

1 STATE OF NEW YORK
2 CITY OF YONKERS

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Minutes of
The City of Yonkers Zoning Board
June 16, 2020 - 5:10 P.M.

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B E F O R E:

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JOSEPH CIANCIULLI, Chairman

DIANE PEARSON, Member

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HARRY SINGH, Member

JEFFREY LANDSMAN, Member

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HECTOR LOPEZ, Member

WILSON KIMBALL, Member

11

VINCENT GIORGIO, Member

12

P R E S E N T:

13

DAVID BARBUTI, Building Department

14

ALAIN NATCHEV, Assistant Corporation
Counsel

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LEE ELLMAN, Planning Department

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1 THE CHAIRMAN: The June, 2020
2 Zoning Board of Appeals public hearing
3 is now in session. Would the members
4 introduce themselves starting with Ms.
5 Pearson.

6 MS. PEARSON: Diane Pearson.

7 THE CHAIRMAN: Ms. Kimball.

8 MS. KIMBALL: Wilson Kimball.

9 THE CHAIRMAN: Mr. Giorgio.

10 MR. GIORGIO: Vincent Giorgio.

11 THE CHAIRMAN: Okay. Mr.

12 Landsman.

13 MR. LANDSMAN: Jeffrey Landsman.

14 THE CHAIRMAN: Mr. Singh.

15 MR. SINGH: Harry Singh.

16 THE CHAIRMAN: Mr. Lopez.

17 MR. LOPEZ: Hector Lopez.

18 THE CHAIRMAN: Mr. Singh is here.

19 I guess he has his mute on, I don't
20 know. He is here because I have seen
21 him. Also with us tonight_-- Mr.
22 Singh, you are here?

23 MR. SINGH: Yes, Mr. Chairman.

24 THE CHAIRMAN: Yes, sir. Thank
25 you. Also with us tonight is Alain

1 Natchev, the Corporation Counsel who
2 represents us, Mr. Dave Barbuti from
3 the Housing and Buildings representing
4 them tonight, and Mr. Lee Ellman,
5 Director Ellman, he is the Director of
6 Planning. You are there, Mr. Ellman?

7 MR. KUNTZ: I don't see him.

8 THE CHAIRMAN: He should be here
9 in a few minutes.

10 MR. GIORGIO: I do not see him.

11 THE CHAIRMAN: I will make a
12 motion to accept the minutes of the May
13 hearing, do I have a second?

14 MR. LANDSMAN: Second.

15 THE CHAIRMAN: Everybody in favor
16 say aye.

17 (A chorus of ayes.)

18 THE CHAIRMAN: Anybody opposed?
19 Okay, that's carried, seven-zero.

20 MR. KUNTZ: Mr. Chairman, we have
21 a Dean Pialtos.

22 THE CHAIRMAN: Please keep him
23 muted.

24 MR. KUNTZ: Everyone stays muted
25 until the Chairman requests your_--

1 MR. PIALTOS: No problem.

2 THE CHAIRMAN: We accepted the
3 minutes. We are going to have the
4 Pledge of Allegiance lead by Mr. Singh.
5 Mr. Singh.

6 (Pledge of Allegiance.)

7 THE CHAIRMAN: Thank you. Now, we
8 are going to have a moment of silence
9 for a minute. Howard is our gentleman
10 who takes the minutes for us here. He
11 is the Court Reporter. I am going to
12 have a moment of silence for his
13 mother-in-law, Roseann Civitano.

14 Now, Roseann Civitano, I knew her
15 well because her and her husband and
16 her son meant something to me and she
17 was a lovely lovely woman. She took
18 care of everything. She was very nice
19 so I will have a moment of silence for
20 Roseann Civitano.

21 (Moment of silence.)

22 THE CHAIRMAN: That is Howard's
23 mother-in-law, Howard Breshin.

24 MR. LANDSMAN: The Planning
25 Director has arrived.

1 MR. KUNTZ: Lee Ellman has
2 arrived.

3 THE CHAIRMAN: How are you doing,
4 Mr. Ellman?

5 MR. ELLMAN: Doing well.

6 THE CHAIRMAN: Okay. On the cases
7 for tonight, I am just going to go over
8 something for one minute, please. You
9 can put everybody off mute now.

10 MR. KUNTZ: Are you sure? It will
11 get loud.

12 MR. LANDSMAN: Leave it the way it
13 is.

14 THE CHAIRMAN: Tonight we are not
15 going to have a decision on 5660 or
16 5661, that is 540 Nepperhan Avenue, 578
17 Nepperhan Avenue. I am not going to
18 have a decision on 5682, 161 Bennett
19 Avenue. I am not going to have a
20 decision tonight on 5688, that is 31
21 Harding Avenue. There will be a
22 decision tonight on Parkview Avenue.
23 Mr. Romano is going to give us more
24 information.

25 There will be a decision on 5702,

1 5703, and there will be a decision
2 tonight on 5689 and 5695, both on
3 Woodycrest. There will be a decision
4 tonight on 5690, on 5696 and there will
5 be a decision tonight on 5701.

6 Okay. The cases to be heard
7 tonight are Bainton, that is a
8 continued one, and 5697, 98 and 99, all
9 Mr. Accinelli's, and that is on Ravine
10 Avenue and Point Street, and that is a
11 hearing, and we have a hearing on 5704,
12 270 Roberts Avenue, 5705, Culver
13 Street, that is withdrawn, and there
14 will be a case tonight, a hearing
15 tonight on 5706, that is Saw Mill River
16 Road, the Con Edison property, 5707,
17 that is 951 Nepperhan Avenue, and 5708
18 and that is 27 Corbalis Place, so that
19 is what we're going to have tonight.
20 One second, please.

21 The first decision tonight will be
22 5692, Mr. Accinelli on behalf of Plant
23 Manor. That is Alder Manor up there.
24 I just want to do something first.
25 Vincent, did you get my message?

1 MR. GIORGIO: Yes, Mr. Chairman, I
2 did.

3 THE CHAIRMAN: Okay. Thank you.
4 Do I have a motion on this case,
5 please.

6 MR. NATCHEV: Mr. Chairman, this
7 is Mr. Natchev. Don't forget the SEQRA
8 motion, please.

9 THE CHAIRMAN: Mr. Giorgio, the
10 short form.

11 MR. NATCHEV: It is okay, he can
12 go ahead with that motion.

13 MR. GIORGIO: The short form is
14 not what I think everybody thought it
15 was. This is what I have.

16 MR. NATCHEV: Go ahead with that
17 form.

18 THE CHAIRMAN: Are you making your
19 motion now or are you going for the
20 SEQRA?

21 MR. GIORGIO: I am making a
22 motion. Hang on one second.

23 MR. NATCHEV: There should be a
24 motion for the negative declaration.

25 MR. GIORGIO: Under the State

1 Environmental Quality Review Act, yes.

2 THE CHAIRMAN: That's what I want,
3 the SEQRA motion first, Dave.

4 MR. GIORGIO: I have that. Should
5 I go ahead with that, Mr. Chairman?

6 THE CHAIRMAN: Yes, sir.

7 MR. GIORGIO: Motion for the
8 Zoning Board of Appeals to issue a
9 Negative Declaration pursuant to the
10 NYS Environmental Quality Review Act.

11 WHEREAS, there is pending before
12 the Zoning Board of Appeals an
13 application by The Plant Manor LLC,
14 for certain variances needed for the
15 construction of the Cliff House
16 Conference Center, an approximately
17 13,000 square foot 2 = story building
18 on property known as 1097 North
19 Broadway, also known as Section 3,
20 Block: 3515, Lot 80 on the Official
21 Tax Map of the City of Yonkers, and

22 Whereas, the Zoning Board has
23 determined that the proposed variance
24 application is an Unlisted Action under
25 the State Environmental Quality Review

1 Act, "SEQRA," requiring the Board to
2 comply with the regulations promulgated
3 pursuant to SEQRA, and

4 WHEREAS, an Environmental
5 Assessment Form has been prepared to
6 assist the Zoning Board in complying
7 with its responsibilities under SEQRA,
8 and

9 WHEREAS, The Zoning Board has
10 carefully considered the proposed
11 action and has reviewed the annexed
12 Environmental Assessment Form, Part I,
13 submitted by the applicant, and in
14 consideration of the criteria for
15 determining significance as set forth
16 in Section 617.7 of 6 NYCRR Part 617 of
17 the SEQRA regulations, the Zoning Board
18 has identified and carefully considered
19 the relevant areas of environmental
20 concern as are fully set forth in Parts
21 2 of the annexed Environmental
22 Assessment Form completed by the Board
23 to determine if the proposed action
24 will have a significant impact upon the
25 environment.

1 NOW THEREFORE, BE IT RESOLVED by
2 the Zoning Board of Appeals that based
3 upon the Board's review of the
4 Environmental Assessment Form and for
5 the reasons set forth in said
6 Environmental Assessment Form, it is
7 determined that the proposed action
8 will cause no potential significant
9 adverse effects on the environment, and
10 thus issues a Negative Declaration
11 under SEQRA stating an Environmental
12 Impact statement will not be required,
13 and

14 BE IT FURTHER RESOLVED, that the
15 Chairman is authorized and
16 directed to sign the Determination of
17 Significance in the annexed
18 Environmental Assessment Form, on
19 behalf of the Zoning Board of Appeals
20 pursuant to Article 8 of the
21 Environmental Conservation Law,
22 indicating that the proposed action
23 will not result in any significant
24 adverse environmental impacts and to
25 immediately transmit same to be filed

1 and made available pursuant to the
2 requirements of 6 NYCRR Part 617, and
3 BE IT FURTHER RESOLVED, that this
4 Resolution shall take effect
5 immediately.

6 Thank you.

7 THE CHAIRMAN: You're welcome. Do
8 I have a second on it?

9 MR. LOPEZ: Second.

10 THE CHAIRMAN: On the motion, Mrs.
11 Pearson.

12 MS. PEARSON; For the motion.

13 THE CHAIRMAN: Ms. Kimball, for
14 the motion.

15 MS. KIMBALL: For the motion.

16 THE CHAIRMAN: Mr. Giorgio.

17 MR. GIORGIO: For the motion.

18 THE CHAIRMAN: Mr. Landsman.

19 MR. LANDSMAN: For the motion.

20 THE CHAIRMAN: Mr. Singh.

21 MR. SINGH: For the motion.

22 THE CHAIRMAN: Mr. Lopez.

23 MR. LOPEZ: For the motion.

24 THE CHAIRMAN: The Chairman votes
25 for the motion, the motion is carried,

1 seven-zero. Mr. Giorgio, you want to
2 make that motion now.

3 MR. GIORGIO: Yes, Mr. Chairman.

4 Case number 5692, 1097 North
5 Broadway. The property is located in
6 the northwest corner of Yonkers on the
7 west side of North Broadway near the
8 intersection of Executive Boulevard.
9 The property consists of approximately
10 6.5 acres and contains the principal
11 structure commonly known as the Alder
12 Manor, a portion of the former Bosch
13 Hall structure, which is now being
14 referred to by this application as the
15 Cliff House, a small historic cottage
16 and a chapel structure, together with
17 classically landscaped gardens,
18 fountains, sculptures and other
19 architectural walls and details
20 throughout.

21 The applicant is proposing to use
22 the Alder Manor structure as a 25-room
23 hotel with lobby, ballrooms, catering
24 kitchen and basement for mechanical and
25 storage. The applicant is also

1 proposing to renovate and improve the
 2 remaining basement of the former Bosch
 3 Hall building into a 2.5 story
 4 building, referred to as the Cliff
 5 House, which would house approximately
 6 13,000 square feet of space to be used
 7 as conference and event space along
 8 with associated kitchens and mechanical
 9 areas.

10 Mr. Chairman, I make a motion to
 11 approve the requested area variances,
 12 subject to conditions, based on facts,
 13 findings, information and testimony
 14 presented to this Board at the public
 15 hearing, site visits by members of the
 16 Zoning Board of Appeals, or otherwise
 17 obtained.

18 In approving these variances, the
 19 Zoning Board of Appeals has taken into
 20 consideration the benefit to the
 21 applicant as weighed against the
 22 detriment to the health, safety and
 23 welfare of the neighborhood and
 24 community.

25 Specifically, the Board finds:

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1. That the benefit sought cannot be achieved by other feasible means. As testified, the applicant has considered other site configurations in an attempt to maximize parking and found that such layouts were not feasible given existing improvements and site conditions, including the already existing portions of the Cliff House to be renovated together with the protected status of the exterior and grounds surrounding the buildings and improvements subject to the jurisdiction of the National Parks Service and State Historic Preservation Office.

2. Granting the requested variances would not result in an undesirable change in neighborhood character or a detriment to nearby properties.

The proposed action would be beneficial to the neighborhood and the City in that it will restore a vacant, non-functioning property with

1 historical and architectural
2 significance to use and provide for an
3 attractive event venue within the City.

4 The Board acknowledges that the
5 requested variances are not minimal and
6 will impose several conditions to this
7 approval to mitigate potential adverse
8 impacts, including but not limited to
9 restricting event start and end times,
10 limiting event capacity, and requiring
11 traffic timing modifications.

12 The Board also notes that the
13 Planning Board's site plan approval of
14 February 13, 2020 includes a number of
15 conditions related to use, occupancy,
16 signage, noise and other items that
17 would serve to further mitigate
18 potential impacts to the neighborhood
19 or community, and additional site plan
20 review is also required following this
21 Zoning Board Approval.

22 3. That the requested variances
23 are substantial. However, while the
24 variances are certainly numerically
25 substantial, the Board finds that any

1 potential impacts resulting from the
 2 action will be mitigated to the extent
 3 practicable by conditions placed on
 4 this approval and by the Planning
 5 Board's site plan approvals as
 6 previously discussed.

7 It should be further noted that
 8 the proposed action will restore a
 9 vacant and non-functioning property
 10 with historical and architectural
 11 significance to use and will provide
 12 for an attractive event venue within
 13 the City.

14 4. That the variances will not
 15 have a negative impact to physical or
 16 environmental conditions in the
 17 neighborhood.

18 The building footprints are
 19 similar to those existing such that
 20 there would be no appreciable change to
 21 impervious surfaces or stormwater
 22 runoff from these structures. The
 23 applicant is proposing porous pavement
 24 alternative of various types and
 25 locations to mitigate drainage impacts

1 from the parking area and walkways, as
 2 well as using rain gardens.

3 All construction would take place
 4 under the direction of the City's
 5 Department of Housing and Buildings.
 6 Other conditions attached to this
 7 variance as well as those associated
 8 with the Planning Board's February 13,
 9 2020 site plan approval would serve to
 10 reduce or eliminate any potential
 11 nuisance impacts in the surrounding
 12 neighborhood.

13 5. That the alleged difficulty is
 14 clearly self-created in that the
 15 applicant only recently purchased the
 16 property and could have had actual or
 17 constructive knowledge of the zoning
 18 code restrictions prior to that time.
 19 However, the self-created hardship test
 20 is merely one consideration and does
 21 not preclude the Board from granting
 22 the request.

23 In approving these variances the
 24 Board imposes the following conditions:

25 1. All fire, health,

1 environmental, safety, building and
2 zoning codes shall be adhered to at all
3 times;

4 2. Fire, smoke, and carbon
5 monoxide detectors and a fire sprinkler
6 system shall be installed throughout
7 Cliff Hall and connected to an outside
8 24-hour monitoring system;

9 3. The maximum capacity between
10 both the Alder Manor and Cliff House
11 shall not exceed 435 persons and 148
12 vehicles at any time;

13 4. To reduce impacts on the
14 operating conditions at the Boyce
15 Thompson School, no more than 190
16 attendees shall attend breakfast events
17 scheduled to start or finish within one
18 half hour of the start of the school
19 day, and lunch events scheduled to
20 finish or start within one half hour of
21 the end of the school day;

22 5. Under no circumstances is
23 parking for the facility allowed at the
24 Boyce Thompson School, Lenoir Preserve,
25 the Boyce Thompson Retail Center or

1 other private parking lots at North
 2 Broadway and Executive Blvd or along
 3 North Broadway in front of the
 4 property. This includes any and all
 5 events held at the facility, including
 6 special events such as film shootings,
 7 and any type of vehicle or trailers
 8 associated with the venue;

9 6. The applicant shall work with
 10 the City's Traffic Engineer to identify
 11 and implement appropriate traffic
 12 timing modifications as referenced in
 13 the submitted Traffic Impact Study:
 14 Alder Manor, prepared by Kimley Horn of
 15 New York, revised November 30, 2018,
 16 and also in subsequent correspondence
 17 from Kimley Horn of New York dated July
 18 2 and August 14, 2019;

19 7. Any repairs or replacement of
 20 sidewalks, curbcuts or any other item
 21 within the City right-of-way as
 22 required by the City Engineer on North
 23 Broadway shall be satisfactorily
 24 completed by the owner and/or lessee
 25 prior to the Certificate of Occupancy

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being issued;

8. The applicant shall continue to abide by the policy of the Department of Housing and Buildings (DHB) policy regarding temporary television, video or movie studio use at Alder Manor, restricting it to no more than 5 days per month or 60 days per year of such temporary use. Violation of this condition shall require the applicant to apply for a new DHB or Planning Board review.

9. These conditions shall be specified on the Certificate of Occupancy and the owner shall permit periodic inspections at the discretion of the City of Yonkers, Department of Housing and Buildings at least once every calendar year to determine that the conditions are being satisfied;

10. This approval shall be immediately rescinded should the owner violate any of these conditions at any time; and

11. All expenses associated with

1 these conditions shall be the
2 responsibility of the owner.

3 Thank you.

4 THE CHAIRMAN: Thank you. Do I
5 have a second on the motion, please?

6 MR. LOPEZ: Second.

7 THE CHAIRMAN: Mr. Lopez, okay.
8 On the motion, Mrs. Pearson.

9 MS. PEARSON: For the motion.

10 MS. KIMBALL: Has the applicant
11 heard these conditions and how do they
12 feel about them? I am loathed to vote
13 on anything unless the candidate feels
14 these conditions are able to be met.

15 THE CHAIRMAN: We never took that
16 up. These are based on all the
17 information that we had here. There is
18 nothing wrong with these conditions.
19 The Planning Board gave most of these
20 conditions out.

21 MS. KIMBALL: Are we allowed to
22 ask Mr. Accinelli to address that?

23 THE CHAIRMAN: Not now because I
24 have a motion on the floor and I got a
25 second. I just took a vote. I think

1 the motion is very good, to be honest
2 with you. I think it takes in all of
3 what was said. The conditions are
4 basically what the Planning Board put
5 in their two cases.

6 MS. KIMBALL: Lee Ellman, can you
7 tell me those are the same conditions?

8 MR. ELLMAN: I am sorry, we are
9 having network problems here, will you
10 repeat that?

11 MS. KIMBALL: Can you tell me if
12 the conditions in the Zoning Board
13 approval are the same as the Planning
14 Board approval?

15 MR. ELLMAN: They are not
16 identical but they are similar to what
17 the Planning Board had, yes.

18 MR. ACCINELLI: Mr. Chairman,
19 Steve Accinelli. With the Board's
20 permission, can I address the Board?

21 THE CHAIRMAN: No, you are not
22 addressing the Board.

23 Ms. Kimball, how do you vote?

24 MS. KIMBALL: I would like to see
25 the conditions and see if they are

1 exactly as the Planning Board
 2 conditions. I have not seen the
 3 conditions. This is the first I heard
 4 the conditions. They need to mirror
 5 the Planning Board conditions and/or I
 6 need to hear from the applicant that
 7 they are comfortable with these
 8 conditions because I do not want them
 9 to have to come back and have all of us
 10 listen to all of this again and waste
 11 people's time.

12 THE CHAIRMAN: I agree with you.
 13 I don't want them to come back either.
 14 Mr. Accinelli.

15 MR. ACCINELLI: Yes, Mr. Chairman.

16 THE CHAIRMAN: Do you want to say
 17 something to me?

18 MR. ACCINELLI: As to the
 19 conditions, the limitations regarding
 20 the number of units and start times
 21 relative to school were not I believe
 22 on the Planning Board resolution as
 23 well as the conditions related to
 24 parking at any of the other locations.

