. MARSDEN: Yes.

10 VICE CHAIR GREENE: I will move it.

11 COMMISSIONER GRANA: As long as it is
12 recorded, because it's two different waivers. It
13 sounds like actually two different waivers, but
14 okay.

15 COMMISSIONER FISHER: Motion to accept
16 his recommendations.

17 COMMISSIONER GRANA: There you go.

18 CHAIRMAN AIBEL: Can I have a second?

19 COMMISSIONER GRANA: Second.

20 CHAIRMAN AIBEL: Thank you.

21 All in favor?

22 (All Board members answered in the
23 affirmative.)

24 CHAIRMAN AIBEL: Is that it, Jeff?

25 MR. MARSDEN: That's it. Thank you.

1 CHAIRMAN AIBEL: Ready to go?

2 MR. GALVIN: Yes.

3 (Continue on next page)

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

HOBOKEN ZONING BOARD OF ADJUSTMENT
CITY OF HOBOKEN

----- X
 RE: 316 PARK AVENUE :
 Applicant: 316 Park Corp :October 21, 2014
 C&D Variances :
 (Continued from 10/14/14) :Tuesday 7:20 p.m.
 ----- X

Held At: 94 Washington Street
Hoboken, New Jersey

B E F O R E:

Chairman James Aibel
 Vice Chair Elliot H. Greene
 Commissioner Phil Cohen
 Commissioner Antonio Grana
 Commissioner Carol Marsh
 Commissioner Diane Fitzmyer Murphy
 Commissioner John Branciforte
 Commissioner Tiffanie Fisher

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

Eileen Banyra, Planning Consultant

 Jeffrey Marsden, PE, PP
 Board Engineer

 Patricia Carcone, Board Secretary

PHYLLIS T. LEWIS
 CERTIFIED SHORTHAND REPORTER
 CERTIFIED REALTIME REPORTER
 Phone: (732) 735-4522

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

2 DENNIS M. GALVIN, ESQUIRE
3 730 Brewers Bridge Road
4 Jackson, New Jersey 08527
5 (732) 364-3011
6 Attorney for the Board.

7 ROBERT C. MATULE, ESQUIRE
8 89 Hudson Street
9 Hoboken, New Jersey 07030
10 Attorney for the Applicant.
11 (201) 659-0403

12

13

14

15

16

17

18

19

20

21

22

23

24

25

I N D E X

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

WITNESS

PAGE

FRANK MINERVINI

20

1 CHAIRMAN AIBEL: Mr. Matule, 1316 Park
2 Avenue --

3 VICE CHAIR GREENE: No. It's 316 Park
4 Avenue.

5 CHAIRMAN AIBEL: -- 316 Park Avenue.

6 (Laughter)

7 Thank you.

8 MR. MATULE: Good evening, Mr.
9 Chairman, and Board Members.

10 Robert Matule appearing on behalf of
11 the applicant.

12 We were here last week I believe on
13 this matter. And during the course of the
14 proceedings, it was to build, my recollection is, a
15 two-family four-story house.

16 There was quite a bit of back and forth
17 with the neighbors to the south, I believe at 314
18 Park, and as a result of the colloquies that took
19 place, several changes were made to the plans.

20 I think the Board was at a point where
21 they were ready to vote last week, but felt they
22 could do that with more confidence, if they actually
23 saw the revised plans, so we did submit revised
24 plans with several changes.

25 Mr. Minervini can go through them all I

1 think for the record, but basically we tried to
2 address all of the comments from the neighbors and
3 from the Board, and we think we have done that.

4 So if we could have Mr. Minervini
5 sworn, I will have him go through those specific
6 comments. If there are any more questions, we will
7 try to answer them.

8 MR. GALVIN: Mr. Minervini, in my view,
9 is still under oath from the last meeting.

10 F R A N K M I N E R V I N I, having been
11 previously sworn, testified further as follows:

12 MR. MATULE: Okay. Mr. Minervini, you
13 are still under oath.

14 Could you go through the revised
15 plans -- first of all, tell us what the revision
16 date on the plans is, and then take us through the
17 specific revisions.

18 THE WITNESS: The 14th of October, this
19 year, 2014.

20 MR. MATULE: They were submitted to the
21 Board professionals and all of the members?

22 THE WITNESS: Yes, yes. We overnighted
23 them last Thursday, and I believe you received them
24 Friday, and we emailed them as well.

25 MR. MATULE: Thank you.

1 THE WITNESS: The list of revisions is
2 on our revised Sheet Z-1. I will read through them
3 first and show you where they are on the plan.

4 So the first revision is the rear deck
5 was removed. The drawing set that you had last week
6 showed a rear outdoor space on two of the floors. I
7 presented that that would be removed. The drawings
8 that you got reflect that, so there is no longer a
9 rear deck.

10 The roof deck size was decreased.
11 There were some discussions about the setbacks of
12 that roof plan, and again, I will go through all of
13 these one by one.

14 We decreased the dimension -- we
15 increased the dimension off of the rear of the
16 building to match the front, so therefore, the roof
17 deck went from 470 square feet to about 423.

18 We also added on three sides of that
19 roof, which would be the west, north and south a
20 planter at the edge of the roof decks, which our
21 detail shows is a fence as well as plantings.

22 We introduced a front stoop entry stair
23 based on some of the discussion as well, so now the
24 building -- one of the options to enter the building
25 is through a five foot wide stoop, and we also added

1 an extensive deck at the main roof level, and that
2 is delineated on the roof plan.

3 I can go through each of those, if the
4 Board would like.

5 MR. GALVIN: You didn't go there yet.
6 Let's see if people need it.

7 THE WITNESS: I know, I am waiting.

8 CHAIRMAN AIBEL: Board members, do you
9 want a guided tour through the plans?

10 VICE CHAIR GREENE: You know what,
11 we're here. I don't think it is a bad idea.

12 MR. GALVIN: I do, but if you need it,
13 get it.

14 (Laughter)

15 VICE CHAIR GREENE: It would take about
16 five minutes.

17 MR. GALVIN: Yes, go ahead.

18 CHAIRMAN AIBEL: Can Mr. Minervini take
19 us through that expeditiously?

20 THE WITNESS: Sure.

21 MR. MATULE: "Expeditiously," Mr.
22 Minervini, the operative word.

23 (Laughter)

24 THE WITNESS: Understood.

25 So the first would be the rear decks

1 removed. My Sheet Z-4, we had a rear deck here as
2 well as here. Both of them are now gone. With that
3 removal, the lot coverage goes from 70 percent down
4 to 64.43 percent.

5 As a reminder, this lot is an odd one.
6 It's 20 feet wide by 95 in width, and you recall
7 there was a discussion that the applicant is in the
8 process of purchasing that additional square footage
9 in the back. But nevertheless, the building itself
10 is 60 feet with the removal of the deck, and if this
11 were a 100 foot property, it would be exactly 60
12 percent. Because we have 95 feet, it is 64.43 down
13 from 70.

14 The roof deck, Sheet Z-4 again, the
15 roof deck, pardon me, was decreased in size. This
16 dimension, which is now 11 feet two, and we
17 discussed that, it would match the front dimension
18 of 11 feet two. There was originally about eight.
19 We have increased it to 11 feet two. The deck area
20 went from 470 square feet to 423 square feet.

21 We added green roof sections, an
22 extensive green roof, the non walkable type, and I
23 have a detail on the drawings. At the front as well
24 as the rear, there is 255 square feet of deck.

25 Planters along the western edge and the

1 southern edge. The planter detail is shown, pardon
2 me, on Sheet Z-5, so it is two details. This is a
3 cross-section showing the planter's height at 42
4 inches and planters behind it.

5 I show a solid fence. I neglected to
6 show in here that the actual visible area of this
7 fence here would be glass, so that will be a glass
8 fence, but the purpose was to reduce sound
9 transmission to adjacent structures.

10 There is an entry stoop provided, so in
11 elevation, it's here.

12 I have a revised front elevation,
13 colored, a rendering showing that stoop as well.

14 There was a discussion by some of the
15 Board members, and we understood it that the
16 majority of the properties on this street had entry
17 stoops, so the stoop and the green roofs, which I
18 discussed.

19 I think that is the extent of the
20 revisions.

21 CHAIRMAN AIBEL: Great.

22 Board members, questions of Mr.
23 Minervini?

24 MS. BANYRA: I had a question regarding
25 the condensers on the roof.

1 THE WITNESS: Yes.

2 MS. BANYRA: Where they're located, so
3 they are located to the back, to the rear yard.

4 Wouldn't it be better, Mr. Minervini,
5 if they were moved more central to keep less sound
6 attenuation, particularly to the right side, because
7 there is a tall building on that side?

8 THE WITNESS: We can certainly relocate
9 this area, if that is what you are suggesting,
10 absolutely.

11 MS. BANYRA: Yes, because it might help
12 with --

13 THE WITNESS: Absolutely.

14 MS. BANYRA: Yes.

15 That's all I have.

16 CHAIRMAN AIBEL: Anyone else?

17 Jeff?

18 MR. MARSDEN: No.

19 COMMISSIONER BRANCIFORTE: Are we going
20 to hear from Mr. Kolling again?

21 CHAIRMAN AIBEL: I don't think so.

22 MR. GALVIN: I don't think so.

23 CHAIRMAN AIBEL: Let me open it up to
24 the public. Anybody in the public have questions
25 for Mr. Minervini?

1 MR. GALVIN: Wait a minute.

2 I think, John, did you have a question?

3 COMMISSIONER BRANCIFORTE: Well,
4 something came up. I was looking at the plans since
5 last week, and something else did come up that I
6 need to ask about.

7 MR. GALVIN: Yes, go ahead.

8 COMMISSIOENR BRANCIFORTE: Jim, I hate
9 to do this at the last minute --

10 MR. GALVIN: I think Mr. Minervini is
11 the proper person to ask.

12 COMMISSIONER BRANCIFORTE: -- but if
13 you go back to A-1 -- Z-1 rather, I was looking at
14 the tax map there in the lower left-hand corner, and
15 I was looking at the buildings on Willow.

16 THE WITNESS: Yes.

17 COMMISSIONER BRANCIFORTE: On the
18 Willow side, and some of those buildings go back, so
19 it looks like they are a hundred percent lot
20 coverage.

21 THE WITNESS: Okay.

22 COMMISSIONER BRANCIFORTE: You know, I
23 can't read the lot numbers because they are so small
24 here, and I am a little worried that the lot
25 coverage on this new building, the rear of the

1 building, is going to be way too close to the rear
2 of the buildings on Willow, and I am really now more
3 concerned about the light and air being cut off
4 because the buildings on Willow are a hundred
5 percent lot coverage.

6 THE WITNESS: Well, I'm sorry, I didn't
7 mean to cut you off.

8 Our photo board, and I will be happy to
9 hand it to you, it shows a hundred percent lot
10 coverage is at the ground floor only. Here's the
11 parking lot right behind us, ground floor, ground
12 floor, and that one doesn't go that far. That one
13 is not ground floor. That's three stories.

14 But if I may, remember that our
15 building is 60 feet in depth, so the standard
16 requirement for the hole in the donut is there.
17 Technically our property is 95 feet.

18 When the applicant purchases that other
19 portion, which cannot be built on, we will have --
20 either way we have got what is required in terms of
21 the rear setback.

22 But, John, if I may, you can certainly
23 look at this. You will see the majority of those
24 are at one story.

25 (Counsel and witness confer.)

1 THE WITNESS: Thank you, Bob.

2 And then the requirement for the rear
3 setback is 30 feet or 30 percent, and we have that.

4 COMMISSIONER BRANCIFORTE: Well, if you
5 get the --

6 THE WITNESS: Of course. No, even as
7 designed, we have 35 feet as designed. The overall
8 lot is 95 feet in depth, and our building is 60
9 feet.

10 COMMISSIONER BRANCIFORTE: Okay.

11 CHAIRMAN AIBEL: Okay. Now, let me
12 open it up to the public.

13 Any questions?

14 MS. UGAZTHEANDR: I have a question on
15 the fence. Should I do it now or later?

16 CHAIRMAN AIBEL: Well, it's questions
17 and then -- well, actually we're at the very end,
18 so come on up.

19 MR. GALVIN: Yes, go ahead. Do it now.
20 Do it now.

21 CHAIRMAN AIBEL: Come on up.

22 MR. GALVIN: State your name and spell
23 your last name, ma'am. We are not putting you under
24 oath, just ask your questions.

25 State your full name for the record.

1 MS. UGAZTHEANDR: Julieta,
2 J-u-l-i-e-t-a, and the last name is Ugaztheandr.
3 U-g-a-z-t-h-e-a-n-d-r.

4 MR. GALVIN: Okay. Go ahead, ask your
5 question.

6 MS. UGAZTHEANDR: I just wanted to
7 clarify the -- in terms of the fence for the
8 soundproofing on the other roof deck, is it going to
9 be glass within six feet?

