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CITY OF YONKERS

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Minutes of
The City of Yonkers Zoning Board
945 Broadway, 4th Floor
Yonkers, New York 10701
July 20, 2021 - 6:00 p.m.

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B E F O R E:

- JOSEPH CIANCIULLI, Chairman
- HARRY SINGH, Member
- JEFFREY LANDSMAN, Member
- HECTOR LOPEZ, Member
- WILSON KIMBALL, Member
- VINCENT GIORGIO, Member

P R E S E N T:

- ALAIN NATCHEV, Assistant Corporation
Counsel
- LEE ELLMAN, Planning Department
- ZACHARY NERSINGER, Planning Director

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1 THE CHAIRMAN: Ladies and gentlemen,
 2 the Zoning Board of Appeals public hearing
 3 is now in session. Would the members
 4 please introduce themselves starting with
 5 Ms. Kimball.

6 MS. KIMBALL: Wilson Kimball.

7 MR. GIORGIO: Vincent Giorgio.

8 MR. LANDSMAN: Jeffrey Landsman.

9 MR. SINGH: Harry Singh.

10 MR. LOPEZ: Hector Lopez.

11 THE CHAIRMAN: My name is Joseph
 12 Cianciulli. I'm Chairman of the Board. To
 13 my immediate right, sorry left, is
 14 Corporation Counsel who represents the
 15 Board Alain Natchev. To my far left is
 16 Deputy Commissioner of Planning Lee Ellman
 17 and then the Planning, he's with the
 18 Planning Department too is Zachary
 19 Nersinger. And to my right is Mike Reape.
 20 He's with the Building Department. Absent
 21 tonight is Mr. Ralph Battista. He called
 22 me, he's absent tonight.

23 I'm going make a motion to accept
 24 the minutes of the last hearing, excuse me,
 25 of the May and June minutes. Do I have a

1 second?

2 MS. KIMBALL: Second.

3 THE CHAIRMAN: Everybody in favor
4 say aye.

5 (A chorus of ayes.)

6 THE CHAIRMAN: Anybody opposed?
7 That's carried six, one absent. Going to
8 stand for the Pledge of Allegiance.

9 (Pledge of Allegiance.)

10 THE CHAIRMAN: We can all sit down.
11 I just want to thank some people that
12 helped us during the pandemic. We were on
13 the computers and iPads and what have you.
14 And believe me it wasn't, it wasn't fun.
15 So happy to back here in front of
16 everybody. Believe me. So I would like to
17 first thank the Deputy Mayor who's now the
18 Deputy Mayor Jim Cavanagh. Jim had this
19 idea. And I said to him, I don't think so.
20 But after he talked to me for about ten
21 minutes, I said, okay, let's give it a
22 shot. And believe me I thought we were
23 finished, but it worked out real well. And
24 we also have George Kuntz who works in the
25 IT, the IT part of the City here. He was

1 wonderful. I tell you he was absolutely
2 wonderful. And then we have Jeffrey
3 Landsman, one of the members here, who
4 actually helped us also. He was in the
5 background. I don't know what he was
6 doing. But he was doing a lot of things.
7 And he kept on calling me and telling me,
8 you know, you're not right you're doing
9 something wrong. Okay. I'd like to thank
10 Mr. Natchev and Mr. Ellman too for their
11 courtesies. And my wife who I know she got
12 me set up over there. And every time I had
13 a problem, I yell, Deb, and she came
14 running in and she did something. I don't
15 know what she did. But you see I'm an old
16 man and believe me when I tell you, I don't
17 understand these things at all. A little
18 bit, but not much. So I'd just like to
19 thank those people very much and say they
20 really did a good job on it.

21 One more thing tonight, a few little
22 rules. No loud talking. So if you're
23 gonna talk, don't let me embarrass you.
24 Okay? I don't really want to embarrass
25 anybody tonight. Just go outside and

1 you'll be fine out there to do all the
 2 talking you want. And I don't allow
 3 newspapers. If you got a newspaper, fold
 4 it up. And turn off the cell phone.
 5 That's another thing. I mean turn it off.
 6 And that goes for the buzzing, because I
 7 tell you, I can hear it. If I hear it,
 8 it's coming up here with me and it's going
 9 to sit here until I go home tonight. I
 10 guess probably around 9:00, maybe later.
 11 So turn off the phone. Don't be a hero.

12 And as Chairman of the Board, I have
 13 the right to take the decisions and the
 14 cases in any order, I wish. Thank you.

15 I'm going to go over some things.
 16 So we gotta get a few things straight.

17 Case 5660 and 5561 is 578, 540
 18 Nepperhan Avenue. We're going to put those
 19 over. I see Mr. Dibbini is here. I'm
 20 going to do something here. Where is
 21 Mr. Dibbini me? Come on up, sir.

22 MR. DIBBINI: Thank you,
 23 Mr. Chairman.

24 THE CHAIRMAN: Introduce yourself.

25 MR. DIBBINI: Mr. Chairman, James

1 Dibbini, 570 Yonkers Avenue, Yonkers, New
2 York.

3 THE CHAIRMAN: All right.

4 Mr. Dibbini, these two cases, we gotta do
5 something here with these two cases.

6 MR. DIBBINI: Mr. Chairman, as you
7 may know, having some issues with the Fire
8 Department in trying to get this matter
9 resolved. If you give me one more month to
10 see if I can get some kind of resolution,
11 if not then I think my client would be
12 amenable to removing it for now.

13 THE CHAIRMAN: Okay. So we're going
14 to put those over. Talk to you next month.
15 Thank you.

16 MR. DIBBINI: Thank you,
17 Mr. Chairman.

18 THE CHAIRMAN: We will have a
19 decision tonight on 687 Nepperhan Avenue.
20 We will have a decision tonight on 316
21 North Broadway and 315 Palisade Avenue. We
22 will have a decision tonight on 17
23 Livingston Avenue. We will have a decision
24 tonight on 15 Parkview Avenue. We're going
25 to put over, I'm going to get the case to

1 put over in a little while. We will have a
2 decision tonight on case 2 Stoneleigh Road.
3 We'll have a decision tonight on 54
4 Shelburne Road. We will have a decision
5 tonight on 118 Kingsley Drive.

6 Okay. So, I'm going to make a
7 motion right now. I see I have to close a
8 few hearings, so. I'm going to close case
9 number 5745. That's Mr. Romano, 14 Orchard
10 Street. I am going to close Mr. Romano
11 again, 5748, 212 Warburton Avenue.

12 Well, Mr. Romano, come on up,
13 please. Just identify yourself.

14 MR. ROMANO: Andrew Romano, 55 Main
15 Street, Yonkers, New York.

16 THE CHAIRMAN: How's the wife doing?

17 MR. ROMANO: She's doing all right.

18 THE CHAIRMAN: Okay?

19 MR. ROMANO: Yeah, much better.

20 Thank you.

21 THE CHAIRMAN: You tell her I was
22 asking for her, the Board was asking for
23 her.

24 MR. ROMANO: I always do.

25 THE CHAIRMAN: And once again I'm

1 going to say a prayer for her. Okay.

2 MR. ROMANO: Greatly appreciated.

3 THE CHAIRMAN: Mr. Romano, we're
4 going to put over some cases here tonight.
5 We're going to close 14 Orchard Street.

6 MR. ROMANO: Yes, sir.

7 THE CHAIRMAN: We're going to close
8 212 Warburton Avenue.

9 MR. ROMANO: Yes, sir.

10 THE CHAIRMAN: And we're going to
11 close 50 Vineyard Avenue.

12 MR. ROMANO: Yes, sir.

13 THE CHAIRMAN: And then probably
14 next week, we'll get together. We'll take
15 a look at these three, these three cases.
16 Is that okay with you, sir?

17 MR. ROMANO: Perfect.

18 THE CHAIRMAN: Thank you.

19 So, I'm going make a motion that we
20 close those three cases. Do I have a
21 second?

22 MS. KIMBALL: Second.

23 THE CHAIRMAN: Okay. Everybody in
24 favor say aye?

25 (A chorus of ayes.)

1 THE CHAIRMAN: Anybody opposed?

2 Okay. Now, I know I closed, at
3 least I think I closed -- okay, I did that
4 one. Now, okay, we're going to have some
5 continued cases tonight. There was a
6 fellow a couple of minutes ago that came up
7 here. I was going to tell him something.

8 All right. This case, somebody
9 wrote us a letter. Veritas Engineering
10 inspection regarding 161 Bennett Avenue,
11 Block 5032, Lot 69, 70 in a "T" zone. T is
12 two-family. Is that gentleman here?

13 UNIDENTIFIED SPEAKER: Yes.

14 THE CHAIRMAN: Step up. All right.

15 UNIDENTIFIED SPEAKER: Thank you,
16 Mr. Chairman.

17 THE CHAIRMAN: I'm not going to let
18 you talk. I'm going to tell you what you
19 gotta do.

20 UNIDENTIFIED SPEAKER: Okay.

21 THE CHAIRMAN: And that's it. Read
22 this over. And it's obvious that you have
23 to go back to the Building Department. You
24 gotta come for another variance.

25 UNIDENTIFIED SPEAKER: Yes.

1 THE CHAIRMAN: We just can't give
2 you another variance without a public
3 hearing. I wouldn't do that. Okay?

4 UNIDENTIFIED SPEAKER: Understood.

5 THE CHAIRMAN: So go ahead there.
6 In September. It's not going to be in
7 August. We don't have any cases in August.
8 So, go to the Building Department and see
9 him down there, tell him the Chairman put
10 this over and he feels you gotta come back
11 for a new case. Okay? Thank you.

12 UNIDENTIFIED SPEAKER: Thank you.

13 THE CHAIRMAN: Okay. We're going to
14 get into some decisions. Okay. We're
15 going to have some decisions. I'm having a
16 little problems getting back up here.
17 Haven't been here in 18 months. Just takes
18 a little bit to get going. Just a little
19 (Indicated).

20 All right. Now, we have the next
21 case we'll have a decision on is
22 Mr. Gibbons. It's an improvement of a
23 non-conforming use. It's case 5716, it's
24 687 Nepperhan Avenue. Do I have a motion,
25 please?

1 MR. SINGH: Yes, Mr. Chairman.

2 THE CHAIRMAN: Mr. Singh.

3 MR. SINGH: Mr. Chairman, with
4 regard to non-conforming use, Mr. Gibbons
5 Engineering on behalf of 687 Nepperhan
6 Avenue, owner, James Leyden on previous
7 known as 687 Nepperhan Avenue, Block:
8 2420, Lot: 12 in an "I" Zone.

9 This property is located at 687
10 Nepperhan Ave, and the Applicant would like
11 ZBA permission to continue using the second
12 floor as two apartments. There is a
13 two-bedroom apartment in the rear and a
14 one bedroom apartment in the front. The
15 Applicant would like to remove a set of
16 stairs on the rear apartment and not
17 utilize it anymore. The stairs are rickety,
18 spiral, somewhat dangerous, and difficult
19 to replace in a way suitable for tenants
20 due to the tight space.

21 The premises have been there for
22 many years, with the last C of O being from
23 1985. It is a legal two-family dwelling
24 with a vacant commercial space below. The
25 commercial space was formerly a deli, which

1 needed nine parking spaces. The applicants
2 currently have an applicate to create a
3 woodworking shop, which will require three
4 parking spaces.

5 The woodworking shop will be for
6 tools, and small table saw, some drills, a
7 lathe, and smaller electric tools. The
8 woodworking shop will be used by the owner.

9 The Applicant is looking to change the
10 layout of the apartments, not the number of
11 bedrooms. Only interior alterations are
12 taking place.

13 As such, Mr. Chairman, I make a
14 motion to approve the requested improvement
15 to a Non-Conforming Use. Subject to
16 conditions based on facts, findings,
17 information, and testimony presented to
18 this Board at the public hearing, site
19 visits by members of the Zoning Board of
20 Appeals, or otherwise obtained.

21 To grant an improvement to a
22 nonconforming use pursuant to Section 43-21
23 G of the Zoning Ordinance, the proposed
24 improvements must be shown to mitigate any
25 existing adverse effects of the current

1 nonconforming use of the property. The
2 Board finds that the proposed improvements
3 will accomplish such purpose pursuant to
4 the zoning ordinance:

5 The premises will remain similar in
6 use and character with the surrounding
7 area, which consists of one (1) family, two
8 (2) family, and small multi-family
9 dwellings, and store front as reflected in
10 the area map, photos, and site visits.

11 There will be no increase in
12 occupancy as a result of the exterior
13 alteration or any reduction in air, light,
14 and greenery as the plans reflect. The
15 premises will meet all building, housing,
16 environmental, parking, and safety codes
17 and will improve this dwelling by the
18 grants of ZBA. The improvements will also
19 be a benefit for the surrounding
20 neighborhood by bringing the premises up to
21 current housing and building codes.

22 The proposed improvements will not
23 have an adverse effect or impact on the
24 environmental characteristics such as water
25 use, pollution energy use, drainage,

1 run-off and flooding, nor create any noise,
2 light, odor, visual, or other nuisance
3 conditions of the neighborhood.

4 Mr. Chairman, in granting this
5 request for improvement to a nonconforming
6 use, the Board imposes the following
7 conditions:

8 1. All health, safety, fire,
9 building, and environmental codes shall
10 always be adhered to by the Applicant.

11 2. All curbs and sidewalks
12 abutting the property that needs repairing
13 or replacement as per the City of Yonkers
14 Department of Engineering, then the repair
15 or replacements must be done before the
16 certificate of occupancy is issued.

17 3. That if any back real estate
18 taxes and/or fines if owned, be paid in
19 full within 60 days of this hearing, and
20 proof must be submitted to this Board.

21 4. These conditions shall be on
22 the certificate of occupancy, and the
23 Applicant and/or property owner shall
24 permit inspections at the discretion of the
25 City's Department of Housing and Buildings,

1 at least once every calendar year, to
2 determine that the conditions are being
3 satisfied.

4 5. There will be fire/Carbon
5 monoxide, smoke detectors and Fire
6 sprinkler system on the premises hooked up
7 outside 24 hours. Monitoring systems such
8 as ADT before the certificate of occupancy
9 is issued.

10 6. There will not be a boarding
11 house or an in-law setup, and third family
12 allowed.

13 7. Should the Applicant and/or
14 property owner not comply with, breach, or
15 violate any of these conditions, at any
16 time, the approval of these variances is
17 hereby rescinded. It authorizes the City's
18 Department of Housing and Building to take
19 appropriate action.

20 8. All expenses associated with
21 these conditions shall be the sole
22 responsibility of the Applicant and/or
23 property owner.

24 Thank you, Mr. Chairman.

25 THE CHAIRMAN: You're welcome. Do I

1 have a second on the motion?

2 MS. KIMBALL: Second.

3 THE CHAIRMAN: Ms. Kimball. On the
4 motion, Ms. Kimball.

5 MS. KIMBALL: For the motion.

6 THE CHAIRMAN: Mr. Giorgio.

7 MR. GIORGIO: For the motion.

8 THE CHAIRMAN: Mr. Landsman.

9 MR. LANDSMAN: For the motion.

10 THE CHAIRMAN: Mr. Singh.

11 MR. SINGH: For the motion.

12 THE CHAIRMAN: Mr. Lopez.

13 MR. LOPEZ: For the motion.

14 THE CHAIRMAN: Chairman votes for
15 the motion. The motion is carried five --
16 six rather, one absent.

17 The next case will be 5740. It's an
18 area variance. Ms. Giris, on behalf of,
19 316 North Broadway and 315 Palisade Avenue.

20 Now, Mr. Giorgio.

21 MR. GIORGIO: Mr. Chairman, the
22 Zoning Board of Appeals has initiated the
23 Lead Agency Determination/Coordinated
24 review process on May 20, 2021 with the
25 mailing of Lead Agency Notice to all

1 identified involved and interested
2 agencies. No other agency sought to be
3 Lead Agency within 30 days of circulation
4 of the notice and the Zoning Board of
5 Appeals has accepted Lead Agency for the
6 proposed coordinated environmental review
7 of an appeal for variances by North
8 Broadway, LLC, for certain variances on
9 property known as 316 North Broadway and
10 315 Palisade Avenue North also known as
11 Section 2, Block: 2155, Lots 59 and 16 on
12 the Official Tax Map of the City of
13 Yonkers. And the Zoning Board has
14 carefully considered the proposed action
15 and reviewed the full Environmental
16 Assessment Form and supporting material and
17 pursuant to Part 617 of the State
18 Environmental Quality Review Act, the
19 Zoning Board, acting as Lead Agency, adopts
20 a Negative Declaration for the above stated
21 appeal for variances.

22 Do I have a second?

23 THE CHAIRMAN: That's the motion.

24 Do I have a second?

25 MR. LANDSMAN: Second.

1 THE CHAIRMAN: Mr. Landsman.

2 MR. LANDSMAN: Second.

3 THE CHAIRMAN: On the motion,
4 Ms. Kimball.

5 MS. KIMBALL: For the motion.

6 THE CHAIRMAN: Mr. Giorgio.

7 MR. GIORGIO: For the motion.

8 THE CHAIRMAN: Mr. Landsman.

9 MR. LANDSMAN: For the motion.

10 THE CHAIRMAN: Mr. Singh.

11 MR. SINGH: For the motion.

12 THE CHAIRMAN: Mr. Lopez.

13 MR. LOPEZ: For the motion.

14 THE CHAIRMAN: Chairman votes for
15 the motion. The motion is carried six, one
16 absent.

17 On the motion, Mr. Giorgio.

18 MR. GIORGIO: Case 5740, Janet J.
19 Giris, Esq., on behalf of North Broadway
20 LLC, owner, to redevelop property with
21 seven story apartment building containing
22 60 dwelling units, parking structure, and
23 related infrastructure, whereas:

24 Insufficient side yard setback to
25 parking structure, Section 43-27, Table

1 43-3 and Section 43-133(A)(2) (25 ft
2 required, 5.25 ft proposed)

3 Insufficient total side yard setback
4 to parking structure, Section 43-27, Table
5 43-3 and

6 Section 43-133(A)(2) (50 ft
7 required, 11.25 ft proposed)

8 Loading area not permitted in front
9 yard, Section 43-133(B)

10 Exceeding maximum permitted height
11 of retaining wall in minimum front yard,
12 Section

13 43-41(D)(3)(a) (4 ft maximum height,
14 14 ft proposed)

15 Exceeds maximum permitted height of
16 retaining wall in the minimum side yard,
17 Section

18 43-41 (D)(3)(a) (6 ft maximum
19 height, 22 ft proposed north, 12 ft
20 proposed south)

21 on premises known as 316 North
22 Broadway and 315 Palisade Avenue, Block
23 2155, Lots 59 & 16, Zones M and MG.

24 The property is an approximate 1.2
25 acre through-lot with frontage on both

1 North Broadway and Palisade Avenue. Lot 59
2 is located in the M district while lot 16
3 is located in the MG district. Lot 59 is
4 currently developed with a 2.5 story
5 apartment building while Lot 16 is
6 currently vacant. The applicant proposed to
7 demolish the existing apartment building on
8 Lot 59 and redevelop the property with a
9 seven-story, 60 unit apartment building and
10 associated 94 space parking structure.

11 Mr. Chairman, I make a motion to
12 approve the requested area variances,
13 subject to conditions, based on facts,
14 findings, information, and testimony
15 presented to this Board at the public
16 hearing, site visits by members of the
17 Zoning Board of Appeals, or otherwise
18 obtained. In approving these variances the
19 Zoning Board of Appeals has taken into
20 consideration the benefit to the applicant
21 as weighed against the detriment to the
22 health, safety, and welfare of the
23 neighborhood and community. Specifically,
24 the Board finds:

25 One, that the benefit sought cannot

1 be achieved by other feasible means. Given
2 the imposed hardship due to the topography
3 of the site and development in the
4 surrounding properties, it is not likely
5 that alternate site designs are feasible
6 that would minimize or obviate the need for
7 the requested variances while providing the
8 benefits sought by the Applicant.

9 Two, granting the requested
10 variances will not result in an undesirable
11 change in neighborhood character or a
12 detriment to nearby properties. Members of
13 the Zoning Board of Appeals have visited
14 the site multiple times and do not find any
15 apparent detriment in granting the request.
16 The proposed building is in character with
17 the surrounding area, which includes a
18 number of mid-rise residential buildings
19 similar to that proposed.

20 Due to the need for the retaining
21 wall, variances are necessary given the
22 existing topography at the site, which
23 slopes substantially from Palisade Avenue
24 to North Broadway. As testified, the
25 project has been designed so that the

1 proposed apartment building will be
2 constructed generally in the area of the
3 existing building. The existing retaining
4 walls including the stone wall that will be
5 repaired and re-pointed are currently
6 non-conforming.

7 The parking structure variances and
8 the variance for the location of the
9 loading space also result from site
10 constraints. The proposed loading area will
11 be screened from North Broadway and has
12 been designed to provide adequate access
13 and appropriate circulation so that trucks
14 not have to back out onto North Broadway.

15 With regard to the parking structure
16 variances, the applicant has proposed
17 appropriate screening, which includes a
18 five foot vegetated buffer that will screen
19 the parking area from adjacent properties.

20 Three, that the requested variances
21 are not substantial. While the proposed
22 variances may be numerically substantial,
23 the Board does not believe they would be
24 substantial with regard to potential
25 impacts as just discussed. To reiterate,

1 the proposed structures would be generally
2 in character with the surrounding area and
3 the applicant has proposed adequate
4 screening to mitigate impacts related to
5 set back reductions and the loading area.

6 Four, that the variances will not
7 have negative impact to physical or
8 environmental conditions in the
9 neighborhood. The site is already built out
10 such that the proposed redevelopment would
11 not result in any significant adverse
12 changes to the physical or environmental
13 conditions at the site or in the general
14 area when compared to the existing
15 condition. Construction would take place
16 under supervision of the City's Department
17 of Housing and Buildings such that all
18 applicable building and environmental codes
19 would be adhered to.

20 Five, that the alleged difficulty is
21 self-created. While the applicant should
22 have had actual or constructive knowledge
23 of the zoning code restrictions prior to
24 putting forth its proposal, the self-
25 created hardship test is merely one

1 consideration and does not preclude the
2 Board from granting the request.

3 In approving these variances the
4 Board imposes the following conditions:

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

8 2. Fire, smoke, and carbon monoxide
9 detectors and a fire sprinkler system shall
10 be installed throughout the proposed
11 building and garage and connected to an
12 outside 24-hour monitoring system;

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

16 4. Each apartment shall be
17 allocated at least one parking space free
18 of charge;

19 5. Any drainage improvements
20 required by the City Engineer to address
21 potential existing drainage issues as noted
22 at public hearing shall be installed by the
23 applicant prior to the Certificate of
24 Occupancy being issued;

25 6. Any repairs or replacement

1 required by the City Engineer to the curbs
2 or sidewalks in front of the property along
3 North Broadway or Palisade Avenue shall be
4 repaired or replaced by the applicant prior
5 to the Certificate of Occupancy being
6 issued;

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

15 8. This approval shall be
16 immediately rescinded should the owner
17 violate any of these conditions at any
18 time; and

19 9. All expenses associated with
20 these conditions shall be the
21 responsibility of the owner. Thank you.

22 THE CHAIRMAN: Thank you. Do I have
23 second on the motion?

24 MS. KIMBALL: Second.

25 THE CHAIRMAN: Ms. Kimball. On

1 motion, Ms. Kimball.

2 MS. KIMBALL: For the motion.

3 THE CHAIRMAN: Mr. Giorgio.

4 MR. GIORGIO: For the motion.

5 THE CHAIRMAN: Mr. Landsman.

6 MR. LANDSMAN: For the motion.

7 THE CHAIRMAN: Mr. Singh.

8 MR. SINGH: For the motion.

9 THE CHAIRMAN: Mr. Lopez.

10 MR. LOPEZ: For the motion.

11 THE CHAIRMAN: Chairman votes for
12 the motion. Motion is carried six, one
13 absent.

14 MS. GIRIS: Thank you.

15 THE CHAIRMAN: The next case tonight
16 is 5746. It's an area variance.
17 Mr. Schofield, he's the owner at 17
18 Livingston Avenue. Do I have a motion,
19 please?

20 MR. SINGH: Yes, Mr. Chairman.

21 THE CHAIRMAN: Mr. Singh.

22 MR. SINGH: The Applicant, owner of
23 17 Livingston Ave, is applying to convert
24 his current one-family dwelling to a
25 two-family dwelling. The house is an

1 historic house, having been built in 1895,
2 has been in his family for over 50 years,
3 and the Applicant is currently working on
4 restoring and rehabilitating the house.

5 The neighborhood is zoned for multi-
6 family homes. According to the City of
7 Yonkers, the lot was listed as 5,000 square
8 feet. However, a survey done by Westchester
9 County updated the lot size to 4,998, two
10 square feet too small for a two-family
11 dwelling.

12 As such, Mr. Chairman, I make a
13 motion to approve the requested variance to
14 a. Subject to conditions based on facts,
15 findings, information, and testimony
16 presented to this Board at the public
17 hearing, site visits by members of the
18 Zoning Board of Appeals, or otherwise
19 obtained.

20 To grant an Area Variance, the Board
21 is required to consider 5 points of law:

22 1. Whether an undesirable change
23 will be produced in the character of the
24 neighborhood or the granting of this
25 variance will create a detriment to nearby

1 properties.

2 The premises would remain similar in
3 use and character with the surrounding
4 area, which consists of one (1), two (2)
5 family and small multi-family dwellings, as
6 reflected in the area map, photos, and site
7 visits.

8 2. Whether the benefit sought by
9 the Applicant cannot be achieved by some
10 other method, feasible for the Applicant to
11 pursue, other than the Area Variances.