25 The maximum parking and occupant

1 count was consistent, but the other
2 components relative to start time and
3 end time and the number of permitted
4 occupants during breakfast events, as
5 an example, those are conditions that
6 was not something discussed or part of
7 the prior Planning Board site plan
8 approval.

9 MR. GIORGIO: Mr. Chairman, if I
10 may?

11 THE CHAIRMAN: Yes.

12 MR. GIORGIO: The restrictions on
13 the start time and the end time of the
14 adjacent school were taken directly
15 from the applicant's traffic study and
16 was proposed as part of that study as
17 mitigation, as well as the traffic
18 timing modifications.

19 Although the traffic study did not
20 specifically state what modifications
21 they were suggesting, at least not
22 clearly in that report, so the way the
23 condition was written was that they
24 should work with the City Engineer to
25 identify what timing modifications both

1 the applicant and the city felt were
2 necessary, but the start time and end
3 times in relation to the Boyce Thompson
4 School were taken directly from the
5 applicants in the material they
6 submitted as part of their application.

7 THE CHAIRMAN: Did you hear that,
8 Mr. Accinelli?

9 MR. ACCINELLI: I did hear that,
10 Mr. Chairman.

11 THE CHAIRMAN: Okay, good. What
12 else do you want to say?

13 MR. ACCINELLI: Just relative to
14 the number of permitted attendees for,
15 say, breakfast or day events and also
16 the parking, I didn't catch them all,
17 but the Boyce Thompson, et cetera,
18 those were not elements proposed as
19 part of the site plan approval from the
20 Planning Board.

21 MR. GIORGIO: Mr. Chairman, if I
22 may?

23 THE CHAIRMAN: Yes.

24 MR. GIORGIO: The lots listed were
25 the Boyce Thompson School, Lenoir

1 Preserve, the Boyce Thompson retail
2 center across the street where Fontana
3 restaurant is and other parking lots at
4 North Broadway and Executive Boulevard
5 which is the lot sort of diagonal
6 across the intersection.

7 My understanding anyway, those are
8 other lots unrelated to this lot. It
9 is my understanding that those are not
10 areas that people should be parking
11 cars I mean unless there was some
12 agreement with an adjacent property
13 owner that we are unaware of.

14 MS. KIMBALL: It is my
15 understanding there is no parking at
16 the Boyce Thompson Center per the Boyce
17 Thompson Center's approvals, but
18 parking at Lenoir cannot be controlled
19 by Yonkers as a city as it is a county
20 park, and I don't know if the Boyce
21 Thompson School is in there, but that
22 was always the decision made by the
23 Board of Education as to whether or not
24 people can park in that and that
25 directly impacts the film industry in

1 the City of Yonkers, so I am curious as
2 to whether the Boyce Thompson School
3 parking is included in that condition.

4 THE CHAIRMAN: All right, Mr.
5 Giorgio, let's take out the Boyce
6 Thompson School and take out Lenoir and
7 we'll leave it at that. They want to
8 park there, they got to get permission
9 from, like Ms. Kimball says, from the
10 Board of Education for the Boyce
11 Thompson School or Lenoir from the
12 County of Westchester. I got no
13 problem with that.

14 MR. GIORGIO: Mr. Chairman, the
15 reasoning for including at least the
16 Lenoir Preserve was there was some
17 submissions to the Board that there was
18 illegal parking at Lenoir Preserve
19 without obtaining approval, so I mean I
20 would be happy to modify the condition
21 that no parking at Lenoir Preserve or
22 Boyce Thompson School without
23 appropriate approvals, perhaps, but I
24 think it is important to make it clear
25 that without those approvals, that they

1 should not be parking cars in other
2 people's parking lots. That's all.

3 THE CHAIRMAN: Well, I think what
4 we'll do, if it is okay with you and
5 the Board, we'll just eliminate those
6 two and let them go on from there. If
7 they get permission they can get
8 permission. If they don't they don't.
9 Is that okay with you, Mr. Giorgio?

10 MR. GIORGIO: Sure.

11 THE CHAIRMAN: Okay. Ms. Kimball,
12 are you satisfied?

13 MS. KIMBALL: I have one more
14 question, Mr. Chairman. I am not sure
15 of the timing of the condition that
16 limits attendants for breakfast
17 meetings and that kind of thing. What
18 I heard from Mr. Giorgio was that he
19 took that from a document which
20 indicated that the City Engineer should
21 be setting those, so I am curious as to
22 how we got that again.

23 MR. GIORGIO: The Kimley Horn
24 traffic study that was submitted as
25 part of the applicant's materials. In

1 fact, I believe it was referenced by
2 Mr. Accinelli when I asked about
3 mitigation_--

4 THE CHAIRMAN: Go ahead.

5 MR. GIORGIO: -- dated October
6 2018, revised November, 2018, and it is
7 on page one. In fact, they listed
8 specific times, 8 a.m. to 9:00 a.m. No
9 more than 190 attendees may attend
10 breakfast events scheduled to start or
11 finish between 8 and 9 a.m., and then
12 they put in parentheses, "Within a half
13 hour of the start of the school day,"
14 so I didn't include the times because I
15 thought maybe the times could
16 potentially change so I just kept it
17 within a half hour of the start of the
18 school day.

19 Right below that, Monday through
20 Friday from 2:45 p.m. to 3:45 p.m., no
21 more than 100 attendees may attend
22 lunch events scheduled to start of
23 finish within a half hour of the end of
24 the school day at the Boyce Thompson
25 School, so that's where I got it from.

1 MS. KIMBALL: I am satisfied, Mr.
2 Chairman.

3 THE CHAIRMAN: You are okay?

4 MS. KIMBALL: Okay.

5 THE CHAIRMAN: Ms. Kimball, how do
6 you vote?

7 MS. KIMBALL: I vote for the
8 motion as amended.

9 THE CHAIRMAN: That's all right,
10 don't worry about it, it would be okay.
11 Now, Mr. Giorgio, how do you vote?

12 MR. GIORGIO: For the motion.

13 THE CHAIRMAN: Thank you. Mr.
14 Landsman.

15 MR. LANDSMAN: For the motion.

16 THE CHAIRMAN: Mr. Singh.

17 MR. SINGH: For the motion.

18 THE CHAIRMAN: And Mr. Lopez.

19 MR. LOPEZ: For the motion.

20 THE CHAIRMAN: Mrs. Pearson, the
21 motion has been amended, are you okay
22 with that?

23 MS. PEARSON: Yes. I said yes.

24 THE CHAIRMAN: Thank you. The
25 Chairman votes for the motion.

1 MS. PEARSON: I wanted to ask one
2 question beforehand, but for some
3 reason, nobody can hear me.

4 THE CHAIRMAN: We'll leave it at
5 that now, Mrs. Pearson. That motion is
6 carried seven to zero.

7 The next case is 5663, Mr. Null on
8 behalf of 15 Parkview Avenue.

9 Is Mr. Null in the room?

10 MR. NULL: Yes, I am. Thank you.

11 MR. LANDSMAN: We are ready, Mr.
12 Chairman.

13 THE CHAIRMAN: Do I have a motion
14 on that case, please?

15 MR. GIORGIO: Yes, Mr. Chairman.

16 THE CHAIRMAN: Mr. Giorgio.

17 MR. GIORGIO: Case # 5693 William
18 S. Null, Esq., on behalf of Parkview
19 Equities, LLC.

20 The subject property is an
21 existing six-story residential building
22 with 65 apartments on a 28,824 square
23 foot lot. The building was extensively
24 damaged by a fire in March, 2019, such
25 that the applicant has represented that

1 the cost to rehabilitate the existing
2 building is such that the applicant
3 wishes to replace the structure with a
4 new six-story 64-unit building.

5 The Board, as per Case # 5674, has
6 previously granted the applicant an
7 extension to reconstruct the existing
8 nonconforming building. Furthermore,
9 the City Building Commissioner had also
10 previously determined that the present
11 condition of the fire damaged
12 nonconforming building was such that it
13 could be reconstructed.

14 Mr. Chairman, I make a motion to
15 deny the requested area variances based
16 on facts, findings, information and
17 testimony presented to this Board at
18 the public hearing, site visits by
19 members of the Zoning Board of Appeals,
20 or otherwise obtained.

21 In denying these variances, the
22 Zoning Board of Appeals has taken into
23 consideration the benefit to the
24 applicant as weighed against the
25 detriment to the health, safety and

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welfare of the neighborhood and community.

Specifically, in making its determination, the Board has considered the following:

1. Whether granting the requested variances would result in an undesirable change in neighborhood character or a detriment to nearby properties.

While the dimensions of the proposed building, including its setback from adjacent property lines, building coverage and otherwise, as well as occupancy, is consistent with the existing building, the Board finds that the proposed contemporary architectural styling is such that it is out of character with buildings in the immediate vicinity of the Garrett Park community, which is made up of Tudor revival styled buildings containing deep courtyard entryways, cathedral peaks with arched openings, lighted entry pillars and other such

1 elements.

2 The Board has received voluminous
3 correspondence from neighboring
4 residents concerned with the
5 applicant's proposed modern, box-like
6 structure and whose main complaint is
7 the lack of consistency with
8 surrounding Tutor revival styled
9 properties and the lack of any plans
10 for any green space or gardens, such as
11 within a courtyard, which exists at the
12 current entrance along Garrett Place.

13 This Board finds that the current
14 proposal is neither architecturally or
15 aesthetically compatible with the
16 existing Garrett Park neighborhood and
17 therefore will detrimentally impact
18 said neighborhood's character, as well
19 as create a probable long term negative
20 impact on neighboring property values.

21 2. Whether the benefit sought by
22 the applicant can be achieved by other
23 feasible means.

24 As noted, the existing building
25 was extensively damaged by a fire in

1 March 2019. While the applicant has
2 submitted evidence to the Board
3 suggesting that rehabilitation of the
4 existing fire damaged building may be
5 cost prohibitive, they have not
6 provided any evidence to suggest that
7 other site layouts, configurations, or
8 architectural styling have been
9 considered to reduce the aesthetic
10 impacts to the neighborhood associated
11 with the loss of the existing pre-war,
12 Tudor-style structure.

13 3. Whether the requested variances
14 are substantial. The proposed
15 variances are both substantial
16 numerically and as they relate to the
17 negative impacts upon neighborhood
18 aesthetics and character as noted.

19 4. Whether the variances will have
20 negative affects to physical or
21 environmental conditions in the
22 neighborhood. The proposed variances
23 will have significant physical or
24 environmental impacts as previously
25 noted.

1 5. Whether the alleged difficulty
2 is self-created. The hardship is not
3 self-created but is the result of a
4 fire that severely damaged the existing
5 building.

6 Thank you.

7 THE CHAIRMAN: Do I have a second
8 on the motion?

9 MR. LOPEZ: Second.

10 THE CHAIRMAN: On the motion, Mrs.
11 Pearson.

12 MS. PEARSON: For the motion.

13 THE CHAIRMAN: Okay. Ms. Kimball.

14 MS. KIMBALL: For the motion.

15 THE CHAIRMAN: Mr. Giorgio.

16 MR. GIORGIO: For the motion.

17 THE CHAIRMAN: Mr. Landsman.

18 MR. LANDSMAN: For the motion.

19 THE CHAIRMAN: Mr. Singh.

20 MR. SINGH: For the motion.

21 THE CHAIRMAN: And Mr. Lopez.

22 MR. LOPEZ: For the motion.

23 THE CHAIRMAN: Okay, the motion
24 carries, seven-zero. Thank you.

25 The next case tonight that we'll

1 have a decision on will be case number
2 5702, it is Mr. Dibbini on 868 Midland
3 Avenue. Do I have a motion, please.

4 MR. GIORGIO: Yes, Mr. Chairman.

5 THE CHAIRMAN: Yes, Mr. Giorgio.

6 MR. GIORGIO: Case 5702. James G.
7 Dibbini, Esq., on behalf of Midland
8 Realty LLC.

9 The subject property is located on
10 the southwest corner of the
11 intersection of Midland Avenue and
12 Gardner Place. The site is currently
13 developed with a one-story retail
14 building most recently operating as a
15 bagel store and cafe.

16 As testified, the applicant wishes
17 to use the premises as an office for a
18 small construction company and is
19 seeking to legalize the rear parking
20 lot.

21 Mr. Chairman, I make a motion to
22 approve the requested area variances,
23 subject to conditions, based on facts,
24 findings, information and testimony
25 presented to this Board at the public

1 hearing, site visits by members of the
2 Zoning Board of Appeals, or otherwise
3 obtained.

4 In approving these variances the
5 Zoning Board of Appeals has taken into
6 consideration the benefit to the
7 applicant as weighed against the
8 detriment to the health, safety and
9 welfare of the neighborhood and
10 community.

11 Specifically, the Board finds:

12 1. That the benefit sought cannot
13 be achieved by other feasible means.
14 Given the current layout of the site
15 and surrounding development, it is not
16 possible for the applicant to
17 reconfigure the lot to obviate the need
18 for the requested variances.

19 2. Granting the requested
20 variances would not result in an
21 undesirable change in neighborhood
22 character or a detriment to nearby
23 properties.

24 As testified, the area in question
25 has been used as a parking lot for some

1 time, and that the current proposal
 2 would not drastically alter the size or
 3 dimensions of the lot other than such
 4 improvements that would be required by
 5 the City Building Department. The lot
 6 would be adjacent to an existing two
 7 car garage and a vacant lot with no
 8 direct residential neighbors.

9 3. That the requested variances
 10 are not substantial. While the
 11 variance may appear on paper to be
 12 numerically substantial, the Board does
 13 not believe it would result in any
 14 substantial impacts to the
 15 neighborhood, community or environment
 16 when viewed in the context of the
 17 entire application as a whole.

18 4. That the variances will not
 19 have a negative impact to physical or
 20 environmental conditions in the
 21 neighborhood.

22 The proposed action does not
 23 significantly alter the physical or
 24 environmental conditions at the site
 25 when compared to the existing

1 condition. The proposed action in fact
 2 includes drainage improvements and a
 3 drywell to mitigate any changes to
 4 stormwater runoff.

5 5. That the alleged difficulty is
 6 self-created in that the applicant
 7 could have had actual or constructive
 8 knowledge of the zoning code
 9 restrictions prior to purchasing the
 10 property. However, the self-created
 11 hardship test is merely one
 12 consideration and does not preclude the
 13 Board from granting the request.

14 In approving these variances the
 15 Board imposes the following conditions:

16 1. All fire, health,
 17 environmental, safety, building and
 18 zoning codes shall be adhered to at all
 19 times;

20 2. The applicant is not to store
 21 any construction related materials,
 22 machinery, vehicles or other equipment
 23 in the parking lot at any time;

24 3. Drainage improvements,
 25 including the proposed trench drain and

1 Cultec Recharger shall be installed as
 2 shown on drawing A-1 of the site plan
 3 entitled Proposed New Exterior Rear
 4 Yard Parking Area Design for 868
 5 Midland Avenue, Yonkers, New York,
 6 prepared by Nicholas L. Faustini,
 7 Architect, latest revision dated April
 8 23, 2020, or as otherwise approved by
 9 the City of Yonkers Department of
 10 Housing and Buildings;

11 4. The existing privacy fence
 12 along the rear property line shall
 13 remain and the applicant shall maintain
 14 said fence;

15 5. Any change in use of the
 16 property is required to come back
 17 before the Zoning Board of Appeals for
 18 additional public hearing and decision;

19 6. Any repairs or replacement
 20 required by the City Engineer to the
 21 sidewalks or curbs in front of the
 22 property along Midland Avenue and
 23 Gardner Place shall be repaired or
 24 replaced by the owner and/or lessee
 25 prior to the Certificate of Occupancy

1 being issued;

2 7. These conditions shall be
3 specified on the Certificate of
4 Occupancy and the owner shall permit
5 periodic inspections at the discretion
6 of the City of Yonkers, Department of
7 Housing and Buildings, at least once
8 every calendar year to determine that
9 the conditions are being satisfied;

10 8. This approval shall be
11 immediately rescinded should the owner
12 violate any of these conditions at any
13 time; and

14 9. All expenses associated with
15 these conditions shall be the
16 responsibility of the owner.

17 Thank you.

18 THE CHAIRMAN: Thank you. Do I
19 have a second on the motion, please?

20 MR. SINGH: Second.

21 THE CHAIRMAN: On the motion, Ms.
22 Pearson.

23 MS. PEARSON: For the motion.

24 THE CHAIRMAN: Ms. Kimball.

25 MS. KIMBALL: For the motion.

1 THE CHAIRMAN: Mr. Giorgio.

2 MR. GIORGIO: For the motion.

3 THE CHAIRMAN: Mr. Landsman.

4 MR. LANDSMAN: For the motion.

5 THE CHAIRMAN: Mr. Singh.

6 MR. SINGH: For the motion.

7 THE CHAIRMAN: Mr. Lopez.

8 MR. LOPEZ: For the motion.

9 THE CHAIRMAN: The Chairman votes
10 for the motion, the motion is carried,
11 seven-zero.

12 The next case is 5703. It is Mr.
13 Dibbini again, 111 Glover Avenue. Do I
14 have a motion, please?

15 MR. SINGH: Yes, Mr. Chairman.

16 THE CHAIRMAN: Yes, Mr. Singh.

17 MR. SINGH: Mr. Chairman Case #
18 5703.

19 The subject property contains a
20 three-story house. It has been
21 operating as a one-family house since
22 its construction in 1923, before when
23 Certificates of Occupancy were required
24 by the Building Department The City of
25 Yonkers.

1 The applicant added a dormer to
2 the rear of the attic without obtaining
3 proper permits and added about 500
4 square feet of additional space that is
5 currently a bedroom, bathroom, and
6 closet. Therefore, this appeal to the
7 Yonkers Zoning Board Appeals has
8 ensued.

9 As such, Mr. Chairman, I make a
10 motion to approve the requested area
11 variances subject to conditions based
12 on facts, findings, information and
13 testimony presented to this Board at
14 the public hearing, site visits by
15 members of the Zoning Board of Appeals,
16 or otherwise obtained.

17 To grant an area variance the
18 Board must be satisfied with five
19 points of law.

20 1. Whether an undesirable change
21 will be produced in the character of
22 the neighborhood, or the granting of
23 these variances will create a detriment
24 to nearby properties.

25 The granting of these area

1 variances will not produce any
2 undesirable changes in the character of
3 the neighborhood and will not be a
4 detriment to nearby properties.

5 The dormer was added to the rear
6 of the property and the addition is not
7 visible from the front, and no new
8 construction is planned or needed to
9 modify the size, dimension, or
10 appearance of the property.

11 2. Whether the benefit sought by
12 the applicant cannot be achieved by
13 some other method, feasible for the
14 applicant to pursue, other than the
15 area variances.

16 The benefit sought by the
17 applicant cannot be achieved by another
18 alternate more feasible method for the
19 applicant to legalize the existing
20 structure that provides needed
21 additional space for the owner. To
22 knock down the dormer would be
23 cost-prohibitive, and the removal of
24 the addition would harm the value of
25 the premises. More importantly, removal

1 of the addition would create
2 considerable disruption to the
3 immediately surrounding neighbors.

4 3. Whether the requested variance
5 is substantial. The requested area
6 variances are numerically substantial,
7 but their effect will be minimal when
8 viewed in the context of the entire
9 application. There will be no new
10 modification or construction at the
11 premises.

12 4. Whether the granting of the
13 area variance to allow for the proposed
14 improvement will have an adverse effect
15 or impact on the condition or the
16 physical or environmental conditions in
17 the neighborhood or district.

18 The requested variances will not
19 have an adverse effect or impact on the
20 environmental conditions of the
21 neighborhood as there will be no
22 increased occupancy or traffic, and the
23 property will remain a one-family
24 dwelling. Hence, the variances will
25 not adversely affect any existing

1 natural environmental conditions such
2 as water use, pollution, energy use,
3 drainage, run-off and flooding, nor
4 create any noise, light odor, visual,
5 or other nuisance conditions.

6 5. Whether the alleged difficulty
7 was self-created which consideration
8 shall be relevant to the decision to
9 the Zoning Board of Appeals, but shall
10 not necessarily preclude the granting
11 of the area variance.