10 THE WITNESS: Yes. If I can show you,
11 this is Z-5. This is the elevation drawing. The
12 first 42 inches of it is a solid planter, meaning
13 that is a section where plants will sit in and grow.
14 There is soil in there.

15 The remaining dimension up to seven
16 feet is glass, so this section -- I'm sorry -- six
17 feet is glass.

18 MS. UGAZTHEANDR: Oh, okay. Between
19 four and five is glass?

20 THE WITNESS: Correct.

21 So it's going up to six feet, as we are
22 permitted, which is glass, and the other part is
23 solid soil and a wood structure with bushes as well.

24 MS. UGAZTHEANDR: So 3.5 wood and 3.5
25 glass --

1 THE WITNESS: This is separate. It is
2 actually six feet of total height.

3 MS. UGASTHANDR: Six feet of glass?

4 THE WITNESS: Six feet of total -- the
5 total height of the glass is six feet. From zero to
6 42 inches is the wood structure, which contains the
7 plants. Then from 42 inches to six feet is glass.

8 MS. UGAZTHEANDR: Okay. So it is not
9 seven feet of glass?

10 THE WITNESS: That's correct.

11 MS. UGASTHANDR: Okay. So it's 3.5 of
12 wood, and I don't know what's better, but at least
13 you have something --

14 THE WITNESS: We got glass and the
15 shrubbery.

16 MS. UGAZTHEANDR: Okay. And is that
17 for all around the building?

18 THE WITNESS: This is for the three
19 sides, not on the front side.

20 MS. UGASTHANDR: Not on the front side?

21 THE WITNESS: Yeah.

22 So if you look at the plan -- I'm
23 sorry -- it's two sides. It's this side and this
24 side. Here we have no place for it, and there is
25 really no deck there --

1 MS. UGAZTHEANDR: Is there any reason
2 why you are not doing it in the front, given that
3 the rooms are in the front --

4 THE WITNESS: It wasn't something that
5 we talked about at this Board meeting --

6 MS. UGAZTHEANDR: -- I'm talking about
7 soundproof. I don't know if that makes a
8 difference.

9 THE WITNESS: My thinking is this is
10 the street side, and we are a hundred feet off of
11 that street side already.

12 MS. UGASTHANDR: Only if it's going to
13 be better for the sound --

14 THE WITNESS: I don't think --

15 MS. UGAZTHEANDR: -- only if it is
16 going to be better for the sound.

17 THE WITNESS: -- I don't think it will
18 make any difference to your building, which is here,
19 but again, we are open to direction --

20 MS. UGAZTHEANDR: And then the other
21 question was on the backyard structure, the fence
22 that we talked about, that it would be higher
23 than --

24 THE WITNESS: Yes. And our drawing --
25 pardon me -- I neglected to mention that to the

1 Board. Our drawing has been revised to reflect a
2 six foot high fence only to be built within the
3 property line and the existing structure to be
4 removed. Nothing higher than six feet.

5 MS. UGAZTHEANDR: I think that is
6 everything. That is it.

7 Thank you.

8 COMMISSIONER BRANCIFORTE: Frank, that
9 is not actually glass. It's more like translucent
10 acrylic or something?

11 THE WITNESS: No. It's glass --

12 COMMISSIONER BRANCIFORTE: It's
13 glass --

14 THE WITNESS: -- it is translucent, not
15 transparent.

16 MR. GALVIN: It lets light in and it
17 can't be seen through.

18 THE WITNESS: Exactly.

19 COMMISSIONER MARSH: I have a question.

20 MR. GALVIN: I'm sorry?

21 COMMISSIONER MARSH: I have a question.

22 I don't know whether -- who it's supposed to be
23 directed at, though.

24 When we talked about asking for
25 planters and green roofs and stuff like that, does

1 that go in the resolution, so there is some
2 enforcement?

3 MR. GALVIN: We came up with this new
4 procedure within the last 30 days. This is going to
5 be one of the first resolutions we are going to have
6 it, and what I'm going to have is a condition here
7 that says there is going to be a memo from our
8 planner and from our engineer as to unmet comments
9 or technical commitments made during the hearing.

10 So like where Eileen just mentioned
11 about relocating the condenser, that could be in her
12 memo, but I have a whole bunch of other --

13 COMMISSIONER MARSH: Three years from
14 now --

15 MR. GALVIN: -- no, no, no. Time out.
16 time out. I was a little smarter than that.

17 The memo is going to be attached as
18 Exhibit A to the resolution.

19 COMMISSIONER MARSH: All right. I'm
20 sorry. I just wanted to make sure it is all out
21 there.

22 I am living next door to a house that
23 is supposed to have trees on the roof.

24 MR. GALVIN: Right.

25 COMMISSIONER MARSH: What do I do if

1 the trees are not there any more one day?

2 COMMISSIONER FISHER: Three years from
3 now.

4 MR. GALVIN: That is a slightly more
5 complicated question --

6 COMMISSIONER MARSH: Good.

7 MR. GALVIN: -- ask me something else,
8 like if the air-conditioner gets moved to another
9 location.

10 COMMISSIONER MARSH: No.

11 MR. GALVIN: Well, trees are hard
12 because they present really difficult problems for
13 zoning officials into the future.

14 My position is that if you are supposed
15 to have arborvitaes along that line, and they die
16 because you get salt water intrusion, they should
17 replace them, so we will see how that goes in the
18 future. That is what should happen, but sometimes
19 when it comes to planting, it doesn't always happen
20 that way.

21 But all of the other physical features
22 I can assure you in any other community will be
23 enforced completely. Sometimes trees die. They are
24 planted. They get their CO. Until there is a
25 complaint, nobody knows, and then it is like ten

1 years later and then how do you really come back --

2 COMMISSIONER MARSH: I'm familiar with
3 trees dying, but I am asking, you know, what happens
4 if they die, and they don't get replaced?

5 MR. GALVIN: Then the zoning officer
6 comes in and would say, "Replace these trees or I am
7 going to issue a notice of violation."

8 If they don't, they issue a notice of
9 violation.

10 COMMISSIONER MARSH: So the neighbors
11 come in, and they complain, and they say the trees
12 are dead --

13 MR. GALVIN: They remember, because
14 they were here. They lived there for a decade.

15 COMMISSIONER MARSH: So when they
16 buy -- they sell their house now, and the new people
17 come in, is there like a deed restriction that
18 says --

19 MR. GALVIN: No. You would have to be
20 totally dependent on them coming in to --

21 COMMISSIONER MARSH: "Them"?

22 MR. GALVIN: -- the new owners, who
23 feel like there should be planting, where there
24 isn't any.

25 COMMISSIONER MARSH: How would they

1 know that they have any legal rights to --

2 MR. GALVIN: Maybe they see dead
3 arborvitaes, and it seems odd, so they go visit the
4 zoning officer and say --

5 (Board member makes noise)

6 (Laughter)

7 MR. GALVIN: -- is there a resolution.

8 COMMISSIONER MARSH: What happens if
9 they don't like plans?

10 MR. GALVIN: What's that?

11 Then they won't care that they die.

12 (Board members talking at once.)

13 MR. GALVIN: No, seriously. Wait a
14 minute. Time out for a second, guys.

15 One of the things about zoning, which
16 is very troublesome and it's troublesome throughout
17 the entire State of New Jersey, is that unless we
18 record every one of these resolutions, future
19 property owners are not as bound to them as the
20 person who is in front of us, the applicant in front
21 of us, so that is why when we have critical
22 conditions, we impose a deed restriction.

23 In this case for like say putting trees
24 up on the property line, or arborvitaes, you assume
25 that they are going to work, it is going to be

1 there, and it's going to become part of the
2 landscape.

3 You know, if you -- I don't know how
4 else to tell you, other than the fact that we don't
5 record every resolution. If we wanted to record
6 every resolution, then the new property owners would
7 be bound to it.

8 As for the next door neighbors, if the
9 resolution were recorded, they could search it or
10 they could come to town hall and take a look at the
11 resolutions.

12 COMMISSIONER MARSH: What does it take
13 to record it on a -- to record it?

14 MR. GALVIN: It is like recording a
15 deed. It's the cost of recording a deed.

16 COMMISSIONER MARSH: Yeah. Which is
17 what?

18 MR. GALVIN: You put it in recordable
19 form and you record it.

20 COMMISSIONER BRANCIFORTE: Well, we
21 just make it a condition of approval that the
22 resolution has to be recorded.

23 MR. GALVIN: We could do that in the
24 appropriate case.

25 You know, I am not encouraging you to

1 do it in every instance. I think it is almost
2 something that if we wanted to do it in every
3 instance, it probably should be the governing body
4 making that determination, not us.

5 COMMISSIONER MARSH: We are granting
6 variances based on things that people are promising.
7 Why wouldn't we hold them to it?

8 COMMISSIONER FISHER: I think if you
9 have recorded deeds, I mean, fast forward ten years
10 from now, and the dynamic in Hoboken changes, and
11 suddenly everyone -- it is going to be difficult for
12 the Zoning Board, if every single property that
13 comes in has all of these deed restrictions that
14 they are bound by, you know, at the time, like it is
15 permanent until they are removed.

16 MR. GALVIN: Well, if it's important, I
17 always encourage Boards in every community to record
18 a deed restriction.

19 I have in the last year required one or
20 two resolutions to be recorded. If the conditions
21 are important enough or essential enough to the
22 community, I have them, so we are protected against
23 the transfer of the property.

24 But the routine, we are going to do
25 this color or we're going to do it this way, or

1 we're going to put the windows in that way, I don't
2 know if that is the -- that is not the accepted
3 practice to get that concerned about it in the
4 state.

5 Now, if we want to elevate our concern,
6 I can back up that play, you know. We could record
7 every resolution, but I don't want to be the one
8 recommending it because it is not what everybody
9 else is doing. It may be a great idea, but it is
10 not what everybody else is doing.

11 COMMISSIONER BRANCIFORTE: Given that
12 the applicant is making promises about easements
13 regarding his neighbor, I believe it should be
14 recorded in this case.

15 MR. GALVIN: I have no problem if that
16 is what you want to do, but I am saying, you know,
17 almost every case that we had, I'm going to tell
18 you, Hoboken has got serious cases. Like probably
19 75 percent of the cases that we handle are somewhat
20 serious. Are you going to require that to be
21 recorded in those 75 cases?

22 You will evaluate that, but --

23 COMMISSIONER BRANCIFORTE: Do it on a
24 case-by-case basis --

25 MR. GALVIN: -- absolutely.

1 COMMISSIONER BRANCIFORTE: -- but
2 certainly, when we consider the easement questions,
3 we should consider doing a deed recording.

4 MR. GALVIN: Right.

5 In this case I felt relatively -- why I
6 didn't express more concern in this case is because
7 I feel the applicant has been very straightforward
8 with us, and they said, look, I am requesting a
9 variance for the 95 -- that it is 95 feet.

10 They never said kind of treat this as a
11 hundred, we are going to get it, it's going to
12 happen.

13 They said: This is going on in the
14 background. If it happens, we will have more
15 property added to this -- available to this lot,
16 but --

17 COMMISSIONER BRANCIFORTE: It is less
18 the applicant I'm worried about, and more the condo
19 association 15 years from now --

20 MR. GALVIN: Okay.

21 COMMISSIONER BRANCIFORTE: -- and
22 there's a dispute over who owns what, and whose
23 responsible for what, and you know, these neighbors
24 have moved on, and the condo association has turned
25 over five or six times, and nobody knows what is

1 what any more.

2 MR. GALVIN: If you guys want the
3 resolution recorded, it's easy. I will just add it
4 as an additional condition. I just wanted to give
5 you the whole lay of the land, okay?

6 MS. BANYRA: Mr. Branciforte, what
7 condo association are you referring to?

8 COMMISSIONER BRANCIFORTE: Well, if
9 this building goes condo --

10 MS. BANYRA: It's two units.

11 COMMISSIONER BRANCIFORTE: -- you know,
12 and they're going to have a condo association, and
13 you know, the building gets -- even if it's rentals
14 and it gets flipped, you know, over the next ten or
15 15 years.

16 MS. BANYRA: It is two units.

17 CHAIRMAN AIBEL: Mr. Grana?

18 COMMISSIONER GRANA: I have a question,
19 and I don't know if I am concerned or confused
20 because there is a range here.

21 I can see the need to memorialize in
22 the proper fashion things that have to do with
23 physical structures and easements. I am not
24 convinced that we are recording the type of, you
25 know, vegetation that ultimately ends up in a

1 planter box, which maybe -- that is just my point of
2 view, you know, that maybe all of the neighbors get
3 together ten years from now, and say, "We should do
4 palm trees now."

5 And I am just trying to find out the
6 line here, so I would agree --

7 MR. GALVIN: What they are talking
8 about is they promised me -- now I'm turning the
9 other side of the coin, which is if you promise me
10 you are going to put in several arborvitaes to give
11 me screening, and within one year they don't take or
12 two years they don't take, why shouldn't Mrs.
13 Ugaztheandr be able go to Ann and say, Hey, I don't
14 have the screening I should have. We had a bad
15 storm or something.