12 The benefit sought by the Applicant
13 cannot be achieved by some other method,
14 feasible for the Applicant to pursue, other
15 than the Area Variance.

16 3. Whether the requested Variance
17 is substantial.

18 The requested Variance is not
19 substantial. It's a foot and a half square
20 feet that the owner is missing. The
21 premises will meet all building, housing,
22 environmental, parking, and safety codes
23 and will improve this dwelling by the
24 grants of ZBA. The improvements will also
25 be a benefit for the surrounding

1 neighborhood by bringing the premises up to
2 current housing and building codes.

3 4. The proposed improvements
4 Whether the granting of the Area Variance
5 to allow for the proposed improvement will
6 have an adverse effect on the condition of
7 the physical or environmental conditions in
8 the neighborhood or district.

9 The location of the proposed
10 Variance, due to its nature, will not have
11 an adverse effect or impact on the
12 environmental characteristics such as water
13 use, pollution, energy use, drainage,
14 run-off and flooding, nor create any noise,
15 light, odor, visual, or other nuisance
16 conditions. Therefore, the Applicant
17 believes that the proposed Variance will
18 have no adverse effect or impact on the
19 physical and/or environmental conditions of
20 the neighborhood.

21 5. Whether the alleged difficulty
22 was self-created, consideration shall be
23 relevant to the decision to the ZBA but
24 shall not necessarily preclude the granting
25 of the Area Variance.

1 While the Applicant had actual or
2 constructive knowledge of the applicable
3 zoning law before it acquired the premises,
4 it is possible. The self-created hardship
5 rule is merely a consideration and does not
6 necessarily bar the granting of a Variance.

7 Mr. Chairman, in granting this
8 request for improvement to a nonconforming
9 use, the Board imposes the following
10 conditions:

11 1. All health, safety, fire,
12 building, and environmental codes shall
13 always be adhered to by the Applicant

14 2. All curbs and sidewalks abutting
15 the property that needs repairing or
16 replacement as per the City of Yonkers
17 Department of Engineering, then the repair
18 or replacements must be done before the
19 certificate of occupancy is issued.

20 3. That if any back real estate
21 taxes and/or fines if owned, be paid in
22 full within 60 days of this hearing, and
23 proof must be submitted to this Board.

24 4. These conditions shall be on the
25 certificate of occupancy, and the Applicant

1 and/or property owner shall permit
2 inspections at the discretion of the City's
3 Department of Housing and Buildings, at
4 least once every calendar year, to
5 determine that the conditions are being
6 satisfied.

7 5. There will be fire/Carbon
8 monoxide and smoke detectors on the
9 premises hooked up outside 24 hours.
10 Monitoring systems such as ADT before the
11 certificate of occupancy is issued.

12 6. Should the Applicant and/or
13 property owner not comply with, breach, or
14 violate any of these conditions, at any
15 time, the approval of these variances is
16 hereby rescinded. It authorizes the City's
17 Department of Housing and Building to take
18 appropriate action.

19 7. There will not be a boarding
20 house or an in-law setup, and third family
21 allowed.

22 8. All expenses associated with
23 these conditions shall be the sole
24 responsibility of the Applicant and/or
25 property owner.

1 Thank you, Mr. Chairman.

2 THE CHAIRMAN: Do I have a second?

3 MR. GIORGIO: Second.

4 THE CHAIRMAN: Ms. Kimball, on the
5 motion. 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: Mr. Lopez.

14 MR. LOPEZ: For the motion.

15 THE CHAIRMAN: Chairman votes for
16 the motion. Motion is carried six, one
17 absent.

18 The next case is 5747, it's
19 Mr. Null, on behalf of 15 Parkview Avenue.
20 You are here, Mr. Null?

21 Okay. Do I have a motion?

22 MR. GIORGIO: Yes, Mr. Chairman.

23 THE CHAIRMAN: Mr. Giorgio.

24 MR. GIORGIO: Case number 5747, Area
25 Variance, William S. Null, Esq., on behalf

1 of Parkview Equities, LLC, owner, for
 2 reconstruction of a multifamily residential
 3 apartment building having:

4 Exceeded maximum permitted height,
 5 Section 43-27, Table 43-3 (required 75 ft.,
 6 proposed 80ft). Required only for the small
 7 area of the rooftop elevator lobby.

8 Insufficient side yard, Section
 9 43-27, Table 43-3 (required 16 ft one side,
 10 proposed 10.75 ft one side)

11 Insufficient side-front yard,
 12 Section 43-27, Table 43-3 (required 20 ft,
 13 proposed 1 ft)

14 Insufficient rear yard, Section
 15 43-27, Table 43-3 (required 25 ft, proposed
 16 2.7 ft)

17 Insufficient front yard, Section
 18 43-27, Table 43-3 (required 25 ft, proposed
 19 5 ft) Exceeding maximum permitted
 20 building coverage, Section 43-27, Table
 21 43-3 (required 40%, proposed 66.6%)

22 On premises known as 15 Parkview
 23 Avenue, Block 5652, Lot 43, Zone A.

24 The subject property is an existing
 25 6-story residential building with 65

1 apartment on a 28,824 square foot lot. The
2 building was extensively damaged by a fire
3 in March 2019 to the extent that the cost
4 to rehabilitate the existing building is
5 such that the applicant wishes to replace
6 the structure with a new 6-story, 60-unit
7 building.

8 At its meeting of July 14, 2021, the
9 City of Yonkers Planning Board, as Lead
10 Agency pursuant to the requirements of the
11 State Environmental Quality Review Act has
12 determined that no adverse impacts are
13 anticipated from the proposed action and
14 has adopted a Negative Declaration, thereby
15 permitting the Zoning Board of Appeals to
16 render its decision.

17 Mr. Chairman, I make a motion to
18 approve the requested area variances based
19 on facts, findings, information, and
20 testimony presented to this Board at the
21 public hearing, site visits by members of
22 the Zoning Board of Appeals, or otherwise
23 obtained. In approving these variances the
24 Zoning Board of Appeals has taken into
25 consideration the benefit to the applicant

1 as weighed against the detriment to the
2 health, safety, and welfare of the
3 neighborhood and community. Specifically,
4 in making its determination the Board has
5 considered the following:

6 One, whether the benefit sought by
7 the applicant can be achieved by other
8 feasible means. As noted, the existing
9 building was extensively damaged by a fire
10 in March 2019. The applicant has submitted
11 evidence to this Board that demonstrates
12 the hardship faced whereby the cost to
13 rehabilitate the existing structure is
14 prohibitive when considering the appraised
15 value of the property. Further, given the
16 size of the lot, existing development
17 surrounding the site, and the dimensional
18 requirements of the A zone, it is not
19 likely that the applicant could reconfigure
20 or otherwise revise the site plan to
21 further reduce or eliminate the need for
22 the requested variances while still
23 achieving the benefit desired.

24 Two, whether granting the requested
25 variances would result in an undesirable

1 change in neighborhood character or a
2 detriment to nearby properties. The Board
3 has visited the site multiple times and
4 does not find an apparent detriment to
5 granting the variances. The dimensions of
6 the proposed building, including its
7 setback from adjacent property lines,
8 building coverage and otherwise, as well as
9 occupancy, is consistent with the existing
10 building and is also similar to other
11 buildings in the neighborhood. The
12 applicant has provided for the required
13 number of off-street parking spaces, which
14 would likely improve parking conditions in
15 the neighborhood when compared to existing
16 conditions.

17 Three, whether the requested
18 variances are substantial. While some of
19 the proposed variances may seem numerically
20 substantial, the Board finds that they are
21 not substantial when considering the
22 potential impact to the neighborhood or
23 when compared to the existing conditions as
24 previously described. To reiterate, the
25 dimensions of the proposed building,

1 including its setback from adjacent
2 property lines, building coverage, and
3 otherwise, as well as proposed occupancy,
4 is similar to the existing structure and to
5 other buildings in the neighborhood. The
6 proposed building would likely improve
7 parking in the area by providing a greater
8 number of on-site spaces compared to the
9 existing structure.

10 Four, whether the variances will
11 have negative affects to physical or
12 environmental conditions in the
13 neighborhood. The project is similar to the
14 existing condition such that it would not
15 result in any appreciable changes to
16 vegetation, impervious surfaces, drainage,
17 air, light, or other conditions when
18 compared to the existing building.

19 Five, whether the alleged difficulty
20 is self-created. The hardship is not self-
21 created but is the result of a fire that
22 severely damaged the existing building.

23 In granting this variance the Board
24 imposes the following conditions:

25 1. All fire, health, environmental,

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

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

8 3. Any repairs or replacement
 9 required by the City Engineer to the
 10 sidewalks or curbs in front of the property
 11 along Parkview Avenue or Garrett Place
 12 shall be repaired or replaced by the
 13 applicant prior to the Certificate of
 14 Occupancy being issued;

15 4. Each apartment shall be assigned
 16 at least one parking space free of charge;

17 5. Any exterior lighting shall be
 18 oriented away from neighboring residences
 19 to the extent practicable;

20 6. These conditions shall be
 21 specified on the Certificate of Occupancy
 22 and the owner shall permit periodic
 23 inspections at the discretion of the City
 24 of Yonkers, Department of Housing and
 25 Buildings at least once every calendar year

1 to determine that the conditions are being
2 satisfied;

3 7. This approval shall be
4 immediately rescinded should the owner
5 violate any of these conditions at any
6 time; and

7 8. All expenses associated with
8 these conditions shall be the
9 responsibility of the owner.

10 Thank you.

11 THE CHAIRMAN: Do I have a second on
12 that?

13 MR. LANDSMAN: Second.

14 THE CHAIRMAN: Mr. Landsman. On the
15 motion, Ms. Kimball.

16 MS. KIMBALL: For the motion.

17 THE CHAIRMAN: Mr. Giorgio.

18 MR. GIORGIO: For the motion.

19 THE CHAIRMAN: Mr. Landsman.

20 MR. LANDSMAN: For the motion.

21 THE CHAIRMAN: Mr. Singh.

22 MR. SINGH: For the motion.

23 THE CHAIRMAN: Mr. Lopez.

24 MR. LOPEZ: For the motion.

25 THE CHAIRMAN: Motion is -- Chairman

1 votes for the motion. The motion is passed
2 six, one absent.

3 I gotta say the neighbors and, and
4 Mr. Null, they did a pretty good job on
5 this.

6 Next case is 5749. It's 782 North
7 Broadway. Mr. Romano, we're going to add
8 -- probably put this over also. And we're
9 going to add that to what we're going to
10 see. Okay? Thank you.

11 I'm going to make a motion to put
12 over 5749, 782 North Broadway. Do I have a
13 second? Ms. Kimball. Thank you.
14 Everybody in favor say aye.

15 (A chorus of ayes.)

16 THE CHAIRMAN: Anybody opposed?

17 There's a case up on Glenwood
18 Avenue, 201 Glenwood Avenue, 176 Park
19 Avenue. They wrote us a letter. It's the
20 Latter-Day Saints Church. And they asked
21 to have it put over. Going to make a
22 motion to put it over to September. Do I
23 have a second?

24 MR. LANDSMAN: Second.

25 THE CHAIRMAN: Everybody in favor

1 say aye.

2 (A chorus of ayes.)

3 THE CHAIRMAN: Anybody opposed?

4 Okay. That's put over. Six, zero -- six,
5 one absent.

6 Then we have case 5744. It's 118
7 Kingsley Drive. I'm going to make a motion
8 to close that hearing. Do I have a second?

9 MR. GIORGIO: Second.

10 THE CHAIRMAN: Second. Kingsley
11 Drive.

12 MS. KIMBALL: Mr. Chairman, I have a
13 question about that property, I believe.

14 THE CHAIRMAN: Yeah. In a minute.

15 MS. KIMBALL: Okay.

16 THE CHAIRMAN: So we're going to
17 close that hearing. Okay? All right.
18 Everybody in favor say aye.

19 (A chorus of ayes.)

20 THE CHAIRMAN: So that's passed six,
21 one absent. Okay. Now, we're going to
22 have a motion on this case.

23 This is 54 -- 5744 118 Kingsley
24 Drive. Do I have a motion on this case?

25 MR. LOPEZ: Yes, Mr. Chairman.

1 THE CHAIRMAN: Mr. Lopez.

2 MR. LOPEZ: This is Area Variance,
3 5744, Andrew Romano, Esq., on behalf of
4 Martin J. Loftus, Jr., owner, to legalize
5 side-yard family room on premises known as
6 118 Kingsley Drive, Block 4412, Lot 54,
7 Zone S-60.

8 The subject property is an existing
9 one family dwelling whereby the owner
10 wishes to legalize a one story family room
11 addition on the left side of the premises.

12 Mr. Chairman, I make a motion to
13 deny the requested area variance, based on
14 facts, findings, information, and testimony
15 presented to this Board at the public
16 hearing, site visits by members of the
17 Zoning Board of Appeals, or otherwise
18 obtained. In denying this variance, the
19 Zoning Board of Appeals has taken into
20 consideration the benefit to the applicant
21 as weighed against the detriment to the
22 health, safety, and welfare of the
23 neighborhood and community. Specifically,
24 in making its determination the Board
25 considered the following:

1 One, granting the requested variance
2 would result in an undesirable change in
3 the neighborhood character and a detriment
4 to nearby properties. The Board has visited
5 the site multiple times and as a result, we
6 based our decision on several factors
7 starting with the issuance of a permit on
8 June 4th, 2020 to legalize interior
9 renovations, an above ground pool and a
10 shed. The permit was not approved to knock
11 down and reconstruct the previous
12 extension. During that time, there was an
13 inspection of the property by a city
14 inspector. The inspector noticed that a new
15 foundation had been poured and issued a
16 stop work order. The City had previously
17 approved a 9 foot by 20 foot addition to
18 the side yard which would have left a side-
19 yard set back of 4.33 feet. The currently
20 illegally built addition is 11 foot by 9
21 inch which only leaves a side yard set back
22 of 1.6 feet. Also taken into consideration
23 was the fact that plans submitted on
24 October of 2019 indicate a side lot of 8
25 feet, the proposed was for 1 foot, 6

1 inches, which indicated the requirement of
2 a variance. The Board also considered the
3 submitted written comments and hearing
4 testimony of Mine Karadeniz, who is the
5 owner of 122 Kingsley Drive and the most
6 immediately adversely affected neighbor due
7 to the illegally constructed addition.

8 Two, that the benefit sought cannot
9 be achieved by other feasible means. As
10 testified, the applicant has not submitted
11 information to the Board that other means
12 have been considered.

13 Three, whether the requested
14 variance is substantial. The Board finds
15 that the requested variance is admittedly
16 substantial and directly negatively
17 impacting the homeowner on 122 Kingsley
18 Drive, as well as lending credence to her
19 safety concerns in regards to this
20 addition.

21 Four, whether the proposed variance
22 will have a negative effect to physical or
23 environmental conditions to the
24 neighborhood. As testified by residents of
25 the neighborhood throughout the hearing,

1 the proposed variance will have negative
2 physical impacts to the surrounding
3 neighborhood, and more specifically,
4 adversely impacting the homeowner at 122
5 Kingsley Drive by virtue of creating a
6 potential adverse effect to safety due to
7 the inability of emergency services to
8 access the applicant's property through the
9 affected side yard without trespassing upon
10 the adversely affected neighbor's property.
11 In fact, the applicant's counsel, in the
12 record, has conceded to the error of the
13 illegal construction and confirmed the
14 merit to requiring the removal of the 2.9
15 foot illegal extension.

16 Five, whether the hardship is self-
17 created. As admitted to in the record by
18 the applicant, the hardship is clearly
19 self-created as the applicant ignored the
20 yard set-back measurements and the stop
21 work order issued by the City of Yonkers by
22 allowing for the extension of the family
23 room higher and closer within the side yard
24 than the pre-existing extension allowed.

25 Thank you, Mr. Chairman.

1 THE CHAIRMAN: You're welcome.

2 Do I have a second on the motion?

3 MR. LANDSMAN: Second.

4 THE CHAIRMAN: On the motion,
5 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: Mr. Lopez.

14 MR. LOPEZ: For the motion.

15 THE CHAIRMAN: Chairman votes for
16 the motion. The motion is carried six, one
17 absent.

18 MS. KIMBALL: I just --
19 Mr. Chairman.

20 THE CHAIRMAN: Yes, Ms. Kimball.

21 MS. KIMBALL: -- have a question. I
22 drove past that site last week and there
23 was construction vehicles parked that did
24 not seem as if they were part of the
25 construction that happened on the home. So

1 I was just wondering is ongoing
2 construction still happening at that site?

3 THE CHAIRMAN: I don't think there's
4 ongoing construction there. But I'll ask
5 the Building Commissioner and the Building
6 Department to look into it. Is that okay?

7 MS. KIMBALL: Yes, thank you.

8 THE CHAIRMAN: All right. So noted.

9 The next case would be an area
10 variance, Mr. Dibbini on behalf of 2
11 Stoneleigh Road. Do I have a motion,
12 please?

13 MS. KIMBALL: Yes, Mr. Chairman.

14 THE CHAIRMAN: Ms. Kimball.

15 MS. KIMBALL: Area Variance, 5753,
16 for 2 Stoneleigh Road, Block 4961, Lot 47,
17 zone S-100.

18 The subject property is a corner lot
19 on the corner of Stoneleigh Road and
20 Deerhurst Road. It currently contains an
21 existing single-family home built in 1936.
22 The Applicant seeks to renovate, update and
23 extend the existing home to accommodate
24 their aging parents and to be nearer to
25 their son who suffers from Pierre Robin

1 Syndrome and does not drive.

2 Mr. Chairman, I make a motion to
3 approve the requested variances based on
4 facts, findings, information, and testimony
5 presented to this Board at the public
6 hearing, site visits by members of the
7 Zoning Board of Appeals, or otherwise
8 obtained. In approving this variance the
9 Zoning Board of Appeals has taken into
10 consideration the hardship faced by the
11 applicant as weighed against the detriment
12 to the health, safety, and welfare of the
13 neighborhood and community. Specifically,
14 in making its determination the Board has
15 considered the following:

16 One, whether the benefit sought by
17 the applicant can be achieved by other
18 feasible means. The Applicant is
19 renovating, updating and extending the
20 family home to the north of the existing
21 structure because that is the only logical
22 direction in which such an extension can be
23 built. The south side of the house lot has
24 an approximately eight (8) foot change in
25 topography culminating a drainage runoff

1 area.

2 Two, whether granting the requested
3 variances would result in an undesirable
4 change in neighborhood character or a
5 detriment to nearby properties. The new
6 extension will not result in an undesirable
7 change in the neighborhood as other
8 families have sought to update, extend, and
9 renovate their homes since 1936. There
10 would be no detriment to nearby properties.

11 Three, whether the requested
12 variance is substantial. The variance is
13 not substantial. The variance is less than
14 five (5) feet of front yard.

15 Four, whether the variance will have
16 negative affects to physical or
17 environmental conditions in the
18 neighborhood. The variance will not have a
19 negative effect on the physical or
20 environmental conditions in the
21 neighborhood. Instead, granting the
22 variance will provide an opportunity for
23 the Applicant to update a ninety (90) year
24 old house with more modern amenities.

25 Five, whether the alleged difficulty

1 is self-created. The hardship is self-
2 created because the area variance relief is
3 a function of the configuration of the lot.
4 However, given the change in topography on
5 the south side of the house which drops
6 down into a drainage runoff area the
7 extension location that requires the front
8 yard setback variance is logical. Although
9 the hardship is self-created, the self-
10 created hardship rule is only one
11 consideration and does not preclude the
12 Board from granting the request.

13 In granting this variance the Board
14 imposes the following conditions:

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

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

21 3. This approval shall be
22 immediately rescinded should the owner
23 violate any of these conditions; and

24 4. All expenses associated with
25 these conditions shall be the

1 responsibility of the owner.

2 5. No businesses run from the
3 premises.

4 6. Remain a one-family. No in-law,
5 no boarding house set-up.

6 7. One Kitchen only.

7 THE CHAIRMAN: Thank you. Do I have
8 a second on the motion? Mr. Landsman.

9 MR. LANDSMAN: Second.

10 THE CHAIRMAN: On the motion,
11 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. GIORGIO: For the motion.

17 THE CHAIRMAN: Mr. Singh.

18 MR. SINGH: For the motion.

19 THE CHAIRMAN: Mr. Lopez.

20 MR. LOPEZ: For the motion.

21 THE CHAIRMAN: Chairman votes for
22 the motion. The motion is carried six, one
23 absent.

24 The next case for decision tonight
25 is case 5754. It's 44 also known as 54

1 Shelburne Road. Do I have a motion,
2 please?

3 MS. KIMBALL: Yes, Mr. Chairman, I
4 have a motion.

5 THE CHAIRMAN: Ms. Kimball.

6 MS. KIMBALL: This is Area Variance
7 5754 on the premises known as 44 (54)
8 Shelburne Road Block 3208, Lots 54 and 56,
9 zones S-50.

10 The subject property is a vacant lot
11 adjoining an existing single-family home.
12 The applicant seeks to apportion the lot to
13 create a buildable lot which would also be
14 subject to all the requirements of the S-50
15 zone. The subject property is in the middle
16 of the block on the East side of Shelburne
17 Road in between two other single-family
18 homes.

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

1 Zoning Board of Appeals has taken into
2 consideration the hardship faced by the
3 applicant as weighed against the detriment
4 to the health, safety, and welfare of the
5 neighborhood and community. Specifically,
6 in making its determination the Board has
7 considered the following:

8 One, whether the benefit sought by
9 the applicant can be achieved by other
10 feasible means. The Applicant owns the
11 adjacent single-family home. The Applicant
12 is proposing creating a single-family home
13 lot totaling 5,498 square feet. After the
14 apportionment, the applicant's lot will be
15 7,943 square feet. The minimum lot size in
16 an S-50 zone is 5,000 square feet (Table
17 433).

18 Two, whether granting the requested
19 variances would result in an undesirable
20 change in neighborhood character or a
21 detriment to nearby properties. The
22 Applicant is going to apportion a lot which
23 exceeds the minimum lot size for a single-
24 family home. The new lot will be between
25 two existing single-family homes in a

1 residential neighborhood. There would be no
2 detriment to nearby properties. Instead,
3 the proposed apportionment will provide a
4 nice size lot in which to build another
5 single-family home.

6 Three, whether the requested
7 variance is substantial. The variance is
8 not substantial. The variance is less than
9 eight (8) feet of frontage. To summarize,
10 the Applicant is creating a second
11 buildable lot subject of over 5,000 square
12 feet which will be subject to all S-50
13 zoning requirements in an S-50 zone.

14 Four, whether the variances will
15 have negative affects to physical or
16 environmental conditions in the
17 neighborhood. The variances will not have
18 negative affects on the physical or
19 environmental conditions in the
20 neighborhood. Instead, granting the
21 variance will provide an opportunity for
22 another family to make their home in the
23 highly desirable City of Yonkers.

24 Five, whether the alleged difficulty
25 is self-created. The hardship is self-

1 created because the area variance relief is
2 a function of the configuration of the lot.
3 However, given the location of the
4 Applicant's home on the adjoining parcel
5 the apportioned area was laid out to
6 minimize the impact to the single-family
7 homes on the lots other side. Although the
8 hardship is self-created, the self-created
9 hardship rule is only one consideration and
10 does not preclude the Board from granting
11 the request.

12 In granting this variance the Board
13 imposes the following conditions:

14 1. Any future structure on the site
15 must comply with all other dimensional
16 requirements of the zoning ordinance for
17 single-families homes built in the S-50
18 zone.

19 2. All fire, health, environmental,
20 safety, building and zoning codes shall be
21 adhered to at all times;

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

25 4. This approval shall be

1 immediately rescinded should the owner
2 violate any of these conditions; and

3 5. All expenses associated with
4 these conditions shall be the
5 responsibility of the owner.

6 6. No businesses run from the
7 premises.

8 7. Remain a I-family. No in-law, no
9 boarding house set-up.

10 8. One Kitchen only.

11 That's it, Mr. Chairman.

12 THE CHAIRMAN: Okay. Do I have a
13 second on the motion?

14 MR. SINGH: Second.

15 THE CHAIRMAN: Mr. Singh. On the
16 motion, Ms. Kimball.

17 MS. KIMBALL: For the motion.

18 THE CHAIRMAN: Mr. Giorgio.

19 MR. GIORGIO: For the motion.

20 THE CHAIRMAN: Mr. Landsman.

21 MR. LANDSMAN: For the motion.

22 THE CHAIRMAN: Mr. Singh.

23 MR. SINGH: For the motion.

24 THE CHAIRMAN: Mr. Lopez.

25 MR. LOPEZ: For the motion.

1 THE CHAIRMAN: Chairman votes for
2 the motion, the motion is carried six, one
3 absent.

4 Okay. I think that's going to be
5 all of the decisions we're going to have
6 tonight.

7 All right. Is Mr. Veneruso here?
8 Mr. Steven Veneruso?

9 MR. VENERUSO: Yes, Mr. Chairman.

10 THE CHAIRMAN: Mr. Veneruso, we have
11 this 155 Warburton Avenue. Did you notify
12 everybody in the 200-foot radius?

13 MR. VENERUSO: Yes, Mr. Chairman.

14 THE CHAIRMAN: Did anything come
15 back that was undeliverable?

16 MR. VENERUSO: Not today,
17 Mr. Chairman.

18 THE CHAIRMAN: Huh?

19 MR. VENERUSO: No, Mr. Chairman.

20 THE CHAIRMAN: Is there anybody here
21 tonight on this case? This case is on 155
22 Warburton Avenue. Just north of Ashburton
23 Avenue on the west side of Warburton
24 Avenue. Okay.