12 The alleged difficulty was, in
13 fact, self-created due to work
14 performed without proper permits.
15 However, the house is on a narrow 25
16 foot by 100 foot lot, and horizontal
17 space or room is nonexistent, and the
18 only way to secure additional living
19 space, although only through a dormer,
20 was to expand the attic.

21 Mr. Chairman, In granting these
22 variances, the Board imposes the
23 following conditions.

24 1. All health, safety, fire,
25 building, and environmental codes shall

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be adhered to at all times by the applicant.

2. All curbs and/or sidewalks abutting the property that needs repairing or replacement as per the City of Yonkers Department of Engineering, then the repair or replacements must be done before the Certificate of Occupancy is issued.

3. That if any back real estate taxes and or fines, if owned, be paid in full within 45 days of this hearing and proof must be submitted to this Board.

4. These conditions shall be on the Certificate of Occupancy, and the applicant and/or property owner shall permit inspections at the discretion of the City's Department of Housing and Buildings at least once every calendar year to determine that the conditions are being satisfied.

5. Should the applicant and/or property owner not comply with, breach or violate any of these conditions at

1 any time, the approval of these
2 variances is hereby rescinded and
3 authorizes the City's Department of
4 Housing and Buildings to take
5 appropriate action.

6 6. There will be fire/carbon
7 monoxide and smoke detectors required
8 on the premises hooked up to an outside
9 24 hour monitoring system.

10 7. Premises will remain a
11 one-family dwelling and one kitchen, no
12 second family, in-law, or boarding
13 house setup allowed.

14 8. All expenses associated with
15 these conditions shall be the sole
16 responsibility of the applicant and/or
17 property owner.

18 Thank you, Mr. Chairman.

19 THE CHAIRMAN: Thank you, Mr.
20 Singh. Do I have a second on the
21 motion, please?

22 MS. KIMBALL: Mr. Chairman, this
23 is Wilson.

24 THE CHAIRMAN: Yes. You second
25 the motion?

1 MS. KIMBALL: Yes, Mr. Chairman.

2 THE CHAIRMAN: Thank you. On the
3 motion, Mrs. Pearson.

4 MS. PEARSON: For the motion.

5 THE CHAIRMAN: Ms. Kimball.

6 MS. KIMBALL: For the motion.

7 THE CHAIRMAN: Mr. Giorgio.

8 MR. GIORGIO: For the motion.

9 THE CHAIRMAN: Mr. Landsman.

10 MR. LANDSMAN: For the motion.

11 THE CHAIRMAN: Mr. Singh.

12 MR. SINGH: For the motion.

13 THE CHAIRMAN: And Mr. Lopez.

14 MR. LOPEZ: For the motion.

15 THE CHAIRMAN: The Chairman votes
16 for the motion/, the motion is carried,
17 seven-zero.

18 The next case is case 5689 which
19 is 41 Woodycrest Avenue, then we have
20 case 5695 which is 45 Woodycrest. Now,
21 Mr. Landsman, you are going to make the
22 motion, do they mirror each other?

23 MR. LANDSMAN: They are exactly
24 the same, Mr. Chairman.

25 THE CHAIRMAN: So what we are

1 going to do, if it is okay with the
2 Board members, 5689, 41 Woodycrest and
3 then 5695, 45 Woodycrest will be the
4 same.

5 Mr. Natchev, is that okay?

6 MR. NATCHEV: Yes, it is indicated
7 in the minutes.

8 THE CHAIRMAN: Mr. Landsman, go
9 ahead.

10 MR. LANDSMAN: Thank you, Mr.
11 Chairman.

12 The subject property in question
13 is in a T Zone, in a neighborhood of
14 multi-family homes. It is located in
15 the Bryn Mawr section of Yonkers on the
16 West side of Woodycrest Avenue between
17 Sutton Oval and Arbor Street.

18 I make a motion to approve the
19 request for an area variance subject to
20 conditions, based on facts, findings,
21 information and testimony presented to
22 this Board at the public hearing, site
23 visits by members of the Zoning Board
24 and otherwise obtained.

25 In approving these variances the

1 Zoning Board of Appeals has taken into
 2 consideration the benefit to the
 3 applicant as weighed against the
 4 detriment to the health, safety, and
 5 welfare of the neighborhood and
 6 community.

7 1. That the benefit sought cannot
 8 be achieved by other feasible means.
 9 Given the topography of the lot, with
 10 the drastic slope from front to rear,
 11 it is not possible for the applicant to
 12 meet the front setback requirements.

13 2. Granting the requested
 14 variances would not result in an
 15 undesirable change in neighborhood
 16 character or a detriment to nearby
 17 properties.

18 The proposed dwelling is in
 19 character with other properties along
 20 Woodycrest Avenue and the surrounding
 21 area which consists of a mix of one,
 22 two and three-family dwellings on
 23 similar-sized lots.

24 3. Whether the requested variances
 25 are substantial. The variances, while

1 numerically substantial, are required
2 by the applicant to address the extra
3 height due to the drop of the land from
4 the street level. The parking
5 requirements are being met and the home
6 will be in character with other
7 properties in the area.

8 4. That the variances will not
9 have a negative impact to physical or
10 environmental conditions in the
11 neighborhood.

12 The site is largely built up with
13 residential development, and the
14 proposal would not result in any
15 substantial changes in impervious
16 surfaces, vegetation, surface drainage
17 or nuisance conditions in the area when
18 compared to existing conditions. With
19 the new drainage being installed, this
20 will be a benefit to the houses below
21 in diverting rainwater from running
22 down the hill on to their properties.

23 As stated at the April 14th
24 hearing by the owner, Chris Bunici,
25 will be granting the City a 15 foot

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property easement for the new sewer system for drainage.

5. That the alleged difficulty is self-created. While the hardship may be self-created in that the applicant could have had actual or constructive knowledge of the zoning code restrictions prior to purchasing the property, the self-created hardship test is merely one consideration and does not preclude the Board from granting the request.

In approving these variances, the Board imposes the following conditions:

1. All fire, health, environmental, safety, building and zoning codes shall always be adhered to at all times.

2. Fire, smoke and carbon monoxide detectors shall be installed throughout the building and connected to an outside 24-hour monitoring system.

3. Any repairs or replacement required by the City Engineer to the sidewalks or curbs in front of the

1 property along Woodycrest Avenue shall
2 be repaired or replaced prior to the
3 Certificate of Occupancy being issued.

4 4. The property shall remain a
5 two-family dwelling only, no in-law or
6 boarding house setups allowed.

7 5. The basement shall be used for
8 storage or recreational uses as shown
9 on the submitted site plans. Any
10 bathrooms in the basement shall include
11 only toilets and sinks. No shower
12 stalls or tubs are permitted as shown
13 on the approved plans.

14 6. These conditions shall be
15 specified on the Certificate of
16 Occupancy and the owner shall permit
17 periodic inspections at the discretion
18 of the City of Yonkers, Department of
19 Housing and Buildings, at least once
20 every calendar year to determine that
21 the conditions are being satisfied.

22 7. This approval shall be
23 immediately rescinded should the owner
24 violate any of these conditions at any
25 time.

1 8. All expenses associated with
2 these conditions shall be the
3 responsibility of the owner.

4 Thank you.

5 THE CHAIRMAN: Do I have a second
6 on the motion?

7 MR. SINGH: Second.

8 THE CHAIRMAN: Okay. On the
9 motions, Mrs. Pearson.

10 MS. PEARSON: For the motion.

11 THE CHAIRMAN: Ms. Kimball.

12 MS. KIMBALL: For the motion.

13 THE CHAIRMAN: Okay. Mr. Giorgio.

14 MR. GIORGIO: For the motion.

15 THE CHAIRMAN: Thank you. Mr.
16 Landsman.

17 MR. LANDSMAN: For the motion.

18 THE CHAIRMAN: Mr. Singh.

19 MR. SINGH: For the motion.

20 THE CHAIRMAN: And Mr. Lopez.

21 MR. LOPEZ: For the motion.

22 THE CHAIRMAN: The Chairman votes
23 for the motions. These two motions are
24 hereby granted by a vote of seven-zero
25 on both cases. Thank you.

1 The next case will be case 5690,
2 it is Mr. Romano on behalf of 125
3 Orchard Street. Do I have a motion,
4 please?

5 MR. NATCHEV: Mr. Chairman, on
6 this case the Board needs to do a short
7 form SEQRA and declaration, please.

8 THE CHAIRMAN: Mr. Giorgio, you
9 have the short form, correct? One
10 second, Mr. Natchev, one second,
11 please. Can I call you, Mr. Natchev?

12 MR. NATCHEV: If you rather use
13 the long form, just identify the proper
14 party.

15 (Short pause.)

16 MR. NATCHEV: Mr. Chairman, I
17 stand corrected, SEQRA is not necessary
18 depending how the Board votes on this
19 decision. You can proceed.

20 THE CHAIRMAN: Do I have a motion,
21 please, 5690, 125 Orchard Street.

22 MR. GIORGIO: Yes, Mr. Chairman.

23 THE CHAIRMAN: Mr. Giorgio,
24 please.

25 MR. GIORGIO: The subject property

1 is a vacant, 18,750 square foot lot
2 located on the west side of Orchard
3 Street between Moquette Row north and
4 south.

5 The applicant purchased the
6 property in 2019 from the City of
7 Yonkers and now wishes to construct a
8 six-story, 31-unit apartment building.

9 Mr. Chairman, I make a motion to
10 deny the requested variances based on
11 facts, findings, information and
12 testimony presented to this Board at
13 the public hearing, site visits by
14 members of the Zoning Board of Appeals,
15 or otherwise obtained.

16 In denying these variances the
17 Zoning Board of Appeals has taken into
18 consideration the benefit to the
19 applicant as weighed against the
20 detriment to the health, safety, and
21 welfare of the neighborhood and
22 community.

23 Specifically, in making its
24 determination, the Board has considered
25 the following:

1 1. Whether the benefit sought by
2 the applicant can be achieved by other
3 feasible means. The applicant has not
4 provided sufficient evidence to the
5 Board that alternate site layouts
6 containing a smaller sized building
7 have been thoroughly explored that
8 would reduce or eliminate the need for
9 the requested variances, particularly
10 as it relates to the proposed on-site
11 parking shortfall.

12 2. Whether granting the requested
13 variances would result in an
14 undesirable change in neighborhood
15 character or a detriment to nearby
16 properties.

17 The Board has visited the site
18 multiple times and finds that the
19 proposed action would likely result in
20 negative impacts to the neighborhood
21 mostly through a substantial increase
22 in demand for on-street parking. This
23 finding is further supported by the
24 City Planning Director's analysis. The
25 applicant has provided no evidence to

1 date to demonstrate that the on-site
2 parking shortfall could be absorbed on
3 local roadways.

4 3. Whether the requested variances
5 are substantial. The Board finds that
6 the proposed variance are not only
7 numerically substantial, but that would
8 also be substantial with regard to
9 potential adverse impacts as previously
10 described, in particular, as those
11 impacts relate to parking and traffic
12 flow.

13 4. Whether the variances will have
14 negative affects to physical or
15 environmental conditions in the
16 neighborhood.

17 The proposed variances are likely
18 to have a negative impact on parking
19 resources in the area as previously
20 noted.

21 5. Whether the alleged difficulty
22 is self-created. The hardship is
23 clearly self-created in that the
24 applicant only recently purchased the
25 property and could have had actual or

1 constructive knowledge of the Zoning
2 Code prior to said purchase.

3 Thank you.

4 THE CHAIRMAN: Do I have a second
5 on the motion, please.

6 MS. PEARSON: Second.

7 THE CHAIRMAN: On the motion, Ms.
8 Pearson.

9 MS. PEARSON: I am for that
10 motion.

11 THE CHAIRMAN: Thank you. Ms.
12 Kimball.

13 MS. KIMBALL: I am for the motion.

14 THE CHAIRMAN: Mr. Giorgio.

15 MR. GIORGIO: For the motion.

16 THE CHAIRMAN: Mr. Landsman.

17 MR. LANDSMAN: For the motion.

18 THE CHAIRMAN: Mr. Singh.

19 MR. SINGH: For the motion.

20 THE CHAIRMAN: And Mr. Lopez.

21 MR. LOPEZ: For the motion.

22 THE CHAIRMAN: Thank you. The
23 Chairman is for the motion. The motion
24 carries, seven-zero. Okay. The last
25 decision_-- no, we have two more. The

1 next one is 5696, 470 Nepperhan Avenue.
2 Mr. Landsman, you have a motion,
3 correct?

4 MR. LANDSMAN: Yes, sir.

5 THE CHAIRMAN: Okay. Thank you.

6 MR. LANDSMAN: I make a motion to
7 approve the request for an area
8 variance based on facts, findings and
9 information and testimony presented to
10 this Board, site visits by members of
11 the Zoning Board and otherwise
12 obtained.

13 The subject property in question
14 is on the South corner of Axminister
15 Street and Nepperhan Avenue. The
16 building also borders the corner of Saw
17 Mill River Road and Axminister Street.

18 In making this determination, the
19 Zoning Board of Appeals shall take into
20 consideration the benefit to the
21 applicant and/or owner if the variance
22 is granted, as weighed against the
23 detriment to the health, safety and
24 welfare of the neighborhood or
25 community by such grant.

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To grant an area variance, the Board must be satisfied on five points of law:

1. Whether undesirable changes will be produced in the neighborhood or a detriment to nearby properties will be created by granting the area variances.

The Zoning Board has visited the site multiple times and finds there is no apparent detriment to the neighborhood in granting these variances.

2. Whether the benefit sought by the applicant or owner can be achieved by some other method feasible for the applicant or owner to pursue other than the area variances.

The benefit sought cannot be achieved by any other means. As stated by Steven Veneruso, Esq., at the April 21st, 2020 public hearing, the applicants are creating an additional 24 parking spaces.

3. Whether the requested variances

1 are substantial. The variances are
2 substantial, however, their effect
3 would be minor since the building has
4 been operating since the current owner
5 purchased it in 2015.

6 4. Whether the proposed variances
7 will have an adverse effect on the
8 physical or environmental conditions of
9 the neighborhood or district.

10 There will be no adverse physical
11 or environmental impact on the
12 neighborhood. The City Engineer, Mr
13 Paul Summerfield, in a letter dated
14 April 17th, 2020, listed several issues
15 which required attention of the
16 applicant. The main items that required
17 attention were a revised 100 year
18 floodplain boundary, an ADA accessible
19 aisle parking sign and a revised plan
20 for adequate safe turning fire
21 apparatus vehicles. A copy of his
22 letter was submitted showing the other
23 five concerns of the Engineering
24 Department.

25 On Sept 1st, 2020, the applicant's

1 architect, Lucio DiLeo, submitted a
2 package of documents addressing all of
3 the City Engineer's concerns on this
4 property. There was no community
5 opposition to the requested variances.
6 The conditions imposed by this Board on
7 these variances will insure against any
8 potential negative effects to alter the
9 quality of life in the neighborhood.

10 5. Whether the alleged difficulty
11 is self-created. The difficulty is
12 self-created when the applicant asked
13 for the additional parking spaces that
14 did not follow the City of Yonkers
15 guidelines for parking. However, this
16 is but one element to be considered and
17 does not preclude the Board from
18 approving the variances.

19 The Board imposes the following
20 conditions:

21 1. All health, safety, fire,
22 building and environmental codes shall
23 be adhered to always by the applicant
24 and/or owner.

25 2. If any sidewalk or curbs

1 directly in front of the parking area
2 are in need of repair or replacing as
3 per the City Engineer, then the
4 applicant and or owner must make
5 repairs or replace before the
6 certificate of completion is issued.

7 3. All taxes and fines, if owed,
8 must be paid in full 60 days from
9 today's date.

10 4. These conditions shall be
11 listed on the C of O and the applicant
12 and/or tenant shall permit inspections
13 at the discretion of the Department of
14 Housing and Buildings, City of Yonkers,
15 at least once per year to determine
16 that conditions are being met.

17 5. Should the applicant and/or
18 tenant not comply with, breach or
19 violate any of these conditions at any
20 time, the area variance is hereby
21 rescinded and the Zoning Board
22 authorizes the City of Yonkers,
23 Department of Housing and Buildings, to
24 take appropriate action.

25 6. All expenses associated with

1 these conditions shall be the
2 responsibility of the applicant.

3 Thank You, Mr. Chairman.

4 THE CHAIRMAN: You are welcome.
5 Do I have a second on the motion,
6 please?

7 MR. LOPEZ: Second.

8 THE CHAIRMAN: On the motion, Ms.
9 Pearson.

10 MS. PEARSON: For the motion.

11 THE CHAIRMAN: Ms. Kimball.

12 MS. KIMBALL: For the motion.

13 THE CHAIRMAN: Mr. Giorgio.

14 MR. GIORGIO: For the motion.

15 THE CHAIRMAN: Mr. Landsman.

16 MR. LANDSMAN: For the motion.

17 THE CHAIRMAN: Mr. Singh.

18 MR. SINGH: For the motion.

19 THE CHAIRMAN: And Mr. Lopez.

20 MR. LOPEZ: For the motion.

21 THE CHAIRMAN: Okay, the Chairman
22 votes for the motion. The motion is
23 carried seven-zero.

24 The next case that we have a
25 decision on here tonight is Mr. Romano

1 is 5701, 1809 Central Park Avenue. Do
2 I have a motion, please.

3 MR. LANDSMAN: Yes, Mr. Chairman.

4 THE CHAIRMAN: Okay. Who said
5 that? I didn't hear you.

6 MR. LANDSMAN: Mr. Landsman.

7 THE CHAIRMAN: Oh, I am sorry, Mr.
8 Landsman, I didn't see your mouth move.

9 MR. LANDSMAN: The project site is
10 located in the northern portion of the
11 Highridge Shopping Plaza near the
12 Rancho Grande restaurant. The
13 applicant is a new tenant of the
14 premises which is a vacant storefront
15 in a series of one story storefronts
16 that have existed for over 30 years.

17 Mr. Chairman, I make a motion to
18 approve the requested area variance
19 subject to conditions, based on facts,
20 findings, information and testimony
21 presented to this Board at the public
22 hearing, site visits by members of the
23 Zoning Board of Appeals or otherwise
24 obtained.

25 In approving this variance the

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Zoning Board of Appeals has taken into consideration the benefit sought by the applicant as weighed against the detriment to the health, safety and welfare of the neighborhood and community. Specifically, the Board finds:

1. That the benefit sought cannot be achieved by other feasible means. Given the built-out nature of the site and surrounding area, there is not any other feasible method to acquire land or otherwise add parking at the site.

2. Granting the requested variance would not result in an undesirable change in neighborhood character or a detriment to nearby properties.

Members of the Zoning Board of Appeals have visited the site multiple times and does not find any apparent detriment in granting the request. The proposed use would not likely result in appreciable changes in traffic to or within the site and parking appears to be sufficient to support the proposed

1 use.

2 As testified by way of principal
3 points, the studio would have two
4 employees and five to eight students
5 per class with four to six classes per
6 day. The majority of classes would
7 likely be at non-peak hours for the
8 adjacent restaurant which is the
9 largest tenant sharing parking in this
10 portion of the site. Also, it is
11 anticipated that many parents would
12 simply drop off and pick up students
13 rather than park and stay.

14 3. That the requested variance is
15 not substantial. While the proposed
16 variance may appear numerically
17 substantial, the Board does not believe
18 it would be substantial with regard to
19 potential impacts as just discussed.

20 4. That the variance will not have
21 a negative impact to physical or
22 environmental conditions in the
23 neighborhood. The proposed action is
24 largely interior with only minor
25 changes to the storefront, and as such,

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would not result in any appreciable changes to the physical or environmental characteristics of the site.

5. That the alleged difficulty is self-created. However, while the applicant may have had actual or constructive knowledge of the zoning code restrictions prior to putting forth its proposal, the self-created hardship test is merely one consideration and does not preclude the Board from granting the request.