16 Then they would come to the then owner
17 of the property and ask them to replace them because
18 you wouldn't have granted this deck space if it
19 wasn't properly screened.

20 COMMISSIONER FISHER: But you are just
21 saying arborvitae versus some sort of vegetation.
22 It's like are we recording arborvitae or are we
23 recording some sort of vegetative screen?

24 MR. GALVIN: I'm sorry. I used
25 arborvitae because it is easy for me.

1 Frank, what is the planting going to
2 be?

3 COMMISSIONER MARSH: I don't care about
4 that.

5 MR. GALVIN: Yes. But I don't want --
6 now, people are going to look at the record, and
7 they are going to think that we suggested that they
8 have arborvitae, but maybe it's not.

9 COMMISSIONER MARSH: I just think they
10 should have some sort of a vegetative screening.

11 COMMISSIONER GRANA: Maybe it is as
12 simple as that.

13 CHAIRMAN AIBEL: The idea was sound
14 attenuation, so we have a six-foot glass wall there.
15 I think that's probably providing the sound
16 attenuation. The greenery was nice to have.

17 VICE CHAIR GREENE: The tree is
18 providing an esthetic for the roof and for the
19 occupants on the roof, and the fact the glass
20 screening is there, I think it accomplishes what the
21 original intention would be when the vegetation --

22 MR. BRANCIFORTE: I agree.

23 THE WITNESS: Perhaps instead of a
24 species I can say that there will be "evergreens."
25 Would that give us some more flexibility?

1 COMMISSIONER GRANA: I personally think
2 it is the glass that deals with that. It is a
3 physical element that deals with sound attenuation,
4 and that would satisfy me the best

5 COMMISSIONER FISHER: I would agree.

6 MR. GALVIN: But your plan now shows
7 what?

8 THE WITNESS: Shrubbery. It does show
9 that.

10 MR. GALVIN: So that is the point, that
11 they will be able to pull the plan, and if they look
12 at the plan and the shrubbery is dead, they will
13 send a nice letter saying, "Please plant new
14 shrubbery."

15 And if they don't do it, then they will
16 get a notice of violation.

17 COMMISSIONER COHEN: What I'm wondering
18 is wouldn't that be the case if we approve this
19 resolution, and the plan is part of the resolution
20 and it's incorporated, does it matter whether it is
21 recorded or not?

22 I mean, it seems like if it is sitting
23 in the zoning officer's -- I am just worried that we
24 are micro managing the enforcement -- we really
25 don't have authority on enforcement in the future.

1 I mean, if we approve the project, we -- and then if
2 it moves to the zoning officer --

3 MR. GALVIN: Here's the thing. There
4 are two sides of this coin.

5 Of course, the applicant is going to
6 build it precisely according to that plan, and Ann
7 is going to make sure, the zoning officer is going
8 to make sure that it is built that way, so we are
9 good, and then the developer is going to sell it.
10 Somebody else is going to own it.

11 What is being expressed by other Board
12 members is that in the future, if something changes
13 where the plants die, and it compromises the privacy
14 screen that you promised the neighbor and how do
15 they enforce it.

16 You know, the new owner, if it is not
17 recorded in the chain of title, they're not -- what
18 do you call it -- they are a bona fide purchaser for
19 value, so they are not bound by it unless it is in
20 the title work and unless it's recorded.

21 Now, does this case rise to the level
22 that you need to record it?

23 I am saying, I am not so sure that this
24 case is. But if the Board would feel more
25 comfortable, it is an easy thing, I am sure Mr.

1 Matule would have no problem with recording it,
2 provided we approve the application.

3 Do you have an objection?

4 Go ahead.

5 MR. MATULE: Frankly, I would prefer
6 not to. I think it is, you know, using a shotgun to
7 kill a flea. In this particular fact situation, I
8 really do.

9 MR. GALVIN: Yeah.

10 MR. MATULE: I would feel much more
11 comfortable by saying the condo documents will have
12 language in them that says that the association or
13 the owner of that unit will have a continuing
14 obligation to maintain the shrubs in the planter
15 rather than recording something up in the County
16 Clerk's Office.

17 MR. GALVIN: So you are going to record
18 a deed restriction instead --

19 MR. MATULE: Well, the master deed will
20 be recorded.

21 COMMISSIONER COHEN: But the property
22 owner would get the condo, which would include that
23 language, so it's not like they would be unaware of
24 it when --

25 MR. GALVIN: If I am recording the

1 resolution or I'm recording a deed restriction, I
2 think for me it is an effort that you have to do in
3 both regards. It is not much of a difference, but I
4 am not -- I understand where Mr. Matule is coming
5 from. There are cases where I absolutely feel like
6 we need to do it to capture all of the future
7 conditions to put future owners on notice --

8 COMMISSIONER COHEN: My view, I mean,
9 if this is a precedent --

10 MR. GALVIN: It's not a precedent.

11 COMMISSIONER COHEN: -- well, it kind
12 of is because we have not really discussed this
13 before as we are so fully right now.

14 If we are doing it for this kind of
15 application, I think we are going to be doing it for
16 virtually all of our applications because we have
17 conditions that go along with almost every
18 application that we approve. It is the rare
19 application that doesn't have one.

20 And why would having a screen with
21 vegetation on it be more or less worthy than
22 somebody having, I don't know, a six foot wall or --

23 MR. GALVIN: Let me answer this first.

24 The other thing, when you have a plan,
25 and you have something specific like a wall, the

1 chance of that wall going away is very unlikely.
2 The chance of the plants dying is pretty high, and
3 that is the difference.

4 COMMISSIONER BRANCIFORTE: However, we
5 don't get a lot of cases that deal with promises of
6 easements and Hoboken Land Company purchasing land
7 in order to do this, that, and the other thing. And
8 if there is a legal challenge from the neighbors 15
9 years from now, I would feel better if the papers
10 were held at the county.

11 COMMISSIONER FISHER: But the issue
12 that was raised was not the neighbor 15 years from
13 now. It was a neighbor that was sitting in the
14 room, like the whole sound attenuation --

15 COMMISSIONER BRANCIFORTE: No. I'm not
16 talking about sound attenuation -- the sound
17 attenuation and the bushes and everything, that's
18 one thing. That's more micro managing.

19 I am more concerned about the macro
20 question of property rights and who has access to
21 what land, and who has the right to claim this as
22 part of their property versus the other property.
23 That's what I'm concerned about.

24 VICE CHAIR GREENE: He claimed it's
25 part of the property --

1 COMMISSIONER FISHER: Because they
2 don't own it yet.

3 CHAIRMAN AIBEL: Is that part of our
4 application?

5 MR. GALVIN: What I am going to put --

6 COMMISSIONER BRANCIFORTE: It is,
7 because Mr. Matule has said that the people next
8 door will have the right to use the easement --

9 CHAIRMAN AIBEL: Okay.

10 MR. GALVIN: Listen, here is what I
11 suggest to the Board.

12 Let's bring the hearing to a close, let
13 Mr. Matule make a closing argument, and then we go
14 into deliberations.

15 I will list all of the conditions that
16 I collected, and then you will make a decision.
17 Someone will make a motion with or without that
18 condition, and then you will vote.

19 I think what Mr. Branciforte is telling
20 you is that he would feel more comfortable, and he
21 would vote for this application, if they recorded
22 the resolution.

23 COMMISSIONER BRANCIFORTE: I am not
24 saying -- I have not heard the rest of the -- I'm
25 not saying which way I'm voting yet.

1 MR. GALVIN: Okay. Let's move forward.

2 CHAIRMAN AIBEL: Mr. Matule?

3 MR. MATULE: Thank you.

4 I have no further witnesses to present.

5 CHAIRMAN AIBEL: Have we done the
6 public portion?

7 MR. GALVIN: We did at the last
8 meeting. But if you want to reopen it as to the --

9 CHAIRMAN AIBEL: I am going to give the
10 public a chance to make a comment. If anybody --

11 MS. UGAZTHEANDR: I just want to make
12 one. I'm sorry.

13 CHAIRMAN AIBEL: Please come forward.

14 MR. GALVIN: You are still under oath,
15 so I don't need to swear you in.

16 You do have to state your name again,
17 though. You don't have to spell it.

18 MS. UGAZTHEANDR: Julieta
19 U-g-a-z-t-e-a-n-d-r.

20 So actually it was related to the
21 easement. Given that the wall that is going to be
22 built is going to be literally glued to our balcony,
23 so the one that we have built by 310, actually there
24 is a space and stairs, and then the wall. This one
25 will be exactly literally glued to the balcony, so I

1 think they mentioned that they have purchased this
2 property that is four by ten, that it belongs to the
3 different four properties.

4 So I think that is maybe the easement
5 that you are talking about to make sure that we
6 could have our lot 20 by hundred. So if that wall
7 becomes too intrusive, we could potentially extend a
8 little bit the balcony and have open space and not
9 be boxed in. That would be an idea.

10 That is it.

11 Thank you.

12 MR. GALVIN: Anybody else?

13 Close the public portion.

14 CHAIRMAN AIBEL: Motion to close the
15 public portion.

16 COMMISSIONER BRANCIFORTE: Second.

17 VICE CHAIR GREENE: I will move it.

18 CHAIRMAN AIBEL: Thank you.

19 Moved by Elliot.

20 All in favor?

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

23 CHAIRMAN AIBEL: Mr. Matule?

24 MR. MATULE: If I could just revisit
25 this whole easement issue, I think the conversation,

1 and I don't have the transcript with me from last
2 week, but my clients represented that they are
3 currently in a tax foreclosure proceeding, but I
4 also think I tried to be very candid with the Board
5 and make it very clear on the record that while we
6 certainly expect to be successful in that action, we
7 can't guarantee to this Board that we will be.

8 That being said, my client also said
9 that assuming he is successful in that action and
10 gets that larger strip of land at the western edge
11 of the property, that his intention was either by
12 way of a resubdivision or easements to divide up the
13 beneficial use of that property among the contiguous
14 lot owners, and we are still committed to do that.

15 I think there was a bit of discussion
16 here about what would be the best way to do that
17 legally, whether it would be better.

18 I think the Board professionals and I
19 agree that the best way to do it would probably be
20 by way of a re-subdivision, so it becomes part of
21 each contiguous owner's property, and you know,
22 rather than having somebody be in ownership with
23 cross easements.

24 That being said, that is still our
25 intention, and we have no objection to that being a

1 condition. Whether recording that makes it more or
2 less enforceable, I leave that up to the Board.

3 MR. GALVIN: I agree with that.

4 MR. MATULE: But that is why we are
5 asking for the lot coverage, although we have the
6 sort of classic conforming building in terms of lot
7 coverage being 60 feet deep, which is the typical
8 building our zoning ordinance contemplates, because
9 our line is five feet short right now, that
10 generates that additional 3.15 percent lot coverage,
11 which we are asking for the variance for.

12 I am getting from the neighbor's
13 comment that right now, because their rear deck goes
14 back to the 60 foot mark, it is on a diagonal, so
15 the furthest part of their deck goes back to the 60
16 foot mark, which will be even with the rear of our
17 building.

18 If at some point in the future, they
19 get that additional five feet, that may give them
20 the legal right to extend that deck out, and that is
21 fine, and we hope we are able to accommodate them,
22 but you know, again, I want to make it clear that we
23 are going through the process, and we hope to be
24 successful.

25 As far as the other variances go, I

1 think they are all -- you know, the roof coverage
2 variance, a great deal of it is about the green roof
3 and the decks. The front yard setback again is in
4 keeping with the rest of the block.

5 We have a slight variance for masonry,
6 facade materials, and again, that is driven by the
7 bay design, so all things considered, they are
8 pretty de minimus variances.

9 Obviously, the one D variance we need
10 is the four floors, rather than three floors, but we
11 are within the permissible envelope, so I would
12 request that the variance relief with all of the
13 conditions that we have discussed over the two
14 nights of hearings be granted.

15 Thank you.

16 MR. GALVIN: If I launch into the
17 conditions, is that all right?

18 CHAIRMAN AIBEL: Go ahead.

19 MR. GALVIN: The building plan was
20 revised to eliminate the proposed decks. The plans
21 shall be constructed as shown to the Board at its
22 hearings of October 14th -- I think I am going to
23 change it to October 21st.

24 The residential elevator is to be run
25 by an electric motor.

1 The applicant is to comply with the
2 outside agency approvals, and I am going to list
3 them.

4 4: The applicant is to obtain
5 permission from the City Council to encroach into
6 the city's right-of-way.

7 5: The Board's engineer and planner
8 are to submit a memo to be attached as an exhibit to
9 the resolution identifying all unmet comments or
10 technical commitments made during the hearing.

11 I have the condenser is to be moved as
12 one of them.

13 6: The Board's engineer is to inspect
14 all bonded items.

15 You have to get the language from Andy
16 to me for that, from Andy Hipolit.

17 MR. MARSDEN: Yes.

18 MR. GALVIN: Okay.

19 7: The applicant's plan must comply
20 with the Hoboken Flood Plain Ordinance, and that
21 plan is to be submitted to the Flood Plain
22 Coordinator for her review and approval.