25 Do you have something to say?

1 MR. LANDSMAN: Yeah, I had a couple
2 of things.

3 THE CHAIRMAN: Go ahead.

4 MR. LANDSMAN: Mr. Veneruso, on the
5 principal points you say the house is 1,643
6 square feet. Which seems kind of
7 impossible for a four-level house.

8 THE CHAIRMAN: Speak into that
9 microphone.

10 MR. LANDSMAN: You want me repeat?

11 MR. VENERUSO: No, I heard it. If I
12 could, Mr. Chairman, I have the project's
13 architect, Ms. Faustini here with me. I
14 believe that may be a typo in the principal
15 points. But I want to get you the exact
16 numbers. Mr. Faustini, if you can come
17 forward.

18 The total square footage,
19 Mr. Chairman, Mr. Landsman is 3,400.

20 MR. LANDSMAN: 3,400 on four levels.
21 That's a big difference.

22 MR. VENERUSO: Yeah, that's --

23 MR. LANDSMAN: That will have to be
24 assessed later on. Thank you. And you
25 submitted the ad that I asked for last

1 time. The only thing is that, you know,
2 that property was approved from the last
3 hearing three or four years ago, and this
4 ad was run in June. Where was it the last
5 three years in an effort made to try and
6 rent that property and as an office
7 building that we worked on hard to give
8 that.

9 MR. VENERUSO: Sure. He had sought
10 to rent it out based on what -- to rent it
11 out. The issue has been, and continues to
12 be to this day, parking. There's not --
13 the lack of on-site parking is somewhat
14 unique to that property. I think there's
15 one other property on this lot that does
16 not have on-site. I believe that's a two
17 or three-family home. But that's been the
18 issue since he got the approval for the
19 office space, the lack of parking.

20 MR. LANDSMAN: The ad ran was not
21 even a real estate ad anywhere. All right.
22 And the last thing is the, you know, big
23 parking is a shortfall, according to the
24 bedrooms, you need four parking spots for
25 that property and then you have two more

1 rooms, a den and a family room which is a
2 potential also bedroom. So, I believe you
3 said the last time the C of O you had
4 currently, the last time, was for a
5 one-family house, correct?

6 MR. VENERUSO: I believe that's
7 correct, yes.

8 MR. LANDSMAN: All right. I think
9 that would be best served for the parking
10 issue to return that house to a one-family
11 house as the last C of O was.

12 MR. VENERUSO: So, I understand your
13 point. The issue is based upon from what
14 we've looked at in both the advertising as
15 an office space and also the economic
16 report that was submitted by Bob Sterling,
17 that the Applicant feels that there's no
18 economic return for a single-family for
19 this property. It's truly a two-family and
20 that's why he's been before the Board
21 previously, and sought to use it as an
22 office space and it became an issue of
23 return so he was unable to do so.

24 MR. LANDSMAN: All right. Thank
25 you.

1 THE CHAIRMAN: Are there anymore
2 questions for this gentleman? Anybody here
3 tonight to speak in favor of this? Is
4 there anybody here tonight to speak in
5 opposition?

6 Sum up.

7 MR. VENERUSO: Yes, Mr. Chairman.
8 The last time we were here, I do just want
9 to point out, there were several documents
10 you had asked for, we submitted.
11 Mr. Landsman had discussed the newspaper
12 article, the vacant building fees will also
13 be paid in full. And we had also submitted
14 the affidavit that's requested by yourself
15 stating that the Applicant understands that
16 this, if the variance was granted by the
17 Board, it would be for a two-family
18 residence and under no circumstances would
19 the property be used as a three-family
20 home. And if the Board would like
21 Mr. Faustini is here to answer any
22 questions as well and also has a
23 presentation for the Board if you'd like.

24 THE CHAIRMAN: Any members of the
25 Board have any questions?

1 All right. Once again, anybody here
2 tonight in opposition?

3 Okay. You summed up, right,
4 Mr. Veneruso?

5 MR. VENERUSO: Yes, Mr. Chairman.

6 THE CHAIRMAN: All right. This case
7 is hereby closed. Reserve the right to
8 reopen it for any reason whatsoever, any
9 time whatsoever, and that includes after
10 decision is made.

11 Thank you.

12 MR. VENERUSO: Thank you,
13 Mr. Chairman.

14 THE CHAIRMAN: Mr. Veneruso, how is
15 your mother doing, okay?

16 MR. VENERUSO: She's doing well,
17 Mr. Chairman, thank you for asking.

18 THE CHAIRMAN: Tell her I was asking
19 for her.

20 MR. VENERUSO: I will. Thank you.

21 THE CHAIRMAN: How many people here
22 tonight -- we got a couple of hearings
23 tonight -- are on 5715? That's 1969
24 Central Park Avenue and Heights Drive. How
25 many people here tonight are on that?

1 And how many people here tonight are
2 on 83-94 Vineyard Avenue, 150 Ridge Road,
3 Ridge Avenue?

4 And how many people here are on
5 40 also known as 44 Hudson Street?

6 Okay. And how many people here
7 tonight are on 53 Clark Street?

8 And 28 Whitman Road?

9 124 Vineyard Avenue?

10 45 Water Grant Street?

11 And 345 McLean Avenue?

12 All right. Mr. Abillama, are you
13 here? Okay. Come on up, please.

14 MR. GIORGIO: Mr. Chairman, if you
15 can just have the record reflect I've
16 recused myself from this case?

17 THE CHAIRMAN: Yes, thank you.

18 Are you an attorney?

19 MR. ABILLAMA: No.

20 THE CHAIRMAN: Raise your right
21 hand, please. Do you solemnly swear to the
22 tell the truth, the whole truth, nothing
23 but the truth so help you God?

24 MR. ABILLAMA: I do.

25 THE CHAIRMAN: State your name and

1 address.

2 MR. ABILLAMA: Tom Abillama,
3 Architect, 1955 Central Park Avenue,
4 Yonkers 10701.

5 THE CHAIRMAN: Speak into that
6 microphone a little more. Or move it
7 towards you. Okay. Proceed now. Did you
8 notify everybody in the 200-foot radius?
9 Did you notify everybody in the 200 --

10 MR. ABILLAMA: Yes.

11 THE CHAIRMAN: You did?

12 MR. ABILLAMA: Yes.

13 THE CHAIRMAN: Did anything come
14 back that was undeliverable?

15 MR. ABILLAMA: Yes.

16 THE CHAIRMAN: Huh?

17 MR. ABILLAMA: We had four -- I'm
18 sorry, six items that were short.

19 THE CHAIRMAN: Six, six went out?

20 MR. ABILLAMA: I'm sorry. I'll
21 bring somebody else to show.

22 THE CHAIRMAN: It's up to you.

23 MR. ABILLAMA: This is what we got.

24 THE CHAIRMAN: How many came back?

25 MR. ABILLAMA: Six.

1 THE CHAIRMAN: How many did you mail
2 out?

3 MR. ABILLAMA: Twenty-four.

4 THE CHAIRMAN: Twenty-four. All
5 right. I want a copy of that paper that
6 you mailed to everybody within the 200-foot
7 radius. You got a copy now?

8 MR. ABILLAMA: I'm not too sure if
9 we have it.

10 THE CHAIRMAN: I'll wait.

11 MR. ABILLAMA: No, Judge, we don't
12 have it yet.

13 THE CHAIRMAN: This Board wants a
14 copy of what you mailed out last month and
15 this month to the neighbors.

16 MR. ABILLAMA: That's no problem.

17 THE CHAIRMAN: Okay? All right.
18 Now, I understand that you handed in today
19 to the Building Department the proof that
20 you sent out these notices. Am I correct?

21 MR. ABILLAMA: Yes.

22 THE CHAIRMAN: All right. I want a
23 copy of that. The Board wants a copy of
24 that.

25 MR. ABILLAMA: Absolutely.

1 THE CHAIRMAN: Otherwise it's going
2 to hold us up. Okay?

3 MR. ABILLAMA: Yes.

4 THE CHAIRMAN: I want to see it.
5 Okay. Thank you. Okay.

6 Is there anybody here tonight on
7 this case? This case is on the corner of
8 Heights Drive and Central Park Avenue.

9 All right, proceed, sir.

10 MR. ABILLAMA: I would like to put
11 Mark Fonte to talk.

12 THE CHAIRMAN: Are you an attorney,
13 sir?

14 MR. FONTE: No.

15 THE CHAIRMAN: Raise your right
16 hand, please. Thank you. Do you solemnly
17 swear to tell the truth, the whole truth,
18 nothing but the truth so help you God?

19 MR. FONTE: Yes, sir.

20 THE CHAIRMAN: State your name and
21 address, please.

22 MR. FONTE: Mark Fonte, 1955 Central
23 Park Avenue, Yonkers, New York 10701.

24 THE CHAIRMAN: Proceed, sir.

25 MR. FONTE: Good evening,

1 Mr. Chairman and Board Members. I'm here
2 with regards to 1969 Central Park Avenue on
3 behalf of the owner. We're here for
4 various variances based on the new project
5 scope. You had asked us to deal with DEP.
6 To the rear of the property they had some
7 wants and asks in putting up a new wall up.
8 So we're here now. We've worked with them
9 for the last three months in order to
10 structurally engineer a new wall in the
11 rear of the property to support the
12 embankment, the wall, the rear of the
13 property. I think we submitted the letter
14 from DEP that came in yesterday to the
15 Board saying that they accepted the method
16 that we're, we're here for trying to get
17 the variances on and waiting for the Board
18 to give permission to move forward.

19 THE CHAIRMAN: Who sent that letter?

20 MR. FONTE: DEP sent the letter to
21 the Zoning Board yesterday.

22 THE CHAIRMAN: Who was it from?

23 MR. FONTE: DEP. I have a copy of
24 the letter if you'd like.

25 THE CHAIRMAN: New York City

1 Environmental Protection?

2 MR. FONTE: Correct.

3 THE CHAIRMAN: That's who it was
4 from?

5 MR. FONTE: Yes.

6 THE CHAIRMAN: I just got it today.
7 I haven't had a chance to read it to be
8 honest with you.

9 MR. FONTE: Okay.

10 THE CHAIRMAN: Been busy all day
11 with Zoning. It's from James Quill(ph)?
12 We haven't had a -- we haven't had a chance
13 to read this. So just letting you know.

14 MR. FONTE: Mr. Murphy, the Chief
15 Engineer of DEP.

16 THE CHAIRMAN: I'm sorry, what did
17 you say? You said that the DEP gave you
18 permission for something?

19 MR. FONTE: Well, the DEP is not
20 formally going to give you permission to do
21 a wall. So what we did was we worked with
22 them for the structural element of the wall
23 to make sure that they were okay, so we
24 went back and forth with them for the last
25 three months. We incorporated their design

1 elements, their design, and at this point
2 they just drafted this letter, which is
3 obviously not -- they're not the one going
4 to give the permission obviously the Zoning
5 Board, Mr. Chairman, will give permission
6 to move forward. But right now if you read
7 the letter, this is not, this is not a
8 letter I really wanted, a direct letter
9 saying, yes, either way but they're on
10 board with either method with the wall in
11 the back or a freestanding wall, either one
12 of those methods they're okay with.

13 THE CHAIRMAN: Like I said, I got
14 this letter very late this afternoon. And
15 it's dated yesterday.

16 MR. FONTE: Yes.

17 THE CHAIRMAN: So, I got, we have to
18 read this letter, and the members of the
19 Board. You also have an appendix A with it
20 and some other things here. I'll give you
21 a chance if you want to. You can send us a
22 letter discussing this New York City
23 Department Environmental Protection. So
24 I'll let you answer that if you want. It's
25 up to you.

1 MR. FONTE: In the --

2 THE CHAIRMAN: The letter dated July
3 19th.

4 MR. FONTE: So I had told them that
5 we were obviously waiting for their
6 permission to move forward or to not be
7 against the project. So, in order to do
8 that, we worked with their engineers, kind
9 of the scope of the people that are on this
10 letter. And I asked them for a letter, you
11 know, to give to you guys in order to move
12 the project forward. So they gave me this
13 letter, which is the best I can get out of
14 them. If I e-mailed them the day later,
15 and they said that, you know, e-mail got
16 back to me basically saying that, that the
17 determination to moving forward is really
18 the Zoning Board it's not their per se,
19 they're not the granting agency to really
20 give permission out.

21 THE CHAIRMAN: Well, I don't know
22 how you can move forward without the Zoning
23 Board, that's for sure.

24 MR. FONTE: Correct.

25 THE CHAIRMAN: So, I mean, it's up

1 to you. I got this letter. I haven't read
2 it. I'm sure the other members haven't
3 either, maybe. I don't know. But what are
4 we doing here otherwise?

5 MR. FONTE: In order to move forward
6 with the project obviously there's a few
7 variances that we need. One of the things
8 was the rock chipping. They wanted us to
9 diminish the rock chipping. So in order to
10 do that, we had to redesign the building
11 into a smaller footprint. Basically from
12 two acres going down to one acre. It's
13 basically a footprint that's there already
14 existing by eliminating the rock chipping
15 going further. For that they also wanted
16 to make sure that the bedrock has support
17 in the rear. And we designed this wall in
18 the rear in order to do that. They had
19 some concerns about water. So again had to
20 design a filtration system to make sure the
21 water was draining properly from the wall.
22 And for that and obviously because we
23 wanted to work them, we had to come back
24 for a variance, variances, in order to
25 achieve the goal which is why we're here.

1 THE CHAIRMAN: Any questions of the
2 Board?

3 MR. LANDSMAN: (Indicated.)

4 THE CHAIRMAN: Mr. Landsman.

5 MR. LANDSMAN: Yeah, I did have a
6 couple of minutes to glance at that letter
7 on the way here. So there was two options,
8 one was the rear of the building to become
9 the wall and one was the wall. They're
10 definitely in favor of the wall not the
11 rear of the building. Which one are you
12 going with?

13 MR. FONTE: So, so there was two
14 options there. They sent the letter which
15 is just kind of caught me off guard when
16 they said they wanted the freestanding wall
17 versus a wall incorporated in the building.
18 In order to do a freestanding wall, it's a
19 tremendous wall. Almost 75 feet tall. In
20 order to do that -- you'd have no footing
21 out to Central Avenue, you'd have a thick
22 wall. And also one of the things that they
23 made a point of is that they didn't want me
24 to infringe on their property. In order to
25 do a free-standing wall, you have to do tie

1 backs. You have to go into the property,
2 into their property in order to really
3 sustain that wall. So it wasn't really a
4 design that really made any sense. And
5 this is the first time they brought up a
6 free-standing wall. Because we've been
7 working with the engineers on this concept.
8 We've designed this and ready to be
9 submitted to the Building Department.
10 That's how far along the design process is.
11 So I kind of was caught off guard with them
12 saying a different method, they never
13 mentioned once. And again every time I
14 asked them the question, they said we
15 really can't tell you which wall to build.
16 Both of them work, we prefer one versus the
17 other, but that's a personal preference.
18 And I talked to my engineer and he said
19 that the free-standing wall does not work.
20 It's just too complicated.

21 MR. LANDSMAN: So you're planning on
22 going against their first recommendation?

23 MR. FONTE: Yes.

24 MR. LANDSMAN: Thank you.

25 THE CHAIRMAN: Do you have anything

1 else to say, sir?

2 MR. FONTE: No.

3 THE CHAIRMAN: All right. Anymore
4 questions of the Board?

5 MS. KIMBALL: Mr. Chairman.

6 THE CHAIRMAN: Ms. Kimball.

7 MS. KIMBALL: Can I just clarify?
8 So the plan that we have has actually been
9 amended by this letter that we received
10 yesterday?

11 MR. FONTE: So, the letter itself
12 is, is -- we've done structural elements
13 with amended plans. Structurally, the
14 things that, structurally, didn't really
15 change the plan at all. It just, it just
16 they wanted more peepholes -- so we did the
17 amendment, but that's a structural issue.
18 I don't think really anything for a Zoning
19 variance will be needed.

20 MS. KIMBALL: So there's no
21 additional variances based on the DEP
22 letter?

23 MR. FONTE: Correct, yes.

24 THE CHAIRMAN: Did you get your
25 question answered?

1 MS. KIMBALL: Yes.

2 THE CHAIRMAN: You did? Okay.

3 Any other questions of the Board?

4 Okay. So do you have anybody else
5 to speak here tonight?

6 MR. FONTE: If you'd like I could
7 show you some renderings if you want to see
8 the project, the color rendering.

9 THE CHAIRMAN: Whatever he wants to
10 do. It's your game here. You tell me what
11 you want.

12 MR. FONTE: This is just a rendering
13 we did. We pushed the building back to
14 cover the rock face. We're not going above
15 the rock face in the rear of the property.
16 We -- we're not going up Heights Drive
17 anymore. We're not taking any of that rock
18 out.

19 MS. KIMBALL: Mr. Fonte, can you
20 move up? I can't actually see. Thank you.

21 MR. FONTE: The access stays the
22 same. We haven't changed that. Just
23 pushed the building back. Further against
24 the wall.

25 THE CHAIRMAN: Do we have that

1 picture?

2 MR. FONTE: I don't know if we
3 submitted that. That just happened -- we
4 just finished that today. That picture.
5 We can provide it.

6 THE CHAIRMAN: Here's what you have
7 to do, you're going to make eight copies of
8 that -- ten copies and bring them to the
9 Building Department.

10 MR. FONTE: No problem.

11 THE CHAIRMAN: That's what you're
12 going to have to do. Okay? Because we
13 need that now so don't waste any time.

14 Mr. Landsman.

15 MR. LANDSMAN: The square footage of
16 the retail, how that does compare to the
17 first time we approved the project?

18 MR. FONTE: The retail, actually,
19 component diminished. It went down. It
20 was 8,000 square feet. Now, I think it's
21 at 5,200 right now. Actually, it
22 decreased. The retail component decreased.
23 I'll tell you exactly how it decreased. The
24 retail before previous approval was 11,440
25 square feet. This new design is 5,800

1 square feet.

2 MR. LANDSMAN: Big difference.

3 MR. FONTE: We try to make balance.

4 MR. LANDSMAN: How many floors do
5 you plan on in that space?

6 MR. FONTE: Probably, right now it's
7 just a rendering. Probably four stores.

8 MR. LANDSMAN: Thank you.

9 MR. FONTE: You're welcome.

10 THE CHAIRMAN: Do you have the set
11 of plans in the Building Department for
12 that rendering?

13 MR. FONTE: Yes.

14 MR. ABILLAMA: We will.

15 THE CHAIRMAN: You have them?

16 MR. ABILLAMA: Yes.

17 THE CHAIRMAN: They're there now?

18 MR. ABILLAMA: We don't have it yet.
19 We will have it. This one here.

20 THE CHAIRMAN: I tell you what.
21 This is what's going to happen. Okay?
22 Please. You're going to get that picture
23 in ten. And then you're going to get the
24 set of plans, going to hand that picture
25 in, ten sets.

1 MR. ABILLAMA: No problem.

2 THE CHAIRMAN: That's what you're
3 going to do. Okay?

4 Any other questions of the Board?

5 Mr. Fonte, do you have anything else
6 to say to me?

7 MR. FONTE: Just that of all of the
8 variances that were requested basically
9 there's no impact on the neighborhood. We
10 tried to make it as feasible as possible in
11 order to make it work. And also we had to
12 work with the -- in the back. And also had
13 state property in the front of the property
14 and other variances for the front yard
15 parking. But we already have a 20-foot
16 buffer in the front, state property from
17 the street line.

18 THE CHAIRMAN: Okay. But when you
19 get the plans in there, and the Building
20 Department, they have to go to the, they
21 have to go to traffic or if they have to go
22 to do anything else, they're going to have
23 to go there. Might even have to go back to
24 the Planning Board, I don't know. Okay?
25 Okay?

1 MR. LANDSMAN: Mr. Chairman, one
2 more question.

3 THE CHAIRMAN: Wait a minute. Wait
4 a minute.

5 Do you understand what I'm saying?

6 MR. FONTE: Yes. Mr. Chairman, I
7 just want to make -- these plans have been
8 submitted already with the Building
9 Department. That's why we're here, we got
10 a denial from the Building Department, and
11 that's why we're here in front of you.

12 MR. ABILLAMA: Just these --

13 MR. FONTE: Just the renderings, I
14 just want to be clear, we gave you a full
15 set with the rendering, but this, you
16 already, we already got denied from
17 Building Department, and that's why we're
18 seeking the variance.

19 THE CHAIRMAN: What we're going to
20 do is what I said.

21 MR. FONTE: Yes.

22 THE CHAIRMAN: Not changing my mind.
23 Gotta get 10 or 12 copies of that. Ten or
24 12 copies of the new plans. That's what we
25 need.

1 Any other questions of the Board?

2 Sorry.

3 MR. LANDSMAN: The wall that you
4 want to build, is that in the plans
5 submitted --

6 MR. FONTE: Yes.

7 ATTORNEY: -- that's been looked at
8 by the engineering?

9 MR. ABILLAMA: Yeah.

10 MR. LANDSMAN: Thank you.

11 MS. KIMBALL: So, I'm sorry,
12 Mr. Chairman. For point of clarification,
13 in the reviews office space or commercial
14 space is also in the plans that are filed
15 with DHB?

16 MR. FONTE: Correct.

17 MS. KIMBALL: Okay.

18 THE CHAIRMAN: Do you have anything
19 to say to me, Mr. Fonte?

20 MR. FONTE: No.

21 THE CHAIRMAN: Okay. Thank you. Be
22 seated, please.

23 Is there anybody here tonight to
24 speak in favor of this, this case? Is
25 there anybody here tonight to speak in

1 opposition?

2 Okay. This case is hereby
3 continued. It will be continued. We come
4 back in September. We don't hear any cases
5 in August. We just have decisions. So, we
6 will be back here in September. I don't
7 know what the day is. I'll try to put you
8 on first like I did tonight. Thank you
9 very much. So this case is hereby
10 continued.

11 Excuse me. One second.
12 Mr. Abillama. I want you to send out new
13 notices that this case is continued. Leave
14 the signs up with the new date. And send
15 out new notices. And I want a copy of that
16 notice when it goes out. I want a copy of
17 that notice when you send it out. I want
18 you to explain to them what you're doing.
19 Thank you.

20 The next case is 5736. It's an area
21 variance, Mr. Veneruso, James Veneruso, on
22 behalf of 26 West 5th Street, LLC, that's
23 Limited Liability Corporation. They're the
24 contract vendee. Contract vendee means, I
25 think what they're doing here, is that they

1 get this case, then they're going to buy
2 it. On the premises known as 83-94
3 Vineyard Avenue, 150 Ridge Avenue, Block
4 2170, Lots 9, 78, 82, 84, 85 in an M Zone.

5 Mr. Veneruso. Oh, Mr. Accinelli,
6 you're going to do this tonight. That's
7 right you mentioned it.

8 MR. ACCINELLI: Yes, Mr. Chairman.
9 Steven Accinelli on behalf of the
10 Applicant, Veneruso, Curto, Schwartz and
11 Curto. Good evening, Mr. Chairman, members
12 of the Board.

13 THE CHAIRMAN: Has everybody within
14 the 200-foot radius been notified, sir?

15 MR. ACCINELLI: Yes, Mr. Chairman.

16 THE CHAIRMAN: Did anything come
17 back that was undeliverable?

18 MR. ACCINELLI: Yes, Mr. Chairman.

19 THE CHAIRMAN: How many?

20 MR. ACCINELLI: Twelve.

21 THE CHAIRMAN: Out of?

22 MR. ACCINELLI: Eighty-three.

23 THE CHAIRMAN: All right. I might
24 make you, I might just make you redo this
25 again. I don't know yet. We'll see.

1 We'll see what we do.

2 All right. Is anybody here tonight
3 on this case? This case is on Ridge
4 Avenue. And it's between Ridge Avenue and,
5 sorry, and Vineyard Avenue. The front of
6 the building will be on Vineyard, the back
7 of the building will be on Ridge Avenue.
8 It's between Fairview Avenue and High
9 Street, Father Finian Drive. Is there
10 anybody here tonight on this case? Okay.

11 We were up there the other day. Met
12 you. Met Mr. Haynes. We had a discussion
13 about the width of the driveway. The
14 driveway is going to be how wide?

15 MR. ACCINELLI: Mr. Chairman, the
16 architect, Mr. Haynes, could not be here
17 this evening. He did prepare kind of a
18 mockup. He's still working on the
19 dimension of the driveway, Mr. Chairman,
20 and also, you know, looking at the property
21 to the north as requested at the site visit
22 with respect to the three parking spaces.
23 Both --

24 THE CHAIRMAN: Well, what do you
25 want to do, you want to put this case over?

1 MR. ACCINELLI: Well, I mean I can
2 answer any other questions, but I think the
3 driveway is going to be 24 feet wide. But
4 he's --

5 THE CHAIRMAN: That's the answer.
6 When we were up there on the north side
7 there's a house. You're saying that fellow
8 in that house, the occupant of that house
9 is the owner of the property on Vineyard,
10 correct, or incorrect?

11 MR. ACCINELLI: The same principal,
12 different entities, and the property at 152
13 Ridge was just to the north of the proposed
14 entrance. That's a three-family house
15 pre-existing nonconforming lot. The
16 Applicant does not live there,
17 Mr. Chairman, it's a rental property.

18 THE CHAIRMAN: But he owns the
19 building?

20 MR. ACCINELLI: Correct.

21 THE CHAIRMAN: I want a copy of the
22 CO. Okay? I want a copy of the CO. I
23 want a description of what's going on in
24 the house; one-family, two-family, three-
25 family. And I need the names of the people

1 that live there. And one floor, two floors
2 and three floors. And that's gotta be
3 notarized.