In approving these variances the Board imposes the following conditions:

1. All fire, health, environmental, safety, building and zoning codes shall be adhered to at all times;

2. Any taxes or fines, if owed, shall be paid within 60 days from today's date;

3. Any changes in use shall come back to the Zoning Board of Appeals for further consideration and decision;

1 4. The hours of operation shall be
2 no more than 10 a.m. to 8 p.m. Monday
3 through Friday, and 10 a.m. to 3 p.m.
4 on Saturdays;

5 5. These conditions shall be
6 specified on the Certificate of
7 Occupancy, and the owner shall permit
8 periodic inspections at the discretion
9 of the City of Yonkers, Department of
10 Housing and Buildings, at least once
11 every calendar year to determine that
12 the conditions are being satisfied;

13 6. This approval shall be
14 immediately rescinded should the owner
15 violate any of these conditions at any
16 time; and

17 7. All expenses associated with
18 these conditions shall be the
19 responsibility of the owner.

20 Thank you, Mr. Chairman.

21 THE CHAIRMAN: Do I have a second
22 on the motion, please?

23 MR. GIORGIO: Second, Mr.
24 Chairman.

25 THE CHAIRMAN: On the motion, Ms.

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Pearson.

MS. PEARSON: For the motion.

THE CHAIRMAN: Ms. Kimball.

MS. KIMBALL: For the motion.

THE CHAIRMAN: Mr. Giorgio.

MR. GIORGIO: For the motion.

THE CHAIRMAN: Mr. Landsman.

MR. LANDSMAN: For the motion.

THE CHAIRMAN: Mr. Singh.

MR. SINGH: For the motion.

THE CHAIRMAN: Mr. Lopez.

MR. LOPEZ: For the motion.

THE CHAIRMAN: Thank you. The
Chairman votes for the motion. The
motion carries seven-zero. That's it
for the decisions.

Now we are going to have some
cases tonight. We are going to take a
five minute recess to relax for a
couple of minutes. Thank you.

(Recess.)

THE CHAIRMAN: The next case is
going to be Mr. Romano, case 5700, 50
Bainton Street.

Mr. Romano, we heard you the last

1 time, right?

2 MR. ROMANO: Yes, sir.

3 THE CHAIRMAN: Okay. Ladies and
4 gentlemen-- you have everybody hooked
5 up, George?

6 MR. KUNTZ: Yes, I do.

7 THE CHAIRMAN: This case is Mr.
8 Romano, it is an area variance,
9 improvement to a nonconforming use. We
10 heard it last month and we put it over.
11 It is 50 Bainton Street, Block: 61,
12 Lot: 12 in an M-50 Zone.

13 Mr. Romano, do you have anything
14 more to say to us about this case?

15 MR. ROMANO: No, sir. I think Mr.
16 Costa and I pretty much laid out our
17 position, sir.

18 THE CHAIRMAN: We have to come
19 over and see this, you remember we said
20 that to you?

21 MR. ROMANO: That's correct.

22 THE CHAIRMAN: I don't know when
23 we will be able to get there. I am
24 going to try to get back sometime at
25 the end of June. How is it up there?

1 MR. ROMANO: Beautiful up here.

2 THE CHAIRMAN: It is beautiful
3 here too, believe me.

4 MR. ROMANO: There is no baseball,
5 though.

6 THE CHAIRMAN: Any questions of
7 Mr. Romano on this case by the Board
8 members? Board members, anybody want
9 to talk to Mr. Romano? He understands
10 we are going to see this. We don't
11 know when. When I get back I will give
12 you a call and then we will see this
13 case again.

14 Is there anybody here on this?
15 This case is on Bainton Street. Is
16 there anybody here tonight on this
17 case?

18 MR. LANDSMAN: Anybody who wants
19 to speak?

20 THE CHAIRMAN: You don't run this,
21 I do. What are you doing there?

22 Anybody here tonight on this case
23 right by Empire Street? Anybody here
24 tonight on this case? Okay, very good.
25 Any questions from the Board?

1 MR. LANDSMAN: Is there anybody
2 here to speak against it?

3 THE CHAIRMAN: Anybody here to
4 speak against it? Any questions from
5 the Board?

6 This case is hereby closed,
7 reserve the right to reopen for any
8 reason whatsoever, at any time
9 whatsoever and that includes after the
10 decision is made. Thank you, Mr.
11 Romano.

12 Mr. Romano, we are going to take
13 your case first. This case is 5704.
14 It is an improvement to a nonconforming
15 use. Mr. Romano, Esq., on behalf of
16 Siwy Made, owner, for enlargement of
17 rear staircase and basement window,
18 interior alterations to convert
19 basement storage room to a family room,
20 whereas:

21 1. Improvement to non-conforming
22 use (two-family in one-family zone),
23 Section 43-21G Yonkers Zoning, Zoning
24 Board of Appeals required, on premises
25 known as 290 Roberts Avenue, Block:

1 3060, Lot: 7, Zone S-50.

2 Mr. Romano, has everybody within a
3 200 foot radius been notified, sir?

4 MR. ROMANO: I have notified
5 everyone within a 200 foot radius and I
6 have received no returns.

7 THE CHAIRMAN: Thank you.

8 MR. ROMANO: You are welcome.

9 THE CHAIRMAN: All right. Now,
10 unmute everybody, Mr. Kuntz.

11 This case is on Roberts Avenue
12 between Tragenneck Street (Ph) and
13 Bellview Avenue. If anybody is here
14 tonight we will start this hearing
15 right now.

16 Mr. Romano, go ahead, please.

17 MR. ROMANO: Mr. Chairman, Andrew
18 Romano on behalf of Siwy Made who owned
19 the property located at 290 Roberts in
20 July of 2018.

21 The premises is a legal
22 nonconforming two-family house. What
23 my client seeks to do mainly is to
24 convert the basement into a family room
25 and expand, which he has already

1 started to expand, which necessitated
2 us to come before the Board, the rear
3 staircase, which is the entrance to the
4 family room which would be used by the
5 tenants of the premises, and also a
6 basement window. These are very minor
7 changes to the entire structure.

8 We are not increasing occupancy.
9 We are not reducing any air or light.
10 Essentially it is minor in nature, but
11 unfortunately because we are in_-- it
12 is a two-family in an S-50. Any change
13 under the code, the improvement must
14 come before the Board.

15 We don't believe that it will be
16 similar in use and character of the
17 neighborhood. It does consist of one
18 family and some two families located
19 within a 200 foot radius. This is
20 reflected on area photos and site
21 visits.

22 The improvement, which is minor in
23 nature because it is inside except for
24 the rear staircase by making it larger,
25 will be better safety-wise. We don't

1 believe it is a self-created hardship
2 because clearly we have an existing
3 two-family C.O. and we would like to
4 better utilize it at this point by
5 putting in the family room.

6 I understand, Mr. Chairman, there
7 is a full bathroom in the basement. I
8 told my client that the full bathroom
9 has to go, and if he has a family room
10 approved by the Board, I said basically
11 half a bath, not a full. That is
12 something we should not have. That's
13 about all, Mr. Chairman. It is very
14 minor.

15 THE CHAIRMAN: Hold on a second.

16 (Short pause.)

17 THE CHAIRMAN: I don't seem to
18 have it here but some neighbor sent in
19 pictures to us on the internet here and
20 I must have lost it, I don't see it,
21 and Shannon McGovern, who is our
22 secretary, sent it to me.

23 MR. ROMANO: As I indicated, Mr.
24 Chairman, he did start on the increase
25 of the staircase in the back and then

1 he shut it down when he received the
2 violation from the City of Yonkers and
3 then he filed for the permit, so he
4 had_-- I was is there and there is
5 equipment back there, yes, sir.

6 THE CHAIRMAN: He has what?

7 MR. ROMANO: There is some
8 equipment back there that was being
9 used to expand the concrete staircase
10 leading to the family room. I was
11 there and I saw it myself.

12 THE CHAIRMAN: I am sorry I don't
13 have it here but it is very interesting
14 because there is something about_-- he
15 had a barber shop back there and he was
16 cutting hair, then he had used cars
17 they were selling or something. They
18 had cars back there.

19 Look, look, Mr. Romano, were you
20 up there, Mr. Romano?

21 MR. ROMANO: I will find out what
22 is going on, Mr. Chairman. When I was
23 there several times I didn't see
24 anybody cutting hair or any cars there,
25 but I will check again. I have no

1 problem with that, Mr. Chairman.

2 Remember, my client doesn't live
3 there so obviously it would be the
4 tenants, but I will check it out.

5 THE CHAIRMAN: I am going to get
6 into it right now as soon as I get this
7 here. Give me a minute, please.

8 This comes from a Mr. Michael
9 Storm at 286 Roberts Avenue. "There
10 are pictures of my neighbor's house,
11 290 Roberts Avenue and something they
12 have been doing over the past 16
13 months. No variance was ever posted."
14 Okay. Then it has got a picture of the
15 house. No sign posted. Hold on a
16 second, please. Then you got something
17 here. Who is FET Network?

18 MR. ROMANO: Who?

19 THE CHAIRMAN: FET Network located
20 on-- looks like 35th Street in New York
21 City. There is a van parked there with
22 a name on it.

23 MR. ROMANO: I will find out, Mr.
24 Chairman.

25 THE CHAIRMAN: There is all kinds

1 of furniture in the back and
2 everything. Then we got something that
3 looks like_-- I don't know what it
4 looks look. It has an illegal gazebo,
5 do you know anything about that?

6 MR. ROMANO: No, sir, it is not
7 listed on the objection letter so I
8 don't know if it is illegal or not.
9 Usually they list these items on the
10 objection letter. What I have on the
11 building form is a violation which is
12 the expansion of the concrete stairs
13 leading to the bottom. I don't know if
14 this it because of the COVID, I have no
15 idea but I will find out and I will
16 clean it, okay.

17 THE CHAIRMAN: What did you say?

18 MR. ROMANO: When I was there
19 several months ago I didn't see any
20 furniture in the back, maybe because of
21 COVID, but I will try to find out what
22 the situation is. It sounds like the
23 area needs a clean-up.

24 THE CHAIRMAN: We'll, a backyard
25 with cars to the fence-- they are

1 showing two cars here, doesn't look
2 like they have a plate on one, then we
3 got day care and was caught by the
4 Building Department with work on the
5 backside of the house. Day care closed
6 after building was condemned. Do you
7 know anything about that?

8 MR. ROMANO: I know the day care.
9 As you know, when you have a license
10 for the day care it supersedes all the
11 zoning regulations. I had this
12 discussion for the past 20 years with
13 the Building Department, so if you have
14 a legal day care center, usually by a
15 governmental agency those are legal.
16 They supersede all the zoning
17 regulations.

18 THE CHAIRMAN: Hold on a second.
19 Time out. Do you know anything-- I
20 think it is closed now. Do you think
21 it is closed?

22 MR. ROMANO: It is, yes.

23 THE CHAIRMAN: Fine, that answers
24 it. Then you have somebody in a red
25 shirt giving a haircut to somebody

1 sitting in the chair in the backyard
2 and you have another fellow alongside
3 here_--

4 MR. ROMANO: Since you can't get a
5 haircut they are probably cutting it in
6 the back. Maybe when they open up the
7 barber shops in a week or two this will
8 be resolved also, I would assume.

9 THE CHAIRMAN: A car was parked on
10 the grass, got a car that is a wreck
11 there.

12 MR. ROMANO: I will find out
13 because I was there several times. I
14 didn't see this but I will check it out
15 and I will have it corrected
16 immediately.

17 THE CHAIRMAN: I think one thing
18 to tell this fellow, I have a picture
19 from June 7th. They don't maintain the
20 yard. There is all high grass there.
21 Maybe you want to tell him to cut the
22 grass.

23 MR. ROMANO: Fair enough, sir.

24 THE CHAIRMAN: Then he has got
25 digging the staircase. That was

1 removed. Okay.

2 MS. KIMBALL: Mr. Chairman, can I
3 have a question?

4 THE CHAIRMAN: Yes, Ms. Kimball,
5 please do.

6 MS. KIMBALL: Mr. Romano, can you
7 explain what ".3E" is? That doesn't
8 seem like a complete--

9 MR. ROMANO: That is not a
10 self-created hardship. It is really
11 not needed for an improvement to a
12 nonconforming anyway, but because you
13 have a structure in a nonconforming
14 zone you really can't do anything to
15 the structure under the City Code of
16 Yonkers, the Building and Zoning Code.

17 It creates a problem, because
18 literally like for instance we were
19 told the installation of a basement
20 window is an improvement to a
21 nonconforming use even though we are
22 not doing any exteriors.

23 We were told that the staircase
24 that was there, we just expanded, so we
25 are not doing any exterior alterations

1 so I don't believe that we have a
2 self-created hardship. It is something
3 that I put in there, but because you
4 are limited as to what you can do, so
5 if I want to put a bathroom in or I
6 want to put a new kitchen in or take
7 down a wall, I have to go to Zoning
8 Board for something of this nature. It
9 is in the code and we have dealt with
10 this for many years, but it is
11 frustrating, really, and the Board has
12 to basically look at what an
13 improvement to a nonconforming is and
14 make a decision whether or not that it
15 is a minor change, minor alteration to
16 the house that justifies the work that
17 is being done. That's all.

18 It is not our fault it is a
19 two-family house. We are limited to
20 what we can do. That's what I am
21 saying.

22 THE CHAIRMAN: You have got a
23 two-family house in a one-family zone.

24 MR. ROMANO: Correct.

25 THE CHAIRMAN: Correct. Ms.

1 Kimball, do you have anything else to
2 say?

3 MS. KIMBALL: No, Mr. Chairman.

4 MR. LANDSMAN: Mr. Chairman.

5 THE CHAIRMAN: Yes.

6 MR. LANDSMAN: Can I ask a
7 question?

8 THE CHAIRMAN: Yes. I want to see
9 if Ms. Kimball has anything else to
10 say.

11 MS. KIMBALL: No, Mr. Chairman.

12 THE CHAIRMAN: You are finished?

13 MS. KIMBALL: Yes.

14 THE CHAIRMAN: Yes, Mr. Landsman.

15 MR. LANDSMAN: Mr. Romano, have
16 you seen this room that they are
17 expanding? You have seen it?

18 MR. ROMANO: They are not
19 expanding the room, Mr. Landsman, they
20 are just converting it from a storage
21 room to a family room and yes, I have
22 looked through the window and do see
23 the room and it needs a lot of help.

24 MR. LANDSMAN: So I didn't see any
25 plans for it. We need to know what it

1 looks like. I didn't see any plans.

2 MR. ROMANO: I have no problem,
3 Mr. Landsman, making the arrangements
4 to get in to see it when everybody is
5 available as we are on Bainton Street.
6 I would love to take everybody there.

7 MR. LANDSMAN: We should have the
8 plans in advance to know what we are
9 looking at.

10 MR. ROMANO: Plans have been
11 submitted, but if you are saying it is
12 not on the plan, I will speak to the
13 architect.

14 MR. LANDSMAN: You said the owner
15 does not occupy this house?

16 MR. ROMANO: No, sir, he does not.
17 He lives in another location in
18 Yonkers.

19 MR. LANDSMAN: The owner is
20 spending all this money to accommodate
21 a tenant?

22 MR. ROMANO: It is not that much
23 money.

24 MR. LANDSMAN: Well, he has to pay
25 you.

1 MR. ROMANO: I am very expensive.
2 I understand that, Mr. Landsman. I am
3 the least of his problems.

4 MR. LANDSMAN: The staircase, he
5 got caught doing this illegally so he
6 has a lot of issues just to make a
7 tenant happy.

8 MR. ROMANO: It is a needed space.
9 It is basically an underutilized space
10 in the basement, and really all he is
11 doing is laying down a floor, you know,
12 it's going to be a family room.

13 THE CHAIRMAN: He is putting in a
14 set of stairs in and he has got a
15 bathroom in there. What has he got in
16 that bathroom?

17 MR. ROMANO: It is a full bathroom
18 and I told him he can't have a full
19 bathroom. I told him he can't use
20 that. The Board will not permit it and
21 he agreed.

22 THE CHAIRMAN: The bathroom was
23 there when he bought the house?

24 MR. ROMANO: Yes, sir.

25 THE CHAIRMAN: It says in the

1 basement, doesn't say anything about a
2 bathroom. It says a laundry and
3 storage area.

4 MR. ROMANO: I am telling the
5 Board there is a bathroom down there, a
6 full bath.

7 THE CHAIRMAN: You don't lie to
8 me, I know that.

9 Any other questions from the
10 Board?

11 MR. GIORGIO: I have one question.
12 This is Mr. Giorgio. When did the
13 current owner buy the property?

14 MR. ROMANO: July of 2018 he
15 bought it.

16 MR. GIORGIO: I guess I have two
17 questions. He doesn't intend to live
18 there, he is going to rent out both
19 apartments?

20 MR. ROMANO: Yes. He lives in
21 Yonkers. I don't know the address off
22 the top of my head but he lives in
23 Yonkers, yes, sir.

24 MR. GIORGIO: Thank you.

25 MR. ROMANO: You are welcome.

1 THE CHAIRMAN: Does he want to use
2 the basement for recreation? He
3 doesn't live there.

4 MR. ROMANO: Family room for the
5 tenants, Mr. Chairman, that's all.
6 There is no kitchen, no illegal
7 apartment. There is no suggestion of
8 that, and I told him the Board will
9 probably-- if they do grant the
10 variance, would make it half a bath,
11 make it more onerous for him to use. I
12 explained it. We have had this before.

13 THE CHAIRMAN: Mr. Romano, you
14 have been before me so many times, you
15 have had everything, okay.

16 MR. ROMANO: Yes, but we always
17 find something new every year, Mr.
18 Chairman, I think.

19 THE CHAIRMAN: I know you do, you
20 try, but it is very suspicious, I will
21 tell you right now, very.

22 Any other questions of the Board?
23 Is there anybody here tonight in favor
24 of this application? George, unmute
25 everybody, please.

1 MR. ROMANO: There was a sign
2 there too, by the way.

3 MR. KUNTZ: Everyone is unmuted.

4 MR. STORM: I would like to talk.
5 I can clear it 90 percent of it up.

6 THE CHAIRMAN: Anybody here in
7 favor of this application? Anyone in
8 opposition?

9 MR. STORM: I am. I am the
10 neighbor that sent in the pictures and
11 I can clear up 90 percent.

12 THE CHAIRMAN: One second.

13 MR. KUNTZ: Are you a call-in
14 number?

15 MR. STORM: Michael Storm. I am
16 the neighbor that lives at 286 Roberts
17 Avenue.

18 MR. LANDSMAN: He is caller number
19 nine or 10.

20 MR. KUNTZ: Go ahead, sir.

21 MR. STORM: Let me clarify--

22 MR. LANDSMAN: Hold on a second.

23 MR. STORM: Thank you, Mr.
24 Chairman. The enlargement of the rear
25 staircase, apparently he talks is

1 minor, is a 20 yard dumpster taking out
2 all the dirt and brick. There used to
3 be two steel doors--

4 MR. LANDSMAN: Hold on a minute.
5 The Chairman has to swear you in.
6 George, unmute the Chairman.

7 THE CHAIRMAN: Okay, I am going to
8 swear you in. Do you solemnly swear to
9 tell the truth, the whole truth and
10 nothing but the truth so help you God?

11 MR. STORM: Yes, I do.

12 THE CHAIRMAN: State your name and
13 your address, please.

14 MR. STORM: Michael Storm, 286
15 Roberts Avenue, Yonkers, New York,
16 10703.

17 THE CHAIRMAN: Proceed, please.

18 MR. STORM: Okay. Just to give
19 you a little heads up, the variance
20 signs did finally go up but it went up
21 Sunday at 6 p.m.

22 As far as the grass, they mowed
23 that two days before the variance. As
24 far as what Mr. Romano is talking
25 about, 90 percent of it is a lie. The

1 enlargement of the rear staircase,
2 there was a 20 yard dumpster that took
3 out all the dirt of which they took out
4 the electric to the garage, okay.

5 The basement window, that is a lie
6 too. They cut into the side of the
7 building and were caught by the
8 Building Department with two
9 jackhammers trying to make a separate
10 means of egress, and the reason they
11 needed that separate means of egress,
12 because they were putting a day care
13 center in it and you need egress for a
14 day care center, hence there is a
15 bathroom in the basement.

