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CITY OF YONKERS

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Minutes of
The City of Yonkers Zoning Board
August 17, 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
- RALPH BATTISTA, Member

P R E S E N T:

- DAVE BARBUTI, Building Department
- ALAIN NATCHEV, Assistant Corporation
Counsel
- LEE ELLMAN, Planning Department

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THE CHAIRMAN: Good evening, ladies and gentlemen, the Zoning Board of Appeals Public Hearing for August, 2021 is now in session. Would the members introduce themselves, please, starting with Mr. Battista.

MR. BATTISTA: Ralph Battista.

MS. KIMBALL: Wilson Kimball.

MR. GIORGIO: Vincent Giorgio.

MR. LANDSMAN: Jeffrey Landsman.

MR. SINGH: Harry Singh.

MR. LOPEZ: Hector Lopez.

THE CHAIRMAN: And I'm Joseph Cianciulli. I'm the Chairman of the Board. To my immediate left is Corporation Counsel represents the Board, Mr. Alan Natchev. To my right is Mr. Dave Barbuti, Commissioner Dave Barbuti, and to my far left over in the corner there is the Deputy Planning Commissioner Lee Ellman.

We have decisions only tonight. We are going to do take up one thing first. Just for a minute. This concerns case 44 Hudson street. We're going to have a

1 resolution. So, I'm going to take it up
2 first.

3 First off, excuse me, do I have a
4 motion to accept the minutes of July's
5 meeting?

6 MR. LANDSMAN: Motion.

7 THE CHAIRMAN: Mr. Landsman. Do I
8 have a second? Ms. Kimball. Everybody in
9 favor say aye.

10 (A chorus of ayes.)

11 THE CHAIRMAN: Anybody opposed?
12 Pass 7-0.

13 MR. LANDSMAN: Can you put your
14 microphone on, please?

15 THE CHAIRMAN: You can't hear me?

16 MR. LANDSMAN: It's very low.

17 THE CHAIRMAN: I make a motion to
18 have the Zoning Board of Appeals of the
19 City of Yonkers assume Lead Agency status
20 pursuant to Part 617 State Environmental
21 Quality Review Act, that's called SEQRA,
22 for the purpose of Miroza Tower, LLC.,
23 project located at Block 502, Lot 1.10,
24 Block 511, Lots 22.24 on properties known
25 as 40 also known as 44 Hudson Street and 67

1 point -- excuse me, 67-72 Buena Vista
2 Avenue in Yonkers, New York.

3 On April 22, 2021, the Zoning Board
4 of Appeals City of Yonkers circulated a
5 Lead Agency notice on the project on site
6 in connection with requested area variance
7 Yonkers Zoning Ordinance to build a 269.5
8 foot structure comprised of 27 stories and
9 a 267 unit tower including 1,699 square
10 feet retail space on the first floor and
11 222 parking -- 222 parking garage and 24
12 spaces to be located at a new open air lot
13 at 67-72 Buena Vista Avenue, and 17 parking
14 spaces proposed via fee-in-lieu parking
15 whereby 150 foot maximum is permitted also
16 exceeding the maximum distance of off-site
17 parking whereby 250-foot maximum is
18 permitted whereas, and whereas 30 days have
19 passed since the circulation of Lead Agency
20 notice and no written objections having
21 been received.

22 Now, therefore the Zoning Board of
23 Appeals City of Yonkers hereby assumes the
24 Lead Agency status for the above referenced
25 appeal for variance by Miroza Tower, LLC.

1 Do I have a second on the motion?

2 MS. KIMBALL: Second.

3 THE CHAIRMAN: On the motion.

4 Mr. Battista.

5 MR. BATTISTA: For the motion.

6 THE CHAIRMAN: Ms. Kimball.

7 MS. KIMBALL: For the motion.

8 THE CHAIRMAN: Mr. Giorgio.

9 MR. GIORGIO: For the motion.

10 MR. LANDSMAN: For the motion.

11 THE CHAIRMAN: Mr. Landsman.

12 MR. LANDSMAN: For the motion.

13 THE CHAIRMAN: Mr. Singh.

14 MR. SINGH: For the motion.

15 THE CHAIRMAN: Mr. Lopez.

16 MR. LOPEZ: For the motion.

17 THE CHAIRMAN: Chairman Cianciulli

18 votes for the motion. Motion is carried

19 7-0.

20 I got you out early. There you go.

21 We're not going to bring up anything else.

22 So if you want to hang around you can.

23 It's up to you.

24 MR. STEINMETZ: Thank you very much,

25 Mr. Chairman.

1 THE CHAIRMAN: We're going to make a
2 motion to put over case 5660 and 5661, 540
3 Nepperhan Avenue and 578 Nepperhan Avenue.