4 MR. ACCINELLI: So a notarized
5 statement from my client, Mr. Chairman?

6 THE CHAIRMAN: Huh?

7 MR. ACCINELLI: A notarized
8 statement from my client?

9 THE CHAIRMAN: The people. The
10 people have to sign -- I want three pieces
11 of paper, one from each person that lives
12 there and I want those notarized. I want
13 their names.

14 All right. Now, on this here, you
15 don't have an elevator. And you better
16 figure out how you're going to put an
17 elevator in.

18 MR. ACCINELLI: I can certainly talk
19 to my client, Mr. Chairman. It was --

20 THE CHAIRMAN: Huh?

21 MR. ACCINELLI: -- it was not
22 intended to put an elevator due to the
23 configuration and the accessway. I can
24 certainly talk to him, but.

25 THE CHAIRMAN: All right. Talk to

1 him, because I think it can be put in. I
2 mean, you know, what are we talking about
3 here? This is, you know, 2021. This is
4 not 1885. You know. Even though then they
5 can could put it in. You're on this now,
6 right? You know what I'm talking about.

7 MR. ACCINELLI: Yes, I will speak to
8 him. Obviously I can't make that -- that's
9 not up to -- I can't --

10 THE CHAIRMAN: Because I might call
11 my own engineer in, charge you for it,
12 which I can do under the Code and ask them
13 to look at it and see if they can put an
14 elevator in and then move on from there.

15 Also I noticed that in these
16 apartments, and I've looked at them, that
17 there's no washer/dryer there. I think
18 we'll make, I think we'll make him put a
19 washer/dryer in each apartment. You know,
20 you can put one on the bottom, a washer on
21 the bottom, or dryer, whatever you want to
22 do. We did that over there on Yonkers
23 Avenue, which is still a dead piece of
24 property.

25 MR. ACCINELLI: I'm familiar with

1 the project.

2 THE CHAIRMAN: Huh?

3 MR. ACCINELLI: I know the project.

4 THE CHAIRMAN: Yeah, I know you do.
5 Okay.

6 MR. ACCINELLI: So I can certainly
7 though speak to my client about both the
8 elevator and the washer and dryer in the
9 apartments.

10 THE CHAIRMAN: Yeah. Well, tell
11 him, you know, what it is. You can't get
12 to the first floor of the garage from, from
13 Vineyard, can you?

14 MR. ACCINELLI: No.

15 THE CHAIRMAN: Because of the
16 parking --

17 MR. ACCINELLI: The grade, elevation
18 change.

19 THE CHAIRMAN: Any questions of the
20 Board?

21 Is there anybody here -- you want to
22 say something else to me?

23 MR. ACCINELLI: No, no, just, just,
24 I just want to make it clear to the Board
25 that the architect is, is looking at the

1 design change to facilitate the parking.
2 That may or may not require a submission to
3 the Building Department based upon the
4 grade change and any project impact so the
5 architect is working on that. We'll be
6 getting something to the DHB and Zoning
7 Board as soon as possible.

8 THE CHAIRMAN: One thing is for
9 sure, if we put a condition in, it's going
10 to get in. Also, I'm a little worried
11 about south side that, that wall. It's
12 close to that building down there. What
13 are you blocking with that wall?

14 MR. ACCINELLI: We've spoken --
15 we've spoken -- the structure,
16 Mr. Chairman, or the parking deck?

17 THE CHAIRMAN: Doesn't matter. The
18 structure or the parking.

19 MR. ACCINELLI: There's a --

20 THE CHAIRMAN: Are you blocking any
21 windows in that building? How close are
22 you to that building? Pretty close.

23 MR. ACCINELLI: We're, we're within
24 10 feet, Mr. Chairman, of that building.

25 THE CHAIRMAN: Really, within ten

1 feet of that building?

2 MR. ACCINELLI: I believe so.

3 THE CHAIRMAN: You believe so?

4 MR. ACCINELLI: I'll confirm.

5 THE CHAIRMAN: You can't tell me
6 that. You either tell me yes or no. Come
7 on. You've been here a long time.

8 MR. ACCINELLI: I'll confirm the
9 exact distance from structure to structure.

10 THE CHAIRMAN: The question is how
11 close are you to that building, either the
12 wall on the garage or the wall on the
13 building, that's the question.

14 MR. ACCINELLI: I'll provide that
15 information to the Board.

16 THE CHAIRMAN: Thank you.

17 Any questions of the Board?

18 Okay. Is there anybody here tonight
19 to speak in favor of this application? Is
20 there anybody here tonight to speak in
21 opposition?

22 Do you have anything else to say to
23 me?

24 MR. ACCINELLI: I do not,
25 Mr. Chairman.

1 THE CHAIRMAN: This case is hereby
2 continued. Reserve the right to reopen it
3 -- well, it will be continued. Okay. I
4 want the signs up and I want the radius, I
5 want it to go out again.

6 MR. ACCINELLI: Registered and
7 certified or just regular mail?

8 THE CHAIRMAN: Registered again.

9 MR. ACCINELLI: Registered and
10 certified again?

11 THE CHAIRMAN: Same procedure.

12 MR. ACCINELLI: Okay.

13 THE CHAIRMAN: Okay. Thank you,
14 sir.

15 MR. ACCINELLI: Thank you.

16 THE CHAIRMAN: And don't forget to
17 say hello to your father for me. Okay?

18 MR. ACCINELLI: I will,
19 Mr. Chairman.

20 THE CHAIRMAN: All right.
21 Mr. Romano, come on up, sir. Which one of
22 these cases you want to take? Clark Street
23 or --

24 MR. ROMANO: First one on the
25 calendar, Mr. Chairman.

1 THE CHAIRMAN: Huh?

2 MR. ROMANO: First one on the
3 calendar.

4 THE CHAIRMAN: Clark Street. The
5 next case tonight is case 5755, an area
6 variance. Mr. Romano on behalf of Claris
7 Colon, owner, for interior alterations to
8 convert a one-family house to a two-family
9 house;

10 - Insufficient lot area per family,
11 Section 43-27, Table 43-3, required is
12 2,500 feet proposed is 1,850 square feet.

13 - Insufficient parking on
14 43-128/43-4; 1 and 2 two family dwellings
15 require two parking spaces per unit, that
16 means 4 cars are required and the proposed
17 is 3;

18 on premises known as 52 Clark
19 Street, Block: 6103, Lot: 40 in a T Zone.

20 Mr. Romano, proceed, please. Wait a
21 minute. You sent out the notices to the
22 people --

23 MR. ROMANO: Yes, sir. I sent out
24 the notices, I received no replies,
25 Mr. Chairman.

1 THE CHAIRMAN: Is there anybody here
2 tonight on this case? This case is on
3 Clark Street. It's over near the race
4 track. It's between Orient Street and
5 Belmont Avenue. It's on the south side of
6 Clark Street. Anybody here tonight on it?

7 Proceed.

8 MR. ROMANO: Mr. Chairman, members
9 of the Board, I'm here on behalf of the
10 Colons who owns the property 52 Clark
11 Street. What my client seeks to do is an
12 interior alteration to turn a one-family
13 house into a two-family house. Although a
14 a result of -- insufficient need to turn a
15 seven and-a-half by 100 versus 50 by 100.
16 And also by the fact that we'd create a
17 parking spot, still one parking spot short.
18 So what we're trying to do is to make this
19 into a two-family house.

20 The premises, my client has owned
21 the premises since 2009. The neighborhood
22 does consist of one and two-family
23 dwellings and will be in a "T" zone. So it
24 would be the proper zone albeit a little
25 short.

1 We believe the variance should be
2 approved based upon the following
3 information. There is not -- we don't
4 believe that the loss of or the lack of one
5 parking space is substantial. We believe
6 that it's only one spot in the scheme of
7 things. Looking in the neighborhood of
8 other structures, we believe we actually
9 would be better off with the one parking
10 space that we have added to the lot.

11 The proposed two-family is as I said
12 is in character of the neighborhood. The
13 several surrounding dwellings are
14 two-family dwellings with similar-sized
15 lots as reflected in the area maps, photos,
16 and site visits.

17 The variance could not be obviated.
18 Cannot get it from other parts of the
19 neighborhood. And to deny the right of my
20 client's to attempt to get a two-family
21 dwelling would be contrary to his needs.

22 The essence here is that we have a
23 mother/daughter and essentially the
24 discussion that I had with my client was
25 that there's no more in-law apartments in

1 Yonkers as there have been for many, many
2 years and what we're trying to do is to
3 have the daughter live on site within the
4 apartment as well as the mother live on
5 site so she can care for her. That's
6 really the main reason for this.

7 There would be no adverse
8 environmental or physical impact to the
9 neighborhood. And we're one parking spot
10 shy of code. The premises otherwise
11 complies with all other aspects of the
12 building, housing, environmental, safety
13 code.

14 This may be considered a
15 self-created hardship. We think the
16 balance in the five points offer of
17 variance, and it would benefit the
18 Applicant, it would benefit from value, it
19 would benefit from safety by bringing it up
20 to Code and the usability of the premises.
21 And I'm here tonight with Mr. Fernandez who
22 can address any questions that I cannot.
23 Thank you.

24 THE CHAIRMAN: Did you submit
25 principal points?

1 MR. ROMANO: Yes.

2 THE CHAIRMAN: You did?

3 MR. ROMANO: Yes, sir. In fact did
4 a PDF on them as well.

5 THE CHAIRMAN: Huh?

6 MR. ROMANO: PDF, you know, because
7 we PDF everything now, so.

8 THE CHAIRMAN: What's that?

9 MR. ROMANO: You know the thing that
10 you put on the computer you gotta send the
11 whole set of documents in, so we did that
12 about a month ago.

13 THE CHAIRMAN: You brought to
14 Shannon the principal points?

15 MR. ROMANO: Yes, sir.

16 THE CHAIRMAN: Because I don't have
17 them. So I just want you to know that.

18 MS. KIMBALL: I don't have a copy
19 but --

20 THE CHAIRMAN: Does anybody have the
21 principal points?

22 MS. KIMBALL: No.

23 THE CHAIRMAN: For this case?

24 MR. LANDSMAN: Not with me.

25 MS. KIMBALL: No.

1 MR. ROMANO: I know it was a PDF,
2 Mr. Chairman.

3 THE CHAIRMAN: I don't want to hear
4 this PDF or nothing. You gotta submit the
5 principals points.

6 MR. ROMANO: We did.

7 THE CHAIRMAN: Okay?

8 MR. ROMANO: We did.

9 THE CHAIRMAN: You did?

10 MR. ROMANO: Yes, sir.

11 THE CHAIRMAN: Okay. You better
12 prove it to me. Okay.

13 MR. ROMANO: It's fine. I'll get
14 you the whole e-mail chain.

15 THE CHAIRMAN: What?

16 MR. ROMANO: I'll get you the whole
17 e-mail chain because when they coded it, we
18 required to do a PDF of everything. So we
19 did, we PDF'd everything --

20 THE CHAIRMAN: Mr. Romano, this case
21 is now. This isn't back last September or
22 something when COVID was around like it
23 was. You know. You're up to the Building
24 Department probably every day.

25 MR. ROMANO: Yeah, just about.

1 THE CHAIRMAN: Just about, yeah. I
2 know. Been trying to get a variance to
3 keep you out of there, but I'm not going to
4 do that so.

5 MR. ROMANO: It's worth a shot,
6 Mr. Chairman, I mean been trying for half a
7 century, really. Imagine this?

8 THE CHAIRMAN: All right. Get the
9 principal points over there. Okay?

10 MR. ROMANO: Yes, sir.

11 THE CHAIRMAN: All right. We're
12 going to come and see this. Okay?

13 MR. ROMANO: Please.

14 THE CHAIRMAN: I'm gonna. Going to
15 add it to that list. So you'll have me for
16 probably part of the day, you know, and if
17 I'm hungry, you know.

18 MR. ROMANO: All right. We can go
19 to Katie's Cottage or the other place we
20 can go to off -- I'm not a big taco guy.

21 THE CHAIRMAN: I'm here 52 years,
22 ladies and gentlemen. And I think he's
23 here for 40 of them.

24 Is there anybody here tonight on
25 this case? It's on Clark Street. Anybody

1 here tonight in favor or against?

2 Okay. This case is hereby closed.
3 Reserve the right to reopen for any reason
4 whatsoever, and that includes after the
5 decision is made. Thank you.

6 MR. ROMANO: Thank you.

7 MR. FERNANDEZ: Thank you.

8 THE CHAIRMAN: Mr. Romano.

9 MR. ROMANO: Yes, sir.

10 THE CHAIRMAN: You got the next case
11 too. It's an area variance. This is case
12 5756 with Mr. Romano on behalf of
13 Jacqueline Simone, owner, to legalize
14 parking front yard parking, whereas:

15 - Parking within minimum front yard
16 is not permitted as per Section
17 43-133(A)(1) elimination of garage and also
18 elimination of ability to park in the
19 driveway.

20 - Number two, parking space to be 8
21 foot 6 inches wide by 18 foot long it's
22 under section 43-134A(9);

23 On premises known as 28 Whitman Road,
24 Block: 4355, Lot: 91 in an S-60 Zone.

25 Mr. Romano, you sent to everybody

1 within the 200-foot radius?

2 MR. ROMANO: Yes, Mr. Chairman.

3 THE CHAIRMAN: Did anything come
4 back?

5 MR. ROMANO: Not on this one,
6 Mr. Chairman.

7 THE CHAIRMAN: Nothing. All right.

8 Is there anybody here tonight on
9 this case. This is on Whitman Road.
10 Anybody here tonight on this case?

11 JACQUELINE SIMONE: I am, sir. I'm
12 Jacqueline Simone.

13 THE CHAIRMAN: Mr. Romano.

14 MR. ROMANO: She doesn't know the
15 procedure, Chairman.

16 THE CHAIRMAN: Now, she's going to
17 know.

18 MR. ROMANO: I'll remind her.

19 THE CHAIRMAN: We have principal
20 points on this one. Go ahead, Mr. Romano.

21 MR. ROMANO: Mr. Chairman and
22 members of the Board, I'm here on behalf of
23 Jacqueline Simone as the owner of 28
24 Whitman Road, Yonkers. My client is the
25 owner of a one-family dwelling located in

1 the S-60 Zone since 7/23/1991.

2 The Applicant seeks to legalize the
3 existing front yard parking space, because
4 the garage was converted to a family room
5 as part of an existing permit which
6 included the moving the driveway to the
7 right side of the premises. This was never
8 completed. The driveway section. The room
9 section was.

10 The front yard driveway will be
11 convenient, functional, and an improvement
12 to the premises. I know the Board's been
13 out there, I've been out there, and it
14 looks wonderful.

15 This variance, it's going to be
16 requested for the car, the existing front
17 yard. Which is permitted if there was a
18 garage. But there's no garage. So, it's
19 really, I believe it's a de minimis
20 violation of the Zoning Board. I don't
21 think it's substantial. In fact, I know
22 it's not substantial. This Board has
23 always been in the past very generous with
24 front yard parking spaces for people.

25 Our whole purpose here is to solely

1 park in the car in the front yard. It's
2 aesthetic. Not a substantial part of the
3 Code. And the car will still be located
4 within the property line. The variance,
5 cannot, does not obviate the site to revert
6 back the lot to the garage, or if the right
7 side of the premises with trees
8 landscaping, grass is removed. We would
9 rather leave that in. The neighbors would
10 rather leave it in. And I have letters
11 from the neighbors, which I'll hand to the
12 Board with your permission, which they
13 approve of the front yard parking variance
14 for the area. And as I said, it would be
15 an extensive change to change the garage
16 from the room back to garage.

17 The premises would remain in
18 character of the neighborhood. All
19 one-family dwellings -- this is reflected
20 on the area map, photos, and site visits.
21 The neighbors in that neighborhood and been
22 there many times, and basically I'm in
23 compliance with everybody who uses their
24 front yard. Nobody uses the garage anymore
25 anyway.

1 There will be no adverse
2 environmental or physical impact on the
3 premises. No structural. No environmental
4 condition created. It would only be a
5 front-yard driveway for my client's car.

6 The hardship may be self-created,
7 but it's minimal in nature and I think the
8 balance of the five factors needed for the
9 area variance, it's clear there's no
10 detriment to the surrounding area based on
11 the front yard parking as opposed to
12 benefit to the Applicant which is
13 substantial. It would save her money. It
14 would be an undue difficulty in restoring
15 the premises by eliminating or -- and/or
16 eliminating landscaping.

17 I'm here with my client tonight,
18 Mr. Chairman, for any questions with regard
19 to the history of this case.

20 THE CHAIRMAN: When did you take the
21 garage out?

22 MR. ROMANO: Swearing her in?

23 THE CHAIRMAN: Are you an attorney,
24 madam?

25 MS. SIMONE: (Indicated.)

1 THE CHAIRMAN: Are you an attorney?

2 MS. SIMONE: No, I'm not, sir.

3 THE CHAIRMAN: Raise your right
4 hand, please. Do you solemnly swear to
5 tell the truth, the whole truth, nothing
6 but the truth so help you God?

7 MS. SIMONE: Yes.

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

10 MS. SIMONE: Jacqueline Simone, 28
11 Whitman Road, Yonkers New York 10710.

12 THE CHAIRMAN: So you live in this
13 house?

14 MS. SIMONE: Yes, I do.

15 THE CHAIRMAN: When did you take the
16 garage out?

17 MS. SIMONE: Three years ago, sir.

18 THE CHAIRMAN: Huh?

19 MS. SIMONE: Three years ago, 19 --

20 THE CHAIRMAN: Three years ago?

21 MS. SIMONE: Three years ago.

22 THE CHAIRMAN: Did you have a permit
23 to do it?

24 MS. SIMONE: Yes, I did.

25 THE CHAIRMAN: You had a permit do

1 it?

2 MS. SIMONE: Yes.

3 THE CHAIRMAN: All right. Do I have
4 a copy of that permit here?

5 MR. ROMANO: I do not have it,
6 Mr. Chairman.

7 THE CHAIRMAN: I gotta get a copy of
8 that permit. Gotta get copy of the permit.

9 MR. ROMANO: Yes, sir.

10 THE CHAIRMAN: Okay? You will
11 submit it to the Building Department,
12 Mr. Romano.

13 MR. ROMANO: I will get it to you,
14 Mr. Chairman.

15 THE CHAIRMAN: I was there the other
16 night. There was two cars in the driveway.
17 There was a red car and a black car. Are
18 they both yours?

19 MS. SIMONE: No, just the red car,
20 sir.

21 THE CHAIRMAN: Huh? Just the red
22 one?

23 MS. SIMONE: Yes.

24 THE CHAIRMAN: The black car a
25 friend's?

1 MS. SIMONE: Yes.

2 THE CHAIRMAN: Did you say you had
3 two driveways there, Mr. Romano, one on the
4 right?

5 MR. ROMANO: No, what we're trying
6 to do is to save the landscape on the right
7 --

8 THE CHAIRMAN: No, no.

9 MR. ROMANO: -- trees --

10 THE CHAIRMAN: You didn't answer my
11 question.

12 MR. ROMANO: There is no driveway on
13 the right side. No, sir.

14 THE CHAIRMAN: Okay. I thought you
15 said there was one on the right side. This
16 is on the left side.

17 MR. ROMANO: Yes.

18 THE CHAIRMAN: This is on the south
19 side.

20 MR. ROMANO: Yes.

21 THE CHAIRMAN: All right. Any
22 questions of the Board?

23 MR. LANDSMAN: (Indicated.)

24 MR. GIORGIO: Mr. Chairman.

25 THE CHAIRMAN: Mr. Landsman.

1 I got you.

2 MR. LANDSMAN: That permit you had
3 to convert the garage to the family room,
4 was that inspected, closed out?

5 MR. ROMANO: I think she needs to
6 tell you a little bit about the history.

7 MR. LANDSMAN: Excuse me?

8 MR. ROMANO: I think she needs to
9 tell you a little bit about the history
10 with her and the Building Department. It's
11 a good history, you know, what actually
12 occurred and why with your permission.

13 MR. LANDSMAN: Go ahead.

14 MS. SIMONE: My husband was very ill
15 with cancer. After dealing with all the
16 doctors for a period of six months and a
17 couple of nursing homes, I refused to have
18 him committed into a nursing home. I
19 wanted him to die in a dignified way. He
20 was a Korean War Veteran. We were married
21 30 years.

22 So, I decided that the best way to
23 do this was to convert the garage for him
24 with a bedroom and a bathroom. So that he
25 will be, you know, to -- so that I could

1 keep him at home. At which time I hired a
2 architect. We submitted the plans with the
3 driveway where it currently is right now on
4 the left side in front of the dwelling. So
5 we brought the plans here and I met with
6 Commissioner --

7 MR. ROMANO: Schneider.

8 MS. SIMONE: -- Schneider. Who was
9 aware of everything. I had brought all my
10 documents from the doctors. Okay. And he
11 did recommend at that time for me to start
12 to resubmit the plans putting the driveway
13 on the right-hand side. Once the
14 construction -- and that he would approve
15 it immediate so that my construction would
16 start within two weeks. Upon which once
17 the construction started then he wanted me
18 to resubmit the plans putting the driveway
19 back. And that was also with a letter from
20 a doctor because he was not able to walk.
21 So that it was easier for him to go from
22 the driveway where it currently is into the
23 house as to putting the driveway on the
24 other side where it would be more difficult
25 and challenging for him to enter the house.

1 So the construction was done. I had
2 amazing people work with me to make all
3 these accommodations possible for him. And
4 then obviously at that point we -- I needed
5 to do get a variance and go forward so that
6 I could maintain the driveway where it is.

7 THE CHAIRMAN: Mr. Giorgio.

8 MR. GIORGIO: No, that answered my
9 question. Thank you.

10 MS. KIMBALL: Mr. Chairman, I have a
11 question.

12 THE CHAIRMAN: Ms. Kimball.

13 MS. KIMBALL: Mr. Romano, then could
14 you explain what this certificate of
15 completion is for a constructed sunroom
16 from 2000?

17 MS. SIMONE: The sunroom was
18 actually something that was added years
19 ago. So that was --

20 MS. KIMBALL: And that's not what
21 appears to be a converted garage?

22 MR. ROMANO: I thought that was, but
23 it's not.

24 MS. SIMONE: No, in the original
25 plans when my house in the back did not

1 have anything. It had a small deck.
2 That's where the sunroom was added as in
3 addition to the house but it was behind the
4 garage.

5 MS. KIMBALL: So, if I'm looking at
6 the plan that's submitted, it's where?
7 It's not where the existing wood deck is,
8 it's where the existing two-frame house is?
9 What am I looking at here? Where is it on
10 this --

11 MS. SIMONE: Well, if the way these
12 houses were constructed, if you have
13 something -- it's almost like a Cape Cod
14 house. So it's a house and then apparently
15 the driveway was built kind of towards the
16 front of the house. So the sunroom that
17 was behind, was behind the actual garage,
18 it extended a little bit out on the back of
19 the house. So that the garage was still in
20 existence at this time.

21 THE CHAIRMAN: Okay. Anymore
22 questions of the Board?

23 MS. KIMBALL: I have --

24 THE CHAIRMAN: Yes.

25 MS. KIMBALL: -- a very random

1 question, Mr. Chairman.

2 Mr. Romano, you said no one uses
3 garages anymore, but on the application for
4 52 Clark Street you had asked us to
5 consider the garage a parking space. Can
6 you actually clarify what you mean by
7 people don't use garages anymore?

8 MR. ROMANO: I can clarify -- where
9 the current space is? Is that the
10 question?

11 MS. KIMBALL: Yes.

12 MR. ROMANO: All right. I'll do
13 that with Mr. Panaza(ph). I'm sorry about
14 that. I'll take care of that.

15 MS. KIMBALL: Thank you.

16 MR. ROMANO: You're welcome.

17 THE CHAIRMAN: Any other questions
18 of the Board?

19 Okay. Is there anybody here tonight
20 to speak in favor of this application? Is
21 there anybody here tonight to speak in
22 opposition?

23 Mr. Romano, would you like to sum
24 up?

25 MR. ROMANO: No, thank you,

1 Mr. Chairman. It's too hot tonight.

2 THE CHAIRMAN: Thank you, sir.

3 This case is hereby closed. Reserve
4 the right to reopen it at anytime
5 whatsoever for any reason whatsoever and
6 that includes after the decision is made.
7 Thank you.

8 Mr. Dibbini. Next case is 5757,
9 James Dibbini on behalf of John Daily, Jr.,
10 owner, for reapportionment of a lot of an
11 existing three-family dwelling whereas:

12 - Apportionments may not impair
13 conformity with requirements of all yards,
14 with respect to the Zoning Ordinance case
15 under reference 43-33.D, side yard and
16 total side yard for the existing multiple
17 dwelling on proposed lot number 28, are
18 being made, are being made non-conforming.

19 We're going to need measurements on
20 all of this, just letting you know.

21 MR. DIBBINI: Yes, Mr. Chairman.

22 THE CHAIRMAN: Proposed lots are
23 dimensionally nonconforming and therefore
24 not buildable, Reference 43-33.D and
25 43-33.F, a 37.5 foot wide lot in A zone not

1 buildable;

2 - Any existing parking shall not be
 3 reduced, reference 43-131.A and
 4 43-131.C(3), required is one existing space
 5 on proposed lot 29, proposed; no parking
 6 space if lots are separated;

7 - No accessory residential use or
 8 structure may be established on a lot,
 9 prior to the establishment of the principal
 10 building space and shed existing -- hold on
 11 -- principal building, Reference 43-40.A,
 12 required: no structures on proposed lot 29,
 13 proposed, one parking space and a shed
 14 existing;

15 on premises known 124 Vineyard Avenue
 16 Block: 2174, Lot: 28 and 32 in an A zone.