23 8. The applicant is to obtain a DEP
24 permit or waiver under the flood plain regulations.

25 9. The bulkhead will be a neutral

1 color and set back as shown on the plan.

2 10: The plan is to be revised to show
3 a six foot high privacy fence along the south side
4 of the deck.

5 Am I getting that right?

6 MR. MINERVINI: That is shown on the
7 set of plans.

8 MR. GALVIN: Do you want me to take it
9 off because it's shown already?

10 VICE CHAIR GREENE: No reason to --
11 it's not only the south side. It's also the west
12 side.

13 MR. MINERVINI: Yes, the west and
14 south.

15 MR. GALVIN: So I took it off.

16 The plan is to be revised to show a
17 green roof for the non-deck area.

18 (Board members talking at once.)

19 MR. GALVIN: That has been done also.

20 Everybody satisfied?

21 Okay.

22 The applicant is to consolidate Block
23 166, Lot 39.

24 With this property -- and the applicant
25 is to provide an easement to the adjacent property

1 owners or file for a resubdivision to bring the
2 adjoining lots into conformance as described to the
3 Board. Proof of the satisfaction of this condition
4 is to be provided to the zoning official prior to
5 the issuance of a certificate of occupancy.

6 11 --

7 VICE CHAIR GREENE: Can I stop you for
8 just a second?

9 MR. GALVIN: Sure.

10 VICE CHAIR GREENE: You're making it a
11 condition of approval, but isn't it -- they are
12 saying it is a condition of a condition. How do you
13 do that --

14 COMMISSIONER FISHER: If they get --

15 VICE CHAIR GREENE: -- if they're
16 successful in acquiring it.

17 COMMISSIONER FISHER: -- if they get
18 the lot.

19 MR. GALVIN: Well --

20 COMMISSIONER FISHER: You're saying
21 they have to do it, but they don't own it yet.

22 MR. GALVIN: But I don't see any reason
23 why they're not going to.

24 COMMISSIONER BRANCIFORTE: If there is
25 any challenge, though --

1 (Everyone talking at once.)

2 MR. MATULE: Never say never.

3 VICE CHAIR GREENE: I would say if they
4 are successful in acquiring it, then they must.

5 MR. GALVIN: I understand, and we will
6 do that.

7 If the applicant acquires Block 166,
8 Lot 39.

9 MR. MATULE: Thank you.

10 MR. GALVIN: We are not going to ask
11 you to do the impossible. Well, we might ask, but
12 we will change our minds once we realize we are
13 wrong.

14 MS. BANYRA: Mr. Galvin, they would be
15 required to go to the Planning Board, if they are
16 subdividing that anyway --

17 MR. GALVIN: Correct.

18 MR. BANYRA: -- so that is going to be,
19 I guess, when they go to the Planning Board,
20 hopefully the Planning Board sees our resolution --

21 MR. GALVIN: I left it there in case they
22 do an easement instead of a subdivision.

23 MS. BANYRA: Okay. But it will be a
24 Planning Board --

25 MR. GALVIN: I understand.

1 The wall on Block 166, Lot 39 is to be
2 removed.

3 MR. MATULE: That's shown on the plans
4 already.

5 MR. GALVIN: I am going to leave that
6 one, so it's understood. It is still standing now,
7 right?

8 MR. MATULE: Yes.

9 MR. GALVIN: Okay.

10 The plan to be revised to shorten the
11 deck to 11 feet in the rear and to show plantings
12 around the deck.

13 COMMISSIONER COHEN: That's done --

14 MR. GALVIN: It's done. We'll take it
15 out. Okay.

16 MS. UGAZTHEANDR: Are we allowed to ask
17 questions or not?

18 MR. GALVIN: Not at this time, sorry,
19 not unless you think we're making a terrible
20 mistake.

21 MS. UGAZTHEANDR: No. I am just
22 wondering what's the difference --

23 MR. GALVIN: What is that?

24 MS. UGAZTHEANDR: -- what's the
25 difference between the subdivision versus an

1 easement?

2 MR. GALVIN: When we separate the land
3 out and different people get it, they continue to
4 own it, but everybody can use it. You can walk on
5 it.

6 A subdivision would be better than an
7 easement for you.

8 MS. UGAZTHEANDR: Oh, we cannot write
9 that?

10 CHAIRMAN AIBEL: Will she have a
11 conforming lot with an easement?

12 MR. GALVIN: I can't answer that.

13 COMMISSIONER FISHER: It is a Planning
14 Board decision.

15 COMMISSIONER BRANCIFORTE: Did you hear
16 her question about can we -- Can you repeat the
17 question? Can we write --

18 MS. UGAZTHEANDR: If we could recommend
19 the subdivision because --

20 VICE CHAIR GREENE: We are.

21 MS. UGAZTHEANDR: -- then you are not
22 attached to anybody else.

23 MR. GALVIN: Would you be okay if we
24 took away the easement possibility and just do the
25 subdivision?

1 MR. MATULE: I would be okay. You
2 know, if for some reason the Planning Board doesn't
3 grant the subdivision, then they are left with
4 nothing, but that is fine with me.

5 MR. GALVIN: See, it is unlikely that
6 they would --

7 (Everyone talking at once.)

8 MR. GALVIN: -- again, another thing
9 that's unlikely.

10 CHAIRMAN AIBEL: They are making
11 conforming lots out of these, so --

12 MR. GALVIN: It would seem like to be
13 the sensible thing to do.

14 All right. We will come back to it.

15 The applicant's fence is not to be
16 higher than the fence on 314 Park Avenue.

17 This resolution is to be recorded, is
18 to be reviewed and approved by the Board Attorney
19 prior to recording, and it must be recorded prior to
20 the issuance of the building permit.

21 The privacy screening is to be
22 maintained as shown on the plan and is to be
23 repaired, replaced, or replanted, if it's ever
24 damaged or lost, but I don't know that that is the
25 principal concern. I think the principal concern is

1 about the subdivision.

2 Does the Board prefer the easement
3 or -- the subdivision seems like it's the most
4 sensible thing to do. If you get jammed up, you
5 will write us a letter, and we will come up with
6 Plan B, all right?

7 MR. MATULE: It's your pleasure.

8 MR. GALVIN: All right.

9 MS. BANYRA: Mr. Galvin --

10 COMMISSIONER FISHER: If you remove the
11 easement, then it's not an option at all as Mr.
12 Matule said. So if they don't get approval for the
13 subdivision, she gets nothing.

14 So don't you want them both in there
15 and just say, they have to pursue a subdivision, and
16 if not, it's an easement?

17 MR. GALVIN: I can do that. That is a
18 good suggestion. Let me just fix that language.

19 I am good. You can start to discuss
20 it.

21 CHAIRMAN AIBEL: Let me open it up to
22 the Board for deliberations.

23 MR. MATULE: Can we put language in
24 that particular clause of the resolution that the
25 neighbors who are going to be the beneficiaries of

1 the subdivision will have to cooperate with us in
2 making the application, because I can't make the
3 application without -- again, you know, how many
4 angels can we put on the head of a pin?

5 I don't think they will object, but if
6 they do, I can't file an application.

7 COMMISSIONER BRANCIFORTE: That's been
8 a question of mine all along.

9 What if these people don't want the
10 subdivision, and they don't want the property?

11 That worries me.

12 VICE CHAIR GREENE: That is an
13 easement --

14 MR. GALVIN: Again, it's illogical.
15 Why wouldn't you want the extra property to
16 eliminate variances?

17 COMMISSIONER BRANCIFORTE: Whatever.
18 I --

19 MR. GALVIN: No, it's a --

20 COMMISSIONER GRANA: Your taxes could
21 increase.

22 MR. GALVIN: -- it shouldn't, not
23 really, not substantially.

24 (Everybody talking at once)

25 VICE CHAIR GREENE: How much could it

1 be?

2 COMMISSIONER BRANCIFORTE: Who knows?

3 VICE CHAIR GREENE: But you are not,
4 because if they don't cooperate, then --

5 CHAIRMAN AIBEL: We have 11 lawyers up
6 here.

7 (Laughter)

8 VICE CHAIR GREENE: I think we should
9 move on and discuss this and be done with it.

10 MR. GALVIN: Keep going, guys. Go
11 ahead.

12 CHAIRMAN AIBEL: Let me open it up for
13 deliberations, Board Members. Anybody want to start
14 off?

15 COMMISSIONER GRANA: I will go first.

16 CHAIRMAN AIBEL: Thank you, Antonio.

17 COMMISSIONER GRANA: When I first saw
18 the application, I had some concerns about it.
19 There were also several concerns raised by members
20 of the community, particularly neighbors.

21 I think that the applicant has tried to
22 remove all of the things that cause major obstacles
23 for any of us to approve this.

24 Specifically with regard to the lot
25 coverage, I think the intent is to construct a

1 structure that will extend back from the front lot
2 line that is in alignment with everything else on
3 the block.

4 This is not going to have any
5 interference on the donut. While it is a variance,
6 it is not going to have any impact on the donut or
7 the light and air that was worth a hundred
8 percent -- if they owned a hundred percent of the
9 land, so they removed the decks, I think removing
10 that obstacle. There has been some request to
11 adjust the coverage on the roof, and that was
12 addressed.

13 The only -- you know, I guess the only
14 lingering concern I had is that this is in the R-1
15 district. It is a very conservative district.

16 I think that the efforts to preserve
17 the grain of the neighborhood, I think that is done
18 by height, and I think that the -- my personal
19 opinion, the addition of the stoop adds to the
20 character of the rest of the street.

21 So I understand there is about a six
22 percent variance on the masonry, it is not ideal to
23 me, but I think it's still an application worth
24 supporting, and I will support it.

25 CHAIRMAN AIBEL: Thank you.

1 Anybody else?

2 COMMISSIONER BRANCIFORTE: Well, you
3 know, my question has always been about the fact
4 right now these are at what, 95, whatever they
5 were -- 95 foot lots in depth, and we went over this
6 last week.

7 I said, you know, what happens when the
8 neighbor next door decides that they want to expand
9 and get their light and air back by expanding into
10 the backyard, what happens then.

11 Everyone agreed that they would have to
12 come to the Zoning Board and get a variance.

13 Now, does that still stand once they
14 get the subdivision and/or easement or whatever --
15 well, if they get the easement, we all agreed it is
16 not officially their property, and they would have
17 to come back and apply for a variance, and I felt
18 that was a huge hardship on them because we are kind
19 of throwing them into a situation where we're
20 saying, if you want to expand at this point, get
21 your light and air back, you're going to have to
22 hire a lawyer, architect and a planner and go to the
23 Zoning Board, and I don't think that would be very
24 fair to them.

25 The question is now what happens with

1 the subdivision or whatever. You know, the
2 subdivision of this property, does it officially
3 become their property, and at that point do they
4 still have to come back for a variance, if they want
5 to expand?

6 MR. GALVIN: Anybody in Hoboken who has
7 an undersized lot or a nonconforming lot would have
8 to apply to the Zoning Board, if they wanted to
9 expand their home.

10 This additional piece of property would
11 bring their lot into greater conformity with the
12 ordinance. I don't know what other variances exist
13 on this lot.

14 If they had none, it might not, but I
15 don't know that. I doubt it. I think most lots
16 that I see have some nonconformity.

17 CHAIRMAN AIBEL: Probably a front yard
18 setback issue --

19 MR. GALVIN: Probably, unless the
20 governing body eliminates that zero lot line in the
21 future --

22 COMMISSIONER BRANCIFORTE: Well, I'm
23 not talking about the zero front line -- the front
24 setback. I am talking about the rear setback, if
25 they still wanted to go and cover 60 percent of the

1 lot.

2 You know, once they get the property,
3 once the subdivision gets taken care of, my question
4 is: Do they still have to come back for the
5 variance.

6 And if the answer is yes, then I am
7 definitely against it because I think you are
8 creating a hardship for the neighbor.

9 But if the answer is no, then I'm a
10 little bit more obliged to say yes.

11 MR. GALVIN: I truly think you're doing
12 the neighbor -- with all due respect, I think that
13 if they want to try to do something different, I
14 think that there is a high probability they will
15 need to come back to us, but I think that you are
16 doing all of the proper planning and zoning, too.

17 If you take that little gore spot and
18 you redistribute it to the other lots, that is the
19 correct planning and zoning thing to do. Not that
20 you should decide this case on that basis, but that
21 is a good thing. And if anybody's lot acquires that
22 additional property, it brings them into greater
23 conformity. I think that is a good thing.