4 Do I have a second, please?

5 MR. SINGH: Second.

6 THE CHAIRMAN: Mr. Singh, on the
7 motion. This is put over. Everybody in
8 favor of the motion say aye.

9 (A chorus of ayes.)

10 THE CHAIRMAN: All right. Anybody
11 opposed? That's carried 7-0.

12 The first decision tonight will be
13 case 5745. Mr. Romano on behalf of Croton
14 Terrace Enterprises, owner, premises 14
15 Orchard street, Block 2076, Lot 17 in a CM
16 zone.

17 Do I have a motion, please.

18 MR. GIORGIO: Yes, Mr. Chairman.

19 THE CHAIRMAN: Mr. Giorgio. Speak
20 up though.

21 MR. GIORGIO: Case number 5745 on 14
22 Orchard Street, Block 2706, Lot 17.

23 The subject site is a vacant lot on
24 the northeast corner of Orchard Street and
25 Chanfrau Place. The lot is approximately

1 125 ft x 50 ft. The applicant purchased
2 the property in August 2018 and seeks
3 several area variances to construct a
4 two-story warehouse with an office to be
5 used for storage of equipment and supplies
6 for his construction business.

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

21 One, whether granting the requested
22 variances would result in an undesirable
23 change in neighborhood character or a
24 detriment to nearby properties. Given the
25 number and size of the required variances,

1 the Board finds that the proposed building
2 is simply oversized for the lot. Further,
3 the lack of off-street loading spaces and
4 the fact that Chanfrau Place is a one way
5 street would likely result in traffic flow
6 issues and additional truck traffic along
7 Orchard Street, already a congested
8 residential road.

9 Two, whether the benefit sought by
10 the applicant can be achieved by other
11 feasible means. The Applicant has not
12 submitted information to the Board to
13 indicate that any other means have been
14 considered, such as alternate locations or
15 site layouts.

16 Three, whether the requested
17 Variances are substantial. The Board finds
18 that many of the proposed variances are
19 substantial both numerically and in
20 potential impacts to the neighborhood as
21 noted. To summarize, the number and size
22 of the proposed variances suggest that the
23 building is oversized for the lot and the
24 proposal would likely lead to traffic flow
25 issues and additional truck traffic along

1 Orchard Street.

2 Four, whether the variances will
3 have negative effects to the physical or
4 environmental conditions in the
5 neighborhood. The proposed variances will
6 not have any additional physical or
7 environmental impacts beyond those
8 previously described.

9 Five, whether the alleged difficulty
10 is self-created. The hardship is clearly
11 self-created as the Applicant only recently
12 purchased the property and could have or
13 should have had actual or constructive
14 knowledge of the building code restrictions
15 prior to purchasing the property and
16 putting forth its proposal.

17 Thank you.

18 THE CHAIRMAN: You're welcome.

19 Do I have a second on the motion?

20 Mr. Landsman. On the motion, Mr. Battista.

21 MR. BATTISTA: For the motion.

22 THE CHAIRMAN: 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: Chairman votes for
8 the motion, the motion is carried 7-0.

9 All right. We're going to take this
10 young man and this young lady. Move up a
11 little so you can hear us.

12 Harry, this is going to be you.

13 The next case tonight is case 5757.
14 This is Mr. Dibbini. Who couldn't be here
15 tonight. He called me. It's a variance
16 John Daily, Jr. at 124 Vineyard Avenue,
17 Block 2174, Lots 28.32 in an "A" Zone.

18 Do I have a motion, please.

19 MR. SINGH: Yes, Mr. Chairman.

20 THE CHAIRMAN: Harry, speak up now.

21 MR. SINGH: Sure.

22 On premises known as 124 Vineyard,
23 Block 2174, Lot 28.32, Zone A.

24 The premises are located in an "A"
25 zone and contains a three-family house

1 built in 1925. The Applicant lives in the
2 house with his father, wife, and two
3 children. The Applicant owns the premises
4 and adjoining vacant lot to the north
5 identified as 126 Vineyard Ave. He now
6 seeks to build a passive or net-zero
7 two-family house for him and his family
8 using minimal gas or electricity supplied
9 by the utility company, along with
10 incorporating other energy-savings
11 construction materials. Applicant cannot
12 build this house without reapportioning the
13 existing lots between 124 and 126 Vineyard
14 Ave. He is seeking to reapportion said
15 lots and obtain variances for setback
16 requirements for lot 125 Vineyard Ave and
17 lot width requirements for 126 Vineyard
18 Ave. It should be noted that the
19 reapportionment does not require any lot
20 variances for 126 Vineyard Ave, just a lot
21 width variance, where 50 feet is required
22 and 37 feet is proposed.