17 Mr. Dibbini, would you introduce
 18 yourself, please.

19 MR. DIBBINI: Good evening,
 20 Mr. Chairman. My name is James Dibbini,
 21 570 Yonkers Avenue, Yonkers, New York on
 22 behalf of the applicant, Mr. John Daily,
 23 Jr.

24 THE CHAIRMAN: Did you send out, did
 25 you notify everybody in the 200-foot

1 radius, sir?

2 MR. DIBBINI: Yes, Mr. Chairman.

3 THE CHAIRMAN: Did anything come
4 back that was undeliverable?

5 MR. DIBBINI: Yes, 16 out of 50.

6 THE CHAIRMAN: Sixteen out of 50?

7 MR. DIBBINI: Yes.

8 THE CHAIRMAN: Now, I gotta think
9 about that. Right now we'll go on with
10 this case.

11 All right. Is there anybody here
12 tonight on this case? This is on Vineyard
13 Avenue between Father Finian Drive and
14 Loehr Place. It's on the east side of
15 Vineyard Avenue. Anybody here tonight on
16 this case?

17 All right. Are these your clients?

18 MR. DIBBINI: Yes, Mr. Chairman.

19 THE CHAIRMAN: Proceed, Mr. Dibbini.

20 MR. DIBBINI: Thank you,
21 Mr. Chairman. Mr. Chairman, as you
22 indicated the property address is 124
23 Vineyard Avenue. It's located in the "A"
24 Zone contains a three-family house built in
25 1925. The Applicant John Daily, Jr. lives

1 in the house with his father, his wife, and
2 two children. And John Jr.'s children make
3 fourth generation of Dailys to live in this
4 premises.

5 The Applicant owns the premises and
6 the adjoining lot, vacant lot, to the north
7 of the identified property which is known
8 as 126 Vineyard Avenue. The Applicant now
9 seeks to build a passive or non -- or net
10 zero two-family house for him and his
11 family using minimum gas and electric
12 supplies and utilities and appropriate
13 other energy saving construction materials.

14 The Applicant cannot build this
15 house without reappportioning the existing
16 lot between 124 and 126 Vineyard Avenue.
17 And now is seeking to reapportion said lot
18 and obtain a variance for setback
19 requirements for the lot 124 Vineyard
20 Avenue and the lot with requirements for
21 126 Vineyard Avenue.

22 It should be noted that the
23 reapportionment does not require any lot
24 area variances for 126 Vineyard Avenue.
25 Just a lot with variance. Where 50 feet is

1 required and 37 feet is proposed. Only a
2 variance needed for the existing three-
3 family house at 124 Vineyard Avenue are
4 side lot variances which are not
5 substantial when compared to other
6 properties in the area.

7 The current Code in this area
8 requires a 50-foot lot width to construct
9 the house; however, a review of the map of
10 the lots in the same street of the
11 premises, which has been provided to the
12 Board, shows that most of the houses are on
13 25-foot width lots and not 50-foot as
14 currently is required. Our application
15 seeks to, seeks a variance permitting a lot
16 width of 37.5 feet, which is larger than
17 most of the current lots in the immediate
18 area of the premises. The new house
19 proposed for 126 Vineyard Avenue would only
20 be 21.5 feet in width and would be in full
21 compliance with parking, lot area, and
22 setback requirements. In addition, since
23 the property is on a slope and you would
24 only see one level from Vineyard Avenue
25 consisting of the garages and the house

1 structure would follow the slope of the
2 hillside down, the house would have a very,
3 have a very small profile from the street
4 creating a nice addition to the
5 neighborhood.

6 Although this is an application for
7 an apportionment only, we have included a
8 copy of the plans not yet approved by the
9 Building Department but included for
10 reference purposes only.

11 The following are the five points:

12 Point one, the benefit sought cannot
13 be achieved by any other means. The
14 Applicant cannot build his home without the
15 granting of reapportionment of the
16 premises. The Applicant's family had owned
17 the premises for four generations and would
18 be unable to make any substantial use of
19 the lot unless a variance is approved.

20 Point two, there is no undesirable
21 change to the character of the neighborhood
22 as a result of the variance. Granting the
23 variance will not change the character of
24 the neighborhood as the variation from the
25 Code is minor. By granting the variance

1 126 Vineyard lot will be larger by 12
2 and-a-half feet from most of the
3 neighboring lots with homes in the
4 immediate area. The new proposed house at
5 126 Vineyard will have a very low profile
6 and from the street would only reveal
7 one-story similar to the house immediately
8 to the left or north of 126 Vineyard
9 Avenue. Additionally, the side yard
10 setback would still maintain a safe and
11 comfortable distance from neighboring
12 structures.

13 Point three, the variance is not
14 substantial when viewed in the context of
15 the requirements of the existing Zone. The
16 neighbors have a comfortable buffer between
17 houses and the same will be maintained if
18 this variance is approved. Parking will
19 not be an issue as there is ample parking
20 on the street and there is ample public
21 transportation running on Vineyard Avenue
22 and near the premises. The number 9 bus
23 runs on Vineyard Avenue and the numbers 25
24 and 30 stopping at Ashburton and Vineyard
25 Avenue.

1 Point four, the variance will not
2 negatively impact the neighborhood as there
3 will be no significant noticeable change
4 and parking will be minimally impacted as
5 the new house will have a two-car garage to
6 accommodate parking needs for 126 Vineyard
7 Avenue. The new house will be beautifully
8 designed and constructed. Additionally,
9 none of the tenants at the existing
10 premises have had vehicle as far as the
11 Applicant can recall for a number of years.

12 Point five, the difficulty is not
13 self-created. The Applicant has lived at
14 124 Vineyard Avenue for his entire life and
15 is his kids are fourth generation Daily's
16 residing in the premises. The adjoining
17 lot has been idle for generations and he
18 now seeks to build a home for him and his
19 family making the land productive and
20 adding to the City's tax base with
21 essentially no increase to City services.
22 This cannot be done without, without the
23 reapportionment of 124 Vineyard Avenue.

24 I thank you for giving us the
25 opportunity to present the variance and

1 I'll be happy to take any questions at this
2 point.

3 THE CHAIRMAN: Well, I'm looking at
4 the property, Mr. Dibbini. On the right is
5 the house where the gentleman lives now?

6 MR. DIBBINI: Yes.

7 THE CHAIRMAN: Okay. That's a
8 three-family?

9 MR. DIBBINI: Yes.

10 THE CHAIRMAN: Okay. I seen four
11 electric meters.

12 MR. DIBBINI: One may be for the
13 common area, but if I have permission --

14 THE CHAIRMAN: Did you say "maybe"
15 to me?

16 MR. DIBBINI: I'll check right now
17 with my client. Yeah, the fourth meter is
18 for the common area in the hallway.

19 THE CHAIRMAN: Okay. All right.
20 Now, as I'm looking at the house, I go to
21 the north. There's a lot there. How wide
22 is that lot? The whole lot.

23 MR. DIBBINI: From the client's
24 existing property to the edge is 50 feet.

25 THE CHAIRMAN: From your client's

1 house?

2 MR. DIBBINI: Yes.

3 THE CHAIRMAN: To his property line,
4 to the other house to the north which a
5 low, low house, that's 50 feet?

6 MR. DIBBINI: Mr. Chairman, you said
7 to the neighboring house on the north, you
8 mean the neighbor's property line or the
9 house --

10 THE CHAIRMAN: Property line.

11 MR. DIBBINI: Yes, property line is
12 50 feet.

13 THE CHAIRMAN: Okay. Now, so he's
14 going to build one house on 37 and-a-half
15 feet?

16 MR. DIBBINI: Yes, Mr. Chairman.
17 But the width of the house will only be 21
18 and-a-half feet wide. But it will be in
19 compliance with all requirements.

20 THE CHAIRMAN: What's going to
21 happen to the other 13 feet?

22 MR. DIBBINI: That 13 feet will go
23 with the three-family house. The 13
24 and-a-half feet will go for three-family
25 house.

1 THE CHAIRMAN: So the 13 and-a-half
 2 which has got a white Tesla parked on it
 3 and some other car. Because I own a Tesla.
 4 I don't. The wife does. So that's where
 5 those cars are going to go on that lot?

6 MR. DIBBINI: Mr. Chairman, the
 7 three-family house will have a 13
 8 and-a-half foot buffer to the property
 9 line. The remaining will be the 126 lot.
 10 Add on that lot will be a two-car garage.
 11 That's where the new house will be.

12 THE CHAIRMAN: And the two-car
 13 garage on that lot. So it uses the whole
 14 50-foot lot?

15 MR. DIBBINI: Yes.

16 THE CHAIRMAN: Okay. Any other
 17 questions from the Board? Mr. Giorgio.

18 MR. GIORGIO: I just had one
 19 question more of a clarification, I guess.
 20 The certificate of occupancy from 1991 said
 21 it was issued in accordance with Section --

22 THE CHAIRMAN: Talk into that
 23 microphone.

24 MR. GIORGIO: Sorry. The
 25 certificate of occupancy says that it was

1 issued, there were variances granted for
2 side yard, front yard, lot area, taken on
3 the 124 lot. And then your principal
4 points say the only variance you need for
5 the existing, for the existing three-family
6 house are side yard variances are you
7 talking -- I'm just trying to reconcile the
8 two.

9 MR. DIBBINI: Mr. Chairman -- I'm
10 sorry, sir, you're referring to a 1991 CO?
11 What are you reading from, if I may ask
12 again?

13 MR. GIORGIO: Yeah, the certificate
14 of occupancy for 124 Vineyard Avenue.
15 Three-story making it a three-family
16 dwelling says the certificate is issued in
17 accordance Section 170.44(C): Insufficient
18 side yard, front yard lot area obtained.
19 Which seems to conflict with what you were
20 saying in the principal points about, well,
21 the side yard variance. Are you referring
22 to like an additional side yard variance?

23 MR. DIBBINI: So, there are two
24 separate lots there now.

25 MR. GIORGIO: Okay.

1 MR. DIBBINI: So referring to 124
2 and not 126.

3 MR. GIORGIO: When you apportion the
4 lots, you're saying that you need variance
5 on 124 for a side yard; is that correct?

6 MR. DIBBINI: Yes. Yes.

7 MR. GIORGIO: And it's already
8 nonconforming for side yard, front yard,
9 lot area, so you would need an additional
10 for side yard variance, is that --

11 MR. DIBBINI: Correct.

12 MR. GIORGIO: Okay. Thank you.

13 THE CHAIRMAN: Ms. Kimball.

14 MS. KIMBALL: Just a point of
15 clarification also on the proposed plans.
16 There's an office listed on the first
17 floor. Is that for a home office use or
18 are they expecting to have a off-site
19 individuals --

20 MR. DIBBINI: No, it's home office.
21 My client works from home.

22 MS. KIMBALL: Thank you.

23 THE CHAIRMAN: Any other questions
24 of the Board?

25 Deputy Ellman, can I see you here

1 for a minute, please.

2 MR. ELLMAN: Sure.

3 THE CHAIRMAN: Approach.

4 (Brief pause.)

5 THE CHAIRMAN: What size is that
6 garage you're building? Is that a one-car
7 garage?

8 MR. DIBBINI: Two-car garage.
9 Two-car garage.

10 THE CHAIRMAN: Two-car garage,
11 Mr. Dibbini?

12 MR. DIBBINI: Yes.

13 THE CHAIRMAN: It's going to have
14 the -- it's going to have a driveway in
15 front of it, you can put two more cars?

16 MR. DIBBINI: Yes, Mr. Chairman.

17 THE CHAIRMAN: Any other questions
18 of the Board?

19 Okay. Thank you. Do you have
20 anything else to say to me, Mr. Dibbini?

21 MR. DIBBINI: Nothing else,
22 Mr. Chairman.

23 THE CHAIRMAN: Nothing?

24 MR. DIBBINI: Nothing.

25 THE CHAIRMAN: Is there anybody here

1 tonight on this case? This case is on
2 Vineyard Avenue between Father Finian Drive
3 and Loehr Place. Loehr Place is down a
4 little farther so there's no cross street
5 there that I can put my finger on. It's
6 near the -- you want the speak?

7 PUBLIC SPEAKER JOSHI: (Indicated.)

8 THE CHAIRMAN: Are you an attorney,
9 madam?

10 PUBLIC SPEAKER JOSHI: I'm sorry?

11 THE CHAIRMAN: Are you an attorney?

12 PUBLIC SPEAKER JOSHI: No.

13 THE CHAIRMAN: Raise your right
14 hand, please. Do you solemnly swear to
15 tell the truth, the whole truth, nothing
16 but the truth so help you God?

17 PUBLIC SPEAKER JOSHI: Yes.

18 THE CHAIRMAN: State your name and
19 address, please.

20 PUBLIC SPEAKER JOSHI: Terry Joshi,
21 29 Rockland Avenue 10705. Your Honor,
22 Deputy Chair of the Yonkers Green City
23 Advisory Committee. And of course my
24 attention was caught by the fact these
25 people are talking about building something

1 that's net zero and passive houses which is
2 something that we should be aspiring to in
3 the City that is actually so interested in
4 sustainable initiatives. And the smaller
5 that kind of house the better, the more
6 compact the better so that it's easier to
7 create a situation where you don't need
8 outside heating elements or outside air
9 conditioning elements. And I understand
10 that it's a complicated variance to offer,
11 but I would like to say that I would like
12 to encourage the ZBA to consider making the
13 moves in this direction in trying to this
14 as a test case for a smaller lot that can
15 hold net zero single family homes. It's a
16 direction which we should be moving in
17 anyway and I applaud these people for
18 wanting to do that. I just want make that
19 comment. Thank you.

20 THE CHAIRMAN: You're welcome.

21 Anybody here else to speak here in
22 favor or opposition? All right.

23 Mr. Dibbini, would you like to sum up,
24 please.

25 MR. DIBBINI: I'd like to rest on

1 what's been said already. Thank you very
2 much. And also I'd like to thank the
3 Board:

4 THE CHAIRMAN: Thank you.

5 This case is hereby closed. Reserve
6 the right to reopen it for any reason
7 whatsoever and that includes after the
8 decision is made. Thank you.

9 MR. DIBBINI: Thank you.

10 THE CHAIRMAN: Mr. Steinmetz.

11 The next case, ladies and gentlemen,
12 is a continuation of a case at 40 also
13 known as 44 Hudson Street in the DWD Zone,
14 Lots 1 and 10. Mr. Steinmetz is
15 representing the owner.

16 Mr. Steinmetz, would you introduce
17 yourself, please?

18 MR. STEINMETZ: Good evening,
19 Mr. Chairman, members of the Board. David
20 Steinmetz from the law firm Zarin and
21 Steinmetz, 81 Main Street, White Plains,
22 New York.

23 THE CHAIRMAN: Has everybody within
24 the 200-foot radius been notified, sir?

25 MR. STEINMETZ: Yes, they have.

1 THE CHAIRMAN: And how many came
2 back, if they did?

3 MR. STEINMETZ: Five came back.

4 THE CHAIRMAN: Out of how many?

5 MR. STEINMETZ: Thirty-eight,
6 Mr. Chairman.

7 THE CHAIRMAN: Okay. Just so we get
8 this right. The lot around the corner,
9 that needs some variances, you know.

10 MR. STEINMETZ: That is correct,
11 Mr. Chairman.

12 THE CHAIRMAN: When are you bringing
13 that back?

14 MR. STEINMETZ: So, we have filed
15 that with the Building Department. We are
16 awaiting a formal denial from the Building
17 Department. In my last written
18 communication to the Board, I alerted the
19 Board to the fact that we had changed from
20 one lot on Buena Vista to this other lot.

21 THE CHAIRMAN: All right. But you
22 still need variances.

23 MR. STEINMETZ: Absolutely.

24 THE CHAIRMAN: So you're going to
25 come back in September on that. Okay.

1 Proceed, sir.

2 MR. STEINMETZ: Thank you,
3 Mr. Chairman. Can we set up the easel just
4 to display our plans, Mr. Chairman.

5 THE CHAIRMAN: Not yet. Just start.

6 MR. STEINMETZ: Mr. Chairman, I'm
7 here this evening as you know representing
8 Azorim Miroza Tower with regard to this
9 application at 44 Hudson. It's .43 acres
10 in the DMZ downtown mixed-use district and
11 we are proposing a 27-story tower with 267
12 residential units. A small retail store on
13 the bottom level. Interior parking as well
14 as a surface parking lot of 25 spaces.

15 We're here tonight specifically with
16 regard to three variances. This is
17 actually our third appearance before the
18 Board. We have previously submitted our
19 principal points and discussed them in the
20 substantive prior meetings. So I'm not
21 going to repeat what I have in prior
22 meetings.

23 Just for the record there are three
24 variances. One a height variance from the
25 150-foot height limit to a height of 296

1 feet which includes all bulkhead and HVAC
2 associated devices. A distance variance
3 from the surface parking area, 256 and 60
4 Buena Vista although we did not receive a
5 formal denial on that. I did indicate in
6 my prior communications that we have
7 reduced the distance variance. We are now
8 seeking a distance variance of 187 feet.
9 And the third variance, the Building
10 Department concludes that our five-story
11 interior parking garage constitutes eight
12 stories based upon the differential of the
13 lowest point of the ramp to the top of each
14 of the ramps. So we're also seeking the
15 three-story variance with regard to the
16 parking structure.

17 We submitted our application March
18 of 2021. We have conducted our
19 duly-noticed public hearings. And at the
20 last meeting, Mr. Chairman, members of the
21 Board, we did hear from several of our
22 neighbors at 37 Hudson Street, the co-op
23 across the street. As you all know, we
24 discussed last time that co-op is directly
25 across from the ShopRite loading area.

1 It's in between two light industrial
2 automotive repair facilities. Nonetheless
3 we reached out to the president of that
4 co-op and ended up meeting, Mr. Chairman,
5 members of the Board, with the chairman,
6 the president of the co-op and one other
7 member. Our primary goal was to exchange
8 information. Make sure they were fully
9 aware of what we were seeking. Where we
10 felt there was actually commonality of
11 interest. And interestingly enough they
12 were focusing their comments to us on that
13 Zoom call was largely about construction
14 and post-construction issues. And I know
15 representatives are here. I'll let them
16 speak for themselves. But my clients felt
17 it was quite important that we had open
18 dialogue.

19 And for the record, Mr. Chairman,
20 members of the Board, there are two
21 representatives of Azorim here. Mr. Isaac
22 Braun, Mr. Mike Fraggin, as well as our
23 design team from INOA Architecture,
24 Mr. Murat Mutlu and his colleague Mr. Ken
25 Mack together with my associate Sam

1 Taterka.

2 There are a few issues we wanted to
3 specifically hit tonight that were raised.
4 One was with regard to garage exhaust. We
5 indicated in our letter that Mr. Mutlu and
6 his team have designed a garage in
7 accordance with all requirements.

8 Mr. Mutlu, if you can just come
9 forward to assist with this one specific
10 issue.

11 It's our position, Mr. Chairman,
12 that the garage not directly exhaust to the
13 street or neighboring buildings. It will
14 discharge at the roof level and I want to
15 make sure that is clear.

16 THE CHAIRMAN: Continue.

17 MR. STEINMETZ: Thank you. There
18 was also a question or comments from the
19 neighbors about the number of high rises in
20 the area and actually characterized our
21 specific application as inconsistent with
22 the surrounding area. We've submitted
23 material, Mr. Chairman, members of the
24 Board, there are five zones within the
25 nearby vicinity all of which accommodate

1 buildings in excess of 200 feet. These
2 zones can accommodate multiple towers. We
3 actually submitted an exhibit to the Board
4 to make that clear. In addition,
5 immediately behind our property in the same
6 square block in the D-MX Zone, our neighbor
7 the AMS -- oh, excuse me, The Kashamahi(ph)
8 Group owns a parcel that's going to
9 accommodate, again, 250 feet. We believe
10 that based upon the RXR building in Sawyer
11 Place, 26 stories, the Hudson Park North
12 building, 25 stories. This parcel that I
13 was just referring to Prospect, Hawthorne,
14 and Riverdale, which accommodates 250 feet
15 as well as the Teutonia site which was
16 approved for 25 stories and is now before
17 the City requesting 40 stories, we believe
18 that there are predominate number of
19 parcels in and around ours that actually
20 are seeking to construct or have the
21 ability to construct what we are seeking to
22 construct.

23 Which brings me to shadow study.
24 Our neighbors asked for, appropriately,
25 that this Board require us to perform a

1 shadow study. Mr. Mutlu and his team
2 performed that shadow study in accordance
3 with generally accepted techniques and
4 concepts. That was submitted to the City.
5 We presented it at the meeting. We're
6 happy to elaborate if the Board still has
7 questions. But it is our position that
8 this proposal at 27 stories does not create
9 a significant adverse impact compared to
10 the 15-story building that was previously
11 approved on my client's property.

12 And design division. There were
13 comments from our neighbors about
14 Mr. Mutlu's design, which you've all seen,
15 which is rather cutting edge. We think
16 will be emblematic of a wonderful new
17 portion of the skyline. It's a really
18 attractive building. The comment we got
19 was will what Azorim is showing and
20 drafting the building today, how do we know
21 it will be built.

22 Mr. Chairman, should these variances
23 be granted, we ask that they be conditioned
24 expressly on my client delivering exactly
25 what he has proposed. Azorim is a

1 publicly-traded international acclaimed
2 developer. We believe it's an entity that
3 the City of Yonkers should be pleased is
4 here. They're in Ridge Hill and they're
5 now here in the downtown and they are
6 seeking to bring a high quality and
7 desirable development here to the City.

8 We got questions about you utility
9 issues. Since we last met with the Board,
10 my client has retained the engineering firm
11 of Spaulding -- Terry Spauldy(ph) could not
12 be here this evening. He will be
13 submitting the written report to the City
14 Engineer Summerfield and his team to
15 analyze water, sewer, and storm water. All
16 of those were previously reviewed and
17 approved by the City when the Planning
18 Board approved a 15-story tower. Nothing
19 significant is changing, but that would be
20 documented for the record.

21 And lastly traffic. Dynamic Traffic
22 did submit a traffic study and then
23 supplemented at the request of the Planning
24 Department. Today I received a memo back
25 from Mr. Summerfield and the City

1 Engineering Department. We had a brief
2 opportunity to review it. I could not get
3 my traffic engineer here on short notice.
4 However, I can say we've reviewed that
5 traffic memo. There was nothing in it that
6 we found highly controversial or difficult
7 to address. Questions about signage,
8 circulation, loading. We will address all
9 of those. There were questions about
10 whether or not the traffic counts that were
11 taken during COVID represented a, a
12 decreased or a depressed amount of traffic.
13 We will address that in our written
14 submission. I did speak with my traffic
15 engineer prior to tonight, Mr. Chairman,
16 all I could tell that Craig Peregoy said to
17 me, Mr. Steinmetz, I will appear at the
18 next meeting and address any questions. I
19 feel confident that traffic and parking are
20 not adverse impacts.

21 Which brings me to really my final
22 set of comments. We believe that the 15
23 stories that's permitted as of right as it
24 began to address at the last meeting, would
25 reflect a negative IRR, or Internal Rate of

1 Return, in cash flow. That is precisely
2 why Azorim is seeking this building at this
3 height. The land remained vacant for many
4 years. The City approved the 15-story
5 building. It was not built. It remained
6 vacant for a number of years. There's a
7 market driven economic reason for that.
8 That building cannot support the area. It
9 is inconsistent with the market. And we
10 believe that the application before you
11 will generate 200 construction jobs over
12 the next three years. Increased support
13 and local spending. The ShopRite next
14 door, we believe, is in dire need of
15 additional foot traffic to help keep it a
16 quality retail facility. One of the other
17 developers in the neighborhood,
18 Commitment(ph) Group, submitted a letter to
19 the Chair and to the Board supporting our
20 application. We expect to be getting
21 another letter of support from another one
22 of the projects that is interested in
23 seeing this downtown area stimulated.
24 Obviously speaking it will generate
25 substantial sales and the property taxes.

1 And I probably don't need to remind
2 the Board, but I feel like the record
3 should bear it. Azorim has an
4 international track record of delivering
5 what they have committed. So I'm pleased
6 to be here on behalf of Miroza Tower. We
7 have submitted our letter of principal
8 points. I've got my entire, well, most of
9 my zoning team here if there are questions.
10 And, Mr. Chairman and members of the Board,
11 we would like to proceed with the
12 application.

13 THE CHAIRMAN: Who are those two
14 people over at 35 Hudson that you spoke
15 with?

16 MR. STEINMETZ: President of the 35
17 co-op board Mr. Anthony, or Tony Capone.
18 And one of the residents who was previously
19 addressed before Mr. John Davis. Both of
20 whom, I believe, Mr. Chairman, are behind
21 me.

22 THE CHAIRMAN: What?

23 MR. STEINMETZ: Both of them are
24 here this evening.

25 THE CHAIRMAN: Okay. You did a

1 shadow report. You only did at 35 Hudson.
2 I want a full shadow report.

3 MR. STEINMETZ: I'm sorry?

4 THE CHAIRMAN: I want a full shadow
5 report.

6 MR. STEINMETZ: Reflective of the
7 buildings in --

8 THE CHAIRMAN: You only did it at 35
9 Hudson. Okay? So I want a full shadow
10 report.

11 MR. STEINMETZ: Understood.
12 Mr. Mutlu will, will submit that.

13 THE CHAIRMAN: You're going to get
14 it to me, that's for sure.

15 MR. STEINMETZ: Yes, sir.

16 THE CHAIRMAN: I want a full shadow
17 report. Don't forget that. I want the
18 distance that you're going to walk from the
19 front door of this, so called, of this
20 project, excuse me, to the lot around the
21 corner. Okay. Not like that. I want the
22 actual walking.