24 COMMISSIONER BRANCIFORTE: I am still
25 as confused as before.

1 Go ahead.

2 I am done.

3 CHAIRMAN AIBEL: Anybody else, Board
4 members?

5 VICE CHAIR GREENE: Antonio covered
6 much of it.

7 CHAIRMAN AIBEL: Yes.

8 VICE CHAIR GREENE: I'll let him go
9 first most of the time.

10 COMMISSIONER GRANA: Following your
11 lead.

12 (Laughter)

13 CHAIRMAN AIBEL: I will just add that I
14 agree with Antonio's analysis. It was very focused
15 and to the point.

16 I tend to think of this easement slash
17 backyard issue as somewhat separate from the
18 variances that are sought today. I can live with
19 the variances for the reasons as stated by Mr.
20 Grana.

21 Time for a motion, somebody. Motion to
22 approve, anybody?

23 VICE CHAIR GREENE: I will move for
24 approval subject to the conditions stated.

25 CHAIRMAN AIBEL: Can I have a second?

1 MS. GRANA: I'll second that.

2 CHAIRMAN AIBEL: Thank you.

3 MS. CARCONE: Commissioner Greene?

4 VICE CHAIR GREENE: Yes.

5 MS. CARCONE: Commissioner Cohen?

6 COMMISSIONER COHEN: Yes.

7 MS. CARCONE: Commissioner Grana?

8 COMMISSIONER GRANA: Yes.

9 MS. CARCONE: Commissioner Marsh?

10 COMMISSIONER MARSH: Yes.

11 MS. CARCONE: Commissioner Murphy?

12 COMMISSIONER MURPHY: Yes.

13 MS. CARCONE: Commissioner Branciforte:

14 COMMISSIONER BRANCIFORTE: No.

15 MS. CARCONE: Commissioner Aibel?

16 CHAIRMAN AIBEL: Yes.

17 MR. MATULE: Thank you.

18 (The matter concluded.)

19

20

21

22

23

24

25

C E R T I F I C A T E

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

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

s/Phyllis T. Lewis, CSR, CRR

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

Notary Public of the State of New Jersey

My commission expires 11/5/2015.

Dated: 10/27/14

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

HOBOKEN ZONING BOARD OF ADJUSTMENT
CITY OF HOBOKEN

----- X
RE: 720 CLINTON STREET :
Applicant: Wonderlofts, LLC :October 21, 2014
Preliminary Site Plan & Variances :Tuesday 8:15 p.m.
----- X

Held At: 94 Washington Street
Hoboken, New Jersey

B E F O R E:

Chairman James Aibel
Vice Chair Elliot H. Greene
Commissioner Phil Cohen
Commisioner Antonio Grana
Commissioner Carol Marsh
Commissioner Diane Fitzmyer Murphy
Commissioner John Branciforte
Commissioner Tiffanie Fisher

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

Eileen Banyra, Planning Consultant

Jeffrey Marsden, PE, PP
Board Engineer

Patricia Carcone, Board Secretary

PHYLLIS T. LEWIS
CERTIFIED SHORTHAND REPORTER
CERTIFIED REALTIME REPORTER
Phone: (732) 735-4522

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

2 DENNIS M. GALVIN, ESQUIRE
3 730 Brewers Bridge Road
4 Jackson, New Jersey 08527
5 (732) 364-3011
6 Attorney for the Board.

7 ROBERT C. MATULE, ESQUIRE
8 89 Hudson Street
9 Hoboken, New Jersey 07030
10 (201) 659-0403
11 Attorney for the Applicant.

12

13

14

15

16

17

18

19

20

21

22

23

24

25

I N D E X

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

WITNESS

PAGE

DONALD FRIEDMAN

94

1 CHAIRMAN AIBEL: Okay. We are back on
2 the record.

3 This is 720 Clinton Street. Mr.
4 Matule, I think you were having discussions with our
5 counsel about how to proceed tonight.

6 MR. MATULE: Yes.

7 For the record, Robert Matule on behalf
8 of the applicant.

9 We were here, I believe, on the 23rd of
10 September, and we started our presentation of this
11 application for the adaptive reuse of the Wonder
12 Bread Building at 720 Clinton Street. We had
13 testimony from the architect and also from our old
14 structure engineer, Mr. Friedman.

15 Based upon what we felt were comments
16 and input from several of the Board members, the
17 applicant and the architect revisited the plans
18 specifically with the purview of combining some of
19 the smaller units into larger units, and as a result
20 of that, the density was brought down to, I believe,
21 104 units, and the unit count was substantially
22 changed. The number of studios were substantially
23 reduced, and the larger units were increased.

24 Mr. Galvin has discussed with me the
25 fact that there is a threshold issue now of whether

1 or not this amendment rises to the level of
2 requiring either that the application be refiled, or
3 at the very least, that the Board consent to the
4 proposed revisions of the plan reducing the density.

5 He has further advised me that, you
6 know, if the applicant wishes a straight up or down
7 vote on the original plan, which I believe was 121
8 units, that we could proceed this evening with the
9 rest of our witnesses.

10 Frankly, I don't think that is in
11 anyone's interest, either the applicant's or the
12 Board's or the community's, you know, just to go
13 through the process for going through the process.

14 Certainly we think that the revision
15 was in response to input from the Board, and frankly
16 over the years that I've been doing this, that's how
17 the process works. We submit the plan, we get
18 input, and we try to address it to the extent that
19 we feel we can within the parameters that the
20 applicant has to work within.

21 So on that level, I would certainly
22 urge the Board to consider allowing the proposed
23 amendment to reduce the density, because we are
24 still working basically within the same box in terms
25 of the exterior of the building, the bulk variances

1 that we are asking for, the lot coverage, and none
2 of that is changing. This is just really moving
3 demising walls around inside of the building.

4 I have also been advised that should
5 the Board see their way clear to granting our
6 request to amend the application, that the Board
7 professionals would like the matter to be carried
8 because they would like more time to review the
9 changes in the plans.

10 I certainly appreciate that concern,
11 while I don't think they rise to the level of
12 really, you know, changing the basic building plan
13 as it has been presented. I am not an engineer or a
14 planner, and I don't want to presume to think for
15 them. Obviously, we would rather proceed tonight,
16 but we certainly will defer to what the Board's
17 position is.

18 Mr. Galvin has also mentioned that Mr.
19 Marsden had some comments or questions. At the last
20 meeting he had raised some questions concerning the
21 structural integrity of the buildings, the footings,
22 the pilings, et cetera.

23 To the extent Mr. Friedman could answer
24 them, we had him prepare an answer and respond.
25 This is a little thornier issue in the sense that --

1 and perhaps Mr. Marsden could expand on his comments
2 because Mr. Friedman is here, and maybe we could get
3 them answered.

4 But at this point in the process to
5 start doing major structural investigations of the
6 building seems premature in terms of the fact that,
7 in my opinion, this is only preliminary approval.
8 Typically these are the kinds of things that get
9 done between preliminary and final.

10 I know a concern was raised about the
11 fact that, well, we are making all of these promises
12 to adaptively reuse this building and save the
13 facade, as Mr. Minervini has testified to, and if
14 the underpinnings aren't there, then, you know, what
15 is the point of going through the process.

16 And, you know, the best response I
17 could give to that is if it turns out -- we are not
18 going through the process, you know, just to go
19 through it for the exercise, and if it turns out
20 that there are structural issues discovered between
21 preliminary and final, obviously we would have to
22 come back to this Board and address that because I
23 am sure, assuming the Board were to approve this
24 plan in some iteration, there would be very strict
25 language in any resolution about preserving that

1 facade and preserving the structure, so that is
2 pretty much my understanding and what I have to say.

3 MR. GALVIN: I think you did an
4 outstanding job of repeating what I said to you.
5 Good thing I didn't say anything bad.

6 (Laughter)

7 I think one of the problems that we
8 have, though, is the volume of the -- a question
9 that the Board has to answer themselves is there is
10 a volume to this building that we are making use of,
11 and if there was no building, if it was a blank
12 slate, it was just a vacant lot, what would be the
13 volume of any replacement building.

14 Would that volume be the same as the
15 existing building, then there is less risk for us
16 going forward.

17 If there would be a smaller volume,
18 then to grant you an approval for that greater
19 volume or greater number of units to fill that
20 volume, maybe we are making a strategic mistake.

21 You know, the object is it is nice to
22 preserve a building like that. It is nice to
23 preserve a building that has got the Hoboken
24 character, but are we and can we.

25 You know, I have seen it in the past in

1 our communities, where someone will come in and
2 argue that they have a high ceiling, because it is
3 like a Victorian home, and we should give them
4 relief from FAR. And then when they are actually
5 building the home, they take the whole thing down,
6 and if the Board had known that they were going to
7 take the whole house down, we would have made them
8 build a conforming house on that lot, so I see it in
9 other places. That's an underlying concern that we
10 have to deal with.

11 So I agree with you that you should be
12 able to avoid the cost of doing serious structural
13 work. We have to have some confidence, though, that
14 if we approve something, we are not making a
15 commitment to the volume.

16 In other words, if we approve 121 units
17 because they fit in that, and you can't do that, you
18 shouldn't still have 121 in a new version. Maybe
19 you have to come back to the Board and start over.

20 MR. MATULE: I couldn't agree more. I
21 wouldn't try to --

22 MR. GALVIN: Well, I think -- I have a
23 sense --

24 MR. MATULE: -- combat that argument.

25 (Laughter)

1 MR. GALVIN: -- you know, I think I
2 have a sense that it has been like that in the past,
3 so that is all I had to say.

4 MR. MATULE: Pardon me, if I might,
5 just respond to that.

6 Part of both the architectural
7 testimony and I am sure the planning testimony is
8 going to be that the volume of the existing building
9 is partly what is driving the design that is being
10 presented to you. Obviously, if that building can't
11 be kept there, then I think the underpinning of our
12 application, to use a pun, literally goes away.

13 MR. GALVIN: But I'm sure in the past
14 what people have heard is, well, you approved this
15 for 121, or you approved this for 200. We can't do
16 what we promised. We are going to now do this, and
17 then you hold on to the number of units, but we get
18 a totally different thing. And the reason for
19 giving the number of units was kind of a reward for
20 preserving this neat historical structure.

21 MR. MATULE: And I think that the quid
22 pro quo or part of the quid pro quo that the
23 applicant is seeking, and would certainly have no
24 objections, and I am sure again, assuming in some
25 iteration this were approved by this Board, that you

1 would put in all of the necessary safeguards in your
2 resolution to deal with that.

3 CHAIRMAN AIBEL: Well, let me just
4 speak from the pure administration point of view,
5 and this is my opinion. My Board members can have
6 their own views, and we will open it up to
7 discussion.

8 But I see this as a significant
9 amendment. It was unilaterally presented to us
10 after the first witness, the first substantive
11 witness. We hadn't even gotten to Board questions,
12 so my first concern is that I think this was just
13 not good practice. As a Board, we have to be very
14 careful about how we conduct our business.

15 So in my view, our professionals are
16 entitled to rely on the plans that are submitted.
17 They go through an extensive review. Giving them
18 new plans in the middle of -- after the first
19 witness, I think is just not the way we should be
20 processing these applications.

21 Secondly, we were deprived of the
22 ability to hear the testimony, ask questions,
23 understand what the density variances were in the
24 context of the whole application. You know, after
25 half of a witness, those original plans were pulled.

1 I think that is something that, you know, bears on
2 what the original application was.

3 I feel that I want to trust the
4 applicants to come in with a strong best case
5 scenario, and if after a couple of comments, those
6 plans get pulled, I question the original concept.
7 So, again, I think that was a problem for me.

8 Third: I think public notice is at
9 issue. The public was noticed for a certain set of
10 plans. After one witness, you know, a new set of
11 plans arrive, and I think no new notice was
12 provided, so as a practical matter the only people
13 who would have seen these amended plans would have
14 been those who were either diligent or perhaps crazy
15 enough to go to the zoning office and check in
16 between the first and the second hearing.

17 Finally, I think you have a planner's
18 report and probably a traffic report that are
19 predicated on the original plans. I would like to
20 see fresh reports reflecting the new density
21 numbers.

22 At the end of the day, I think if the
23 applicant wants to amend, the proper procedure is to
24 ask for the Board's consent. You know, in the
25 ordinary course, we certainly entertain changes, you

1 know, at the appropriate time. I think this was
2 very much premature, and I would have preferred that
3 we had more time to consider the original
4 application and any possible amendments.

5 I think probably what we have seen in
6 the past couple of nights is that amendments and
7 changes on the fly don't end up making good records
8 or making good decisions.

9 So I think in the Block 112 situation
10 probably several months ago, we had a very analogous
11 situation. An amendment was made, two floors were
12 removed, and we felt that we didn't have time to
13 review it carefully.

14 I think by the same token, we want to
15 give full and fair consideration to this
16 application, particularly where we all agree that
17 there is an interesting and valuable property that
18 we think is certainly worth preserving, and we want
19 to make sure that we have all -- the public's
20 interest protected, as well as making the right
21 decisions as a Board under the applicable law.

22 So, again, I think the procedure we
23 followed in Block 112 is the one I would recommend
24 that we follow tonight. If you want to go ahead
25 with the original and get through some witnesses and

1 see how things progress, I am happy to proceed.