23 As such, Mr. Chairman, I make a
24 motion to approve the requested variance to
25 subject to conditions based on facts,

1 finding --

2 THE CHAIRMAN: Harry, speak louder.

3 MR. SINGH: Okay. Sorry.

4 -- subject to conditions based on
5 fact, finding, information, and testimony
6 presented to this Board at the public
7 hearing, site visits by members of the
8 Zoning Board of Appeals, or otherwise
9 obtained.

10 To grant an area variance, the Board
11 is required to consider five points of law:

12 1. Whether an undesirable change
13 will be produced in the character of the
14 neighborhood or the granting of this
15 Variance will create a detriment to nearby
16 properties.

17 The premises would remain similar in
18 use and character with the surrounding
19 area, which consists of one, two, and
20 multi-family dwellings, as reflected in the
21 area maps, photos, and site visits. By
22 granting the variance, 126 Vineyard lot
23 width will be 12.5 larger than most of the
24 neighboring lots with homes in the
25 immediate area. Furthermore, the new

1 proposed house at 126 Vineyard will have a
2 very low profile. Only one story will be
3 visible from the street. Similar to the
4 house immediately to the left or north of
5 126 Vineyard Ave. Additionally, the side
6 yard setbacks will still maintain a safe
7 and comfortable distance from neighboring
8 structures.

9 2. Whether the benefit sought by
10 the Applicant cannot be achieved by some
11 other method, feasible for the Applicant to
12 pursue, other than the area variances.

13 The Applicant cannot build his home
14 without the reapportionment of the
15 premises. Unless the variance is approved,
16 the Applicant and his family would be
17 unable to make substantial use of the lot.
18 Therefore, the benefit sought cannot be
19 achieved by any other means besides the
20 variance.

21 3. Whether the requested variance
22 is substantial.

23 The requested variance is not
24 substantial when viewed in context of the
25 entire application. The buffer between

1 houses will be maintained if this variance
2 is approved. Parking will not be an issue,
3 as there's ample parking on the street.

4 Furthermore, there's also ample
5 public transportation running on Vineyard
6 Ave and near the premises as the #9 bus
7 runs on Vineyard Ave and the #25 and #30
8 stop at Ashburton and Vineyard Ave.

9 4. The proposed improvements
10 whether the granting of the Area variance
11 to allow for the proposed improvement will
12 have an adverse effect on the condition of
13 the physical or environmental conditions in
14 the neighborhood or district.

15 The variance will not negatively
16 impact the neighborhood, as there will be
17 no significantly noticeable change and
18 parking will be minimally impacted, as the
19 new house will have a two-car garage to
20 accommodate the needs of 126 Vineyard Ave.
21 Additionally, none of the tenants at the
22 premises have had vehicles as far as the
23 Applicant can recall over the years. As a
24 result, there will be no adverse
25 environmental or physical impact on the

1 premises.

2 5. Whether the alleged difficulty
3 was self-created, consideration shall be
4 relevant to the decision of the Zoning
5 Board of Appeals, but shall not necessarily
6 preclude the granting of the area variance.

7 The alleged difficulty was not self-
8 created. The adjourning lot has been idle
9 for generations, and the Applicant now
10 seeks to build a home for him and his
11 family making the land productive. This
12 cannot be done without the reapportionment
13 of 124 Vineyard Ave.

14 Mr. Chairman, in granting this
15 request for improvement to a nonconforming
16 use, the Board imposes the following
17 conditions:

18 1. All health, safety, fire,
19 building, and environmental codes shall
20 always be adhered to by the Applicant.

21 2. All curbs and sidewalks abutting
22 the property that needs repairing or
23 replacement as per the City of Yonkers
24 Department of Engineering, then the repair
25 or replacements must be done before

1 occupancy.

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

6 4. These conditions shall be on the
7 certificate of occupancy, and the Applicant
8 and/or property owner shall permit
9 inspections at the discretion of the City's
10 Department of Housing and Buildings at
11 least once every calendar year to determine
12 that the conditions are being satisfied.

13 5. There will be fire/Carbon
14 monoxide and smoke detectors on the
15 premises hooked up outside 24 hours.
16 Monitoring systems such as ADT before
17 occupancy.

18 6. Should the Applicant and/or
19 property owner not comply with, breach, or
20 violate any of these conditions, at any
21 time, the approval of these variances is
22 hereby rescinded. It authorizes the City's
23 Department of Housing and Building to take
24 appropriate action.

25 7. All expenses associated with

1 these conditions shall be the sole
2 responsibility of Applicant and the
3 property owner.

4 8. There will be no boarding house
5 or in-law setup house allowed other than
6 the new home which will be two-family only.