23 MR. STEINMETZ: Yeah.

24 THE CHAIRMAN: Okay.

25 MR. STEINMETZ: Yes, Mr. Chairman.

1 THE CHAIRMAN: Okay. I didn't get
2 into the traffic yet, but I read the
3 traffic engineer's report. And I'll get
4 with him to see what's going on there.

5 Any questions of the Board?

6 MR. LANDSMAN: (Indicated.)

7 THE CHAIRMAN: Mr. Landsman.

8 MR. LANDSMAN: Mr. Steinmetz, you
9 just mentioned about the real estate taxes.
10 Is there anything in play that there's an
11 abatement on this building for a certain
12 period or?

13 MR. STEINMETZ: Presently there's no
14 abatement to the best of my knowledge.

15 MR. LANDSMAN: Are you applying for
16 one?

17 MR. STEINMETZ: So there's an
18 intention to pursue IDA reduced it by --
19 like all the other projects within the
20 downtown area. We are not at that point
21 yet. But in light of, in light of this
22 project and how it will stimulate the local
23 economy, we believe it's consistent with
24 the definition of project under New York
25 State Law and it would be eligible for IDA.

1 That remains to be the seen.

2 MR. LANDSMAN: Thank you. I have
3 one more question. The heating and cooling
4 in this building, what is it, individual
5 units in the apartment, how is it set up?

6 MR. STEINMETZ: Mr. Chairman, may I
7 defer to the design architect, because I'm
8 not familiar --

9 THE CHAIRMAN: What was that
10 question?

11 MR. LANDSMAN: The heating and
12 cooling in the building, is it separate
13 units per apartment or for the whole
14 building?

15 THE CHAIRMAN: You can get back to
16 us on that. Okay?

17 MR. STEINMETZ: Yes, sir. He shall.

18 THE CHAIRMAN: Anything else?

19 MR. STEINMETZ: Thank you,
20 Mr. Landsman.

21 THE CHAIRMAN: Any other questions
22 of the Board? All right. You want that
23 man to speak?

24 MR. STEINMETZ: Not necessary this
25 evening, Mr. Chairman, in light of the fact

1 that we're going to supplement the record
2 with additional information. It's late --

3 THE CHAIRMAN: Okay. Thank you.

4 MR. STEINMETZ: -- I don't mean to
5 detain the Board.

6 THE CHAIRMAN: Anything else to say
7 to me, Mr. Steinmetz?

8 MR. STEINMETZ: Not at this time,
9 Mr. Chairman.

10 THE CHAIRMAN: Thank you.

11 Is there anybody here tonight in
12 favor of this application? Is there
13 anybody here tonight in opposition?

14 That gentleman right there.

15 Sir, take a seat, please. Could be
16 a little intimidating to people. You're
17 Okay. Pretty good, huh? Oh, boy.

18 Are you an attorney, sir?

19 PUBLIC SPEAKER CAPONE: No.

20 THE CHAIRMAN: Raise your right
21 hand, please. Do you solemnly swear to
22 tell the truth, the whole truth, nothing
23 but the truth so help you God?

24 PUBLIC SPEAKER CAPONE: Yes, I do.

25 THE CHAIRMAN: State your name and

1 address, please.

2 PUBLIC SPEAKER CAPONE: Tony Capone,
3 35 Hudson street, Apartment 4A, Yonkers,
4 New York.

5 THE CHAIRMAN: Proceed, sir.

6 PUBLIC SPEAKER CAPONE: Thank you,
7 Mr. Chairman and Committee. Thank you.

8 I wanted to, I will be brief. Three
9 things in want to talk about, the height of
10 the building, and a little bit about the
11 depth. The traffic. And then if it is
12 permissible, I don't know how these
13 procedures go, just a clarification or
14 maybe a question or two to the Zoning Board
15 about this procedure.

16 First off, about the height. As
17 Mr. Steinmetz said they looked into it and
18 there are five areas within the downtown
19 area of Yonkers that permit, I think, there
20 are five areas that permit stories above
21 250 feet. My question is why did they not
22 buy a lot in one of those areas if their
23 intention was to build a structure that was
24 296 feet tall? They've admitted that they
25 bought a plot land where it was approved

1 for a 15-story unit and now they want to
2 build something that is almost, it's just
3 three and-a-half feet shy, of double that
4 size. So to that point. So doesn't seem
5 to make a compelling case for improvement.
6 It makes a compelling case for
7 profitability. And with that the garage
8 variance that they are looking for,
9 provides nothing but a garage as far as
10 sight lines on the street. And now they're
11 saying it's going to be eight stories. It
12 now goes down two stories, so I would have
13 questions. I heard Mr. Steinmetz said that
14 there was a firm that will look into water.
15 And that is my concern there. How will it
16 affect sewage digging that far down? Can
17 the existing pipes accommodate a building
18 of this size? We're directly across the
19 street.

20 The traffic is my main major point.
21 I've lived at 35 Hudson Street for fifteen
22 years. During that time I've witnessed a
23 lot of traffic that goes beyond
24 comprehension. I've worked in the past
25 with people such as Pat McDowell(ph),

1 former ShopRite manager Gerry Camilla(ph) ,
2 the ShopRite corporate, the Yonkers
3 Downtown BID. The, forgive me for the
4 name, but the former director for
5 constituent services, I think IT, and his
6 name is Euthenios Theotekatos(ph) , and Gail
7 Burns. All of these people have -- we've
8 had to have been, we've been very diligent
9 and on guard about the traffic on that
10 street. Just two weeks ago I looked out
11 and because of a truck blocking the street,
12 we have traffic -- we have people who then
13 just decided to take it upon themselves to
14 turn around and go the opposite direction
15 on the one-way street to get out. So if I
16 think that if you are going to add 265
17 units, the parking for all of those units,
18 what's going to happen next?

19 We also a church on that street that
20 on Sundays double and triple parks and
21 that's another part of the traffic on that
22 street. So, in my humble opinion it
23 doesn't seem that this building will be
24 conducive to helping that situation. It
25 will only make it worse.

1 And then lastly, I ask this
2 sincerely, because I'm not that
3 well-acquainted with the Zoning Board's
4 function and all that you do. How does
5 this process work? Is there something, I
6 read about an Environmental Impact Study
7 something called SEQRA. Is this part of
8 the process that, that a developer will
9 have to prove at some point down the road?
10 In terms of the building and getting your
11 approval, if that should come to pass.

12 THE CHAIRMAN: I'm going to look
13 into that. I'm not going to give you an
14 answer on that tonight, but I'm going to
15 look into it.

16 PUBLIC SPEAKER CAPONE: Okay.

17 THE CHAIRMAN: Because there might
18 be some other people involved in the City
19 that I have to talk to.

20 PUBLIC SPEAKER CAPONE: Okay.

21 THE CHAIRMAN: I'll try to get back
22 to you. You know. I'm very attentive.

23 PUBLIC SPEAKER CAPONE: Right. And
24 I will say for the record, I am
25 appreciative of Mr. Steinmetz' offer to

1 communicate. I'm a firm believer of that.
2 And I know we're on opposite sides of this,
3 but we know where we live and sometimes I
4 feel that we do get mischaracterized in
5 terms of where we've chosen to live by the,
6 by Mr. Steinmetz and his team. That's
7 irrelevant. Thank you. Thank you for your
8 time.

9 THE CHAIRMAN: Let me -- one second.
10 Any questions of the Board?

11 All right. Thank you, Mr. Capone.

12 PUBLIC SPEAKER CAPONE: Thank you.

13 THE CHAIRMAN: Anybody else to speak
14 in opposition? This lady. Come on up.

15 Are you an attorney, madam?

16 PUBLIC SPEAKER HEIKEN: No, sir.

17 THE CHAIRMAN: Raise your right
18 hand, please. Do you solemnly swear to
19 tell the truth, the whole truth, nothing
20 but the truth so help you God?

21 PUBLIC SPEAKER HEIKEN: Yes, I do.

22 THE CHAIRMAN: State your name and
23 address, please.

24 PUBLIC SPEAKER HEIKEN: My name is
25 NC Heiken. I live 35 Hudson Street,

1 Apartment 5B.

2 THE CHAIRMAN: Proceed, please.

3 PUBLIC SPEAKER HEIKEN: Okay. Thank
4 you. I've heard just repeatedly from
5 Mr. Steinmetz and his colleagues that since
6 things were approved for a 15-story
7 building, and so it's really not that
8 different to build a 27-story building.
9 But it's almost twice as many stories. So
10 I don't see, to me, defies logic to say
11 that it's not going to be that different,
12 the impact will not be that different. The
13 double size of the building, shy of three
14 feet. It's gotta be twice as fat or twice
15 as big or twice as important.

16 I am interested to know if this
17 company has done a deep Environmental
18 Impact Study. My understanding of
19 Environmental Impact this is just simply
20 ground water sewage. And those sort of
21 material things that we associate with the
22 fact but also aesthetics, property value,
23 quality of life. All of those things for
24 our humble building will be negatively
25 impacted. Even if the sewage works. There

1 are other considerations for the total
2 environment and for our quality of life.

3 The shadow study. Thank you,
4 Mr. Chairman, for asking for a more
5 complete shadow study. I don't believe
6 shadow studies simply on windows is what
7 shadow studies are all about. But it is
8 also complete to say, again, 15 stories is
9 going to be bad for you all, so 27 stories
10 is going to be that much worse. It's not a
11 big deal, it's already going to be
12 terrible. It's actually quite a lot worse
13 because we won't even see the sky. Our sky
14 scape will be severely curtailed.

15 The traffic. My friend Tony just
16 talked about. I, you know, I'm also, I
17 don't understand making something so big
18 that another lot, a building had to be torn
19 down to make a parking lot. A surface
20 parking lot. It's just going to be cars
21 instead of when it could have been housing.
22 I'm very glad the developers did not try to
23 defend the claim they made last time, which
24 was that they had to build this building
25 twice as tall as what the Zoning allows in

1 order to be able to put in the affordable
2 housing commitment that Yonkers requires.
3 That just has no merit. That argument.
4 All buildings that are built have to have
5 the affordable housing requirement met. No
6 matter how many stories they have.

7 I just hope that the Environmental
8 Study will be done in a meaningful way in a
9 profound way so that we really have a true
10 assessment of what this is going to mean to
11 our neighborhood. Thank you.

12 THE CHAIRMAN: Any questions of this
13 lady?

14 Thank you.

15 Anybody else to speak in opposition,
16 madam? Are you an attorney, madam?

17 PUBLIC SPEAKER BATEMAN: No, I'm not
18 sir.

19 THE CHAIRMAN: Raise your right
20 hand, please. Do you solemnly swear to
21 tell the truth, the whole truth, nothing
22 but the truth so help you God?

23 PUBLIC SPEAKER BATEMAN: I do.

24 THE CHAIRMAN: State your name and
25 address please.

1 PUBLIC SPEAKER BATEMAN: My name is
2 June Bateman. And I live at 35 Hudson
3 Street in Apartment 5A. Need to get a
4 little bit more air in here. But listening
5 to all these, listening to the, to the
6 plans about, you know, creating, needing to
7 make a, you know, a building that is
8 permanent for 20 stories to make it 30
9 stories. I mean the immediate thing I
10 think of is the mud slides that are going
11 on in Europe. And I feel like there is a
12 real estate mud slide happening here. And
13 that we are in the path of it. And through
14 no fault of our own. I mean, we are,
15 stockholders in Yonkers. We're very
16 invested in the City. We deeply care about
17 our neighbors. We have a wonderful
18 building. We don't live in some kind of
19 decrepit horrible place. We live in a
20 building with people many of whom enter an
21 actors lottery to get these apartments, to
22 move to Yonkers. They wanted to move to
23 Yonkers, to help to build Yonkers. And
24 that's what we've all been trying to do.
25 We are on the boards, we're involved with

1 the community. We really care about
2 Yonkers. We don't care that, you know, in
3 2008 when the real estate market went a
4 little south, you know, maybe we all took a
5 little bit of a beating with our
6 investments. We are in Yonkers to make
7 Yonkers a better place.

8 So, you know, hearing these very
9 calculated arguments that kind of, you
10 know, gloss over the fact that this is a
11 building that was permitted to be an "X"
12 number of stories, but, no, we're going to
13 make it twice as tall. We, the residents
14 of this building as well as the residents
15 of 66 Main, although there are no people
16 here from that building to speak, we will
17 face a parking garage. We bought our
18 apartments so that we can face the back
19 ends of automobiles for the rest of our
20 lives? I mean that's shameful. And that,
21 you know, they think this is okay. Oh,
22 those people at 35 Hudson, they don't
23 matter. Well, we do matter. We matter to
24 each other, we matter to this community.
25 And I agree wholeheartedly with NC and

1 Tony's observations that I think a real
2 meaningful Environmental Impact Statement
3 needs to be created. And there are other
4 factors, like, birds flyaways. You know.
5 I mean this big glass shiny building,
6 millions of birds are killed every year
7 because they bash into these buildings. I
8 don't hear anything from them about green
9 architecture. I don't hear anything that
10 sounds constructive. It just sounds, like,
11 greed, greed, greed. And we're going to be
12 faced with it, literally, with a parking
13 lot in front of our windows. So that is my
14 objection.

15 We have children in our building.
16 We have older building people in our
17 building. We have people with health
18 issues in our building. And what we don't
19 need is a giant combustible garage. You
20 know. That blocks out the sun. That, you
21 know, kills all the plants on our beautiful
22 rooftop terraces and that transforms our
23 life and it's a wonderful close knit
24 community into some kind of, you know,
25 post-apocalyptic greed-is-good kind of

1 moment. I just don't -- I'm very opposed
2 to it, so.

3 THE CHAIRMAN: Thank you.

4 PUBLIC SPEAKER BATEMAN: Thank you.

5 THE CHAIRMAN: Any questions of this
6 lady? Thank you, madam.

7 PUBLIC SPEAKER BATEMAN: Thank you.

8 THE CHAIRMAN: Is there anybody else
9 here to spoke in opposition? This
10 gentleman.

11 PUBLIC SPEAKER DAVIS: How you doing
12 Mr. Chairman?

13 THE CHAIRMAN: Are you an attorney,
14 sir?

15 PUBLIC SPEAKER DAVIS: No, sir, I'm
16 not.

17 THE CHAIRMAN: Raise your right
18 hand, please. Do you solemnly swear to
19 tell the truth, nothing but the truth so
20 help you God?

21 PUBLIC SPEAKER DAVIS: Yes, sir.

22 THE CHAIRMAN: State your name and
23 address, please.

24 PUBLIC SPEAKER DAVIS: John Davis.
25 I live at 35 Hudson street, Apartment 5A in

1 Yonkers, New York.

2 THE CHAIRMAN: Proceed.

3 PUBLIC SPEAKER DAVIS: There are two
4 pretty famous apartment buildings on
5 Riverdale just a block away from the other
6 side of where 44 Hudson is. They were
7 designed by Joseph Wichert who is a world-
8 renowned architect. They're 17 or 18
9 stories high respectively. Behind this
10 building we've been told, we've all been
11 told going to be 27 floors. I take issue
12 with that. Based on the plans that I got
13 from the developer and to my counting, I
14 count fairly normally, the height with the
15 mechanicals is well over 29 stories. So
16 it's just, just about I'd say about six
17 feet less than a 30-story building. We
18 were admonished a little bit by the reply
19 that we got from the developer that we were
20 incorrectly calling it double in size. As
21 Tony said, the difference between the
22 double in size is three feet seven inches.
23 That's what this is. Three feet seven
24 inches. It's a 300-foot building. It's
25 double the size of 150 feet which is, as

1 you know the 2011 Stipulation for the
2 Building Code for Yonkers.

3 The other thing is five stories for
4 a parking garage. I can't think of any
5 building in Manhattan or any place, or
6 White Plains, where there's five stories of
7 a front of a building that is for a garage.
8 If you're passing by or walking on Hudson
9 Street, what does that do to you to walk
10 between your job and your home wherever
11 you're going. Five stories of a parking
12 garage? I would like to see some examples.
13 I just don't think it's acceptable.

14 The other things that we talked
15 about are, are, are still, are still
16 bothering me, Sawyer, bringing up Sawyer
17 Place. Sawyer Place is much lower. It's
18 at least four, four floors lower than the
19 proposed site for 44 Hudson Street. You
20 don't have just an apartment building a few
21 stories high, you have a building that's
22 seven or eight ten stories higher. I know
23 this because when we go home on Main
24 Street, we go into the parking garage, we
25 push four three just to get up to our

1 street. And that's well over another floor
2 higher.

3 One of the last things I want to say
4 is this. The idea of somebody telling me
5 that a five or eight story, eight story, I
6 believe, eight-story parking garage across
7 the street is not going to leak some air to
8 me in my situation is pretty, pretty
9 concerning. I, I -- we lived next to 9/11
10 four blocks away. And we were told at the
11 time that there was no problem with the air
12 quality by our government by our City. And
13 it turned out that wasn't true. So the air
14 that is going to be flushed out of the top
15 of this building, where is it going to go?
16 Is it going to go to Jersey? Where's it
17 going to go? It's going to go down. It's
18 going to go down in the immediate area.
19 That's the consideration I think we should
20 all be aware of. I wish I had paid more
21 attention 20 years to the air quality.

22 Thank you very much.

23 THE CHAIRMAN: Any questions of this
24 gentleman?

25 Thank you.

1 Anybody else to speak in opposition?

2 All right. Mr. Steinmetz, just sum
3 up for a couple of minutes, please.

4 MR. STEINMETZ: Mr. Chairman, I
5 would appreciate the Board's latitude to
6 let the architect Mr. Mutlu to explain the
7 garage. Because this is now the second
8 meeting where, and maybe through no fault
9 of theirs, I don't think the neighbors
10 understand how this garage was modified.
11 What is not visible and most importantly, I
12 don't think I need to remind the Board, but
13 for those of you that weren't at the site
14 inspection, 35 Hudson is directly across
15 the street from a rather large active
16 commercial loading zone. So when we're
17 talking about air quality, vehicles, and
18 traffic, with all due respect,
19 Mr. Chairman, members to the Board, we
20 actually believe that our client's
21 development, and Mr. Capone and I did
22 discuss this, have a commonality of
23 interest, that together we think we could
24 work with our neighbors at 35 Hudson to try
25 to improve some of the circulation in

1 what's happening next door in terms of
2 deliveries. But for somebody to claim that
3 they're going to be staring at five stories
4 of parking, if you all know that that's not
5 accurate, I'd like to display in under two
6 minutes why that's inaccurate.

7 THE CHAIRMAN: I'm not going to
8 permit that. We did --

9 MR. STEINMETZ: Understood.

10 THE CHAIRMAN: -- that the last
11 time.

12 MR. STEINMETZ: Understood. I will
13 continue moving. In terms of green
14 technology, Mr. Mutlu did address that
15 previously. He did submit an Environmental
16 Assessment Form. He did describe some of
17 the green building techniques. We will do
18 that again in writing, Mr. Chairman, so
19 that I do not delay things.

20 On behalf of my client, I have to
21 take umbrage with the concept of the
22 post-apocalyptic greed. My client is an
23 income-producing tax-paying profit-making
24 entity. There's nothing un American or
25 unlawful in Yonkers or the United States to

1 do that.

2 And in terms of sheer height, the
3 reason we take keeping explaining that
4 there's a 15-story building approved there
5 is because to us the legal standard in
6 front of your Board is comparing and
7 contrasting that which is as of right and
8 permitted to be built today, both on my
9 client's property and ironically at 35
10 Hudson and on either side of 35 Hudson.
11 That entire area can be built into a
12 15-story building. So for those who live
13 in a five-story building to not recognize
14 that is somewhat difficult.

15 There is no doubling of impacts
16 based upon the empirical data. Some of our
17 neighbors have spoken tonight and they have
18 every right to do so, but generalized
19 community opposition is not sufficient to
20 withstand the empirical analysis conducted
21 by our traffic engineer, by our architect,
22 and by our engineer. All of which data
23 will be in the record.

24 In sum, Mr. Chairman, members of the
25 Board, this -- your Board designated your

1 intent to declare yourselves Lead Agency
2 and circulate that 60 days ago. For SEQRA
3 purposes, we would like your Board to
4 formulize your role as Lead Agency. The
5 time frame has elapsed. I did correspond
6 with Counsel and the Planning Department so
7 just as a procedural issue, I'd like your
8 Board and I respectfully request that your
9 Board declare yourselves Lead Agency for
10 SEQRA purposes, Mr. Chairman.

11 THE CHAIRMAN: I'm not going to do
12 the environmental thing tonight. Might do
13 it some other night.

14 MR. STEINMETZ: With regard to the
15 Environmental Review, we have submitted
16 data. But we would ask your Board tonight,
17 the Chair made it quite clear you want a
18 supplemental shadow study. We got it. We
19 submit that. We will supplement some of
20 the questions that were asked in writing.
21 If there are any other empirical studies
22 that this Board or staff requests,
23 Mr. Chairman, I'm simply asking that you
24 notify us for purposes of SEQRA we do want
25 to conduct all of the necessary and

1 analyses. We've done quite a few. We will
 2 submit anything further that the Board
 3 deems appropriate.

4 THE CHAIRMAN: I'll let you know.

5 MR. STEINMETZ: Thank you. I
 6 appreciate that.

7 THE CHAIRMAN: Right now, I want you
 8 to --

9 MR. STEINMETZ: Thank you. I
 10 appreciate that. My last comment, just
 11 because I don't want to miss this, in terms
 12 of the shadow study and seeing the sky.
 13 The reason we submitted the shadow study
 14 the way we did for 35 Hudson, is to
 15 illustrate precisely what the impacts were
 16 to that building and our neighbors under
 17 the previously approved building and
 18 compared it what would be now illustrated.
 19 There was no evidence --

20 THE CHAIRMAN: Don't forget one
 21 thing; we, me, this Board had nothing to do
 22 with that lot. There was a church on that
 23 lot, you took it down about a year ago, I
 24 guess. Okay?

25 MR. STEINMETZ: We didn't take it

1 down, Mr. Chairman.

2 THE CHAIRMAN: I don't know who took
3 it down, but it's down.

4 MR. STEINMETZ: Correct.

5 THE CHAIRMAN: Okay? All right.
6 Don't go saying that we gave you permission
7 for a 150-foot. We didn't. That was your
8 right.

9 MR. STEINMETZ: Correct.

10 THE CHAIRMAN: From what I
11 understand, you might need some smaller
12 variances down the road. The side yard,
13 something like that. But we did not give
14 you permission to put 150 foot.

15 MR. STEINMETZ: You're absolutely
16 right, I --

17 THE CHAIRMAN: I know I'm right,
18 sir. Don't argue with me, okay, please.

19 MR. STEINMETZ: I'm not arguing with
20 you.

21 THE CHAIRMAN: We've got a lot of
22 time tonight. Let me tell you right now.
23 This case is hereby continued. It's coming
24 back in September. I'll see if I can put
25 you on a little earlier the next time.

1 Send out the notices to everybody within a
2 200-foot radius, certified mail, return
3 receipt.

4 MR. STEINMETZ: Thank you,
5 Mr. Chairman. We appreciate, we appreciate
6 the Board's patience and thank you for
7 listening to us this evening.

8 THE CHAIRMAN: Thank you.

9 (Brief pause.)

10 THE CHAIRMAN: I closed the hearing
11 for tonight. Come back in September. And
12 I'll let you speak. Okay? I let everybody
13 speak tonight. I got other people here
14 tonight and I gotta get into some cases.
15 Thank you.

16 Mr. Accinelli, let's go. The next
17 case is 5758, an area variance, Steven
18 Accinelli, Esq. on behalf of The Plant
19 Powerhouse, LLC, that's Limited Liability
20 Corporation, owner, for proposed
21 improvements to the former Glenwood Power
22 Plant Buildings whereas:

23 - between the Applicant and the City
24 of Yonkers, Reference 43-8 Municipal Use
25 definition;

1 - And off-street parking accessory
2 to a principal use may be provided in a
3 public parking garages that are not more
4 than 500 feet from the principal use,
5 reference 43-44.C., distance unknown;

6 on premises known as 45 Water Grant
7 Street, Block: 2635, Lot: 1 in an IP Zone.

8 Mr. Accinelli, introduce yourself
9 again, please.

10 MR. ACCINELLI: Good evening,
11 Mr. Chairman, members of the Board. Steven
12 Accinelli, from Veneruso, Curto, Schwartz
13 and Curto on behalf of the Applicant.

14 THE CHAIRMAN: Has everybody within
15 a 200-foot radius been notified?

16 MR. ACCINELLI: Yes, Mr. Chairman.

17 THE CHAIRMAN: How many, how many
18 did you send out?

19 MR. ACCINELLI: Only two were sent,
20 Mr. Chairman.

21 THE CHAIRMAN: I said how many did
22 you send out?

23 MR. ACCINELLI: Two.

24 THE CHAIRMAN: Two?

25 MR. ACCINELLI: Yes.

1 THE CHAIRMAN: Two notices?

2 MR. ACCINELLI: Correct.

3 THE CHAIRMAN: Who did you send them
4 to?

5 MR. ACCINELLI: City of Yonkers and
6 Metro North.

7 THE CHAIRMAN: And who?

8 MR. ACCINELLI: Metro North. The
9 railroad.

10 THE CHAIRMAN: Metro North?

11 MR. ACCINELLI: Yes.

12 THE CHAIRMAN: Where did you take
13 that to, what radius zone?

14 MR. ACCINELLI: Mr. Chairman, I'd
15 like, with your permission, to talk about a
16 couple of preliminary issues. One of which
17 affects --

18 THE CHAIRMAN: You didn't answer my
19 question. Where did you take that to, for
20 what radius zone?

21 MR. ACCINELLI: The radius was taken
22 from one of the, of the lots of the three
23 that comprised of the power plant property.
24 So it did not include the, all the other
25 two lots. So the notice is going to have

1 to be reissued when, because the three lots
2 were consolidated. So the notice will be
3 reissued, and we realize that and we
4 recognize, Commissioner Ellman's report and
5 we have spoken about it. We are, as part
6 of that process, with your permission,
7 Mr. Chairman, relative to the Building
8 Department Review and Denial Letter dated
9 July 13th, we are actively working with the
10 Building Department because we have a
11 number of questions regarding the area
12 variances that were going to be required to
13 obtain relative to both the power plant
14 site as well as the municipal garage that's
15 going to be incorporated as part of this
16 project for the parking. We acknowledge
17 it's our obligation to bring the area
18 variances required to the City's and
19 Board's attention. So we are still
20 honestly actively in the process of working
21 through the Building Department's
22 interpretations and information to be
23 provided to them to get from the Building
24 Department a correct comprehensive denial
25 letter which is going to result in

1 additional submissions to the Building
2 Department and additional supplemental
3 submission to this Board once we are
4 accurately able to identify an outline
5 through the Building Department the correct
6 universe of variances. I did submit,
7 Mr. Chairman, a project description with --

8 THE CHAIRMAN: Wait. Hold on a
9 second. You're going a little too fast.
10 Okay? We're going to slow it up a second
11 here. You sent me the principals points
12 today?