2 If you want to give us whatever time is
3 necessary for a full and thorough review, I think
4 that would be the course I would prefer to see
5 followed, but let me open it up to my colleagues.

6 MR. MATULE: I also would like just an
7 opportunity to respond.

8 CHAIRMAN AIBEL: Sure. Go ahead.

9 MR. MATULE: I certainly understand and
10 respect your concerns and your comments, but again,
11 I think, you know, it is on a case-by-case basis.
12 The one witness we heard was the architect who
13 basically described the whole physical layout of the
14 project. And, you know, I have the transcript from
15 the hearing, and quite frankly, there were extensive
16 comments by Commissioner Branciforte specifically
17 saying, you know, "Can't you combine a bunch of the
18 smaller units into larger units."

19 Commissioner Cohen also posed the same
20 question, and I certainly understand that is two out
21 of seven or nine.

22 But in the context of the changes that
23 were made, where we reduced the density, nothing
24 else changed, the physical volume of the building,
25 the size of the building, the lot coverage.

1 I would just submit that whatever
2 proofs were in the planner's report would only
3 become more so by less density and traffic likewise,
4 if there were fewer units, although the fact that
5 the number of parking spaces weren't changing any,
6 you know, shouldn't really have a substantial impact
7 on the traffic reports either.

8 Again, if we were going in another
9 direction, I certainly could understand the need for
10 perhaps a new public notice or whatever, but this is
11 kind of a lesser included thing. But, again, I will
12 let the Board have that debate.

13 As I said before, if the Board sees fit
14 to allow the amendment, then certainly I understand,
15 if the Board wants to carry the matter to allow the
16 professionals to look at it.

17 COMMISSIONER FISHER: Mr. Matule, the
18 only thing I would add is I think we do from a
19 practical standpoint, we do often see after all of
20 the feedback from the Board, there is a general
21 direction given for potential amendments, and then
22 we get something back that has been amended taking
23 into consideration input from the Board.

24 I just feel like the last time, it was
25 just incomplete. This is one of the issues that was

1 raised, but we didn't get the opportunity to have
2 the full conversation.

3 I mean, you know what my issues always
4 are and other people's issues always are, and we
5 didn't have a lot of that conversation, so I feel
6 like what we have done is we have gotten -- we've
7 gotten a revised set of plans reflecting one of the
8 issues that was raised. And if we complete this
9 dialog, you know, Frank's going to go back and
10 revise them again, and come back again, and now
11 we've gotten a second set.

12 You know, it feels like it was just
13 incomplete in terms of getting these prematurely.
14 So it feels like we should just complete around the
15 originals, so then if we do have the opportunity
16 where you have taken feedback, and maybe it is just
17 density, if it's just this issue, then fantastic,
18 these are already ready to go.

19 If it's not, and there are some other
20 things, then you have the ability to amend and bring
21 it back to us, so we can have that conversation
22 around, you know, when you made changes. But I just
23 feel like it was incomplete. We didn't get to fully
24 have the conversation on other things that we may
25 have issues with the application.

1 I hope I didn't overstep anything.

2 CHAIRMAN AIBEL: No, you didn't.

3 Anybody else?

4 COMMISSIONER BRANCIFORTE: The other
5 thing -- I'm sorry.

6 Go ahead.

7 COMMISSIONER COHEN: Yes.

8 I think it is good that you addressed
9 our concern about the density that I raised and that
10 I guess Commissioner Branciforte raised, and I want
11 to encourage applicants to be responsive, and I want
12 to encourage applicants, in my view, the biggest
13 issue -- I am just one Commissioner again, and I
14 didn't ask for new plans. I raised the issue
15 because it was a concern that I raised.

16 But to me, the biggest issue then was
17 the density issue, and you addressed it in a
18 significant way, which I think is a very positive
19 thing.

20 I think that you want to move the
21 process forward. We spent a lot of time on the
22 application, you know, but I want to be considerate
23 to our professionals as well, because they are busy,
24 and they have a lot of applications on their plate,
25 and if they don't have an opportunity to fully

1 review the revisions and advise us whether they
2 think there is anything that we need to be aware of
3 that they recognize, that we will get the benefit of
4 that comment. So I applaud the applicant for being
5 responsive, but I do think that we need to be
6 considerate to our professionals, and that to me is
7 the balance that we are trying to strike here.

8 I would support treating this as an
9 amendment, because I don't think it is as analogous
10 to the Block 112 scenario where you are talking
11 about reducing two stories.

12 Here, we are talking about the same
13 box, the same envelope, the same impact in large
14 part, except that there's less impact because it is
15 smaller density. So I don't think that the
16 neighbors are going to be disadvantaged to the point
17 that we would have to require the expense and time
18 of renoticing this application to move forward. I
19 think enough information about this application has
20 been shared with the neighbors and adequate notice
21 has been provided, that the way to move forward most
22 expeditiously and fairly I think would be to vote on
23 amending this application to give our professionals
24 an opportunity to issue revised reports as
25 appropriate and to reschedule this as soon as it's

1 possible, so that it can proceed.

2 CHAIRMAN AIBEL: Anybody else,
3 comments?

4 VICE CHAIR GREENE: Well, I --

5 COMMISSIONER GRANA: I --

6 VICE CHAIR GREENE: -- no, go ahead.

7 MR. GRANA: -- I am going to comment
8 on -- I am not actually sure yet where I am on the
9 way forward, but I agree with Commissioner Fisher.
10 I think that the Board needs to be in the position
11 to hear and react to all of the testimony, be in the
12 position to deliberate before we start talking about
13 changes that are being made.

14 So the fact that, you know, we have
15 done this after just one witness, and the Board has
16 not had a chance to actually deliberate on the
17 question of density, I am sure that will be an
18 issue. It is an important application. I think
19 many of us feel that way, but there may be others
20 that we have not heard that yet, so I think that is
21 a concern, and I am going to raise the concern.

22 If we amend, I have a question. If we
23 amend, vote to amend --

24 MR. GALVIN: Uh-huh.

25 COMMISSIONER GRANA: -- will we start

1 again, and we will need to rehear the architect's
2 testimony and start from square one?

3 MR. GALVIN: No, I don't think so. I
4 think we can utilize that testimony that's already
5 in. Of course, I'm sure that Mr. Minervini is going
6 to talk about how he redesigned the interior.

7 COMMISSIONER GRANA: Right. Okay.

8 Then the only other concern I have is,
9 if it's a pretty significant change, I am concerned
10 if we don't give the public proper notice.

11 CHAIRMAN AIBEL: Anybody else?

12 VICE CHAIR GREENE: Well, if I may, I
13 just feel that part of the process should be the
14 applicant should not be making unilateral decisions
15 to amend plans without direction from the Board.

16 We spent a great deal of time the first
17 evening hearing testimony, and yes, there were some
18 comments, but they weren't all of the comments.

19 I think the better process, and I am
20 not just speaking right now, even though this is the
21 hearing we are hearing, I am speaking to those who
22 may be reading the transcript in the future. If you
23 are going to come in seeking outsized variances
24 knowing upfront that they are likely to be not well
25 received, and then immediately come back with

1 revised, but still possibly outside variances, the
2 reception is not going to be particularly good.

3 I think the Board has to be part of the
4 process in allowing, if you will, the amendments to
5 be presented, so that we can adjust our schedules,
6 our professionals have the time to look at it, and
7 we have the time to give it due consideration.

8 CHAIRMAN AIBEL: John?

9 COMMISSIONER BRANCIFORTE: I couldn't
10 have said it any better myself.

11 VICE CHAIR GREENE: Maybe I should
12 copyright it.

13 (Laughter)

14 (Board members talking at once.)

15 COMMISSIONER BRANCIFORTE: No. I have
16 nothing to add.

17 CHAIRMAN AIBEL: Thank you.

18 Jeff?

19 MR. MARSDEN: My biggest concern I
20 raised at the last meeting was proceeding without
21 having any idea about the structural integrity and
22 whether you could actually safely build it, if you
23 add a pool, or you add the density.

24 I am concerned, and I have done some --
25 I have experience with checking older buildings and

1 finding out the sectioned area was significantly
2 degraded, and the response I got was they haven't
3 done anything. They suspect there are timber piles.

4 If the piles are significantly
5 degraded, when you finally do your work, then are
6 you back to square one, or how would you handle
7 that?

8 I don't understand how you would
9 proceed without having an idea of exactly the intent
10 of --

11 MR. MINERVINI: Is that a question for
12 me?

13 MR. MATULE: If you can respond.

14 MR. MINERVINI: Certainly.

15 Like in any other project, and this
16 happens to be a larger one, as you find conditions
17 during construction or pre-construction, you design
18 a structural rendering, so there are piles or pile
19 caps are no longer serving the function that they
20 were supposed to. You redesign that area, and you
21 restructure it. It doesn't mean the building has to
22 come down.

23 But we will take the structure in
24 parts, and I'm sure Mr. Friedman could certainly
25 answer that better than I can, but in terms of

1 experience and buildings like this in Hoboken, I got
2 quite a bit of experience. That is how it is done.

3 It is not fair to sort of paint the
4 picture that we have not done any structural
5 investigating. You know, he is experienced and in
6 this type of building, and all he's seen and all of
7 the conditions that he has seen, he thinks that the
8 building, without major surgery, can support what we
9 are proposing, and I see this as similar to our
10 North Hudson Sewerage Authority requirement. That
11 engineering doesn't have to be done until later on,
12 so it seems odd to me that structural engineering
13 has to be done at this point.

14 MR. MARSDEN: We are not asking for
15 structural engineering. We are asking to know what
16 the integrity of the foundation is. Just give me a
17 quick look. You don't have to do full designs or
18 anything. Going and sending an investigator in or
19 somebody who has been trained on evaluating
20 conditions, subsurface conditions for piles, caps,
21 gradings and so forth, just to get a handle on what
22 is the real condition out there.

23 I have done it a number of times myself
24 throughout the years, where they say this is what --
25 you know, let's do this to make sure that we do have

1 something that we could work with.

2 I am not saying you have to do a whole
3 design and investigation and testing and so forth.
4 I am saying, you know, wouldn't you want to do
5 something to get a better handle on it, you know,
6 short of tearing the building down.

7 MR. MINERVINI: But the applicant has
8 determined already -- I'm sorry --

9 MR. MATULE: With the Board's
10 indulgence, Mr. Friedman, who is our engineer, who
11 was here last month, I think he probably could give
12 a better response and maybe they can resolve the
13 issue.

14 Mr. Galvin, Mr. Friedman was --

15 MR. GALVIN: He was previously sworn.
16 He's good to go.

17 D O N A L D F R I E D M A N, having been
18 previously sworn, resumed the stand and testified
19 further as follows:

20 MR. MATULE: Mr. Friedman, you have
21 heard Mr. Marsden's comments, and perhaps you could
22 address them or respond as to how we could address
23 them.

24 MR. FRIEDMAN: There are two issues at
25 this stage in a project.

1 The first one is: Is there any
2 evidence of damage to the foundation of the
3 building.

4 You can judge that by looking at the
5 super structure to some degree, and there is no
6 super structure damage that is indicative of
7 foundation damage. This doesn't mean that the
8 foundations are in good condition. It means that
9 they are not bad enough that the super structure has
10 failed.

11 The second issue is, as you say, we can
12 go and look at the foundations themselves. The
13 problem is most of it is hidden. Most of it is
14 literally buried in the earth. My client does not
15 at this time own the building, so we are limited as
16 to how much sub soil investigation we can do. And
17 if we go in and look at a few piles, in cases where
18 they are exposed, we are getting anecdotes. We're
19 not getting a good set of data that we use to judge
20 the building.

21 If we come across a pile that is in bad
22 condition, do we then judge that all of the piles of
23 the building are in bad condition or vice verse.

24 If we come across what is in good
25 condition, can we judge the rest of the building

1 based on that. So I would be very reluctant to come
2 to a conclusion about the condition of the piles
3 without doing the full investigation.

4 Now, that full investigation has to be
5 one of the first things we do in design. There's no
6 question about that, but we are not in the design
7 stage right now.

8 One last thing I wanted to say, and
9 this was in my memo, I want to sort of clarify this,
10 there are four existing wings to this building. The
11 big one, which is the one on 8th Street, we are
12 basically reducing the load from the historic loads
13 on that building. So while we need to check the
14 condition of all of the structure in the building,
15 including specifically foundations, we are not
16 increasing the load on those piles.

17 The heaviest new loads, which are the
18 swimming pool, is going in the middle of the block,
19 which is right near the boiler wing. That is going
20 to be an entirely new structure in that area, so
21 that will --

22 MR. MARSDEN: Where --

23 MR. FRIEDMAN: -- the boiler wing,
24 which is the portion of the building in the center
25 of the block which is basically being replaced --

1 MR. MARSDEN: Isn't that over the
2 parking?

3 MR. FRIEDMAN: Yes. It's over a
4 portion of the parking. The parking is in the two
5 side street wings, as well as that center wing. So
6 that center of the block is going to be a new
7 structure, a new foundation and a new super
8 structure. That is where the pool sits.