7 10. The empty property north of the
8 new house must be used to park a minimum of
9 two cars, maximum four cars. There is a
10 curb cut there that can be used. These
11 spots cannot be used except by two
12 occupants of the house on the property,
13 free of charge. This must be done before
14 occupancy.

15 Thank you, Mr. Chairman.

16 THE CHAIRMAN: I think you forgot
17 number 9.

18 MR. SINGH: Yes, right, I apologize.
19 I skipped that. Number 9. The two-car
20 garage in the new house shall remain
21 restricted to parking, storage of
22 automobiles.

23 THE CHAIRMAN: Do I have a second on
24 the motion? Ms. Kimball.

25 MS. KIMBALL: Motion.

1 THE CHAIRMAN: Mr. Battista.

2 MR. BATTISTA: For the motion.

3 THE CHAIRMAN: Ms. Kimball.

4 MS. KIMBALL: For the motion.

5 THE CHAIRMAN: Mr. Giorgio.

6 MR. GIORGIO: For the motion.

7 THE CHAIRMAN: Mr. Landsman.

8 MR. LANDSMAN: For the motion.

9 THE CHAIRMAN: Mr. Singh.

10 MR. SINGH: For the motion.

11 THE CHAIRMAN: Mr. Lopez.

12 MR. LOPEZ: For the motion.

13 THE CHAIRMAN: Chairman votes for
14 the motion. The motion is carried. 7-zip.

15 You okay?

16 MR. DAILY: Yes. Thank you,

17 Mr. Chairman.

18 THE CHAIRMAN: Say hello to your
19 father for me. Okay?

20 MR. DAILY: I will. I will. Thank
21 you. Have a good evening.

22 MR. SINGH: I forgot my glasses.

23 THE CHAIRMAN: Huh?

24 MR. SINGH: I forgot my eyeglasses.

25 So I forgot the --

1 THE CHAIRMAN: You want me to read
2 the motion?

3 MR. SINGH: No, it's okay.

4 THE CHAIRMAN: You want me to read
5 them?

6 MR. SINGH: No, that's okay.

7 THE CHAIRMAN: You're okay?

8 MR. SINGH: Yes. Thank you.

9 THE CHAIRMAN: Let's see what we got
10 here. The next one. 5748 Area variance,
11 Mr. Romano, on behalf of Smerlin Cuello,
12 owner of 212 Warburton Avenue, Block 2097,
13 Lot 60 in an "M" Zone.

14 Do I have a motion, please?

15 MR. GIORGIO: Yes Mr. Chairman.

16 THE CHAIRMAN: Yes, sir.

17 MR. GIORGIO: The subject property
18 is located on the east side of Warburton
19 Avenue between Lamartine Avenue and Willow
20 Place. The site is developed with an
21 existing three-story, three-family frame
22 building over a basement. The Applicant is
23 seeking to legalize a second floor addition
24 in the rear of the building that was
25 seemingly built sometime after August of

1 2002.

2 Mr. Chairman, I make a motion to
3 approve the requested area variances based
4 on facts, findings, information, and
5 testimony presented to this Board at the
6 public hearing, site visits by members of
7 the Zoning Board of Appeals, or otherwise
8 obtained. In approving these variances,
9 the Zoning Board of Appeals has taken into
10 consideration the benefit to the Applicant
11 as weighed against the detriment to the
12 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 granting the requested
17 variances would result in an undesirable
18 change in neighborhood character or a
19 detriment to nearby properties. The Board
20 has visited the site multiple times and
21 finds no apparent detriment to granting the
22 request. The building is in character with
23 other residential buildings in the
24 neighborhood in terms of size, use,
25 appearance, and occupancy. The addition

1 has been in place for some time with no
2 known issues and is located in the rear of
3 the property so that it's not visible from
4 Warburton Avenue. The home will remain on
5 the Certificate of Occupancy as a three-
6 family residence as it was prior to
7 building of the addition.

8 Two, whether the benefit sought by
9 the applicant can be achieved by other
10 feasible means. The addition is existing,
11 and as such, it is not possible to reduce
12 or obviate the need for variances short of
13 significant renovation or demolition.

14 Three, whether the requested
15 variances are substantial. While some of
16 the requested variances may be numerically
17 substantial, the Board does not believe
18 that they would be substantial with regard to
19 neighborhood impacts. The building is in
20 character with other residential buildings
21 in the neighborhood in terms of size, use,
22 appearance, and occupancy. The addition in
23 question has been in place for some time
24 with no known issues. The addition is in
25 the rear of the property and is not visible

1 from Warburton Avenue. The home will
2 remain on the Certificate of Occupancy as a
3 three-family residence as it was prior to
4 building of the addition.

5 Four, whether the variances will
6 have negative effects to physical,
7 environmental conditions in the
8 neighborhood. The addition is existing and
9 no new construction is proposed so that
10 there would be no change to the physical or
11 environmental conditions.