16 Now, I am pretty sure I will be
17 suing my neighbor here because now I
18 have a landslide going in and the hole
19 that is seven foot down when the
20 Building Department came is now almost
21 on my property. Now, I have lived with
22 that pile of dirt on the side of my
23 house.

24 The haircuts, there with two cars
25 there. As far as the other cars, they

1 were taken off the property and I also
2 had the police over a hundred times
3 over to that house from the parties
4 from his tenants.

5 When the house was condemned they
6 egged my house. They went after my
7 wife. I had to call 911 on the
8 neighbors. They went to attack my wife
9 for parking in front of their house
10 because they blocked ours.

11 There is parties all the time.
12 They don't care. So everything that
13 lawyer sitting there is telling you is
14 a lie.

15 We had to change our quality of
16 life because the music. They leave the
17 windows open and the bass coming off of
18 it, we are not able to sleep, not me,
19 my other neighbors all around us.

20 I don't know if you are going to
21 get to them all. I don't hate any
22 neighbor, let them go, but I have to
23 say, the first six months they moved
24 in, you may really want to take a look
25 at that house because they took out

1 bearing walls. They did so much work
2 in there for six months. That is why I
3 am saying the lawyer is lying or he
4 doesn't want to get his client in
5 trouble, but everything is a lie.

6 They are trying to open up the day
7 care again. They threw rocks in my
8 yard. They tried to kill my dog by
9 throwing a chicken bone over there.
10 This is getting to the point where it
11 is ridiculous. He is lying and that's
12 all they are trying to do, is open up
13 the day care.

14 You need two exits of egress, that
15 is why they opened up the basement, so
16 this guy is lying. That's all I got to
17 say. My wife too would like to say one
18 thing.

19 THE CHAIRMAN: Hold on a second.

20 MR. STORM: We did lose a bedroom.

21 THE CHAIRMAN: This is the
22 Chairman talking. I have known Mr.
23 Romano for a long time. If he is lying
24 it is news to me. Maybe he doesn't
25 know but, you know, he is the lawyer

1 for these people. He has a job to do.
2 I don't know if he knows this, but I
3 have known him for a long time and Mr.
4 Romano is an honorable man.

5 If you want to put your wife on
6 the stand I have to swear her in.

7 MR. STORM: She said we lost a
8 bedroom. We lost a 13 by 12 bedroom
9 upstairs because the tenants that he
10 has, we tried to talk, we asked them to
11 lower the music, and they had parties
12 three days, four days, and all the
13 nannies come over and there are cars
14 that come from out of state. They are
15 from Jersey. They are from the
16 Carolinas. They are from Texas,
17 Pennsylvania, but there is only like
18 two from New York.

19 I don't know how this is being
20 allowed but, you know, whatever it is
21 it is. I am sure my other neighbors
22 that are on the phone who have been
23 waiting have a lot more to say.

24 They are packed with parties.
25 There is no parking in front of my

1 house anymore, and they like to do
2 illegal U-turns on Roberts Avenue and
3 they have done it numerous times.

4 The gazebo, that is illegal too.
5 They shouldn't have done that, but it
6 has been over a year. I have tried. I
7 have gone up to the Councilman, up to
8 the Police Department numerous times
9 and I am at a loss with this.

10 I have lived there for over 45
11 years. I have never seen neighbors
12 that are_-- these are the neighbors
13 from hell. These tenants are the
14 neighbors from hell and that's all I am
15 going to say. I want to thank
16 everybody for listening but I have had
17 it. I have never seen so many people
18 so disgusting who throw garbage on the
19 side of my house, mattresses.

20 When they were drunk they threw_--
21 by the way, this minor alteration in
22 the back, it is two pieces of plywood,
23 four foot by eight foot with Astroturf
24 over it.

25 On that note I am going to yield

1 to the floor and give it back and let
2 my other neighbors tell you how their
3 life is going with these lovely
4 neighbors here.

5 THE CHAIRMAN: Thank you, Mr.
6 Storm. Mr. Romano, I want the name of
7 the two tenants that are in this
8 building. I want their names and I
9 want to know how many people are living
10 on each floor.

11 MR. ROMANO: Yes, sir. Mr.
12 Chairman, so you are aware, we
13 understand the problem with the tenants
14 and we are in the process of evicting
15 them but then the Governor said I can't
16 evict anybody until August 20th, so
17 this problem would have been solved if
18 we were able to evict and remove them.
19 Unfortunately we have to wait until
20 August 20th, but I understand the
21 problem. We agree to the problem and
22 that's why we took action to remove the
23 tenants. I have no problem sending you
24 the court papers to verify that.

25 THE CHAIRMAN: I know that. By

1 the way, I will tell you, there will
2 not be a day care center there, that's
3 what you said. I am not going to have
4 a day care center.

5 MR. ROMANO: I said the day care
6 center supersedes all zoning codes.

7 THE CHAIRMAN: Don't tell me about
8 day care centers. I have had them,
9 okay. Are they going to put a day care
10 center in there?

11 MR. ROMANO: No, sir. If you have
12 a license to put a day care center_--

13 THE CHAIRMAN: Are they going to
14 put a day care center in there?

15 MR. ROMANO: We had one there
16 before, didn't have a problem, and_--

17 THE CHAIRMAN: The question is,
18 are you going to put a day care center
19 there? That's the question.

20 MR. ROMANO: I don't know. I will
21 ask my client.

22 THE CHAIRMAN: That's the
23 question.

24 MR. ROMANO: Okay, fair enough.

25 THE CHAIRMAN: I don't need to be

1 told about the rules of day care. I
2 know all about day cares. You have
3 parking all over the place with day
4 cars. Whoever made that room, forget
5 about it.

6 MR. ROMANO: I don't disagree with
7 you, Mr. Chairman.

8 THE CHAIRMAN: I have had these
9 cases before me. You might have been
10 the lawyer, I don't know. There wasn't
11 too much parking when they had parking.

12 MR. LANDSMAN: Mr. Chairman, I
13 have one more question.

14 THE CHAIRMAN: Yes.

15 MR. LANDSMAN: You are going to
16 evict these tenants but the landlord is
17 spending all this money to accommodate
18 them. Give me a break. What is going
19 on there? Why would somebody spend the
20 money for tenants that you are going to
21 evict?

22 MR. ROMANO: When you evict bad
23 tenants you attract good tenants.

24 MS. KIMBALL: A day care center?

25 MR. ROMANO: It has to be a tenant

1 licensed by New York State to have a
2 day care. I didn't make up the law.

3 THE CHAIRMAN: I appreciate that,
4 Ms. Kimball.

5 MR. LANDSMAN: There may be some
6 more people who want to speak. We have
7 to ask them.

8 MR. KUNTZ: I could allow the
9 people who are call-ins to speak at
10 this point.

11 MR. LANDSMAN: Ask if anybody
12 wants to speak.

13 MR. KUNTZ: All the people that
14 called in on the phone can now speak.

15 MS. ZOMARRO: Good evening.

16 THE CHAIRMAN: Excuse me, ma'am.
17 This is case on Roberts Avenue, okay.
18 Are you an attorney?

19 MS. ZOMARRO: No, I am not. I am
20 a tenant on Roberts Avenue.

21 THE CHAIRMAN: I am going to swear
22 you in, are you ready?

23 MS. ZOMARRO: Yes.

24 THE CHAIRMAN: You solemnly swear
25 to tell the truth, the whole truth and

1 nothing but the truth so help you God?

2 MS. ZOMARRO: I do.

3 THE CHAIRMAN: State your name and
4 address, please.

5 MS. ZOMARRO: Yes. My name is
6 Antonette Zomarro and I live at 296
7 Roberts Avenue, Yonkers, New York,
8 10703.

9 THE CHAIRMAN: Proceed, please.

10 MS. ZOMARRO: I want to let you
11 know that I have lived in Yonkers and
12 specifically at 296 Roberts for over 20
13 years, and we are a very peaceful
14 family and we have lived there in piece
15 for many years.

16 As Mr. Storm stated, since these
17 new tenants have moved in we have had
18 nothing short of peace in that area.

19 I feel that the basement family
20 room that he is looking to convert into
21 a family room is not true. It is not a
22 family room, they are looking to make
23 either a day care or expand on the
24 family that they currently have.

25 As Mr. Storm stated, they have

1 parties almost every night. The
2 disruption that takes place there is
3 horrifying, and again over 20 years we
4 have lived there we have had parties,
5 we have had neighbors who have had
6 parties but we respect one another and
7 that's all we asked for.

8 I have made so many attempts to
9 contact Mr. Made, and when I spoke to
10 him one time to ask him to please
11 address his tenants to speak to them,
12 we have gone over, we knocked on their
13 door, asked for peace and to speak to
14 them to ask them to please limit the
15 times and the hours that the partying
16 takes place and nothing. It was to no
17 avail, and then he finally stopped
18 answering all my calls.

19 I never had to call 911 on any
20 neighbor and it was horrifying to have
21 to do that for the first time and
22 disrupt our police force to come to
23 tell people to lower their music. It
24 was shameful on my part. I want to
25 also state that they have about 15

1 cars, 20 cars parked throughout Roberts
2 Avenue and into their garage, driveway.
3 They wash these cars two or three times
4 a week causing water to come into my
5 property, into my basement because they
6 are washing these cars so often. They
7 are out of state cars.

8 I don't know what is going on and
9 I don't want to know, I just know that
10 it is very disruptive. It really looks
11 like_-- it doesn't look like a family
12 neighborhood anymore and it is shameful
13 because it is a beautiful area.
14 Roberts Avenue is absolutely gorgeous,
15 and I think it is very sad what they
16 have done to this neighborhood.

17 He is absolutely right. It is
18 pre-COVID, not post COVID. They were
19 doing a lot of illegal activities back
20 there. We had to call cops so many
21 times about the illegal activities,
22 that includes any businesses.

23 The day care center, it was so
24 scary to see children being brought
25 into this home and into the basement.

1 We spent so much time calling and it
2 was scary to know they were putting so
3 many children at risk, and I think
4 that's really all I wanted to share
5 with you, Mr. Chairman and the Board.

6 THE CHAIRMAN: Thank you very
7 much. Any questions of this lady from
8 the Board?

9 MR. LANDSMAN: I would like to ask
10 her a question.

11 Mr. Zomarro, when was the last
12 time you saw them occupying this as a
13 day care with kids coming in?

14 MS. ZOMARRO: I don't know. I do
15 believe they stopped the day care
16 center.

17 MR. LANDSMAN: Thank you.

18 MS. ZOMARRO: I do believe they
19 will reopen that day care center as
20 soon as you allow them to have that
21 family room.

22 MR. LANDSMAN: Thank you.

23 THE CHAIRMAN: Anybody else to
24 speak?

25 MR. KUNTZ: Mr. Chairman, I will

1 let the other callers speak if they
2 would like.

3 THE CHAIRMAN: Anybody else?

4 THE WITNESS: Yes, I would like to
5 speak.

6 THE CHAIRMAN: Are you an
7 attorney, madam?

8 MS. STILL: No, I am not.

9 THE CHAIRMAN: I am going to swear
10 you in. Do you solemnly swear to tell
11 the truth, the whole truth and nothing
12 but the truth so help you God?

13 MS. STILL: I do.

14 THE CHAIRMAN: State your name and
15 address, please.

16 MS. STILL: My name is Kathy
17 Still. I live at 283 Roberts Avenue,
18 Yonkers, New York.

19 THE CHAIRMAN: Proceed, please.

20 MS. STILL: Okay. I live across
21 the street from this house, and to tell
22 you the truth, I have never seen
23 adults. It seems to be all young
24 people coming into the house, in and
25 out of the house all hours of the day

1 and night constantly hearing doors
2 opening and closing, car doors I am
3 talking about. They are all over the
4 street.

5 I have been living there for over
6 30 years. I have raised my five boys
7 there. There has never been anything
8 like this. It is unbelievable.

9 Garbage, they open the doors and
10 throw the garbage on my front lawn. I
11 can't tell you how many McDonald's bags
12 of garbage I have to pick up and throw
13 away because I am not going to leave it
14 there. It is disgusting living under
15 these horrible conditions.

16 THE CHAIRMAN: Are there any
17 questions of this lady from the Board?
18 Thank you, madam. Is there anybody
19 else who wants to speak in opposition?

20 MR. KUNTZ: If anybody wants to
21 unmute themselves, otherwise all the
22 callers on the telephone, they are
23 unmuted so you can speak.

24 THE CHAIRMAN: Is there anybody
25 else to speak in opposition to this

1 case on Roberts Avenue? Okay.

2 Mr. Romano, do you have anything
3 else to say before I close this case?

4 MR. ROMANO: Just so you know, Mr.
5 Chairman, we don't really disagree with
6 the neighbors which is the reason why
7 we are evicting them, and the situation
8 would have been resolved if we would
9 have been permitted-- if the courts
10 will reopen and allow us put these bad
11 tenants out, and I will supply that
12 information to the Chairman, and as of
13 last June 14th, 2019, unfortunately you
14 are not allowed to use bad information
15 against tenants, and this is one of
16 these cases why we got into trouble, so
17 I will get what you asked us to give to
18 you, and hopefully by the time this
19 case comes up, the courts will reopen,
20 I will be able to remove the tenants
21 and hopefully that will solve all the
22 problems, Mr. Chairman. Thank you.

23 THE CHAIRMAN: In the meantime you
24 have information to get to me, okay?

25 MR. ROMANO: Done.

1 THE CHAIRMAN: This case is hereby
2 closed_--

3 MR. ROMANO: I am going to be here
4 on the last case too to help out Mr.
5 Gibbons, so I will stay on and await my
6 turn.

7 THE CHAIRMAN: Thank you. This
8 case is hereby closed, reserve the
9 right to reopen for any reason
10 whatsoever, at any time whatsoever and
11 that goes until after the decision is
12 made. Thank you, Mr. Romano.

13 The next case is case 5706, area
14 variance, Leslie J. Snyder, Esq., on
15 behalf of Consolidated Edison Company
16 of New York Incorporated, owner, for a
17 temporary modular office which deviates
18 from approval site plan, having:

19 1. Insufficient rear yard, Ref.
20 43-27, Table 43-3 (Required 20 feet,
21 proposed 18.4 feet +/-); on premises
22 known as 267 Saw Mill River Road,
23 Block: 2410, Lot: 72, Zone: 1.

24 Ms. Snyder, are you there?

25 MS. SNYDER: Yes, I am, Mr.

1 Chairman.

2 THE CHAIRMAN: Will you introduce
3 yourself, please.

4 MS. SNYDER: Sure. Good evening.
5 My name is Leslie Snyder, I am a
6 partner in the law firm of Snyder and
7 Snyder and I am here tonight on behalf
8 of Consolidated Edison Company of New
9 York, Inc.

10 THE CHAIRMAN: Okay. Ms. Snyder,
11 has everybody within a 200 foot radius
12 been notified?

13 MS. SNYDER: Yes.

14 THE CHAIRMAN: Anything come back
15 that was undeliverable?

16 MS. SNYDER: No.

17 THE CHAIRMAN: Okay. Is there
18 anybody here tonight on this case?
19 This case is Consolidated Edison. It
20 is on Saw Mill River Road between
21 Roosevelt Street and Palmer Road.
22 Anybody here tonight on this?

23 MR. LANDSMAN: Ask again, Mr.
24 Chairman.

25 THE CHAIRMAN: Put Ms. Snyder's

1 face up there so I can see it.

2 MR. LANDSMAN: She is there.

3 THE CHAIRMAN: I don't see her.

4 MR. LANDSMAN: Ask if anybody is
5 here on the case first.

6 MS. MOORE: Yes, I am.

7 MR. LANDSMAN: That is one.

8 Anybody else on this case?

9 THE CHAIRMAN: Is there somebody
10 here against this case?

11 MS. MOORE: Not against it, I just
12 have a question.

13 THE CHAIRMAN: Ms. Snyder, you
14 want to present your case, please?

15 MS. SNYDER: I would be very
16 grateful for that.

17 This case is asking for an area
18 variance for one of the temporary
19 modular offices that they have placed
20 at the Yonkers Civic Center at 267 Saw
21 Mill River Road.

22 The property consists of
23 approximately eight acres and is
24 located in the Industrial Zoning
25 District. The City of Yonkers had

1 issued a building permit for temporary
2 offices.

3 In connection with that building
4 permit the Planning Board had granted a
5 resolution for a site plan for these
6 offices. Due to field conditions, just
7 one of the temporary offices has an
8 18.4 foot rear yard setback instead of
9 the required 20 foot yard setback.
10 This is a very di minimis change from
11 what was approved, and again, these
12 offices are temporary, and once the
13 office building is rehabilitated,
14 reconstructed, then the temporary
15 offices will be removed.

16 The character of the neighborhood,
17 again, is an industrial property so
18 this facility will not produce any
19 undesirable change in the character of
20 the neighborhood or be a detriment to
21 the nearby properties. It has been
22 placed in such a fashion that it
23 doesn't have any direct view from the
24 surrounding industrial area.

25 In this case there is no other

1 method other than the requested area
2 variance for Con Ed to pursue since
3 this temporary modular office wasn't
4 installed, and due to field conditions,
5 it is just 1.6 feet too close to the
6 rear yard.

7 The nature of this variance in our
8 opinion is not substantial, just this
9 mere 1.6 feet, and again it is just for
10 a temporary time period and there will
11 be no adverse effect on the
12 environment. The temporary offices
13 have been placed in an area that has
14 been previously disturbed.

15 At this time, we are happy to
16 answer any questions the Board or the
17 public may have, but I believe it is
18 respectfully submitted the benefit to
19 the applicant to keep the temporary
20 offices clearly outweighs really no
21 detriment to the nearby industrial
22 properties.

23 THE CHAIRMAN: Didn't we have this
24 before, Ms. Snyder, like two years ago?

25 MS. SNYDER: We were before you

1 for the data center on this property.
2 Actually these offices just required
3 site plan approval. They are kind of
4 by the office building and Con Edison
5 is fixing up the office building. That
6 is their plan.

7 THE CHAIRMAN: Are there any
8 questions of Ms. Snyder from the Board?
9 Okay. Is there anybody here tonight in
10 favor of this application? Is there
11 anybody here tonight against this
12 application?

13 MR. LANDSMAN: Ms. Moore wants to
14 speak, Mr. Chairman.

15 THE CHAIRMAN: Put the lady on,
16 please.

17 MS. MOORE: Thank you.

18 THE CHAIRMAN: Are you an
19 attorney?

20 MS. MOORE: No.

21 THE CHAIRMAN: You are not. I am
22 going to swear you in. Do you solemnly
23 swear to tell the truth, the whole
24 truth and nothing but the truth so help
25 you God?

1 MS. MOORE: I do.

2 THE CHAIRMAN: State your name and
3 address, please.

4 MS. MOORE: Okay. My name is
5 Jennifer Moore and I represent the
6 landlord at 257 Lake Avenue which is
7 adjacent to 267 Saw Mill River Road.

8 THE CHAIRMAN: Okay.

9 MS. MOORE: So the owners just had
10 some questions. Where the gas line is
11 going to be installed is right adjacent
12 to 257 Lake Avenue. One of the
13 questions was if there was a gas main
14 leak or how does that affect the
15 property and the tenants safety.

16 MS. SNYDER: She is talking about
17 a different project, not the one that
18 is before the Zoning Board.

19 THE CHAIRMAN: Ms. Snyder, take it
20 easy. I am running the hearing,
21 please.

22 Would you put that lady back on,
23 please, George.

24 MR. KUNTZ: She is on.

25 THE CHAIRMAN: This case has

1 nothing to do with that pipeline. All
 2 this Board is doing is a trailer that
 3 is on the property that they put there
 4 is a foot and a half long. It should
 5 be moved over a foot and a half, so
 6 they came down and they are trying to
 7 get a variance. That's what we have,
 8 nothing to do with a gas pipeline.

9 If you want have questions you
 10 have to go to some other place, maybe
 11 City Hall, but I can't give you an
 12 answer on that.

13 MS. MOORE: This is only to do
 14 with the trailer?

15 THE CHAIRMAN: Yes.

16 MS. MOORE: Okay. I don't have
 17 any questions about that.

18 THE CHAIRMAN: Thank you very
 19 much. Is there anybody else here to
 20 speak in opposition? Thank you, madam.
 21 Would you put Ms. Snyder back on.