9 The two vertical extensions, which are
10 on the other streets, are going to be sitting on new
11 piles as well. So while we will be increasing the
12 foundation loads of those buildings, the increase
13 will be going on new foundations and not on the
14 existing.

15 So my overall view of this is that
16 there is no increase on existing foundations from
17 the loads that they had historically taken. You are
18 absolutely right that they may be in poor condition,
19 and that is something that needs to be checked.

20 My scope from my client is to (a)
21 design the alteration, and (b) do any repairs that
22 are necessary to keep the existing building in tact.

23 So at the stage we are at, which is
24 basically schematic design and planning, we have
25 gone as far as we can go by investigating the super

1 structure, which that's visible. We can see that,
2 not a hundred percent, but, you know, it's like 90
3 percent and get a very good picture of what is going
4 on there, including any sign of foundation damage,
5 which would result in differential settlement. In
6 the design phase, that is when we would be doing the
7 full investigation of the existing piles and the
8 conditions sub grade.

9 MR. MARSDEN: And you wouldn't be doing
10 it as you construct or as you --

11 MR. FRIEDMAN: No. We would be doing
12 that --

13 MR. MARSDEN: -- prior to --

14 MR. FRIEDMAN: -- in the beginning of
15 the design phase, because I need to know that in
16 order to be able to design new foundations in the
17 swimming pool area and two vertical extensions, I
18 can't design those things without having the
19 geotechnical investigation complete.

20 MR. MARSDEN: Thank you.

21 CHAIRMAN AIBEL: Dennis, anything else?

22 MR. GALVIN: I have nothing.

23 MR. MATULE: The only thing I want to
24 add is, you know, certainly, perhaps we were trying
25 to be too responsive at this point, you know. It

1 didn't occur to me that this would be perceived as
2 being premature. I mean, it was a pretty clear
3 message that we got, and we wanted to respond.

4 In hindsight, perhaps it would have
5 been better to wait until we got more commentary and
6 respond, but again, we were just trying to be
7 responsive.

8 MR. GALVIN: All right. I have
9 nothing.

10 CHAIRMAN AIBEL: Well, at this point I
11 would prefer to see all amendments made, give our
12 professionals 20 days time to look at them.

13 MR. GALVIN: Is 20 days enough for you
14 guys --

15 MS. BANYRA: Yes.

16 MR. GALVIN: -- as opposed to ten?

17 CHAIRMAN AIBEL: So I would hope that
18 you could make one set of amendments. If you want
19 to do more, get them in, get them into the
20 professionals 20 days before whenever we have the
21 next hearing, because I foresee that we are going to
22 have, you know, serial amendments from now until we
23 are ready to vote on this thing. I am not sure that
24 is the very best way to handle it. I think it was
25 not the best way to handle it.

1 Pat, any there dates that we could
2 offer, and again, I'm --

3 MS. CARCONE: The 18th we have a large
4 application for 930 Monroe. That's on November
5 18th.

6 The following week we have the 25th,
7 and that's the week of Thanksgiving. That is our
8 second meeting in November. That is the Tuesday
9 before Thanksgiving, the 25th.

10 Then we are into December. The 16th is
11 our regular meeting.

12 (Board members confer)

13 CHAIRMAN AIBEL: What is our first date
14 in the December?

15 MS. CARCONE: The 16th is our first
16 meeting, and I have another project scheduled, 14
17 Paterson, scheduled for that night.

18 The 23rd is our second meeting in
19 December, which is also Christmas week.

20 MR. GALVIN: That is the one we are
21 going to want to get rid of. I think if we have to
22 choose between taking November 25th or December 23d,
23 I think November 25th is the poison.

24 VICE CHAIR GREENE: Can we do December
25 9th?

1 MR. GRANA: One week earlier before the
2 16th you mean?

3 CHAIRMAN AIBEL: Have a Special
4 Meeting?

5 COMMISSIONER GRANA: Have a Special
6 Meeting on the 9th.

7 VICE CHAIR GREENE: Is that possible?

8 CHAIRMAN AIBEL: We are considering
9 December 9th for a Special Meeting.

10 MR. MATULE: I will check with our
11 professionals. But, just, again, and please excuse
12 me if I am being dense, but are we going to proceed
13 with presenting the rest of the testimony and then
14 get commentary from the Board, and then if further
15 amendments are in order at that point, because I
16 mean, as far as I understand it at this point, just
17 based on Mr. Minervini's testimony and the responses
18 to it, you know, we made the amendments we thought
19 would be appropriate to make.

20 CHAIRMAN AIBEL: Well, with respect, if
21 you recall, we never even got to Board questions.

22 MR. MATULE: I understand.

23 CHAIRMAN AIBEL: So the Board didn't
24 even have a chance to question Mr. Minervini. We
25 took public questions first, so --

1 MR. MATULE: Right.

2 So I guess the question I am asking is,
3 on December 9th will we then just pick up where we
4 left off and get that input from the Board?

5 MR. GALVIN: No. I think what we would
6 do then is you would come in and tell us that little
7 bit change. You think you are not making a
8 substantial change, so you will tell us what you
9 changed internally, and then the Board will proceed
10 to ask questions of the architect.

11 MR. MATULE: I am trying to better
12 understand what the Board would like me to do on
13 December 9th, so I can try to use my best efforts to
14 do that.

15 MR. MINERVINI: I think we have an
16 updated report --

17 MR. GALVIN: I know you do, but that
18 report was produced under duress, more duress than
19 you realize. To be fair, they need to have it.

20 MR. MINERVINI: Understood.

21 (Board members confer.)

22 MR. GALVIN: Yes. Basically the Board
23 is going to -- am I right, the Board is going to be
24 okay with them amending their plans downward, so I
25 think we should take a vote on that, that we are

1 okaying the proposed amendment.

2 You are not approving the amendment.
3 You are allowing them to amend their plan, because
4 you could argue that there has to be a new plan, new
5 fees paid, and a completely new thing, but we are
6 not doing that in this instance.

7 COMMISSIONER COHEN: So do you
8 entertain a motion for that?

9 CHAIRMAN AIBEL: Why don't you make a
10 motion then.

11 COMMISSIONER COHEN: I make a motion to
12 accept the plan as amended that was revised, and
13 that it be rescheduled for --

14 MR. GALVIN: I just want to be careful.
15 We are not approving the plan.

16 COMMISSIONER COHEN: Right.

17 That we treat the plan as amended to be
18 continued to December 9th for a Special Meeting
19 without further notice.

20 CHAIRMAN AIBEL: Do I have a second?

21 COMMISSIONER BRANCIFORTE: Second.

22 CHAIRMAN AIBEL: Take the vote, Pat.

23 MS. CARCONE: Commissioner Greene?

24 VICE CHAIR GREENE: Yes.

25 MS. CARCONE: Commissioner Cohen?

1 COMMISSIONER COHEN: Yes.

2 MS. CARCONE: Commissioner Grana?

3 COMMISSIONER GRANA: Yes.

4 MS. CARCONE: Commissioner Marsh?

5 COMMISSIONER MARSH: Yes.

6 MS. CARCONE: Commissioner Murphy?

7 COMMISSIONER MURPHY: Yes.

8 MS. CARCONE: Commissioner Branciforte?

9 COMMISSIONER BRANCIFORTE: Yes.

10 MS. CARCONE: Commissioner Aibel?

11 CHAIRMAN AIBEL: Yes.

12 MR. MATULE: Thank you.

13 The applicant extends the time within
14 which the Board has to act, should we be bumping up
15 against it to December 9th.

16 MR. GALVIN: Okay.

17 CHAIRMAN AIBEL: Thank you.

18 MR. GALVIN: Our professionals will be
19 producing new reports. Even the report that you got
20 or that you know about will be reevaluated.

21 MR. MATULE: Okay. The only thing I
22 would ask is that I know you are busy, but, you
23 know, sooner is better than later, because if your
24 reports are going to require further amendments to
25 the plan, you know, we won't make them. We will

1 address them at the hearing.

2 (Laughter)

3 MR. GALVIN: No, no. You're making a
4 good point. We are asking for more time from you,
5 and we should make sure that we are being as kind
6 back.

7 MR. MATULE: Thank you.

8 (The matter concluded.)

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T E

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

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

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

s/Phyllis T. Lewis, CSR, CRR

- - - - -

PHYLLIS T. LEWIS, C.S.R. XI01333 C.R.R. 30XR15300
Notary Public of the State of New Jersey
My commission expires 11/5/2015.

Dated: 10/29/14

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

HOBOKEN ZONING BOARD OF ADJUSTMENT
CITY OF HOBOKEN

----- X
REGULAR MEETING OF THE :
HOBOKEN ZONING BOARD OF :October 21, 2014
ADJUSTMENT CONTINUED :Tuesday 8:45 p.m.
----- X

Held At: 94 Washington Street
Hoboken, New Jersey

B E F O R E:

- Chairman James Aibel
- Vice Chair Elliot H. Greene
- Commissioner Phil Cohen
- Commissioner Antonio Grana
- Commissioner Carol Marsh
- Commissioner Diane Fitzmyer Murphy
- Commissioner John Branciforte
- Commissioner Tiffanie Fisher

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

- Eileen Banyra, Planning Consultant
- Jeffrey Marsden, PE, PP
Board Engineer
- Patricia Carcone, Board Secretary

PHYLLIS T. LEWIS
CERTIFIED SHORTHAND REPORTER
CERTIFIED REALTIME REPORTER
Phone: (732) 735-4522

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

2 DENNIS M. GALVIN, ESQUIRE
3 730 Brewers Bridge Road
4 Jackson, New Jersey 08527
5 (732) 364-3011
6 Attorney for the Board.

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 CHAIRMAN AIBEL: Okay.

2 Is there any more Board business?

3 Board members, any business?

4 VICE CHAIR GREENE: Motion to adjourn.

5 CHAIRMAN AIBEL: Motion to adjourn?

6 (Everyone talking at once.)

7 MR. GALVIN: Guys, let me be in charge
8 for a second.

9 Eileen Banyra, I need you.

10 All right. Listen, again, I am worried
11 about us running up on cases that are going to -- we
12 have to hear cases within 120 days, okay? It is by
13 the grace of God that they keep granting us an
14 extension of time. If they ever decide not to grant
15 us an extension of time, we are going to have a
16 lawsuit.

17 We will probably turn them down for not
18 carrying it, and then we will be off fighting the
19 law, okay?

20 Or if we miss one, we are going to wind
21 up with an automatic approval somewhere, so even
22 though -- and we definitely don't want these kind of
23 big projects to get an automatic approval.

24 COMMISSIONER MURPHY: Is there any way,
25 like we were scheduled to go next week, is there

1 anything little we can hear?

2 MR. GALVIN: The reason why we can't go
3 next week is because anything that we would schedule
4 has to have a minimum of about two weeks. They have
5 to do ten days, but they need time to put it
6 together. So by losing Stevens without having a
7 second thing on there, because we knew Stevens would
8 take the whole night, there is no way to stick
9 anything else on that night.

10 On 14 Paterson, they granted us a
11 waiver for the time in which we have to act. So
12 when we hear that case, we pretty much have to
13 decide it on the night we hear it.

14 COMMISSIONER FISHER: Can't the one
15 that we moved to the 18th that we carried to the
16 18th be moved to next week?

17 MR. GALVIN: Hold on a second.

18 Hello, Audience.

19 Thank you.

20 COMMISSIONER BRANCIFORTE: Guys, we're
21 having a meeting, sorry.

22 MR. GALVIN: Go ahead.

23 Say it again. I couldn't hear you.

24 COMMISSIONER FISHER: The one that we
25 carried to the 18th, because we couldn't have an

1 earlier date, it's carried without notice --

2 MS. CARCONE: You're talking about 914?

3 COMMISSIONER FISHER: -- yeah, that one
4 can't be moved forward?

5 MR. GALVIN: No. Once we carry it from
6 a meeting, we gave the public notice, we can't move
7 it without renoticing it again. We don't have that
8 luxury, and that is what I am worried about.

9 I want to start chopping carrots, too,
10 but I am worried that we might need it, and I don't
11 know if we need it or not.

12 COMMISSIONER FISHER: At the very least
13 you probably want to find out if people do have
14 travel plans that they are just not going to be
15 here, right?

16 MS. CARCONE: For Thanksgiving you're
17 talking about?

18 COMMISSIONER FISHER: Yes, for
19 Thanksgiving.

20 Just to send an email maybe or --

21 MR. GALVIN: If we needed to have a
22 meeting on the 25th, is anybody -- I know I am
23 available. Eileen is available.