13 MR. ACCINELLI: We submitted the
14 principal points today, Mr. Chairman.

15 THE CHAIRMAN: Today. Principal
16 points today.

17 MR. ACCINELLI: Correct.

18 THE CHAIRMAN: Well, you should know
19 better. You're before me all the time.

20 MR. ACCINELLI: If I may,
21 Mr. Chairman. We, we --

22 THE CHAIRMAN: I'm going to let it
23 go right now. I'm just letting you know
24 that I know.

25 MR. ACCINELLI: Understood.

1 THE CHAIRMAN: Okay? Don't
2 underestimate me. You never do, do you?

3 MR. ACCINELLI: I never do,
4 Mr. Chairman.

5 THE CHAIRMAN: So, you submitted
6 principal points today. That means every
7 one of these members got a set of principal
8 points today. Okay. You submitted
9 something, it was 350 pages the other day.
10 What was that?

11 MR. ACCINELLI: That was the EAF,
12 Mr. Chairman.

13 THE CHAIRMAN: EAF.

14 MR. ACCINELLI: Correct.

15 THE CHAIRMAN: Okay. You got the
16 hard copies?

17 MR. ACCINELLI: Yes, Mr. Chairman.

18 THE CHAIRMAN: Where are they?

19 MR. ACCINELLI: They were submitted.

20 THE CHAIRMAN: They were submitted?

21 MR. ACCINELLI: To the Zoning Board
22 today.

23 THE CHAIRMAN: Today?

24 MR. ACCINELLI: Yes.

25 THE CHAIRMAN: They were submitted

1 today.

2 MR. ACCINELLI: Hard copies were
3 submitted today.

4 THE CHAIRMAN: All right. Let me
5 ask you a question. You got a piece of
6 property that's got some flowers and trees
7 and stuff on there now. And next to that
8 is an empty lot that the City owns or the
9 Parking Authority owns or something. So
10 today, I notice that there was a transfer
11 of the property; am I correct?

12 MR. ACCINELLI: I'm not sure I
13 understand.

14 THE CHAIRMAN: The property is where
15 the parking garage is going on.

16 MR. ACCINELLI: The proposed
17 municipal parking garages?

18 THE CHAIRMAN: Yes.

19 MR. ACCINELLI: There was an access
20 agreement that was entered into between the
21 Applicant and the City of Yonkers that the
22 Deputy Mayor signed on Monday.

23 THE CHAIRMAN: Okay. Fine. Okay.
24 So we got that straight. Now, so your walk
25 that you want to take for the people to

1 walk to the project is down a street or a
2 path, whatever it is, down to a walk bridge
3 over into the project; am I correct on
4 that?

5 MR. ACCINELLI: Correct.

6 THE CHAIRMAN: Okay. Here's the
7 question: From the parking garage where
8 it's going to be to where you got to where
9 you're going to get into this building, how
10 many feet is that?

11 MR. ACCINELLI: 600 feet.

12 THE CHAIRMAN: How did you get 600
13 feet?

14 MR. ACCINELLI: Because I consulted
15 with one of the design.

16 THE CHAIRMAN: Huh?

17 MR. ACCINELLI: I consulted with the
18 design professionals regarding the distance
19 walking over from the parking garage over,
20 down the path over onto the project site.

21 THE CHAIRMAN: It's 600 feet?

22 MR. ACCINELLI: Correct.

23 THE CHAIRMAN: It's not more than
24 600 feet?

25 MR. ACCINELLI: No, Mr. Chairman.

1 THE CHAIRMAN: You're not
2 subtracting the 500 or the 300 that you're
3 entitled to?

4 MR. ACCINELLI: No, it's 600 feet.

5 THE CHAIRMAN: 600 feet?

6 MR. ACCINELLI: Correct.

7 THE CHAIRMAN: You're going to have
8 to take me down there and you're gonna --
9 gotta get a measuring stick. And we're
10 going to walk down there. And I understand
11 we can't go over the railroad, we can't go
12 down into the railroad that way. But I'm
13 sure there's a gadget that will give me the
14 distance from the top where you're going to
15 have the bridge to go over to the other
16 side. I'm sure, I'm sure we got a gadget
17 to do that.

18 MR. ACCINELLI: I don't have a
19 gadget, but perhaps we can find one,
20 Mr. Chairman.

21 THE CHAIRMAN: Huh?

22 MR. ACCINELLI: We can, we have,
23 someone on the design --

24 THE CHAIRMAN: Oh, I know you got a
25 gadget. I know -- I mean, you know, don't

1 forget I was in a business where you
2 measure things. You know. I have a wheel.
3 But I don't know how I'm going get across
4 that, the railroad.

5 MR. ACCINELLI: We'll throw a tape
6 measure.

7 THE CHAIRMAN: All right. So you
8 say it's 600 feet. All right. We're going
9 to let it go with that for now. Okay. So
10 what else you want to talk to me about?

11 MR. ACCINELLI: So, I wanted to make
12 clear to the Board and have the record
13 reflect that we have been actively trying
14 to work with and working with the Building
15 Department and the Planning Bureau to
16 identify the correct properties and the
17 correct variances. We understand it's our
18 obligation to do that. We are working
19 towards that. So, the, the idea being, I
20 wanted to advise the Board that the
21 expectations there will be additional
22 submissions to the Building Department.
23 We're trying to schedule a meeting for next
24 week, which will result in a supplemental
25 submission to the Zoning Board which will

1 be, what we expect to be the final scope of
2 the area variance required with respect to
3 the appropriate properties. And obviously
4 as part of that process, the appropriate
5 notices with the correct variances and the
6 correct mappings will be sent out to the
7 property owners within the 200-foot radius.
8 With your permission, Mr. Chairman --

9 THE CHAIRMAN: Of each, of those
10 properties.

11 MR. ACCINELLI: Correct.

12 THE CHAIRMAN: There's three
13 properties. So you got three 200-foot
14 zones you got in there. You gotta notify
15 them; am I correct?

16 MR. ACCINELLI: We've got -- we've
17 got --

18 THE CHAIRMAN: That's what you just
19 said to me, I think.

20 MR. ACCINELLI: We have the Power
21 Plant at 45 Water Grant, which was three
22 lots which were consolidated into one lot.

23 THE CHAIRMAN: Okay. So that's
24 okay.

25 MR. ACCINELLI: And then we have the

1 proposed location of the Municipal Parking
2 Garage which is the second parcel that's
3 part of the parcel.

4 THE CHAIRMAN: So what I think I can
5 see is when you go down the JFK Marina, you
6 go in there, there's a nice piece of
7 property, you're going to use that piece of
8 property from what I think. So you'll
9 notify from the 200-foot radius of that.
10 And then we'll go up to the proposed
11 garage, notify from within the 200-foot
12 radius on that. And then you got that road
13 coming down from Warburton Avenue, correct?
14 You have the road from Warburton Avenue
15 just south of the entrance to the museum.

16 MR. ACCINELLI: Okay.

17 THE CHAIRMAN: Am I right? I think
18 it's a road to come down to get to the
19 Ravine Avenue Garage.

20 MR. ACCINELLI: Oh, to access the
21 proposed parking garage.

22 THE CHAIRMAN: Yeah.

23 MR. ACCINELLI: Heading west.

24 THE CHAIRMAN: That's coming west,
25 yeah. Coming from Warburton Avenue, west.

1 MR. ACCINELLI: West, correct.

2 THE CHAIRMAN: Okay. So, the
3 200-foot radius from that too.

4 MR. ACCINELLI: Okay.

5 THE CHAIRMAN: Part of the project,
6 isn't it?

7 MR. ACCINELLI: Well, we'll have --
8 we'll have the parking lot property,
9 sectioned parking lot. And we'll get,
10 we'll get that description from the corners
11 of that lot going out. And then from the
12 description of the Power Plant property 200
13 feet.

14 THE CHAIRMAN: Make sure you get
15 what I said. Because that's what it's
16 going to be. I don't want to keep coming
17 back. You're in a rush, I know that. I
18 respect that. On the, there's a big
19 apartment house there. A huge apartment
20 house. In fact, they had a fire there a
21 couple of months ago, I think. Did you
22 notify them?

23 MR. ACCINELLI: We have not notified
24 them, because once we can meet with the
25 Building Department and the Building

1 Department makes a determination regarding
2 the municipal parking garage and whether or
3 not they are going to follow their own
4 Zoning code, then we can figure out exactly
5 how we need to proceed.

6 THE CHAIRMAN: Okay. I'll go along
7 with that right now. All right. What else
8 you want to say to me, Mr. Accinelli?

9 MR. ACCINELLI: So, Mr. Chairman,
10 members of the Board, I have here with me
11 this evening Greg Castle the Plant's Head
12 of Development. I have the entire design
13 team from BIG Architects, Kimley-Horn,
14 Frank Fish from BFJ. With the Board's
15 permission, I would like to go through
16 project description. And we have a
17 wonderful PowerPoint presentation that will
18 show the design elements of use, use
19 components of the project that I think the
20 Board would be very interested in seeing.

21 THE CHAIRMAN: Well, we're
22 interested of course. In fact, I'm excited
23 about it to be honest with you. I think
24 it's a nice project down at that end. And
25 you gotta get some things out of the way

1 first.

2 MR. ACCINELLI: Understood.

3 THE CHAIRMAN: We're here tonight to
4 talk about the walkway. What do you want
5 to do about the walkway? You still want me
6 to come down sometime future?

7 MR. ACCINELLI: I think,
8 Mr. Chairman, the Section of the Code cited
9 in the denial letter --

10 THE CHAIRMAN: What Section of the
11 Code? 43 --

12 MR. ACCINELLI: I believe it's
13 43-44, I'm of the opinion that section
14 doesn't apply to that parking garage. And,
15 and --

16 THE CHAIRMAN: Well, what section do
17 you think should apply?

18 MR. ACCINELLI: I don't know that, I
19 don't know that any section should apply
20 when we're talking about a municipal
21 parking garage.

22 THE CHAIRMAN: Well, you're here
23 tonight. I mean you knew you were going to
24 get this garage. So I mean, I don't
25 understand. So what are we going to talk

1 about tonight? What the place is going to
2 look like and rework things and what have
3 you?

4 MR. ACCINELLI: I want to talk about
5 the status of the variances that we're
6 here.

7 THE CHAIRMAN: There's one variance
8 we're talking about. And that's the length
9 of the road, length of the walkway.

10 MR. ACCINELLI: Which, which will
11 likely change, Mr. Chairman. As we --

12 THE CHAIRMAN: So in other words,
13 the 600 feet will likely change?

14 MR. ACCINELLI: I believe that
15 distance will -- that requirement will
16 change, Mr. Chairman, I believe.

17 THE CHAIRMAN: Change to what?

18 MR. ACCINELLI: To either a no
19 distance requirement applicable or a
20 parking variance or other variances for the
21 site.

22 THE CHAIRMAN: You mean to tell me
23 the walkway is going to be out?

24 MR. ACCINELLI: No, the walkway is
25 going to be there.

1 THE CHAIRMAN: But you won't need a
2 variance for that?

3 MR. ACCINELLI: That's possibly,
4 Mr. Chairman.

5 THE CHAIRMAN: Under what code?

6 MR. ACCINELLI: There are, there
7 are, there is, there is no provision in my
8 opinion of a Code that requires, we got
9 municipal garage a distance from principal
10 use that it has to be within a certain
11 number of feet.

12 THE CHAIRMAN: The municipal garage,
13 there's two sections that I'm looking at.
14 Believe me. One says 500 hundred feet, one
15 says 300 feet. Okay? I can show you where
16 it says 300 feet, and I can show you it
17 says 500 feet. That's your job not mine.
18 Okay. So what do you want to do here
19 tonight? I don't want a bunch of people
20 coming up here telling me how great the
21 Power Plant is. I might not even have the
22 Power Plant.

23 MR. ACCINELLI: Well, we wanted, we
24 wanted to put on the record where the
25 project stands. We didn't want to

1 introduce the project. And we also, you
2 know, we want the Zoning Board to establish
3 its intent to be Lead Agency. So those are
4 the three things that we were looking to
5 accomplish.

6 THE CHAIRMAN: You want us to be
7 Lead Agency?

8 MR. ACCINELLI: We want you to
9 declare your intent to be Lead Agency.

10 THE CHAIRMAN: And then what are you
11 doing to do; the Planning Board is going to
12 do what?

13 MR. ACCINELLI: I don't know what
14 the Planning Board is going to do,
15 Mr. Chairman.

16 THE CHAIRMAN: Oh, okay. I have an
17 idea. Okay. What we're going to do here,
18 we're going to continue this hearing,
19 because you're not prepared. I mean
20 seriously, I mean, I understand you're
21 rushing and all this stuff. Keep on
22 getting this and getting that and what have
23 you. That's not fair to the Board and it's
24 not fair to your client. Okay? So I'm
25 going to tell you right now. Lead Agency.

1 Okay. On case 5758, Block, 2635,
2 Lot 1, 45 Water Grant Street. I make a
3 motion that the Zoning Board of appeals
4 pursuant to the State Environmental Quality
5 Review Act declares itself, declares its
6 intentions to seek lead agency status for
7 the purpose of Environmental Review of this
8 matter and directs the Planning Board on
9 behalf of this Board, Planning Bureau,
10 excuse me, on behalf of this Board to
11 initiate the Lead Agency notification
12 coordination review with all other involved
13 agencies in this action. If no other
14 involved agency seeks to be Lead Agency
15 within 30 days of the effective date the
16 notice, the Zoning Board of Appeals shall
17 assume Lead Agency status for the purpose
18 of review of this matter. Do I have a
19 second on that?

20 MS. KIMBALL: (Indicated.)

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

23 MS. KIMBALL: For the motion.

24 THE CHAIRMAN: Mr. Giorgio.

25 MR. GIORGIO: For the motion.

1 THE CHAIRMAN: Mr. Landsman.

2 MR. LANDSMAN: For the motion.

3 THE CHAIRMAN: Mr. Singh.

4 MR. SINGH: For the motion.

5 THE CHAIRMAN: Mr. Lopez.

6 MR. LOPEZ: For the motion.

7 THE CHAIRMAN: The Chairman votes
8 for the motion. Now we're Lead Agency.
9 Okay. So, I'm going to give you a chance,
10 give you a few more minutes, you do what
11 you want. Right now we're talking about
12 that, that walkway.

13 MR. ACCINELLI: So with your
14 permission, Mr. Chairman, I'll go through
15 the principal points?

16 THE CHAIRMAN: Why? On the walkway?

17 MR. ACCINELLI: That's what you want
18 to hear about the walkway, correct?

19 THE CHAIRMAN: You're going to read
20 these principal points that we just got
21 today to me? You're talking about the
22 principal points of the project, the
23 overall view of project?

24 MR. ACCINELLI: I, I understood you
25 to say you wanted to talk about the

1 walkway. The principal points talk about
2 project description and the walkway. I can
3 --

4 THE CHAIRMAN: No, you talk about
5 the walkway, because that's what's before
6 the Board tonight.

7 MR. ACCINELLI: Okay.

8 THE CHAIRMAN: If you gotta come
9 back in September, you're gonna come back
10 in September anyway.

11 MR. ACCINELLI: We expect to, we
12 expect to, to have met with the Building
13 Department and cleaned up the area
14 variances and have a revised denial letter
15 with a new submission, with an updated
16 submission to the Chairman and the Zoning
17 Board in September.

18 THE CHAIRMAN: Got no problem with
19 that. Give you all the leeway you want
20 what I can help you.

21 MR. ACCINELLI: Thank you.

22 THE CHAIRMAN: Okay? But I don't
23 like the principal points coming to me the
24 day of the hearing.

25 MR. ACCINELLI: I apologize to you

1 Mr. Chairman and the Board.

2 THE CHAIRMAN: I know that. I have
3 respect for you. You're a good lawyer, you
4 belong to a good firm. I know you're
5 trying your best. But believe me when I
6 tell you, make sure you're right.

7 MR. ACCINELLI: Understood. That --

8 THE CHAIRMAN: Okay. I'm going to
9 give you a minute to go ahead and talk.
10 But that's it. Then going to continue this
11 hearing.

12 MR. ACCINELLI: All right.

13 Mr. Chairman, members of the Board, the
14 Glenwood Power Plant was a coal burning
15 power plant built in 1907 to electrify --

16 THE CHAIRMAN: That's not what I
17 want. I want you to talk about the
18 walkway. This has nothing to do with me
19 right now. When you get it, then you might
20 come back here and straighten it out.

21 MR. ACCINELLI: I can have one of my
22 design folks.

23 THE CHAIRMAN: If he talks, he's
24 going to talk about that walkway. That's
25 what he's going to talk about.

1 MR. ACCINELLI: Okay. Mr. Chairman,
2 with your permission Mike Junghans from
3 Kimley-Horn.

4 THE CHAIRMAN: Whatever you want to
5 do.

6 Are you an attorney, sir?

7 MR. JUNGHANS: I am not.

8 THE CHAIRMAN: Raise your right
9 hand, please. Do you solemnly swear to
10 tell the truth, the whole truth, nothing
11 but the truth so help you God?

12 MR. JUNGHANS: I do.

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

15 MR. JUNGHANS: Michael Junghans. My
16 work address is One North Lexington in
17 White Plains.

18 THE CHAIRMAN: Where you do you
19 work?

20 MR. JUNGHANS: In White Plains.
21 Kimley-Horn.

22 THE CHAIRMAN: You work in White
23 Plains?

24 MR. JUNGHANS: Correct.

25 THE CHAIRMAN: Who do you work for?

1 MR. JUNGHANS: Kimley-Horn
2 Engineering.

3 THE CHAIRMAN: Proceed.

4 MR. JUNGHANS: Okay. Just to orient
5 the Board, this is the Power Plant location
6 here. This is the garage that's proposed
7 on Ravine. The path -- pardon me?

8 MR. ACCINELLI: Over here?

9 MS. KIMBALL: Mr. Junghans -- that's
10 fine, thank you, Mr. Accinelli.

11 MR. JUNGHANS: The path as proposed
12 expands from the lowest floor of the garage
13 here which is a three-story garage ground
14 floor two levels above. It extends to the
15 west adjacent to the existing playground
16 area within the park. Turns at the end and
17 extends to the proposed tower on the
18 east side of the Metro North Railroad.
19 There's a bridge that extends over to the
20 other side onto the Plant property. That
21 would be the set of stairs down to a
22 walkway that extends into the east end of
23 the building. You can also walk up to the
24 proposed --

25 (Exterior noise interference.)

1 -- extends from the proposed
2 central entrance in the middle of the
3 building on the north side. And that's
4 approximately either entrance about 600
5 feet walking. Not including the up and
6 down on the stairs.

7 THE CHAIRMAN: You're an engineer by
8 trade?

9 MR. JUNGHANS: Correct.

10 THE CHAIRMAN: Okay. Let me tell
11 you about the word "about." I don't accept
12 it.

13 MR. JUNGHANS: Fair enough.

14 THE CHAIRMAN: It's fair? I'm
15 telling you. You can't tell me about 600
16 feet. If it's 601, 599, that's what we
17 need here. So don't tell me about.

18 MR. JUNGHANS: Okay.

19 (Simultaneous speaking.)

20 THE CHAIRMAN: That's some other
21 place, not here in Yonkers.

22 MR. JUNGHANS: Pardon me, I don't
23 have it now, but I will provide the Board.

24 THE CHAIRMAN: You will get that.
25 Good. And give it to Mr. Accinelli,

1 because he needs it. And then I'm coming
2 down, I'd like you to be down there -- I
3 don't know what's so funny. This is very
4 serious, I mean, believe me. And I'm going
5 to come down. And I'd like you to be
6 there, Mr. Accinelli, because you look like
7 you're an expert in this, and I'll talk a
8 walk and see what it is.

9 MR. JUNGHANS: Okay.

10 THE CHAIRMAN: And bring that thing
11 that give you the measurement. You know,
12 obviously, I can't go down to the tracks.
13 I'm not gonna. So you know what I'm
14 talking about?

15 MR. JUNGHANS: Yes, I do.

16 THE CHAIRMAN: Thank you. Okay.
17 Mr. Accinelli.

18 MS. KIMBALL: Mr. Chairman.

19 THE CHAIRMAN: Oh, sorry.

20 Ms. Kimball.

21 MS. KIMBALL: Is there an existing
22 -- is there existing permission from Metro
23 North to have a bridge, a pedestrian bridge
24 or.

25 MR. JUNGHANS: I know there's been

1 discussion. There's no -- I'm not aware of
2 what the status of that approval is.

3 MS. KIMBALL: Okay.

4 THE CHAIRMAN: What was that
5 question?

6 MS. KIMBALL: If Metro North had
7 given permission to a pedestrian bridge to
8 go over the tracks that's part of this
9 plan.

10 THE CHAIRMAN: Thank you. Okay.

11 MS. KIMBALL: Apparently not yet.

12 THE CHAIRMAN: Okay. Mr. Accinelli,
13 do you have anything else to say?

14 MR. ACCINELLI: No.

15 THE CHAIRMAN: Got anything else to
16 say to me?

17 MR. ACCINELLI: Is there a question
18 from the Board, Mr. Chairman?

19 THE CHAIRMAN: Who?

20 MR. LANDSMAN: (Indicated.)

21 THE CHAIRMAN: Go ahead.

22 MR. LANDSMAN: Yes. Well, regarding
23 parking. There was a new denial letter
24 today signed by Frank Lombardo, did you see
25 that?

1 MR. ACCINELLI: Signed when?

2 MR. LANDSMAN: Today or yesterday by
3 Frank Lombardo?

4 MR. ACCINELLI: I did not.

5 MR. LANDSMAN: He changed the status
6 you had medium industrial use of the power
7 plant, and he said it's not medium, it's a
8 hard --

9 MR. ACCINELLI: Heavy?

10 MR. LANDSMAN: Heavy. So that
11 reduced your parking, maybe -- what do you
12 call it? Parking credit. Reduces your
13 parking credit by 50 spaces. So, you lost
14 50 spaces on the credit.

15 And the other thing is that I
16 glanced at that report yesterday, that 300
17 pages. So we subtracted the parking from
18 the Parking Authority that uses the parking
19 there and they kept saying that the Plant
20 has such and such left 450 spots left but,
21 you know, it's a municipal lot. So those
22 are not all for the plant, correct?

23 MR. ACCINELLI: Correct.

24 MR. LANDSMAN: Okay. So what
25 happens when all the people in the

1 neighborhood find out there's a new parking
 2 lot to go to? The Glenwood Train Station,
 3 which there's no parking. There's no
 4 parking, no parking next to -- at
 5 Greystone. There could be 100 or 200 cars
 6 on the side of the road. It's a beautiful
 7 parking lot, they're going to park their
 8 cars and go to the City. So all, you know,
 9 you could lose 120 spots to neighborhood
 10 people.

11 THE CHAIRMAN: Hold on a second.
 12 Hold on a second. That question will be
 13 answered in September. Not today.

14 MR. LANDSMAN: I don't know I'm
 15 asking now.

16 THE CHAIRMAN: It has nothing to do
 17 with the walkway.

18 MR. LANDSMAN: Well, it's parking.

19 THE CHAIRMAN: Nothing to do with
 20 the walkway. Okay? That's what's before
 21 us.

22 MR. LANDSMAN: We can work on it for
 23 September.

24 THE CHAIRMAN: What'd you say?

25 MR. LANDSMAN: We can work on it in

1 September you said.

2 THE CHAIRMAN: Okay. Got a question
3 about the walkway, I'll give you the floor.
4 Thank you.

5 MR. LANDSMAN: I'm good with the
6 walkway.

7 THE CHAIRMAN: You're good is right.
8 Okay. You understand what I'm
9 saying to you, right?

10 MR. ACCINELLI: I do, Mr. Chairman,
11 yes.

12 THE CHAIRMAN: Thank you very much.
13 We'll see you in September, I'll let you
14 know.

15 MR. ACCINELLI: Okay.

16 THE CHAIRMAN: You can submit some
17 more reports to us if you want. I have no
18 problem.

19 MR. ACCINELLI: We understand this
20 from Mr. Landsman that there's another
21 denial letter.

22 THE CHAIRMAN: Mr. Landsman is --
23 that's not coming till September. Now,
24 that you know about it, you want to answer
25 it.

1 MR. ACCINELLI: No, no, I just,
2 again, I was not made aware of it. So we
3 will.

4 THE CHAIRMAN: Good. All right. Is
5 there anybody here to speak in favor of
6 this application? Is there anybody here to
7 speak in opposition?