12 Five, whether the alleged difficulty
13 is self-created. The hardship is self-
14 created as the Applicant only recently
15 purchased the property and could have and
16 should have conducted appropriate due
17 diligence during purchase. However, this
18 factor alone does not preclude the Board
19 from granting the request.

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

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

25 2. Fire, smoke, and carbon monoxide

1 detectors shall be installed throughout the
2 building and connected to an outside
3 24-hour monitoring system before occupancy;

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

7 4. Any repairs or replacement
8 required by the City Engineer to the curbs
9 or sidewalks in front of the property along
10 Warburton Avenue shall be repaired or
11 replaced by the applicant prior to
12 occupancy;

13 5. No more than three kitchens are
14 allowed;

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

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

1 time; and

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

5 Thank you.

6 THE CHAIRMAN: Did you put something
7 there about three kitchens?

8 MR. GIORGIO: Yes, under condition
9 number 5, no more than three kitchens are
10 allowed.

11 THE CHAIRMAN: All right. Thank
12 you.

13 Do I have a second on the motion?
14 Ms. Kimball. On the motion, Mr. Battista.

15 MR. BATTISTA: For the motion.

16 THE CHAIRMAN: 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 7-0.

3 The next case is improvement to
4 non-conforming use, 782 North Broadway,
5 Block 3021, Lot number 5 in an S-50 Zone.

6 Mr. Landsman.

7 MR. LANDSMAN: Yes, Mr. Chairman. I
8 make a motion to approve the request for
9 this improvement to a non-conforming use
10 subject to conditions based on facts,
11 findings, information, and testimony
12 presented to this Board at the public
13 hearing, site visits by members of the
14 Zoning Board and otherwise obtained.

15 The subject property in question is
16 a two-family home in an S-50 Zone, in a
17 neighborhood of multifamily and single
18 homes on the east side of North Broadway
19 just North of Roberts Ave.

20 With respect to the improvement to
21 the non-conforming use related to this
22 existing home, which is now sought to be
23 legalized, the conditions imposed herein,
24 will serve to reduce any existing adverse
25 effects of the existing, non-conforming

1 use. In making its determination on the
2 requested relief, the Zoning Board of
3 Appeals shall take into consideration the
4 effect of permitting the requested
5 alterations to the non-conforming dwelling.

6 The Zoning Board has visited the
7 site multiple times and finds there is no
8 apparent detriment to neighbors in granting
9 the relief requested and no enlargement of
10 the presently existing nonconforming use.
11 Further, there was no opposition from the
12 neighbors.

13 The Applicant is simply seeking to
14 maximize the living space in the property
15 by improving the basement space.

16 It must be noted again that no
17 neighbors in the area have complained about
18 the two-family use which apparently has
19 been in place for over 100 years according
20 to records obtained from the City of
21 Yonkers assessment office. Legalizing it
22 will not change the currently existing
23 condition at the property or its effect
24 upon the health, safety or welfare of the
25 surrounding neighborhood.

1 No environmental issues or safety
2 standards which have been breached. The
3 granting of the requested relief will in no
4 way have a negative effect on the
5 neighborhood or do nothing to negatively
6 alter the quality of life.

7 However, the granting of this
8 improvement to a nonconforming use is
9 subject to the following conditions:

10 Number one, all health, safety,
11 fire, building and environmental codes
12 shall be adhered to at all times by the
13 applicant and/or owner.

14 Number two, fire, smoke and carbon
15 monoxide detectors shall be installed
16 throughout the entire home and shall be
17 connected to an outside 24-hour monitoring
18 system.

19 Number three, that no business shall
20 operate from this property.

21 Number four, As determined by the
22 City of Yonkers Engineering Department, if
23 any sidewalks need repairing or replacing
24 in front of the dwelling then the owner or
25 Applicant must comply with their request,

1 before the property is occupied.

2 Number five, all taxes and fines, if
3 owed, must be paid in full 60 days from
4 today's date.

5 Number six, these conditions shall
6 be listed on the C of O and the applicant
7 and/or property owner shall permit
8 inspections at the discretion of the
9 Department of Housing and Buildings, City
10 of Yonkers, at least once per year to
11 determine that conditions are being met.

12 Number seven, should the applicant
13 and/or property owner not comply with,
14 breach or violate any of these conditions
15 at any time, the area variance is hereby
16 rescinded, and the Zoning Board authorizes
17 the City of Yonkers Department of Housing
18 and Buildings to take appropriate action.

19 Number eight, all expenses
20 associated with these conditions shall be
21 the responsibility of the Applicant and/or
22 owner.