22 MR. KUNTZ: She is on.

23 THE CHAIRMAN: Ms. Snyder, do you
 24 want to wrap up, Ms. Snyder?

25 MS. SNYDER: Sure. I think you

1 can see the materials submitted for
2 this variance and we appreciate the
3 Board's consideration and hope that you
4 will approve it due to its di minimis
5 impact.

6 THE CHAIRMAN: Thank you very
7 much. Nice seeing you again too.

8 MS. SNYDER: I am glad the Board
9 is first and foremost well during these
10 difficult times.

11 THE CHAIRMAN: They are difficult.
12 I am in Florida. My wife won't let me
13 back. Thank you, Ms. Snyder.

14 This case is hereby closed,
15 reserve the right to reopen at any time
16 whatsoever and for any reason whatsoever
17 and that includes after the decision is
18 made. Thank you.

19 The next case is case 5707,
20 Gibbons Engineering PC, that is a
21 public corporation, on behalf of Global
22 Equities, LLC, that is a limited
23 liability corporation, owner, to change
24 occupancy from warehouse to medium
25 industrial, having:

1 1. Insufficient parking, Section
2 43-128, Table 43-4 (Required 13 spaces,
3 proposed seven spaces); on premises
4 known as 961 Nepperhan Avenue, Block:
5 3091, Lot: 58.63, Zone: I.

6 Mr. Gibbons, would you introduce
7 yourself, please.

8 MR. GIBBONS: Good evening, Mr.
9 Chairman, James Gibbons, Gibbons
10 Engineering, representing the client.

11 THE CHAIRMAN: Your address.

12 MR. GIBBONS: 1 Central Avenue,
13 Suite 308, Tarrytown, New York, 10591.

14 THE CHAIRMAN: Okay. Everybody
15 within a 200 foot radius been notified,
16 sir?

17 MR. GIBBONS: Yes, Mr. Chairman.

18 THE CHAIRMAN: Anything come back
19 undeliverable?

20 MR. GIBBONS: Nine came back, 14
21 went out, sir.

22 THE CHAIRMAN: Nine came back not
23 deliverable?

24 MR. GIBBONS: Yes, sir.

25 MR. LANDSMAN: You want to swear

1 him in, Mr. Chairman?

2 THE CHAIRMAN: Mr. Landsman, if
3 you ever question me again, I am
4 telling you right now don't question
5 me. I know what I am doing.

6 I am going to swear you in but I
7 will tell you right now if you sent out
8 14 notices and nine came back I might
9 continue this hearing.

10 MR. GIBBONS: I understand that,
11 sir.

12 THE CHAIRMAN: I may make you redo
13 this again. All right. Mr. Gibbons, I
14 am going to swear you in. You solemnly
15 swear to tell the truth, the whole
16 truth and nothing but the truth so help
17 you God?

18 MR. GIBBONS: I do, sir.

19 THE CHAIRMAN: Like I said to you,
20 if you got 14 and you sent out 14 and
21 nine came back, I don't know. We are
22 going to continue this hearing, I am
23 going to tell you right now. I am
24 going to have you send them out again,
25 registered mail again and come back

1 here in July and we'll go on with the
2 case, but in the meantime you can
3 present your case.

4 MR. GIBBONS: So this case
5 involves the first floor of 961
6 Nepperhan Avenue. The use has been a
7 warehouse, as the C of O indicates, for
8 years and it has been vacant for years.

9 The second floor is occupied by
10 two tenants and 20 parking spaces are
11 indicated on two different C of O's for
12 the upper floor.

13 On the lower floor, which is of
14 our interest, there is no parking
15 indicated on the C of O and it has been
16 like that since 1999. We are before
17 the Board here to request six parking
18 spaces for the variance and those
19 parking spaces don't exist as per the
20 C of O but we are getting credit for
21 seven spots and we need six more for a
22 total of 13.

23 My client is interested in working
24 or having a medium of industrial type
25 of use in the I Zone, and his interest

1 is to make furniture and cabinets for
2 his clients.

3 We feel that because of the
4 project, the space has not been
5 utilized in years, we feel that the
6 request for six additional parking
7 spaces by an area variance could not be
8 achieved by any other means, so we come
9 before the Board for that
10 consideration.

11 The area is industrial. There are
12 a lot of businesses around us and there
13 is parking for the 20 spaces behind but
14 nothing else is available on the lot.
15 We don't think that the request for the
16 variance is an undesirable change for
17 the neighborhood because the building
18 will not be expanded. There will not
19 be any increase in volume. No addition
20 is requested, so we are going to just
21 use the first floor space. 6,200 feet
22 of that will be in the shop area but no
23 additional expansion, so we don't think
24 that will create an undesirable change
25 in the neighborhood.

1 Is the variance for substantial?
 2 It is in terms of numbers. It is a 50
 3 percent increase in what is required,
 4 but again, the first floor will not be
 5 expanded in any way except to use the
 6 interior footprint of the space. We
 7 don't think the request will have a
 8 significant adverse physical or
 9 environmental affect on the
 10 neighborhood because it was a warehouse
 11 and it was utilized before.

12 Our new proposed use will have
 13 about seven to 15 employees, and that
 14 will be less than what the previous use
 15 had for employees, and then finally,
 16 was the request for the variance
 17 self-created?

18 In this case it can be indicated
 19 that way or that would be a yes, but we
 20 respectfully come before the Board for
 21 consideration that this part of the
 22 variance, while self-created, is
 23 minimal overall in terms of providing
 24 jobs and economic growth in a small way
 25 to the City of Yonkers.

1 Thank you, Mr. Chairman, and
2 members of the Board.

3 THE CHAIRMAN: Okay. Who is the
4 tenants on the top floor?

5 MR. GIBBONS: I didn't hear you.
6 You asked something about the top
7 floor?

8 THE CHAIRMAN: Who is the two
9 tenants on the top floor?

10 MR. GIBBONS: The two tenants on
11 the top floor, it has been vacated but
12 it was a fitness gym and that had 10
13 parking spaces allocated to it. They
14 have vacated as a result of Corona, and
15 the second use is an office warehouse
16 use that is occupied by the owner of
17 the building.

18 THE CHAIRMAN: What kind of a use
19 is it?

20 MR. GIBBONS: The owner of the
21 building has his electric business in
22 there.

23 THE CHAIRMAN: What is the name of
24 his company?

25 MR. GIBBONS: I think it is_-- let

1 me get that for you, sir. Global
2 Equities, LLC.

3 THE CHAIRMAN: You have an
4 electrical business up there and you
5 have another business there, right?
6 You had the gym up there and the gym is
7 gone?

8 MR. GIBBONS: Yes, sir.

9 THE CHAIRMAN: How many square
10 feet are in the upstairs?

11 MR. GIBBONS: Approximately 10,000
12 square feet.

13 THE CHAIRMAN: How many square in
14 the downstairs?

15 MR. GIBBONS: A mirror, about
16 10,000 square feet.

17 THE CHAIRMAN: This gentleman that
18 you are talking about is taking 6,400
19 square feet?

20 MR. GIBBONS: The actual core area
21 is 6,400 square feet. The rest of it
22 is existing offices, utility room,
23 bathrooms and space like that.

24 THE CHAIRMAN: He is going to use
25 that whole floor?

1 MR. GIBBONS: Yes, that whole
2 floor will be for him.

3 THE CHAIRMAN: He is a cabinet
4 maker?

5 MR. GIBBONS: The way I understand
6 it, he may make other pieces of
7 furniture.

8 THE CHAIRMAN: He is a furniture
9 maker, a cabinet maker. He is a
10 woodworking guy, am I correct?

11 MR. GIBBONS: Yes, Mr. Chairman.

12 THE CHAIRMAN: Okay, good. Where
13 is the C of O's?

14 MR. GIBBONS: The C of O's, I sent
15 them in to Shannon by e-mail. We sent
16 those in about a week after the
17 submission.

18 THE CHAIRMAN: How many C of O's
19 do you have?

20 MR. GIBBONS: I have three, Mr.
21 Chairman, one for the warehouse from
22 1999 for four offices, a lavatory
23 reception area, a sales area, a lounge,
24 a warehouse and a conference room on
25 the first floor, and then I have two in

1 the upstairs for the second floor
2 office warehouse, lavatory for one, and
3 then the second one is a fitness
4 center, lavatory, lobby, smoke
5 detectors.

6 So each of the second floor C of
7 O's have 10 outdoor parking spaces
8 assigned to them.

9 THE CHAIRMAN: You have the
10 sprinkler system in there?

11 MR. GIBBONS: There is a sprinkler
12 system.

13 THE CHAIRMAN: Okay, in the entire
14 building?

15 MR. GIBBONS: I believe so, yes.

16 THE CHAIRMAN: Okay. Are there
17 any questions of Mr. Gibbons from the
18 Board?

19 MR. LANDSMAN: I have a question.

20 THE CHAIRMAN: One second. Mr.
21 Gibbons, when you readvertise, I want
22 you to send us a picture of the front
23 of the letters, okay?

24 MR. GIBBONS: Could you repeat
25 that?

1 THE CHAIRMAN: The letters that
2 came back to you that were
3 undeliverable, give us a copy of the
4 front of the letters. Send them to the
5 Building Department so I have them
6 within the next five days or so.

7 MR. GIBBONS: I will do it
8 tomorrow, sir.

9 THE CHAIRMAN: Do I have any
10 questions for Mr. Gibbons?

11 MR. LANDSMAN: I have a question.

12 THE CHAIRMAN: Yes, please.

13 MR. LANDSMAN: Besides the
14 shortfall for the parking, you have a
15 lot of employees, seven to 15
16 employees. Do they expect sales out of
17 this building? Are they going to have
18 customers coming to the building?

19 MR. GIBBONS: Mr. Landsman, I
20 expect a client or two to maybe look at
21 their product as being fabricated, but
22 it is not set up for a showroom or
23 sales area. None of that is part of
24 the plans and that is not proposed.

25 MR. LANDSMAN: A client or two

1 every day, every hour? What do you
2 mean a client or two?

3 MR. GIBBONS: Maybe in the whole
4 day. Maybe a cabinet or two. It is
5 for a whole kitchen and the fabrication
6 process could take a week or two to do
7 that.

8 MR. LANDSMAN: Thank you.

9 MR. GIBBONS: Thank you.

10 THE CHAIRMAN: Any other questions
11 from the Board?

12 MS. KIMBALL: I have a question.

13 THE CHAIRMAN: Yes, Ms. Kimball.

14 MS. KIMBALL: Have you noticed any
15 run-off of water or drainage issues
16 impacting any of your neighbors, sir?

17 MR. GIBBONS: I have not heard
18 about it but I haven't actually
19 investigated that per se because of the
20 existing nature of the building, but I
21 could inquire of the neighbors on that
22 subject.

23 MS. KIMBALL: We may be hearing
24 from one of your neighbors about that
25 issue so I will defer to the Chairman.

1 THE CHAIRMAN: Yes, thank you. Is
2 there any other questions of the Board?

3 MR. PIALTOS: I have a question.

4 THE CHAIRMAN: I don't know who
5 you are.

6 MR. PIALTOS: I am the building
7 owner.

8 THE CHAIRMAN: I will recognize
9 you in a minute, okay?

10 MR. PIALTOS: Sure.

11 THE CHAIRMAN: Are there any other
12 questions of the Board.

13 MR. GIORGIO: I have one.

14 THE CHAIRMAN: Yes, Mr. Giorgio.

15 MR. GIORGIO: I was wondering in
16 terms of the Planning Director
17 submitting comments, he was wondering
18 about deliveries from the site. What
19 kind of traffic would you expect there?

20 THE CHAIRMAN: Mr. Gibbons, what
21 kind of traffic do you anticipate
22 coming to the site?

23 MR. GIBBONS: The biggest vehicle
24 I expect is maybe a box truck to bring
25 in some raw material. There is an

1 access gate on the front of the
2 building on the north side and the
3 vehicle can enter, drop off their
4 products and exit.

5 THE CHAIRMAN: Mr. Giorgio.

6 MR. GIORGIO: What is the
7 frequency do you anticipate trucks
8 coming in and out, or you don't know?

9 MR. GIBBONS: Can you repeat that,
10 please?

11 MR. GIORGIO: The frequency these
12 trucks would come in and out or you
13 don't know?

14 MR. GIBBONS: I don't know for
15 sure but it is a small operation. My
16 client has a business that he currently
17 uses on Ashburton Avenue and deliveries
18 are somewhat insignificant. Maybe once
19 a week a box truck will load off raw
20 materials.

21 THE CHAIRMAN: What is the address
22 on Ashburton Avenue? We are going to
23 take a look at that.

24 MR. GIBBONS: I will have to get
25 that for you. It is halfway up the

1 street.

2 THE CHAIRMAN: That's good. You
3 can get that to us when you get the
4 other stuff, okay?

5 MR. GIBBONS: Yes, Mr. Chairman.

6 THE CHAIRMAN: Mr. Giorgio, any
7 other questions?

8 MR. GIORGIO: No thank you.

9 THE CHAIRMAN: Thank you. Is
10 there anyone here tonight to speak in
11 favor of this application? Is there
12 anybody here tonight_--

13 MR. GIORGIO: Unmute everything.

14 THE CHAIRMAN: Is there anybody
15 here to speak in favor of this
16 application? Anybody here tonight to
17 speak in opposition?

18 Are you an attorney, sir?

19 MR. PIALTOS: Are you speaking to
20 me, sir?

21 THE CHAIRMAN: Yes. Are you an
22 attorney?

23 MR. PIALTOS: No, I am not an
24 attorney.

25 THE CHAIRMAN: Okay. I am going

1 to swear you in, are you ready?

2 MR. PIALTOS: Yes.

3 THE CHAIRMAN: You solemnly swear
4 to tell the truth, the whole truth and
5 nothing but the truth so help you God?

6 MR. PIALTOS: Yes, I do.

7 THE CHAIRMAN: State your name and
8 address, please.

9 MR. PIALTOS: Dean Pialtos, 960
10 Nepperhan Avenue, Yonkers, New York,
11 10703.

12 THE CHAIRMAN: Proceed, sir.

13 MR. PIALTOS: As one of your Board
14 members was talking to, there was a
15 misunderstanding. My brother thought
16 these were the people that were next to
17 us that just moved in because they told
18 us they were going to apply for a
19 variance, and he had written something
20 down about water coming through onto us
21 and worried about industrial loading
22 and bothering us because we are coffee
23 roasters and everything has to be very
24 clean and precise there, and we were
25 worried about all the trucks coming

1 into their place but this has nothing
2 to do with the application on 965 so I
3 wanted to clear that up.

4 THE CHAIRMAN: Hold on. The case
5 before this Board is the one that was
6 presented, 961-- 965 Nepperhan Avenue.
7 That's yours. The one across the
8 street, do you have any complaints with
9 that, the one across the street from
10 you?

11 MR. PIALTOS: We have no
12 complaints with the one across the
13 street.

14 THE CHAIRMAN: Do you have a
15 complaint about somebody next door to
16 you?

17 MR. PIALTOS: That is something
18 else.

19 THE CHAIRMAN: Send that to the
20 Building Department.

21 MR. PIALTOS: We had nothing with
22 this one too because my brother by
23 mistake wrote something in.

24 THE CHAIRMAN: Thank you very
25 much. Good night.

1 Is there anybody to speak in
2 opposition to this? Anybody to speak
3 in opposition of this case? Anything
4 else from the Board? Mr. Gibbons,
5 anything else to tell me?

6 MR. GIBBONS: Mr. Chairman, I am
7 here.

8 THE CHAIRMAN: Do you have
9 anything else to say, Mr. Gibbons?

10 MR. GIBBONS: No, Mr. Chairman,
11 thank you for hearing me.

12 THE CHAIRMAN: This case is hereby
13 continued. We are going to come back
14 next month. I want you to send new
15 things out registered mail again, okay?

16 MR. GIBBONS: Yes, Mr. Chairman.

17 THE CHAIRMAN: Thank you, Mr.
18 Gibbons.

19 The next case is Mr. Gibbons
20 again, 5708, an area variance on behalf
21 of Dorothy Ann Lavista, owner, to
22 legalize a two-story addition at rear
23 of existing house, having:

24 1. Violation of side-wall
25 articulation requirement of Yonkers

1 Zoning Ordinance 43-34.H.3 (Required 30
2 foot wall length maximum, proposed 39.4
3 feet);

4 2. Insufficient side yard,
5 Reference Yonkers Zoning Ordinance
6 43-27 Table 43-3 (Required 6.75 feet,
7 proposed 6.72 feet);

8 3. Violation of side-setback plane
9 requirement, due to a side-yard
10 encroachment of 0.36 inches, Reference
11 43-34.H.1; on premises known as 27
12 Corbalis Place, Block: 3408, Lot: 14,
13 Zone S-60.

14 Mr. Gibbons, identify yourself
15 again.

16 MR. GIBBONS: Yes. James Gibbons
17 with Gibbons Engineering, One Central
18 Avenue, Route 308, Tarrytown, New York.

19 THE CHAIRMAN: Mr. Gibbons,
20 everybody within the 200 foot radius
21 been notified, sir?

22 MR. GIBBONS: Yes, Mr. Chairman.

23 THE CHAIRMAN: Anything come back
24 as undeliverable?

25 MR. GIBBONS: One came back.

1 THE CHAIRMAN: Out of how many?

2 MR. GIBBONS: Twenty-one, I

3 believe.

4 THE CHAIRMAN: Okay, that is fine.

5 Just one second, please, I want to get

6 something out of here. I swore you in

7 before so you are still sworn in, you

8 know that, right?

9 MR. GIBBONS: Yes.

10 MR. ROMANO: Mr. Chairman, Andrew

11 Romano here. Is it all right if I

12 listen in to Mr. Gibbons and help

13 elucidate if necessary, please?

14 THE CHAIRMAN: You can join in all

15 you want, Mr. Romano, I have no problem

16 with that. Go ahead, Mr. Gibbons.

17 MR. GIBBONS: Good evening, Mr.

18 Chairman, members of the Board. This

19 project was a project that was built in

20 2012 and the client would like to

21 legalize the property and come before

22 the Board for the three requested

23 variances. The variances require 9.4

24 feet of side wall articulation. It

25 should have started to articulate at 30

1 feet so it is 9.4 foot overage on that.

2 In addition, there is a small
3 overage on the side yard of .3 feet,
4 and of course a side yard setback plane
5 of .36 inches. The reason this is
6 occurring is the clients had squared
7 off the property and essentially run it
8 in line of what was existing with the
9 previous house and they realized that
10 they need to legalize the situation and
11 get variances and come before the Board
12 and that is the general summary of the
13 project, Mr. Chairman.

14 THE CHAIRMAN: All right. Anybody
15 here tonight on this case? This case
16 is on Cross Hill Avenue and Corbalis
17 Place. It is right there when you at
18 the bend.

19 How did this happen?

20 MR. GIBBONS: The client had
21 purchased the property and she had
22 hired a contractor that put the project
23 together and the addition was built
24 without the benefit of permits.

25 I came in after the project was

1 built to start the legalization process
2 and I present it before you now at this
3 point.

4 THE CHAIRMAN: How did this go on
5 for so long without a permit? You
6 know, this ordinance was written, they
7 called it a McMansion Ordinance, so
8 when did your client own the house?

9 MR. GIBBONS: 2012, Mr. Chairman.

10 THE CHAIRMAN: 2012? My God
11 almighty, that is almost 10 years ago,
12 nine years ago. This is ridiculous.

13 MR. ROMANO: If I may, Mr.
14 Chairman?

15 THE CHAIRMAN: Yes, you may.

16 MR. ROMANO: Looking at the
17 variances requested, it should be noted
18 this is an undersized lot, and in Mr.
19 Gibbons principal point, if it was a 50
20 foot lot we would not be coming before
21 the Board. The fact is, it is all
22 because it is an undersized lot which
23 is similar, and there are houses on
24 either side that Mr. Gibbons indicated
25 to me, they have one story additions

1 that run on the same footprint with
2 smaller lots.