24 COMMISSIONER GRANA: I am available.

25 MS. CARCONE: I am available.

1 COMMISSIONER FISHER: I am available.

2 VICE CHAIR GREENE: I'm sorry. What
3 date are we talking about?

4 MS. CARCONE: The 25th

5 MR. GALVIN: The Tuesday before
6 Thanksgiving.

7 CHAIRMAN AIBEL: Are we bumping up any
8 deadlines, Pat?

9 MS. CARCONE: We have a lot of
10 deadlines. There's a lot of projects.

11 MR. GALVIN: Yeah. I'm worried. We
12 need to pay attention to this.

13 VICE CHAIR GREENE: Let me say this.
14 I'm flying --

15 MS. CARCONE: We're not making headway.

16 MR. GALVIN: On this kind of thing
17 where you amend and we carry, and like we lost
18 tonight, too. We lost at least an hour.

19 COMMISSIONER MURPHY: There were two
20 things that we could have -- like we could have --

21 VICE CHAIR GREENE: I mean, like --

22 COMMISSIONER MURPHY: -- I know --

23 MR. GALVIN: Listen, we have to have
24 discipline also. We can't let the applicants run
25 us, so it is like, you know, and a perfect example

1 was the decks. You know, like the decks were
2 simple, we just took them off. That took like an
3 hour to do that.

4 Sometimes it is that simple that you
5 just take it off, but in this instance it wasn't
6 that simple, and that is the point that we are
7 sending the message that if you are going to change
8 something like this, and you're going to give it to
9 us the night of the hearing, it is not fair to these
10 two guys. They can't look at it on the spot. They
11 can do it, but there is a higher chance that we are
12 going to miss something or make a mistake.

13 The same thing with even giving us
14 plans 10 days before, it seems like a lot of time,
15 but it's not really for them. And 20 is probably,
16 you know, it's probably the right amount of time.

17 COMMISSIONER GRANA: So where is that
18 risk right now in terms of not meeting the 120-day
19 deadline, and how many meetings do we need to have
20 to fill it?

21 COMMISSIONER FISHER: We are bumping
22 into the holidays. We are bumping into truly a real
23 Christmas and New Year's --

24 COMMISSIONER GRANA: I think what's
25 going to happen is for Christmas and New Year's,

1 people are going to be out.

2 MR. GALVIN: What I'm saying is if we
3 take advantage, if you guys are available on
4 November 25th, and if we have something that is
5 close, we should stick it in there. This way then
6 you can go through, and you only have to have one
7 meeting in December --

8 VICE CHAIR GREENE: Maybe. I'm flying
9 back from California --

10 MS. CARCONE: You're a maybe --

11 (Everyone talking at the same time.)

12 THE REPORTER: Everybody can't talk at
13 the same time.

14 MS. CARCONE: Who is not available on
15 the 25th?

16 (Everyone continues to talk at the same
17 time)

18 COMMISSIONER MARSH: Well, let's see
19 who is, because not everybody is here, right?

20 COMMISSIONER BRANCIFORTE: Well, Mike
21 DeFusco might be available. He is not here to say.

22 COMMISSIONER FISHER: Of the people
23 that are here, who is not available?

24 COMMISSIONER GRANA: Elliot is a maybe.

25 MS. CARCONE: Everyone else is

1 available.

2 VICE CHAIR GREENE: I will put in my
3 calendar to hold it.

4 COMMISSIONER MURPHY: I was going to
5 say, I am going to say hold it, because I might not
6 be here --

7 COMMISSIONER GRANA: And what will
8 we --

9 COMMISSIONER MURPHY: -- if I didn't
10 have to be here --

11 MR. GALVIN: You might be able to find
12 out that Mike DeFusco will be here or Mr.
13 Trimitiedi, and then you don't have to come.

14 COMMISSIONER MURPHY: Exactly.

15 COMMISSIONER GRANA: What are we
16 hearing on the 25th?

17 MS. CARCONE: On the 25th, then I have
18 153 Third, which is an addition and a deck.

19 1137 Garden, which is a two-story
20 addition.

21 These guys are rolling off in January,
22 but they're --

23 MR. GALVIN: They are relatively simple
24 cases, right?

25 MS. CARCONE: Simple, yeah, yeah.

1 MR. GALVIN: Do them and get them done.

2 MS. CARCONE: I will lay out a whole
3 schedule tomorrow for the next two months.

4 MR. GALVIN: As opposed to being 120
5 stories and having a dog grooming on the first
6 floor --

7 COMMISSIONER GRANA: We're going to do
8 the 25th and the 9th?

9 MS. CARCONE: Yes.

10 COMMISSIONER GRANA: The next two
11 meetings --

12 (Everybody talking at once.)

13 MR. GALVIN: Wait. One voice at a
14 time.

15 Tony is going. Go ahead.

16 COMMISSIONER GRANA: Our next two
17 meetings are going to be the 25th and the 9th?

18 MS. CARCONE: No. The 18th, the 25th,
19 and the 9th, and then the 16th, so we have four
20 meetings.

21 And then the 23rd we are going to take
22 a break because that is Christmas week, and then we
23 are into January, and that is the 20th of January.

24 MR. GALVIN: Ms. Murphy has a question.

25 COMMISSIONER MURPHY: I just have a

1 logistical question. When Stevens pulled --

2 MR. GALVIN: They have agreed to carry
3 to February.

4 COMMISSIONER MURPHY: Which means then
5 their 120 days gets extended back?

6 MR. GALVIN: No, no.

7 COMMISSIONER MURPHY: They asked to
8 change, though.

9 MR. GALVIN: Right. And they granted
10 us to that point in February. That is the way it
11 works.

12 COMMISSIONER FISHER: And you don't get
13 to say to them, are you granting the 120 days at the
14 same time --

15 MR. GALVIN: They are waiving the time
16 in which the Board has to act until that February
17 meeting. So if we don't decide then, we are going
18 to ask them for more time --

19 COMMISSIONER FISHER: But --

20 MR. GALVIN: -- let me finish -- which
21 they are going to grant us, and the reason why
22 they're going to grant you is because you are going
23 to deny them. They don't want to be denied, so they
24 will grant us an extension to another month.

25 COMMISSIONER FISHER: Dennis, why

1 wouldn't we -- if we are -- they do come and say
2 they want to extend it to February, why aren't we
3 going back to them and saying, and you are agreeing
4 to extend --

5 MR. GALVIN: Well, they asked --
6 actually they asked for January, and I am worried,
7 and we are worried that we are going to reorganize
8 in January. We have new guys. I don't want new
9 guys right up against Stevens immediately, so we
10 kindly asked them to February.

11 So listen, I think that there is
12 cooperation as long as there are people suspect that
13 they have a chance of being approved. If they start
14 thinking that they are not going to have a chance of
15 being approved, then they become more difficult.

16 I have no problem instructing you to
17 deny. If somebody is like unreasonable and won't
18 grant us an extension of time, we will vote to deny
19 them, all right? And the grounds of it would be, we
20 don't have enough information in order to make an
21 intelligent decision.

22 But what is going to happen if we do
23 that, the Court is going to look back and see if we
24 were reasonable.

25 Here Stevens asked us for the

1 adjournment. I think the Court will see that we
2 were acting reasonably.

3 I get your point that, hey, why don't
4 we just ask for another 120 days.

5 I don't know if any Board has gotten
6 away with asking for that.

7 COMMISSIONER MURPHY: It's just that it
8 doesn't seem right if they are going to push up to
9 the edge, and it's such a big --

10 COMMISSIONER FISHER: They are
11 asking --

12 MR. GALVIN: And that's why -- let me
13 finish -- and that is why we have to get ahead of
14 the schedule, because we have 120 days. Why are we
15 floating around with the first time we see them on
16 the 112th day?

17 I want to see them on the -- after we
18 deem them complete, we hold them up for a long time
19 on whether you are complete.

20 When we finally deem them complete, I
21 want to see them in 30 days.

22 COMMISSIONER MURPHY: Right.

23 MS. BANYRA: Yeah, but, Dennis, right
24 now we're still operating in that back load mode for
25 almost --

1 MR. GALVIN: Then we need to get rid
2 of --

3 MS. BANYRA: -- we only can have three
4 meetings a month. So if we spend two hours fiddling
5 around with a deck or whatever, then immediately we
6 are all backed up.

7 So the only thing that I have to say is
8 that I think we are catching up. We have one that
9 Paterson Avenue is at this point the only like
10 anomaly.

11 The rest of them I think we sort of
12 have under control. But then my other
13 recommendation would be that we add an extra
14 application to every schedule, and so that if on the
15 off chance that one of those don't show up, but the
16 problem with that is, and we haven't done that is
17 because the public comes out, particularly like on
18 Stevens, and then we just send them home, and it
19 stinks for them because they usually come out
20 once --

21 COMMISSIONER MURPHY: Right. They are
22 not going to come back again --

23 MS. BANYRA: -- they don't come back
24 often --

25 MR. GALVIN: -- we don't want to do

1 that.

2 MS. BANYRA: -- so we tried not to do
3 that.

4 But I think, you know, seeing what
5 happened in the last couple of meetings, I think we
6 have to maybe add one extra thing, Pat, and then the
7 other thing we do is, if we have an agenda of say
8 five applications, that on the big ones we give them
9 an hour and a half, the small ones we give them 45
10 minutes, and then we are starting them, so that at
11 any given point if somebody drops out, we don't
12 care. We already started this other application,
13 and we can just keep moving and we will finish it.

14 Because that's what other towns do as
15 well, and Dennis, you know, Jeff and I have all
16 talked about that. We have done that in other
17 towns, and if we need to start that, it is better
18 consistently to start an application and hear it,
19 not bounce it in two months, because like we are
20 almost done, but sometimes you have to just go, you
21 have an hour and a half, go. It keeps the Board on
22 track and it keeps them on track, and we might have
23 to do that.

24 So if we get to that, that's what we're
25 doing, just so you know.

1 MR. GRANA: That makes everyone
2 expeditious.

3 MS. BANYRA: It is not to rush it, but
4 it's always to put the, you know, sense of urgency
5 on it, so --

6 MR. GALVIN: That is why we should meet
7 in November, so we can catch up.

8 COMMISSIONER MURPHY: We have two big
9 applications in front of us right now, this one and
10 the Western Edge one -- I don't -- which one is --

11 MS. BANYRA: 914 Monroe, that one?

12 COMMISSIONER MURPHY: -- yeah, 914
13 Monroe. We have not yet -- just that we haven't
14 seen in the --

15 (Everyone talking at once.)

16 MS. BANYRA: 14 Paterson?

17 MS. CARCONE: No. We've seen that one
18 that --

19 MS. GRANA: We denied --

20 MR. GALVIN: We can't discuss --

21 MR. GRANA: -- 14 Paterson was
22 denied --

23 MR. GALVIN: -- we can't discuss the
24 case. It was previously denied. Now they have
25 amended, and they are coming back.

1 COMMISSIONER MURPHY: Oh, they're
2 coming back. Okay.

3 MR. GALVIN: That is the other thing
4 about not amending it. If we don't amend cases, and
5 we turn them down, they will go back, they will
6 redesign it, they will file new fees, and they will
7 come back into the process, and that would actually
8 be better for us.

9 Amending bigger cases is really a
10 hardship because it adds a lot of time and
11 resources. But yet, the other side is you have to
12 take each case on its own merits, and then you do
13 something that's simple enough, I would be kicking
14 myself not to finish it and move it.

15 That is why I tried to move those two
16 cases we had last week, and if I overstepped my
17 bound on that, I apologize, but I thought they were
18 close enough that they were more than likely not
19 going to get approved, and I wanted to see us get
20 them done.

21 MS. BANYRA: Just so Board members
22 know, what happened tonight is not unusual. It is
23 typical for a town when somebody submits a revision,
24 such as what we witnessed tonight, that immediately
25 it is rescheduled, almost immediately. They come in

1 it with that, and it depends on who has
2 authorization where.

3 Often as the agent that reviews it and
4 deems an application complete, the minute somebody
5 comes in like that, they'll go, okay, you are off
6 the agenda, and you're rescheduled because it is too
7 big. You are scheduled next week, too big, gone,
8 and, you know --

9 COMMISSIONER COHEN: I would prefer if
10 we do it that way, then to have them come in with
11 all of the professionals and then tell them to come
12 back, because I think that's kinder frankly to the
13 applicant to just tell them in advance, it's not
14 going to happen at the next meeting.

15 CHAIRMAN AIBEL: Well, they were
16 essentially told that last week, so --

17 MR. GALVIN: I did, because I am all
18 about being fair. I really am. I mean, if you ever
19 sense that I am not fair, tell me.

20 MS. BANYRA: We are trying to be
21 equitable with them, and nobody wants to go through
22 this.

23 CHAIRMAN AIBEL: No one surprised
24 anybody tonight.

25 Do we have a motion to close?

1 VICE CHAIR GREENE: I think we already

2 did.

3 COMMISSIONER GRANA: Motion to close.

4 COMMISSIONER FISHER: Second.

5 CHAIRMAN AIBEL: It's closed again.

6 (The meeting concluded at nine p.m.)

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T E

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

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

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

s/Phyllis T. Lewis, CSR, CRR

- - - - -

PHYLLIS T. LEWIS, C.S.R. XI01333 C.R.R. 30XR15300
Notary Public of the State of New Jersey
My commission expires 11/5/2015.

Dated: 10/29/14

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