23 Number Nine, that this home shall
24 remain a two-family dwelling or less with
25 no in-law or boarding house set-up.

1 Number Ten, The garage shall be used
2 strictly for parking of occupants cars.

3 Number Eleven The driveway must be
4 paved from North Broadway to garage
5 entrance.

6 Thank You.

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

9 MR. SINGH: Second.

10 THE CHAIRMAN: Mr. Singh. On the
11 motion, Mr. Battista.

12 MR. BATTISTA: For the motion.

13 THE CHAIRMAN: Ms. Kimball.

14 MS. KIMBALL: For the motion.

15 THE CHAIRMAN: Mr. Giorgio.

16 MR. GIORGIO: For the motion.

17 THE CHAIRMAN: Mr. Landsman.

18 MR. LANDSMAN: For the motion.

19 THE CHAIRMAN: Mr. Singh.

20 MR. SINGH: For the motion.

21 THE CHAIRMAN: Mr. Lopez.

22 MR. LOPEZ: For the motion.

23 THE CHAIRMAN: Chairman votes for
24 the motion. The motion is carried 7-0.

25 Next case is 5751, non-conforming

1 use, Stephen Veneruso, 155 Warburton
2 Avenue, Block 2099, Lot 13 in a CM Zone.

3 Mr. Landsman.

4 MR. LANDSMAN: Yes, thank you.

5 I make a motion to approve the
6 request for this non-conforming use subject
7 to conditions based on facts, findings,
8 information, and testimony presented to
9 this Board at the public hearing, site
10 visits by members of the Zoning Board and
11 otherwise obtained.

12 The Zoning Board is permitted to
13 grant the most minimal non-conforming use.
14 The subject property in question is a
15 one-family home in an CM Zone. We approve
16 the house returning to its former C of O
17 status as a single-family residence. The
18 house is located on the West side of
19 Warburton Avenue between Ashburton Avenue
20 and Cottage Garden Place.

21 With respect to the non-conforming
22 use related to this existing home, which is
23 now sought to be legalized, the conditions
24 imposed herein will serve to reduce any
25 existing adverse effects of the existing,

1 non-conforming use. In making its
2 determination on the requested relief, the
3 Zoning Board of Appeals shall take into
4 consideration the effect of permitting the
5 requested alterations to the non-conforming
6 dwelling.

7 The Zoning Board has visited the
8 site multiple times and finds there is no
9 apparent detriment to neighbors in granting
10 the relief requested and no enlargement of
11 the presently existing nonconforming use.
12 With the house remaining a single family it
13 should not contribute to the shortfall of
14 street parking in the area. Further, there
15 was no opposition from the neighbors.

16 The Applicant is seeking to legalize
17 the living space in the property by
18 improving the interior of the structure and
19 make it habitable again.

20 No environmental issues or safety
21 standards have been breached. The granting
22 of the requested relief will in no way have
23 a negative effect on the neighborhood or do
24 nothing to negatively alter the quality of
25 life.

1 However, the granting of this
2 nonconforming use is subject to the
3 following conditions:

4 Number one, all health, safety,
5 fire, building and environmental codes
6 shall be adhered to at all times by the
7 applicant and/or owner.

8 Number two, fire, smoke and carbon
9 monoxide detectors shall be installed
10 throughout the entire home and shall be
11 connected to an outside 24-hour monitoring
12 system.

13 Number three, that no business shall
14 operate from this property.

15 Number four, as determined by the
16 City of Yonkers Engineering Department, if
17 any sidewalks need repairing or replacing
18 in front of the dwelling, then the owner or
19 applicant must comply with their request
20 before the property is occupied.

21 Number five, all taxes and fines, if
22 owed, must be paid in full 60 days from
23 today's date.

24 Number six, these conditions shall
25 be listed on the C of O and the applicant

1 and/or property owner shall permit
2 inspections at the discretion of the
3 Department of Housing and Buildings, City
4 of Yonkers, at least once per year to
5 determine that conditions are being met.

6 Number seven, should the applicant
7 and/or property owner not comply with,
8 breach or violate any of these conditions
9 at any time, the area variance is hereby
10 rescinded, and the Zoning Board authorizes
11 the City of Yonkers Department of Housing
12 and Buildings to take appropriate action.

13 Number eight, all expenses
14 associated with these conditions shall be
15 the responsibility of the applicant and/or
16 owner.

17 Number nine, new plans for a single-
18 family home shall be submitted to the
19 Yonkers Building Department for approval.
20 The basement shall remain be unfinished, as
21 finished rooms could result in larger
22 families with many cars and place a further
23 hardship on the area for parking.

24 Number ten, that this home shall
25 remain a one-family dwelling with no

1 boarding house or in-law set-up.