3 The articulation, when we put the
4 McMansion law in many many years ago I
5 don't believe that is a substantial
6 violation. Considering she could have
7 added the wall at 30 feet, the sad part
8 is that no one in the neighborhood
9 complained about this now. To show you
10 how di minimis about this, they didn't
11 do anything for seven years.

12 THE CHAIRMAN: It is not di
13 minimis, okay. Maybe those little side
14 yard things are but I don't understand
15 this. Who is the contractor on this?

16 MR. ROMANO: Go ahead, Mr.
17 Gibbons.

18 MR. GIBBONS: I didn't hear you.

19 THE CHAIRMAN: Who is the
20 contractor?

21 MR. GIBBONS: I have to find out
22 for you, sir.

23 THE CHAIRMAN: I want you to find
24 that out for me.

25 MR. GIBBONS: I will.

1 THE CHAIRMAN: How many kitchens
2 are in this house?

3 MR. GIBBONS: One, Mr. Chairman.

4 THE CHAIRMAN: One kitchen?

5 MR. GIBBONS: Yes, sir. It is a
6 single family house.

7 THE CHAIRMAN: Let me ask you a
8 question. One kitchen, right? How
9 many electric meters?

10 MR. GIBBONS: One.

11 THE CHAIRMAN: One electric meter,
12 all right. How many families live
13 there?

14 MR. GIBBONS: One, sir.

15 THE CHAIRMAN: Who lives there,
16 the owner, the one that is coming for
17 the variance?

18 MR. GIBBONS: The owner lives
19 there with the applicant. The owner
20 lives there and her son.

21 THE CHAIRMAN: Okay. The owner is
22 Ms. Lavista?

23 MR. GIBBONS: Yes, sir.

24 THE CHAIRMAN: All right. Are
25 there any questions of the Board?

1 MS. KIMBALL: I have a question,
2 Mr. Chairman.

3 THE CHAIRMAN: Yes, Ms. Kimball.

4 MS. KIMBALL: This question is for
5 Mr. Romano. You seem to imply if the
6 lot was a 50 foot lot this would not be
7 a problem, but did the owner of the
8 property understand what they were
9 purchasing when they made these
10 changes? Surely those things didn't
11 change over night.

12 MR. ROMANO: No, ma'am, it has not
13 changed. It is clear this was done,
14 whoever the contractor was did this in
15 error. It is not unusual to find
16 unscrupulous contractors coming into
17 Yonkers doing this. We have this all
18 the time, but if approved we will
19 correct the problem, make sure
20 everything is up to code, and the
21 variance that I saw, some of them were
22 less than six inches, so some of them
23 are very di minimis except for the one
24 with the articulation, but the
25 articulation itself. If I go and I

1 indent a wall I can eliminate that but
2 it doesn't make any sense. It is an
3 existing structure at this point so
4 this corrects a problem that she got
5 caught up into.

6 She is not a wealthy person and
7 she understands that there should have
8 been a permit, should have been a
9 licensed contractor, should have an
10 architect from the beginning. She is
11 aware of that now and this would
12 solve_-- if it is approved, she will
13 correct that problem, and unfortunately
14 in the neighborhood, no one ever
15 complained. She has been a good
16 neighbor and I wish to God we weren't
17 before the Board but we are so we are
18 trying to solve a problem.

19 MS. KIMBALL: Thank you, Mr.
20 Romano. Thank you, Mr. Gibbons.

21 MR. GIBBONS: You are welcome.

22 THE CHAIRMAN: This being an
23 undersized lot, Mr. Romano, that
24 doesn't matter if it is an undersized
25 lot. There is a lot of undersized lots

1 with perfect C of O's and everything.

2 MR. ROMANO: I understand, Mr.
3 Chairman. If you look at the
4 dimensions of the variances, you have
5 already said they are very small. I
6 don't have to repeat that.

7 THE CHAIRMAN: I didn't say they
8 are small. I said the two other pieces
9 that you need, they are small, of
10 course, yes, but the sidewalk, you
11 know, the articulation there, this law
12 was passed because the city wanted it
13 passed.

14 MR. ROMANO: I understand and
15 there has been a lot of disagreement
16 over the years of the law but we are
17 still all bound by it.

18 THE CHAIRMAN: Where is the C.O.?

19 MR. ROMANO: Mr. Gibbons?

20 THE CHAIRMAN: Where is the C.O.?

21 MR. GIBBONS: Mr. Chairman, I
22 attempted to locate the C of O but I
23 could not get access into the Building
24 Department to confirm if it exists. I
25 will have to keep working on that for

1 you.

2 THE CHAIRMAN: Call in the morning
3 and ask to have the copy of the C of O
4 and get us 12 copies.

5 MR. GIBBONS: I don't have the 12
6 copies, Mr. Chairman.

7 THE CHAIRMAN: No. Okay. So you
8 are going to have to get those copies
9 to us. You know Ms. McGovern, don't
10 you?

11 MR. GIBBONS: Yes, Mr. Chairman, I
12 will contact her in the morning and ask
13 her.

14 THE CHAIRMAN: She is wonderful
15 and does a wonderful job.

16 MR. ROMANO: I am going to try to
17 pick up the C.O. tomorrow. I have an
18 appointment at 9 o'clock so I will try
19 to get it.

20 THE CHAIRMAN: You have to get 12
21 copies to us.

22 MR. LANDSMAN: Mr. Chairman, I
23 can't believe you are bringing up the
24 size of the lot. The lot has nothing
25 to do with this. The woman built a two

1 story addition without a permit. The
 2 contractor didn't get a permit and you
 3 are mentioning the size of the lot.
 4 That is the least of the problems.

5 MR. ROMANO: Here is my problem.
 6 An undersized lot, they should
 7 distinguish a side yard articulation.
 8 Because you have an undersized lot
 9 there should be a reduction and a
 10 requirement and there isn't any.

11 In some cases with side yard
 12 setback, rear yard setback, if the lot
 13 is undersized you get a certain credit
 14 for rear yard front yard. You don't
 15 get that with a side yard articulation.

16 MR. LANDSMAN: If she would have
 17 filed, she would have all the
 18 directions from the beginning and
 19 everything would have been good and you
 20 wouldn't be here.

21 MR. ROMANO: Totally agreed.

22 MR. LANDSMAN: That's the end of
 23 it. She did everything.

24 MR. ROMANO: We agree. That is
 25 why we are here to solve this problem.

1 That is why we are here.

2 THE CHAIRMAN: Mr. Gibbons_--

3 MR. GIBBONS: Yes, Mr. Chairman.

4 THE CHAIRMAN: We need a set of
5 plans supplied to us for this area
6 variance. I see what you got here. I
7 need a complete set of plans. Both
8 plans are to be supplied. All we have
9 is a plot plan.

10 MR. GIBBONS: I will reprint and
11 bring them in. I apologize, Mr.
12 Chairman.

13 THE CHAIRMAN: That's okay, you
14 don't have to apologize. Make sure we
15 have enough copies for everybody, and I
16 want the Planning Director to get a
17 copy.

18 MR. GIBBONS: Okay, I will do
19 that.

20 THE CHAIRMAN: Any other questions
21 of the Board? Any other questions of
22 the Board? Is there anybody here
23 tonight to speak in favor of this_--
24 unmute everybody, Mr. Kuntz.

25 Anybody here to speak tonight in

1 favor of this application? Anybody
2 here tonight in opposition to this?
3 Everybody is good, Mr. Landman?

4 MR. LANDSMAN: Yes, sir.

5 THE CHAIRMAN: Anybody here
6 tonight in favor of this case on Cross
7 Hill Avenue and Corbalis Place?

8 Anybody here tonight in opposition
9 on this case on Cross Hill Avenue and
10 Corbalis Place? Anybody in opposition?

11 MR. LANDSMAN: Nobody is here on
12 this case.

13 THE CHAIRMAN: Thank you. This
14 case is hereby closed, reserve the
15 right to reopen for any reason
16 whatsoever, at any time whatsoever and
17 that includes until after the decision
18 is made.

19 MR. ROMANO: Everyone have a good
20 evening and be safe.

21 MS. KIMBALL: You too, Mr. Romano.

22 THE CHAIRMAN: Okay. The next
23 case is Mr. Accinelli. Are you there,
24 sir, Mr. Accinelli? We have this case
25 that you were here a couple of months

1 ago and you had some problems with it
2 and now you are back again. This case
3 is_-- I am going to read it off, 5697,
4 5698 and 5699, it concerns Point and
5 Ravine LLC, that is a limited liability
6 corporation, all three of these cases.
7 One case is at 58 Ravine Avenue, Block
8 2115, Lot: 5 in an A Zone, and 69
9 Ravine Avenue is at Block: 2114, Lot:
10 42 in an A Zone, and then 5699 is an
11 area variance also which is at 70 Point
12 Street, Block 2114, Lot: 17 in an A
13 Zone. All of these cases are off of
14 Warburton Avenue.

15 Mr. Accinelli, this case is the
16 case down on Ravine Avenue, Point
17 Street, Ravine Avenue, Point Street and
18 Ravine. This is off of Warburton
19 Avenue. It is down near Alexander
20 Street. Is there anybody here tonight
21 on this case?

22 MS. KIMBALL: Mr. Simmons, are you
23 speaking on behalf of the case.

24 MR. SIMMONS: Yes. My name is
25 James Simmons.

1 THE CHAIRMAN: We'll get to you in
2 a few minutes, Mr. Simmons, just give
3 me a few minutes and I am going to get
4 to you.

5 Is there anybody else here? Do
6 you know anybody else that is here?
7 Okay.

8 Mr. Accinelli, let's go over this
9 again.

10 MR. ACCINELLI: Thank you, Mr.
11 Chairman, members of the Board, good
12 evening. Once again, Mr. Chairman--

13 THE CHAIRMAN: Everybody within a
14 200 foot radius been notified?

15 MR. ACCINELLI: Yes, Mr. Chairman.

16 THE CHAIRMAN: Any come back?

17 MR. ACCINELLI: Nine returns.

18 THE CHAIRMAN: Out of how many?

19 MR. ACCINELLI: Sixty-six.

20 THE CHAIRMAN: Sixty-six. Okay, I
21 will go along with that. Go ahead.

22 MR. ACCINELLI: Thank you, Mr.
23 Chairman. Again, the Board will recall
24 this is a project involving Conifer
25 Realty and they are proposing a 146

1 unit multi-family community on 2.8
2 acres of currently vacant property in
3 the area of Warburton and Ravine
4 Avenue.

5 The project is basically known as
6 20 Ravine Apartments, and what we have
7 done is as promised. The design team
8 has gone back and reviewed the plans
9 and made revisions, significant
10 revisions to the project, and I am
11 happy to announce, not announce, advise
12 the Board that the applicant was, as
13 part of that process, able to eliminate
14 eight variance requests and further
15 reduce five variance requests, so there
16 is a total of 13 impacted variances in
17 terms of having been reduced or
18 eliminated. They are all reflected in
19 the revision that was submitted to the
20 Zoning Board.

21 In addition, Mr. Chairman, also I
22 wanted to bring to the Board's
23 attention the fact that the applicant
24 also just received its Building
25 Department application review with

1 respect to the two accessory parking
 2 lots at 50 Point Street and 78 Ravine
 3 Avenue. Applications to the Zoning
 4 Board for both of these lots will be
 5 submitted before the July meeting.
 6 These lots themselves are part of the
 7 project and they relate to accessory
 8 parking only. No improvements will be
 9 built upon these two parking lots.
 10 They will accommodate visitor parking
 11 and the parking shortfall raised with
 12 respect to 76 Point Street.

13 With me tonight is the project
 14 team, Mr. Saky Yakas and Raffael Juth
 15 are both from SLCE Architects, and with
 16 the Board's permission and also with
 17 the shared screen, they would like to
 18 present the revised plan to the Zoning
 19 Board, with your permission.

20 THE CHAIRMAN: I have those in
 21 front of me. It is a big set of plans,
 22 am I correct on that?

23 MR. ACCINELLI: Correct, Mr.
 24 Chairman.

25 THE COURT: I see them right here,

1 a big set of plans. Besides what you
2 gave us a couple of months ago, what
3 changes have you made?

4 MR. ACCINELLI: We reconfigured
5 the structures and we were able to
6 eliminate many of the rear yard
7 setbacks. We eliminated the previously
8 requested height variance on one of the
9 buildings. We have eliminated some of
10 the building coverage variances, so we
11 really went through great efforts to
12 eliminate and reduce as many of the
13 initial variance requests that were
14 part of the initial application, and I
15 think it would be very helpful for the
16 Board, as well as members of the
17 public, if the folks from SLCE could
18 walk the Board through and the public
19 through the physicalities and the
20 layouts with respect to the overall
21 project.

22 THE CHAIRMAN: What are you coming
23 back in July for?

24 MR. ACCINELLI: In July we will be
25 talking about the two accessory parking

1 lots at 50 Point Street and 78 Ravine
2 Avenue.

3 THE CHAIRMAN: Okay, so I am not
4 going to close this hearing tonight,
5 then. Did you hear me?

6 MR. ACCINELLI: Yes, I did, Mr.
7 Chairman.

8 THE CHAIRMAN: I am not going to
9 close the hearing tonight, I will tell
10 you right now. If we come back in July
11 we will put all this together.

12 MR. ACCINELLI: They are all
13 integrated parcels, Mr. Chairman.

14 THE CHAIRMAN: You brought this up
15 tonight so now we have to take that all
16 into consideration. You have to keep
17 the signs up and you have to send out
18 new variance notices next month once
19 again.

20 MR. ACCINELLI: Correct. Will do,
21 Mr. Chairman.

22 THE CHAIRMAN: Okay. You can put
23 on whoever you want to put on, sure.

24 MR. ACCINELLI: Okay. Mr. Yakas I
25 believe would like to share the screen

1 with your permission, Mr. Chairman.

2 THE CHAIRMAN: Fine.

3 MR. KUNTZ: You have the floor.

4 THE CHAIRMAN: Who is the
5 gentleman now?

6 MR. ACCINELLI: Mr. Saky Yakas.

7 THE CHAIRMAN: Are you an
8 attorney?

9 MR. YAKAS: No, I am an architect.

10 THE CHAIRMAN: I am going to swear
11 you in, are you ready?

12 MR. YAKAS: Yes.

13 THE CHAIRMAN: You solemnly swear
14 to tell the truth, the whole truth and
15 nothing but the truth as to help you
16 God?

17 MR. YAKAS: I do.

18 THE CHAIRMAN: State your name and
19 address.

20 MR. YAKAS: Saky Yakas, 93 Skyview
21 Lane, New Rochelle, New York, 10804.

22 THE CHAIRMAN: Okay. Your
23 position here tonight is?

24 MR. YAKAS: I am a partner at SLCE
25 Architects and I am the architect for

1 this development.

2 THE CHAIRMAN: Proceed, sir.

3 MR. YAKAS: For Conifer.

4 Basically since we presented I think
5 two months ago we went back and
6 revisited all the drawings to try to
7 reduce all the variances that they were
8 asking for.

9 So the development is on three
10 sites. One site has a six story plus
11 basement building with 120 units. Of
12 the 120 units there are 44 senior
13 units, income restricted senior units,
14 and the remainder of the units are work
15 force housing family units.

16 We managed to reduce the coverage.
17 The allowable coverage was 40 percent
18 and we have got it down to about 30
19 percent. We have met all the front
20 yard, side yard requirements. We have
21 accommodated 134 parking spaces on the
22 site of which five percent are
23 handicapped parking spaces. We have
24 amenities for the housing and Raffael,
25 can you put this on. This is my

1 assistant. The site plan, please.

2 THE CHAIRMAN: Hold on a second.

3 Are you an attorney, sir?

4 MR. JUTH: No, I am an architect
5 as well.

6 THE CHAIRMAN: You solemnly swear
7 to tell the truth, the whole truth and
8 nothing but the truth so help you God?

9 MR. JUTH: I do, sir.

10 THE CHAIRMAN: Your name and
11 address, please.

12 MR. JUTH: My name is Raffael Juth.
13 I am with SLCE Architects. I live at
14 3506 31st Avenue, in Astoria, New York,
15 11106.

16 THE CHAIRMAN: Proceed, please.

17 MR. JUTH: Thank you very much,
18 Mr. Chairman. I will try to share my
19 screen right now to illustrate the site
20 master plan. Can everybody see that?

21 THE CHAIRMAN: Yes.

22 MR. YAKAS: Yes, we can.

23 MR. JUTH: We are looking at 76
24 Point Street which is the mid-rise
25 building over here comprised of the

1 work force and senior housing unit.

2 We have 56 Ravine Street over here
 3 as a townhouse development with parking
 4 in the rear, and we have 69 Ravine
 5 Avenue as a three story townhouse
 6 situated right here.

7 I will turn it back to Mr. Yakas.

8 THE CHAIRMAN: Yes, sir.

9 MR. YAKAS: Basically on the main
 10 building, the six story building the
 11 only variances we are asking for are
 12 for_-- we are short by 10 parking
 13 spaces, and we also have a distance
 14 between the building, and the on-grade
 15 parking doesn't meet the 10 feet as you
 16 look at the building on the left side
 17 of the building.

18 All the distances of the parking
 19 from the rear yards, all the other
 20 various zoning requirements are all met
 21 by this building. I will move over to
 22 56 Ravine Avenue which is to the south
 23 building.

24 This is a three story townhouse
 25 development. It has 18 units of three

1 one bedrooms and 15 two bedrooms. The
2 variances here are the front yard. In
3 the original proposal we had a five
4 foot front yard, now we have a 15 foot
5 front yard which is still short of the
6 required zoning front yard, and our
7 side yards meet the requirements.

8 The other variance that we are
9 asking for is that the parking in the
10 rear of the site, a number of spaces
11 are within the side yard. We were
12 supposed to have retained the width of
13 the side yard on both sides all the way
14 back in the building.

15 Other than that, we meet the
16 height requirement of 35 feet, and in
17 general, all the units on the first
18 floor are handicapped adaptable and
19 usable, and the apartments above are
20 two story apartments which are
21 basically two bedroom apartments.

22 If we go over to the next site,
23 which is 69 Ravine, this is the one
24 site that requires more variances
25 because of Barthold Street and View

1 Street which are unimproved streets,
2 and because of these streets, we are
3 forced to put our parking in the front
4 yards or what are our front yards, and
5 again, we are short by four parking
6 spaces on this lot.

7 So basically this lot has eight
8 apartments. Again, it is a three story
9 building, meets all the height, meets
10 coverage and does not meet the side
11 yard requirements and the front yard
12 requirements which should be 20 feet,
13 and what is presented is 15 feet and
14 the side front yard is only six feet on
15 the unimproved View Street.

16 THE CHAIRMAN: What are you going
17 to have there, seniors? What kind of
18 housing will you have there?

19 MR. YAKAS: Work force housing,
20 and basically the total development has
21 residents from 50 percent to 90 percent
22 of median income of Westchester, so the
23 majority will be family in the two and
24 three bedroom units. There will be
25 families with four and five, you know,

1 people who are all residents in the
2 family.

3 THE CHAIRMAN: What is this
4 building off to the south of the
5 building you just talked about and west
6 of the big building, what is that
7 building there?

8 MR. YAKAS: I am sorry, I am
9 trying to orient myself.

10 THE CHAIRMAN: 50 Point Street.

11 MR. JUTH: That's a parking lot
12 only. 78 Ravine is one of the two
13 accessory parking lots that are part of
14 the overall development.

15 THE CHAIRMAN: Very good. I
16 couldn't see it here.

17 MR. YAKAS: Those are the two lots
18 that we will be coming in for at the
19 next hearing which we just got the
20 Building Department's objections.

21 THE CHAIRMAN: Okay.

22 MR. YAKAS: One of the things is
23 that those two lots, the parking lot
24 that we are able to put on those two
25 lots will allow us to meet all the

1 zoning requirements. This is a
2 multi-site development so all the
3 parking requirements will be met with
4 the inclusion of those two lots.

5 THE CHAIRMAN: Any questions of
6 this gentleman or the other gentleman
7 from the Board?

8 MR. LANDSMAN: I have.

9 THE CHAIRMAN: Yes, Mr. Landsman.

10 MR. LANDSMAN: Yes, Mr. Yakas,
11 those two unimproved streets, did the
12 owner try to buy those from the city?
13 That will help out.