8 Okay. This case is continued to the
9 September hearing. And we'll see what we
10 can do to get you on early if possible.
11 You know.

12 MR. ACCINELLI: Thank you,
13 Mr. Chairman.

14 THE CHAIRMAN: Okay. Thank you,
15 sir.

16 All right. The next case is case
17 number 5759, Area Variance, Daniel D.
18 Tartaglia, Esq. on behalf of Verus
19 Development, LLC, Limited Liability
20 Corporation, contract vendee to construct a
21 12-story structure with 105 units of rental
22 senior housing and 53 parking spaces,
23 having:

24 - Insufficient side yard Section
25 43-27, Table, 43-3, required is 16 foot one

1 side, proposed is zero foot on the other
2 side;

3 - Insufficient front yard under
4 Section 43-27, Table 43-3, required is 16
5 foot on one side, and proposed is zero foot
6 on one side;

7 - Insufficient front yard, 43-27,
8 Table 43-3 required is 25 feet, proposed is
9 ten foot;

10 - Insufficient parking 43-128, Table
11 43-4, required is 53 spaces, proposed is 53
12 spaces including spaces beyond the property
13 line, 6 on VFW easement and 19 on NY State
14 DOT, that's Department of Transportation
15 easement;

16 - Parking within 5 foot of a building
17 on the same lot is not permitted, Reference
18 Yonkers Zoning 43-44.A.9.b;

19 - Parking within the minimum side yard
20 not permitted, Section 43-133(A)I;

21 - And parking within 5 feet of all
22 property lines not permitted, Reference
23 Yonkers Zoning Ordinance 43-44.A.9.b.;

24 - and No Accessory Use may be
25 located closer than 3 foot on the side of

1 the property line; Reference 43-40.D(4),
2 Trash Storage on property line;

3 On premises known as 345 McLean
4 Avenue, Block: 59, Lot: 75 in an A zone.

5 Mr. Tartaglia, for the record, would
6 you please identify yourself, please.

7 MR. TARTAGLIA: Good evening,
8 Mr. Chairman. My name is Daniel Tartaglia,
9 Tartaglia Law Group, 800 Westchester
10 Avenue, Rye Brook, New York. Here this
11 evening on the application of Verus
12 Development, LLC --

13 THE CHAIRMAN: Did you notify
14 everybody in the 200-foot radius?

15 MR. TARTAGLIA: We did,
16 Mr. Chairman.

17 THE CHAIRMAN: Did anything come
18 back that was undeliverable?

19 MR. TARTAGLIA: Not yet.

20 THE CHAIRMAN: What do you mean?

21 MR. TARTAGLIA: Nothing has come
22 back yet as undeliverable.

23 THE CHAIRMAN: So in other words,
24 how many did you notify?

25 MR. TARTAGLIA: Twenty-nine.

1 THE CHAIRMAN: Twenty-nine. How
2 many came back so far?

3 MR. TARTAGLIA: We didn't send them
4 receipt return requested. We sent them
5 certified mail as required by Code, but we
6 didn't send them return receipt requested
7 so we didn't receive any return receipts.
8 They were all mailed according to the Code
9 certified mail, 29 of them. And I have an
10 affidavit of mailing and the notice was in
11 English and in Spanish.

12 THE CHAIRMAN: When did you mail
13 them, sir?

14 MR. TARTAGLIA: July 9th.

15 THE CHAIRMAN: Huh?

16 MR. TARTAGLIA: July 9.

17 THE CHAIRMAN: July 9th? Okay.

18 MR. TARTAGLIA: Would you like to
19 see the affidavit?

20 THE CHAIRMAN: No, I'm sure you --
21 you submitted that to the Building
22 Department, didn't you?

23 MR. TARTAGLIA: We did.

24 THE CHAIRMAN: Okay. Make sure you
25 did.

1 MR. TARTAGLIA: In the future,
2 Mr. Chairman, would you prefer that they be
3 sent return receipt requested?

4 THE CHAIRMAN: Prefer what?

5 MR. TARTAGLIA: Would you prefer
6 that the notices be sent return receipt
7 requested not just certified?

8 THE CHAIRMAN: They're supposed to
9 be return receipt requested.

10 MR. TARTAGLIA: Okay. Because the
11 Code says registered or certified, it
12 doesn't specify. But we will do that.

13 THE CHAIRMAN: We're going to check
14 that out. Just to see. Okay.

15 Is there anybody here tonight on
16 this case? This case is on McLean Avenue.
17 It's on a bend. It's the south side of
18 McLean Avenue between Caryl Avenue and
19 Courter Avenue and Leroy Avenue. And
20 Monroe Place. I will say that it's on the
21 south, on the south --

22 MR. TARTAGLIA: On the south
23 easterly side?

24 THE CHAIRMAN: What?

25 MR. TARTAGLIA: It's on the south

1 easterly side?

2 THE CHAIRMAN: No, no, I know.
3 Believe me. You've been here before,
4 haven't you?

5 MR. TARTAGLIA: I have.

6 THE CHAIRMAN: You have. Then you
7 know me.

8 MR. TARTAGLIA: I know.

9 THE CHAIRMAN: I do my homework.
10 Believe me I do my homework. I think it's
11 on the southeast side of McLean. Okay.
12 We're going to go with that. Proceed, sir.
13 Proceed, sir.

14 Is there anybody here tonight on
15 this case? Okay. If you'd like to come up
16 a little closer you can hear better. It's
17 up to you. You're okay. Good. Okay.

18 All right. Proceed, sir.

19 MR. TARTAGLIA: Mr. Chairman,
20 members of the Board, on behalf of Verus
21 Developments, the application this evening
22 is for the property located at 345 McLean
23 Avenue is for approximately 105 units of
24 senior affordable housing. It'll be a
25 12-story building. The subject premises is

1 41,474 square feet just slightly less than
2 an acre. The project requires 53 parking
3 spaces. And as the Chairman read out
4 earlier in the record, some of those spaces
5 are going to be provided on easements to
6 adjoining properties. One is the Lowerre
7 Post Veterans Association, Inc. There will
8 be six spaces on easement on that property
9 which is adjacent to the subject site to
10 the north. And there will be 19 spaces
11 that are going to be located on the New
12 York State DOT parcel which is the area in
13 between the south easterly portion of this
14 site and Saw Mill River Parkway.

15 The unique thing about this site and
16 which is requiring many of the variances,
17 if not all of the variances, is the fact
18 that the property is bisected by the Bronx
19 valley sewer easement. And so there's a
20 big sanitary sewer line that runs through
21 the middle of the site to the south of
22 that, it slopes upward. And nothing could
23 can be constructed along the sanitary sewer
24 easement line. So everything, even though
25 it's a fairly large site, everything has

1 been constrained to one portion of the site
2 which is why it's become necessary to seek
3 some of the parking via easement and it
4 requires the side yard setback. Even
5 though there's significant total side yard
6 to the Lowerre site and the front yard
7 setback.

8 In my letter to the Board dated June
9 28, with my principal points I'd like to
10 make one correction, Mr. Chairman. On page
11 two of the required area variances, number
12 one I have rear yard. That should front
13 yard. The notifications were correct.
14 They do reflect the front yard as well as,
15 as well as the publication in the newspaper
16 it also indicates the front yard. So
17 that's just a correction I'd like to make
18 for the record.

19 But this sets forth, my letter sets
20 forth the requested variances. As you
21 know, there's a five-prong test for every
22 new variance. One has to do with character
23 of the neighborhood and whether there will
24 be an undesirable change in the character
25 of the neighborhood or a detriment to

1 nearby properties. The portion of McLean
2 Avenue where such a premises is located is
3 designated by the Tax Assessment Office as
4 McLean Heights. It's a mix of multi-family
5 and commercial uses as I'm sure you're all
6 aware. The adjacent use are for a
7 Veteran's lodge or post. The other is the
8 Saw Mill River Parkway, the other adjacent
9 use is New York City Van Cortlandt Park.
10 Directly across the street to the west of
11 the subject premises is a vacant lot
12 currently used as open storage for a local
13 nursery and landscaping business. Just
14 north of the subject premises is a 17,000
15 square foot apartment building known as
16 McLean Towers. It's a 12-story building,
17 it's constructed in 1980 and has 83
18 apartments, 46 underground parking spaces.
19 The neighborhood is served by public
20 transportation. So based upon all of these
21 factors, we do believe that it's contextual
22 with the remainder of the neighborhood and
23 therefore is not out of character.

24 As I explained earlier because of
25 the location of the Bronx Valley Sewer

1 Easement, there really is no alternatives
2 for development of the site except to move
3 the development pieces closer to the north
4 and to the west. And that's how the
5 property is constrained. That's what makes
6 it unique. That's why we're looking for
7 many of the variances.

8 Are the variances substantial? The
9 three-prong of the test. In what we're
10 arguing is that the rear yard borders the
11 Saw Mill River Parkway right of way. The
12 south borders Van Cortlandt Park. And the
13 north is Lowerre easements. And the
14 Lowerre property that we're going to be
15 entering into an easement agreement with
16 negotiated with. So, there will be no need
17 if, if -- but for these easements we
18 wouldn't a lot of parking variances. And
19 if not for the, if not for the sanitary
20 sewer easement, we wouldn't hardly need any
21 variances. So, we're arguing that, you
22 know, this is not really substantial given
23 the, given the, you know, character of the
24 neighborhood and given the unique
25 circumstances involved in this property.

1 The same is true with regard to
2 adverse impact. It's really almost an
3 acre. It's just a question of how the
4 building improvements are going to be
5 located on the lot that is causing the
6 variances.

7 Is it a self-created difficulty?
8 The property was owned by the County of the
9 Westchester. It was deeded to the City of
10 Yonkers. It had a reverter clause. If the
11 City did not put it to use as a park within
12 a certain number of years, it reverted back
13 to the County. We've had conversations and
14 meetings with both County and the City, and
15 they're both predisposed to see us go
16 forward with this because of the beneficial
17 use of the affordable housing component to
18 it.

19 So, I have with me this evening the
20 principal of Verus Development John
21 Saraceno who's been on projects with the
22 City. I have John Anastasiou who's with
23 Warshauer Mellusi Architects to answer any
24 questions. They can walk you through them
25 how the project is laid out and I will

1 answer any questions, Mr. Chairman.

2 THE CHAIRMAN: You made reference to
3 some places on McLean Avenue across the
4 street the, what you call that, they got
5 the plants and stuff.

6 MR. TARTAGLIA: It looks like a
7 landscape business. Garden center.

8 THE CHAIRMAN: A nursery. You made
9 reference to the nursery. And you made
10 reference to the apartment house down
11 below. But you didn't make any reference
12 to the senior -- the houses, the condos
13 west of that building you want to build.

14 MR. TARTAGLIA: I'm sorry,
15 Mr. Chairman?

16 THE CHAIRMAN: You didn't make any
17 reference to the, to the condominiums just
18 west of this building you want to build.
19 You didn't make any reference to that.

20 MR. TARTAGLIA: I, I wasn't aware of
21 them.

22 THE CHAIRMAN: Wasn't aware of it?

23 MR. TARTAGLIA: I wasn't aware of
24 them.

25 THE CHAIRMAN: Did you ever go over

1 to that piece of property?

2 MR. TARTAGLIA: I did.

3 THE CHAIRMAN: Well, let me give
4 you, let me give you background.

5 MR. TARTAGLIA: Okay.

6 THE CHAIRMAN: Your client built
7 those. We gave him the variances years
8 ago. Okay? Don't look at him. I'm
9 telling you.

10 MR. TARTAGLIA: Okay.

11 THE CHAIRMAN: My facts are right.
12 Okay. You oughta go over there and take a
13 look at it. Because here's what we're
14 doing to do. Going to ask for a shadow
15 presentation. Shadow study from you about
16 this, about the project that was built
17 about 20 years ago. Okay? All right.
18 That you gotta get. All right.

19 Also I'm going to need from you,
20 sir, I'm going to need the agreement from
21 the Army Post, VFW Post, and the agreement
22 from the County of Westchester. Is that
23 who you said owns the property there or the
24 State of New York?

25 MS. KIMBALL: State DOT.

1 THE CHAIRMAN: Huh?

2 MS. KIMBALL: State DOT. For the
3 parking?

4 THE CHAIRMAN: State DOT, thank you.
5 Going to need to see those. Then going to
6 give copies for all the members on the
7 Board and the Building Department. And
8 then we have a letter here from, from the
9 City Engineer. He's got some questions you
10 can ask. This is from July 14. He sent us
11 this to the Board here. There's questions
12 here that you can answer in writing or you
13 can come back and tell me in September. So
14 it's up to you. Whatever you want to do.
15 Whatever you want to. You have a copy of
16 this, Mr. Tartaglia?

17 MR. TARTAGLIA: I don't. Perhaps
18 our architect does.

19 THE CHAIRMAN: I'll give you mine.
20 Okay. Do you have anything else to
21 say to me?

22 MR. TARTAGLIA: Not unless anyone
23 has any questions.

24 THE CHAIRMAN: Any questions of the
25 Board?

1 Okay. Is there any anybody here
2 tonight in favor of this application? Is
3 there anybody here tonight -- anybody here
4 in favor of this application? You want to
5 speak?

6 PUBLIC SPEAKER: No.

7 THE CHAIRMAN: Oh, just raised your
8 hand.

9 PUBLIC SPEAKER: I'm obviously in
10 favor.

11 THE CHAIRMAN: Is there anybody here
12 tonight in opposition to this case?

13 Madam? Are you an attorney, madam?

14 PUBLIC SPEAKER APONTE: No, I am
15 not.

16 THE CHAIRMAN: Raise your right
17 hand, please. Do you solemnly swear to
18 tell the truth, the whole truth, nothing
19 but the truth so help you God?

20 PUBLIC SPEAKER APONTE: Yes.

21 THE CHAIRMAN: State your name and
22 address, please.

23 PUBLIC SPEAKER APONTE: Yvette
24 Aponte, 325 McLean Avenue, Yonkers, New
25 York 10705.

1 THE CHAIRMAN: Proceed, madam.

2 PUBLIC SPEAKER APONTE: So thank you
3 for bringing up the point that they did not
4 mention the condominiums. It's 17 units
5 there. And we did not get certified mail.
6 We just got a letter in the mail last week.
7 We received it. And so earlier we had a
8 lot of, of our members that were here but
9 it was so long they had family members at
10 home that they had to leave. But, yeah,
11 we're not in favor. We don't know what's
12 going on. It just came to us. No one has
13 approached us. No one has said anything.
14 We don't know one thing. They just put up
15 pup up the notice, the variance, and then
16 we received the letter. So we just want to
17 know what was going on, what was being
18 built there, how close to our property. I
19 know that they put a property marker and we
20 hadn't had in a long time. And there was a
21 park where people walk through there to go
22 to the path. The path to go to Van
23 Cortlandt Park. And we still use it. And
24 there's runners that go on that track and
25 everything. So I'm not sure if they

1 actually did the correct assessment of the
2 property yet. And traffic. We get a lot
3 of traffic. Even though, and a lot of
4 parking issues. Because we do have the
5 buses there, but there's a lot of people
6 that park in front of our buildings.
7 Because they come there to get parking and
8 they take the bus from there. So that's a
9 a constant. And we also have issues with,
10 you know, McLean Avenue which is a major
11 trucks and, you know, deliveries and
12 everything comes to our street. And
13 there's no stop signs, there's no lights
14 when you get to our area and getting into a
15 huge problem with traffic. So that's
16 another -- and then we had questions that
17 it said they're going to have like a trash
18 storage on site which is another issue
19 that, you know, attracts rodents, and what
20 does that entail? Going to have trash
21 receptacles or whatever that, that is that
22 they're talking about. So these are all
23 the questions that we have. Thank you.

24 THE CHAIRMAN: When I'm looking at
25 the piece of property, you live down the

1 hill?

2 PUBLIC SPEAKER APONTE: I live on up
3 the hill on the north -- what is that? The
4 south side.

5 THE CHAIRMAN: Do you live past
6 Caryl Street?

7 PUBLIC SPEAKER APONTE: I live right
8 below Caryl Street.

9 THE CHAIRMAN: In one of those
10 condominiums?

11 PUBLIC SPEAKER APONTE: Yes.

12 THE CHAIRMAN: The ones that were
13 built --

14 PUBLIC SPEAKER APONTE: Yeah.

15 THE CHAIRMAN: Okay. Thank you.

16 PUBLIC SPEAKER APONTE: Thank you.

17 THE CHAIRMAN: Any questions of this
18 lady?

19 Thank you, madam.

20 Anybody else to speak -- Yes, madam.

21 PUBLIC SPEAKER WHITTAKER: Hello.

22 THE CHAIRMAN: Are you an attorney?

23 PUBLIC SPEAKER: No, sir.

24 THE CHAIRMAN: Just raise your right
25 hand, please. Do you solemnly swear to

1 tell the truth, the whole truth nothing but
2 the truth so help you God?

3 PUBLIC SPEAKER WHITTAKER: I do.

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

6 PUBLIC SPEAKER WHITTAKER: Tracey,
7 T-r-a-c-e-y, Whittaker, W-h-i-t-t-a-k-e-r,
8 325 McLean Avenue, unit number 3, Yonkers,
9 New York 10705. I'm coming, not only as a
10 homeowner, but I'm also coming as the
11 president of the Stonehedge Condominium
12 Board. And as was just stated, I'd just
13 like to reiterate, there's a major concern
14 about parking. And I just really didn't
15 understand when he explained the parking,
16 he's saying it's going to be across the
17 street as well. Because we have the VFW,
18 and then you said six spaces is going to be
19 occupied --

20 THE CHAIRMAN: No, don't look at
21 him, please.

22 PUBLIC SPEAKER WHITTAKER: Okay.
23 Don't look at him. Okay. Six spaces. I
24 didn't know when he talks about that open
25 area, the wooded area, if it's going to

1 affect us. We have garden apartments in
2 the back. Where we, you know, have a patio
3 and go out to look out and things like
4 that. So certainly we didn't want to be
5 inhaling cars at that time. So I just
6 needed some clarification of that.

7 I did not personally receive my
8 letter until Saturday. I'm not saying he
9 didn't mail them on time, I didn't receive
10 it until Saturday.

11 The traffic control. Our street is
12 an emergency street. So whenever there's a
13 storm, we're not allowed to park. So
14 that's something to consider. That we have
15 to remove from one side of the street as to
16 be cleared away.

17 I just wanted to know if there's a
18 contingency plan for when they begin to cut
19 down the wooded trees and the raccoons and
20 the skunks and things like that, they tend
21 to migrate towards the homes, which would
22 be us. But we are right there right next
23 door so I didn't know if they had any
24 contingency plan there.

25 And I think that concludes my

1 concerns. Oh, I'm sorry. Another one of
2 our neighbors did send a letter and it was
3 also signed by all of the -- many of the
4 tenants that reside there. That's it.

5 THE CHAIRMAN: Any questions of this
6 lady?

7 Thank you, madam.

8 Is anybody else here in opposition?

9 Mr. Tartaglia, would you like to sum
10 up a little bit?

11 MR. TARTAGLIA: Yes, Mr. Chairman.
12 I apologize for the confusion with regard
13 to the affected property owner's
14 understanding, the site layout, where the
15 parking is going occur --

16 THE CHAIRMAN: What are you
17 apologizing for?

18 MR. TARTAGLIA: Well, we should
19 have, we should have explained a little
20 better. I think we will use the time in
21 August to meet with them. We'll give them
22 our contact information so we can explain
23 to them in a little more detail what's
24 involved. So, other than that all of the
25 parking, there will be no parking across

1 the street. All of the parking will be on
2 the same side of McLean as the project.
3 Either in Lowerre or along the Saw Mill
4 River Parkway driveway.

5 THE CHAIRMAN: Okay. You got some
6 homework to do now. Okay. So I'm going to
7 continue this hearing into September. Put
8 you on for September. We don't have any
9 hearings in August. So, put you on for
10 September.

11 In the meantime, we're going to
12 claim Lead Agency. The case number 5759,
13 Block: 59, Lot: 75, 345 McLean Avenue. I
14 make a motion that the Zoning Board of
15 Appeals pursuant to the New York State
16 Environmental Quality Review Act declare
17 its intention to seek Lead agency status
18 for the purpose of Environmental Review of
19 this matter and direct the Planning Bureau
20 on behalf of this Board to initiate the
21 Lead Agency notification and coordinate
22 review with all other involved agencies in
23 this action. If no other agency seeks to
24 be Lead Agency within 30 days of effective
25 date of this notice, the Zoning Board of

1 Appeals shall assume Lead Agency status for
2 the purpose of review of this matter.

3 Do I have a second?

4 MS. KIMBALL: Second.

5 THE CHAIRMAN: Second. On the
6 motion.

7 MS. KIMBALL: For the motion.

8 THE CHAIRMAN: Ms. Kimball.

9 Mr. Giorgio.

10 MR. GIORGIO: For the motion.

11 THE CHAIRMAN: All right.

12 Mr. Singh.

13 MR. SINGH: For the motion.

14 THE CHAIRMAN: Mr. Lopez.

15 MR. LOPEZ: For the motion.

16 THE CHAIRMAN: Motion is passed. So
17 we're going to be the Lead Agency.

18 MR. TARTAGLIA: Thank you,
19 Mr. Chairman. Thank you members of the
20 Board.

21 THE CHAIRMAN: Yeah. Mr. Tartaglia,
22 one more thing, please. Like, I said we'll
23 continue this. Gotta send out new notices
24 to everybody within the 200-foot radius,
25 registered mail return receipt requested.

1 MR. TARTAGLIA: We will do return
2 receipt requested this time, Mr. Chairman.

3 THE CHAIRMAN: It's the third
4 Tuesday in September. I don't know what it
5 is. You're going to have to look it up.

6 MR. TARTAGLIA: Thank you,
7 Mr. Chairman.

8 THE CHAIRMAN: Those letters don't
9 have to go out until, in September.

10 MR. TARTAGLIA: Ten days before.

11 THE CHAIRMAN: Yeah, whatever it is.
12 Thank you.

13 We just have some other stuff to do
14 for the Board so. Just I'm just going to
15 be a couple more minutes.

16 Deputy Ellman, have a seat.

17 You guys can leave, if you want to
18 stay, you can stay. Might be here another
19 half hour. I Don't know. But you guys can
20 leave if you want.

21 We have the first one which is an
22 amendment to our -- that's the one for
23 Mr. Veneruso sent, the Old Babies R Us,
24 that's off to September.

25 But we have 336 Tuckahoe Road. This

1 is the McDonald's over there. I took a
2 ride over there, and I looked at it. And
3 they want to, they want to, did you go with
4 me? Mr. Singh, you were with me when we
5 went over to McDonald's.

6 MR. SINGH: Yes. Yes.

7 THE CHAIRMAN: What we're going to
8 do, they're asking to eliminate the
9 sprinkler system. They want to give them a
10 system that's over the -- when they cook
11 the hamburgers and everything. I really
12 have no problem with it. But I want to
13 turn it over to the fire department. So,
14 you know, turn that one over to Chris
15 DeSantis and ask him his opinion, please.
16 There's papers on this all over the place.
17 Okay? So you got -- anything you need, you
18 get it from Mr. Natchev. Is that okay with
19 everybody?

20 MS. KIMBALL: Yes.

21 THE CHAIRMAN: Okay. Good. All
22 right. Then we have one here from, oh,
23 boy, we got one here talking about from
24 Homefield Deli. We're going to put this
25 over until I think this needs some more

1 variances. We're going to put this over
2 until September. That's case number --
3 well, it's 164 Saw Mill River Road also
4 known as 970 Saw Mill. So we're going to
5 put that over. You have that, that.

6 And then we have one more here from,
7 this one is 377 McLean Avenue. He's asking
8 for an extension.

9 Then this case 5682 for Bennett
10 Avenue. At the beginning of the hearing, I
11 told the fella he's gotta come back.

12 (Brief pause.)

13 So that Bennett Avenue, he's gotta
14 go back to the Building Department. He's
15 gotta tell the Building Department before
16 what he needs, he's gotta get a permit and
17 then get back to us for a wall up near the
18 street. So, just letting you know what I
19 told him. Is that okay with everybody on
20 the Board here?

21 MS. KIMBALL: Yes.

22 THE CHAIRMAN: Everybody in favor
23 say aye.

24 (A chorus of ayes.)

25 THE CHAIRMAN: That was case 5682.

1 161 Bennett Avenue. And then we have this
2 one over here, 377 McLean Avenue. I'm
3 going to make a motion. I want to bring
4 this back in September. But just a couple
5 of months. I'm going to put this over
6 until -- make a motion -- to put this case
7 over until at least September. And this
8 case number 5150, it's 377 McLean Avenue.
9 It's been bouncing around for a long time.
10 We gotta see. All right.

11 Make a motion to adjourn.

12 MS. KIMBALL: Wait. I'm sorry. Do
13 we need a second on the 377?

14 THE CHAIRMAN: I need a second, yes.

15 MS. KIMBALL: Second.

16 THE CHAIRMAN: Second. Okay in
17 favor say aye.

18 (A chorus of ayes.)

19 THE CHAIRMAN: Anybody opposed?
20 Okay, so that's over. Bring that back in
21 September.

22 I make a motion to adjourn.

23 MS. KIMBALL: Second.

24 THE CHAIRMAN: Thank you. Everybody
25 in favor say aye.

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(A chorus of ayes.)
THE CHAIRMAN: Thank you.
(Time Noted: 9:54 p.m.)

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CERTIFICATION

STATE OF NEW YORK)
) ss.
COUNTY OF WESTCHESTER)

I, LYNNETTE MORATO, 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 no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand.



LYNNETTE MORATO,
COURT REPORTER

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