2 Thank You.

3 THE CHAIRMAN: Do I have a second on
4 the motion? Thank you, Ms. Kimball. On
5 the motion, Mr. Battista.

6 MR. BATTISTA: For the motion.

7 THE CHAIRMAN: Ms. Kimball.

8 MS. KIMBALL: For the motion.

9 THE CHAIRMAN: Mr. Giorgio.

10 MR. GIORGIO: For the motion.

11 THE CHAIRMAN: Mr. Landsman.

12 MR. LANDSMAN: For the motion.

13 THE CHAIRMAN: Mr. Singh.

14 MR. SINGH: For the motion.

15 THE CHAIRMAN: Mr. Lopez.

16 MR. LOPEZ: For the motion.

17 THE CHAIRMAN: Chairman votes for
18 the motion. The motion is carried 7-0.

19 The next case is 5752, 50 Vineyard
20 Avenue, Block 2078, Lot 12 in an "A" Zone.

21 Do I have a motion, please?

22 MR. GIORGIO: Yes, Mr. Chairman.

23 THE CHAIRMAN: Yes, Mr. Giorgio.

24 MR. GIORGIO: The subject site is a
25 vacant lot on the northeast corner of

1 Vineyard Avenue and Myrtle Street. The
2 applicant is proposing to construct a
3 two-family dwelling with frontage on Myrtle
4 Street.

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

19 One, whether granting the requested
20 variance would result in an undesirable
21 change in neighborhood character or a
22 detriment to nearby properties. The
23 proposed building and use are in character
24 with the surrounding neighborhood and the
25 proposed setbacks are similar to that found

1 at other residential properties in the
2 area. The Board also notes that the
3 applicant has supplied the required off
4 street parking.

5 Two, whether the benefit sought by
6 the applicant can be achieved by other
7 feasible means. Given the size and
8 topography of the site, it is not likely
9 that the applicant could achieve the
10 desired benefit absent the requested
11 variance.

12 Three, whether the requested
13 variance is substantial. While the opposed
14 variance may be numerically substantial,
15 the Board does not believe that it would be
16 substantial with regard to neighborhood
17 impacts. The proposed dwelling is in
18 character with the neighborhood and the
19 setbacks are similar to those found in the
20 surrounding area.

21 Four, whether the variance will have
22 negative effects to physical or
23 environmental conditions in the
24 neighborhood. The proposed variance will
25 not have any significant physical or

1 environmental impacts. All construction
2 will take place under the direction of the
3 City of Yonkers Department of Housing and
4 Buildings. Any impacts from construction
5 would be temporary.

6 Five, whether the alleged difficulty
7 is self-created. The hardship is self-
8 created as the applicant could have or
9 should have had actual or constructive
10 knowledge of the building code restrictions
11 prior to purchasing the property and
12 putting forth its proposal. However, this
13 factor alone does not preclude the Board
14 from granting the request.

15 In approving this variance the Board
16 imposes the following conditions:

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

20 2. Fire, smoke, and carbon monoxide
21 detectors shall be installed throughout the
22 proposed building and connected to an
23 outside 24-hour monitoring system before
24 occupancy;

25 3. Any taxes or fines, if owed,

1 shall be paid within 60 days from today's
2 date;

3 4. No front yard parking allowed
4 which would impede the use of the sidewalk;

5 5. The property is to remain a
6 two-family dwelling only, no accessory
7 apartments, no in-law or boarding house
8 setups allowed;

9 6. No businesses shall operate from
10 the property;

11 7. Any repairs or replacement
12 required by the City Engineer to the curbs
13 or sidewalks in front of the property along
14 Vineyard Avenue or Myrtle Street shall be
15 repaired or replaced by the applicant
16 before occupancy;

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

25 9. This approval shall be

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

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

7 Thank you.

8 THE CHAIRMAN: You're welcome. Do I
9 have a second, please. Ms. Kimball. On
10 the motion, Mr. Battista.

11 MR. BATTISTA: For the motion.

12 THE CHAIRMAN: Ms. Kimball.

13 MS. KIMBALL: For the motion.

14 THE CHAIRMAN: Mr. Giorgio.

15 MR. GIORGIO: For the motion.

16 THE CHAIRMAN: Mr. Landsman.

17 MR. LANDSMAN: For the motion.

18 THE CHAIRMAN: Mr. Singh.

19 MR. SINGH: For the motion.

20 THE CHAIRMAN: Mr. Lopez.

21 MR. LOPEZ: For the motion.

22 THE CHAIRMAN: Chairman votes for
23 the motion. The motion is carried 7-zip.

24 Okay. The next case for tonight.

25 We have here on Whitman Road. Going to put

1 The premises are an existing one
2 family dwelling located in a "T" Zone. The
3 applicant has owned the premises since
4 2009. The neighborhood consists of mainly
5 one and two-family dwellings. The
6 applicant seeks to do interior alterations
7 to convert the premises into a two-family
8 dwelling. However, approval of the Zoning
9 Board of Appeals is required due to one
10 dimensional insufficiency and being short
11 one parking space.