14 MR. YAKAS: I cannot answer that.
15 I don't know if Mr. Accinelli knows
16 that answer.

17 THE CHAIRMAN: Thank you. Is
18 there any other questions of this
19 gentleman? Thank you, sir.

20 MR. YAKAS: Thank you.

21 THE CHAIRMAN: Mr. Accinelli, why
22 don't you buy those two streets?

23 MR. ACCINELLI: I can certainly
24 speak to the client about that, Mr.
25 Chairman. I am not familiar or

1 handling the acquisition side of these
2 transactions but I can speak to the
3 client and get back to the Board.

4 THE CHAIRMAN: That's okay, that
5 was just a suggestion. I am not going
6 to worry about that right now. I don't
7 know if the city will sell it to you
8 anyway, but we are going to get away
9 from that right now.

10 Do you have anything else to say,
11 Mr. Accinelli?

12 MR. ACCINELLI: I don't have
13 anything else to add, Mr. Chairman.

14 THE CHAIRMAN: Any questions by
15 the Board?

16 MS. KIMBALL: Yes, Mr. Chairman.

17 THE CHAIRMAN: Yes, Ms. Kimball.

18 MS. KIMBALL: Mr. Accinelli, can
19 you follow up with why there is a
20 request for parking variances since
21 actually I worked on this project
22 before I left the city, and at that
23 time the developer was going to be
24 providing in excess of the requirement
25 of parking and giving back to the

1 community. That was actually one of
2 the considerations in working with this
3 developer, so I would like an answer on
4 that, please.

5 MR. ACCINELLI: Yes, Ms. Kimball,
6 we will find an answer to this. What I
7 do know is that the parking shortfall
8 is generated by the 76 Point Street
9 building and then it's going to be
10 picked up by the parking, the two
11 parking lots, but I will get specific
12 in response to your request and I will
13 submit it to the Board.

14 MS. KIMBALL: Thank you. To the
15 Chairman's point, one of the
16 conversations was the purchase of
17 Barthold Street so he is exactly
18 correct.

19 THE CHAIRMAN: Are you okay with
20 that, Ms. Kimball?

21 MS. KIMBALL: I am okay with it
22 now, Mr. Chairman.

23 THE CHAIRMAN: Any other questions
24 from the Board? Okay, Mr. Accinelli,
25 do you want to say anything else to the

1 Board?

2 MR. ACCINELLI: I have nothing
3 further to add, Mr. Chairman. We will
4 follow up on the questions and comments
5 and we'll also again be presenting the
6 two accessory parking lots at the July
7 meeting.

8 THE CHAIRMAN: Is there anybody
9 here tonight in favor of this
10 application?

11 MR. LANDSMAN: There are people
12 here. Can you take down that screen,
13 please? Unmute the people that want to
14 speak. There is some people, Mr.
15 Simmons and someone else.

16 THE CHAIRMAN: Take the plat plan
17 down, Mr. Accinelli.

18 Is there anybody here tonight that
19 would like to speak in favor of this
20 application? Anybody here tonight who
21 would like to speak in opposition?

22 MS. KIMBALL: Mr. Simmons would
23 like to speak in favor.

24 THE CHAIRMAN: Put Mr. Simmons up.
25 Are you an attorney, sir?

1 MR. SIMMONS: No, I am not.

2 THE CHAIRMAN: All right. I am
3 going to swear you in, are you ready?

4 MR. SIMMONS: Yes.

5 THE CHAIRMAN: Do you solemnly
6 swear to tell the truth, the whole
7 truth and nothing but the truth so help
8 you God?

9 MR. SIMMONS: Yes.

10 THE CHAIRMAN: State your name and
11 address, please?

12 MS. SIMMONS: My name is James
13 Simmons, 18 Warburton Avenue, apartment
14 2A, Yonkers, New York, 10701.

15 THE CHAIRMAN: Proceed, sir.

16 MR. SIMMONS: Good evening, Mr.
17 Chairman and members of the Zoning
18 Board. My name is James Simmons, as I
19 stated. I am the Executive Director of
20 CURE, Center for Rehabilitation and
21 Empowerment, and Mr. Chairman, some of
22 your board members, you may know that
23 our organization came before you some
24 years ago trying to propose a
25 development of something like this

1 within the area.

2 Myself, my organization has great
3 passion for this area. I grew up in
4 this area. I am a local developer. I
5 have been developing in this area. We
6 built two-family homes down on Ravine
7 Avenue and we also built some
8 condominiums up on Warburton Avenue and
9 Wicker Street.

10 It has been our passion for years
11 to see this neighborhood get
12 redeveloped because of a lot of the
13 plight and the lots that was in this
14 area.

15 I speak in favor of this project.
16 I don't have the equity in this
17 project. I don't have any ownership in
18 this project but it is something that I
19 know for a fact that I wanted to see
20 happen. I know it is something that
21 the community wanted to see happen as
22 well.

23 I have had major discussions with
24 the Vice President of Conifer Realty
25 and the Vice President of the

1 developers. I had the opportunity to
2 share with them ideas about the people
3 in the community that I have spoke with
4 and things that they would like to see
5 as far as this development. Hopefully
6 my organization may come on as a part
7 of the development team to help out if
8 there is any need for that with
9 community relations and stuff like
10 that, so I just want to say I am a
11 little jealous that I am not
12 spearheading this project because it is
13 something that I always wanted to do,
14 but to see this happen, I am definitely
15 in favor of it as long as the Zoning
16 Board approves of what it is that is
17 being proposed out there, and with that
18 that's enough out of me. Thank you.

19 THE CHAIRMAN: Thank you. By the
20 way, the one on Wicker Street and
21 Warburton Avenue, you had that before
22 the Board, do you remember? I had you
23 a couple of other times with two
24 families, am I right?

25 MR. SIMMONS: Yes.

1 THE CHAIRMAN: Don't you have a
2 brother?

3 MR. SIMMONS: My brother is
4 Andrew.

5 THE CHAIRMAN: He lives in Yonkers
6 too.

7 MR. SIMMONS: He moved over to
8 Jersey. He is doing highway stuff. He
9 moved on to bigger and better things.

10 THE CHAIRMAN: Bring him back to
11 Yonkers. Thank you, sir.

12 Is there anybody here tonight to
13 speak in favor of this application? Is
14 there anybody here tonight to speak in
15 opposition?

16 MS. BYRD: I would like to speak.

17 THE CHAIRMAN: Okay. Would you
18 put this lady up on the screen, please?

19 MS. BYRD: Good evening, Mr.
20 Chairman and members of the Board.

21 THE CHAIRMAN: One second, please.
22 Are you an attorney?

23 MS. BYRD: I am not.

24 THE CHAIRMAN: Okay. Do you sole
25 solemnly swear to tell the truth, the

1 whole truth and nothing but the truth
2 so help you God?

3 MS. BYRD: I do.

4 THE CHAIRMAN: State your name and
5 address, please.

6 MS. BYRD: My name is Rachel
7 Covert Byrd, I live at 44 Ravine Avenue
8 Yonkers, 10701.

9 THE CHAIRMAN: Proceed, please.

10 MS. BYRD: Thank you, Mr. Chairman
11 and members of the Board for allowing
12 me to speak this evening.

13 I recently learned about this
14 project last month when I received the
15 certified mail letter and I had been
16 very curious to figure out to see what
17 is being planned for our neighborhood.
18 I appreciate being able to see the
19 plans tonight so thank you for showing
20 those.

21 My house is actually one of the
22 houses that Mr. Simmons and his brother
23 built so I would definitely like to see
24 more family and productive use of the
25 lots in this neighborhood.

1 One question and a huge concern
2 that I have is for parking. That is a
3 high commodity of the area because of
4 the buildings on Glenwood Avenue, 201
5 Ravine, Glenwood Gardens, so not having
6 ample parking will add to the problem
7 of parking that we already have on this
8 block, especially at nighttime and in
9 the eveningtime, and so I am curious to
10 see how that can get resolved over the
11 next month or so.

12 That's pretty much all I have to
13 say.

14 THE CHAIRMAN: Okay. I will be
15 coming back to New York probably at the
16 end of June, beginning of July and we
17 are going to walk this piece of
18 property. Mr. Accinelli already knows
19 that. We have another hearing in July
20 for parking and what have you, and when
21 we go down, we'll walk the piece of
22 property, and it is my pleasure and you
23 can come along with us, and that's okay
24 with you.

25 MS. BYRD: I would love that.

1 Thank you.

2 THE CHAIRMAN: We'll try to get
3 your information. What you can do, Mr.
4 Accinelli, get this young lady's name
5 and her phone number when we go walking
6 this property. I would like her to be
7 with us, okay?

8 MR. ACCINELLI: Yes, Mr. Chairman.

9 THE CHAIRMAN: Thank you, madam.
10 Any questions of this young lady?
11 Okay. Is there anybody else here to
12 speak in opposition or in favor of this
13 application? Okay.

14 Mr. Accinelli, as you know, we are
15 going to come back in July, so leave
16 the signs up, change the dates and
17 everything. Send out all new certified
18 mail letters and what have you.

19 You have to go to the Building
20 Department. It is kind of hard to do
21 that now, but Ms. McGovern is good, she
22 will help you all she can when we come
23 back next month, so this hearing is
24 hereby continued and we'll go on from
25 there. Thank you.

1 MR. ACCINELLI: Thank you, Mr.
2 Chairman.

3 THE CHAIRMAN: Say hello to your
4 father for me, okay?

5 MR. ACCINELLI: I will. Thank
6 you. Have a good evening. Stay safe
7 and healthy.

8 THE CHAIRMAN: Mr. Kuntz, would
9 you pull up some stuff for a minute.

10 MR. KUNTZ: What would you like?

11 THE CHAIRMAN: See if you can get
12 some of the Board members on.

13 We have a few things we have to
14 take up tonight. We have one here from
15 Haynes Architectural. This is Tom
16 Haynes. It is a case on Ridgewood
17 Avenue, 135 Ridgewood Avenue. It seems
18 that_-- well, I will read this. This
19 is case number 5112. It was an area
20 variance.

21 "Please be advised that this as
22 built gross floor area of the above
23 referenced location is in excess of
24 what was permitted in the approved
25 zoning conditions. As per condition

1 number 11, the approved zoning
2 conditions, the new home should be no
3 more than 3,000 square feet of floor
4 area. During the schematic design
5 phase of this project, it was
6 established that there would be no
7 basement area and the crawl space area
8 would be proposed beneath the first
9 floor. The crawl space could be
10 excluded from the gross floor storage
11 area calculations. Somewhere
12 throughout the design development an
13 honest mistake occurred and a portion
14 of the basement hallway was proposed as
15 a full height storage area instead of a
16 crawl space, thus exceeding the
17 permitted gross floor area as outlined
18 in condition number 11 of the zoning
19 conditions.

20 In turn, the construction drawings
21 were completed, submitted and approved
22 and permitted and the dwelling was
23 constructed with the mistake in the
24 gross floor area. It was discovered
25 during a site off premises that there

1 was an error of 369 square feet. I
2 respectfully request a revision of
3 condition number 11 to permit the
4 additional as built gross floor storage
5 area of 3,369 feet total and 3,369
6 square feet in lieu of the 3,000 square
7 feet that was approved."

8 This letter came in May 26th.
9 This condition was number 11. Number
10 11 read, "A new home would be no more
11 than 3,000 gross area." This was said
12 there. This is back in_-- we gave this
13 variance May of 2008 so it is over 12
14 years.

15 Then we have another letter from
16 him. "We have an oversight in our
17 construction drawings which require an
18 amendment to the zoning condition
19 number 11, 135 Ridgewood Avenue. We
20 accidentally proposed a gross floor
21 area larger than permitted in condition
22 number 11. It required 3,000 square
23 feet and we proposed 3,369 square feet
24 which was approved and constructed. I
25 don't know who approved this but I have

1 been in discussions with Dave--" that
2 is Mr. Barbuti on this matter-- "he
3 suggests that we prepare a letter for
4 Mr. Cianciulli addressing the issue. I
5 have attached a letter here including
6 more information along with the
7 original zoning conditions for this
8 reference. Please forward this to Mr.
9 Cianciulli and Board members so it can
10 be heard at the next meeting. Please
11 note my client is financially affected
12 by the oversight. This house was sold
13 but it is my client's responsibility to
14 provide housing for the new owner until
15 a Certificate of Occupancy can be
16 obtained. Anything that can be done
17 for the Board to make a vote at the
18 next hearing will be very much
19 appreciated and will be a huge help in
20 alleviating some burden on my client."

21 I don't know. I have got to get
22 an opinion on this. First off, we have
23 got to see this. I think we should get
24 an opinion on this from, I don't know,
25 and we should get an opinion on this.

1 MS. KIMBALL: Mr. Chairman, can
2 Mr. Barbuti shed some light on this, he
3 had conversation on this, to help us
4 get a sense?

5 THE CHAIRMAN: Yes. Mr. Barbuti,
6 are you there?

7 MR. BARBUTI: Yes, I am.

8 THE CHAIRMAN: Yes. Would you
9 please add some light on this, please.

10 MR. BARBUTI: Basically from my
11 research on this, I was not the
12 planning examiner, I just ended up with
13 all this COVID.

14 I was reviewing an amendment that
15 was filed. This started in 2008 based
16 on an apportionment that came to the
17 Board. So the previous owner had
18 purchased two parcels. He had split
19 it. The apportionment of the middle
20 lot that would be created had
21 insufficient lot area. That was in
22 2008.

23 I believe the apportionment was
24 finalized back in 2016 and I believe
25 with some correspondence from the Law

1 Department that the variance on this
2 was enclosed.

3 Fast forward to 2018 or '19.
4 Plans were filed and the house was then
5 designed at 3,369 square feet. One of
6 the other planning examiners didn't see
7 the paperwork that I saw in the file
8 and subsequently approved the plan, so
9 when the amendment had come to me I
10 basically said look, we have an issue
11 here and I told Mr. Haynes that you
12 have two ways to go forward with this.
13 I believe one was to address a letter
14 to the Board requesting either A, a
15 modification to the existing variance
16 or B, they would have to file a new
17 variance because it was a condition
18 that was not met, so if anybody else
19 has any questions, I will be more than
20 happy to answer them.

21 MR. LANDSMAN: I have a question.
22 Can we fill the room up with concrete?

23 THE CHAIRMAN: Hold on a second.
24 You can do whatever you want. You can
25 make them take it down too.

1 MR. LANDSMAN: That's the easiest
2 solution. It is not finished anymore.

3 THE CHAIRMAN: Mr. Barbuti, if you
4 want to answer that, you can.

5 MR. BARBUTI: Anything is
6 possible.

7 THE CHAIRMAN: I know that. Ms.
8 Kimball, do you have anything else to
9 say?

10 MS. KIMBALL: That was very
11 helpful. That you, Mr. Barbuti.

12 THE CHAIRMAN: So I am going to
13 get an opinion from_-- I don't know if
14 we have the right to do this. That's
15 why I am talking about it. This is
16 almost 10 percent of what is allowed
17 here, I don't know, and I don't know if
18 we have the right to do this.

19 MS. KIMBALL: Mr. Alain Natchev
20 still on the call with us?

21 MR. NATCHEV: Yes, I am.

22 MS. KIMBALL: Mr. Natchev, would
23 you like to help us?

24 MR. NATCHEV: We have to take a
25 look at it.

1 MS. KIMBALL: Has 10 percent
2 previously been considered di minimis
3 as the Chairman points out, that is 10
4 percent.

5 MR. NATCHEV: Ten percent is not
6 necessarily a threshold. It depends on
7 the case.

8 MS. KIMBALL: Could you brief it
9 for the Chairman?

10 THE CHAIRMAN: I didn't hear that.

11 MS. KIMBALL: Can Mr. Natchev
12 brief this issue for you?

13 MR. NATCHEV: Di minimis, it
14 depends on what the judgment of the
15 Board believes upon a particular case,
16 all right.

17 THE CHAIRMAN: It is 10 percent.
18 If it was one or two percent, I don't
19 know if we can do that. That's what I
20 am saying.

21 MS. KIMBALL: Mr. Natchev, can you
22 perhaps do a brief for our Chairman
23 which indicates historically whether we
24 have gone as much as 10 percent as di
25 minimis?

1 MR. NATCHEV: I could tell you off
2 the top of my head if this was done in
3 the past. I think the Chairman refers
4 to 10 percent what the Board might
5 consider being di minimis.

6 THE CHAIRMAN: The only thing is,
7 Ms. Kimball, with the neighbors out on
8 this, I can't remember back 12 years.
9 I don't know if they were out there or
10 not. I haven't seen this. We haven't
11 seen it. We have just got this thing.
12 I think it deserves_-- I think we
13 should get Mr. Haynes here to show what
14 happened here.

15 MS. KIMBALL: Agree.

16 THE CHAIRMAN: I will make a
17 motion to put this over to the next
18 hearing, and when I get back we'll call
19 Mr. Haynes and we'll go over there to
20 take a look at this thing. Is
21 everybody okay with that?

22 MR. LANDSMAN: Yes.

23 THE CHAIRMAN: Anybody disagree?
24 Thank you. Now we got one here for
25 Prescott Street. Prescott Street is

1 right off of Yonkers Avenue. I
2 remember this. This is a three-family
3 dwelling. It is an M Zone, if I
4 remember correctly. It is case 5671
5 which means this is pretty_-- I think
6 we gave them this a couple of years
7 ago, January 20th, yes, Mr. Romano. I
8 think we gave them this a couple of
9 years ago.

10 I don't think there is much here.
11 What it is, you have got three families
12 on three floors and I think we said one
13 was a sub-basement.

14 Mr. Landsman, did you write this
15 up?

16 MR. LANDSMAN: Is that the one
17 across from the rock pile?

18 THE CHAIRMAN: Yes.

19 MR. LANDSMAN: Yes, I think so. I
20 am not sure. I can't say for sure.

21 THE CHAIRMAN: I think it is okay.

22 MR. GIORGIO: I think I wrote this
23 one up. I am not sure.

24 THE CHAIRMAN: They are saying
25 that "The sub-basement is a utility

1 room, although it was not named in the
2 drawings submitted, and the boilers
3 indicate the space, and by the way, due
4 to the change in the elevation of
5 Prescott Street, the rear yard at this
6 site, the basement is above grade and
7 three sides has full-sized windows, the
8 only below grade is the Prescott Street
9 side. The basement qualifies as
10 habitable space."

11 So that is a three-family, then.
12 You know, I think we are okay on this,
13 to be honest with you, and I think the
14 one down below with the sub-basement is
15 not habitable because we said in the
16 conditions, three-family house, no
17 inlaw or boarding house setup and no
18 use of the basement. I think what he
19 means is no use of the sub-basement
20 which is below the basement.

21 MS. KIMBALL: That is where he is
22 asking for the change.

23 THE CHAIRMAN: I am okay with
24 that. I don't see a problem with that
25 so I am going to make a motion to be

1 okay with the bottom floor being called
2 a sub-basement, is everybody else okay
3 with that?

4 MS. KIMBALL: Yes.

5 THE CHAIRMAN: So is anybody
6 opposed? Okay, so then that's agreed,
7 then, we'll give them permission.

8 Is there anything else that we
9 have had? I don't see any more. I
10 might have lost one or two, I don't
11 know.

12 George, thank you very much, I
13 appreciate your excellent putting up
14 with us tonight and particularly me,
15 and I thank the members of the Board
16 for their help, and we'll see
17 everybody. I think I will come back,
18 we'll get together and go through a few
19 of these cases.

20 Is there anything else anybody
21 wants to say? Good night everybody.

22 (Time noted: 8:45 p.m.)

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CERTIFICATION

STATE OF NEW YORK)
) ss.
COUNTY OF WESTCHESTER)

I, HOWARD BRESHIN, a Court Reporter
and Notary Public within and for the State of New
York, do hereby certify:

That I reported the proceedings that
are hereinbefore set forth, and that such
transcript is a true and accurate record of said
proceedings.

I further certify that I am not
related to any of the parties to this action by
blood or marriage, and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand.



HOWARD BRESHIN,
COURT REPORTER

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