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 five 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. The premises would remain
2 similar in use and character with the
3 surrounding area, which consists of one and
4 two-family dwellings,

5 2. Whether the benefit sought by
6 the applicant cannot be achieved by some
7 other method, feasible for the Applicant to
8 pursue, other than the area variances.

9 The benefit sought by the applicant
10 cannot be achieved in another way, as there
11 is no ability to increase the lot size or
12 obtain additional lot.

13 3. Whether the requested variance
14 is substantial.

15 The requested variance is not
16 substantial, as this does not include any
17 external alteration and thus will not
18 impact the surrounding premises.

19 Furthermore, being only one parking space
20 short of the code will not impact the
21 neighborhood parking scheme.

22 4. The proposed improvements
23 whether the granting of the area variance
24 to allow for the proposed improvement will
25 have an adverse effect on the condition of

1 the physical or environmental conditions in
2 the neighborhood or district.

3 There will be no adverse
4 environmental or physical impact on the
5 premises because there will be no external
6 alteration of the premises. Other than
7 being one parking space short of code, the
8 premises will otherwise comply with all
9 other aspects of building, housing,
10 environmental, and safety codes.

11 5. Whether the alleged difficulty
12 was self-created, consideration shall be
13 relevant to the decision of the Zoning
14 Board of Appeals but shall not necessarily
15 preclude the granting of the area variance.

16 While the hardship is self-created,
17 it will benefit the applicant for value,
18 safety, and usability. Furthermore, the
19 self-created hardship rule is merely a
20 consideration and does not necessarily bar
21 the granting of a variance.

22 Mr. Chairman, in granting this
23 request for improvement to a nonconforming
24 use, the Board imposes the following
25 conditions:

1 1. All health, safety, fire,
2 building, and environmental codes shall
3 always be adhered to by the applicant.

4 2. All curbs and sidewalks abutting
5 the property that needs repairing or
6 replacement as per the City of Yonkers
7 Department of Engineering then the repair
8 or replacement must be done before the
9 occupancy.

10 3. That if any back real estate
11 taxes and/or fines if owned, be paid in
12 full within 60 days of this hearing, and
13 proof must be submitted to this Board.

14 4. These conditions shall be on the
15 certificate of occupancy, and the applicant
16 and/or property owner shall permit
17 inspections at the discretion of the City's
18 Department of Housing and Buildings, at
19 least once every calendar year, to
20 determine that the conditions are being
21 satisfied.

22 5. There will be fire/Carbon
23 monoxide and smoke detectors on the
24 premises hooked up outside 24 hours.
25 Monitoring systems such as ADT before the

1 occupancy.

2 6. Should the applicant and/or
3 property owner not comply with, breach, or
4 violate any of these conditions, at any
5 time, the approval of these variances is
6 hereby rescinded. It authorizes the City's
7 Department of Housing and Building to take
8 appropriate action.

9 7. All expenses associated with
10 these conditions shall be the sole
11 responsibility of the applicant and/or
12 property owner.

13 8. There will be no boarding house
14 or in-law setup allowed.

15 9. Use of the existing garage shall
16 be restricted to the parking of an
17 automobile with no conversion allowed.

18 10. There will be paved driveway
19 for Clark Street to end of the house before
20 occupancy.

21 Thank you, Mr. Chairman.

22 THE CHAIRMAN: You have no business
23 allowed?

24 MR. SINGH: I'm sorry?

25 THE CHAIRMAN: No business allowed?

1 It's in there?

2 MR. SINGH: No, it is not.

3 THE CHAIRMAN: Okay. Ms. Lynnette,
4 no businesses allowed.

5 Okay. Do I have a second on the
6 motion?

7 MS. KIMBALL: (Indicated.)

8 THE CHAIRMAN: Ms. Kimball on the
9 motion. Mr. Battista.

10 MR. BATTISTA: For the motion.

11 THE CHAIRMAN: Ms. Kimball.

12 MS. KIMBALL: For the motion.

13 THE CHAIRMAN: Mr. Giorgio.

14 MR. GIORGIO: For the motion.

15 THE CHAIRMAN: Mr. Landsman.

16 MR. LANDSMAN: For the motion.

17 THE CHAIRMAN: Mr. Singh.

18 MR. SINGH: For the motion.

19 THE CHAIRMAN: Mr. Lopez.

20 MR. LOPEZ: For the motion.

21 THE CHAIRMAN: Chairman votes for
22 the motion.

23 We got a couple of things to take up
24 then we're out of here.

25 St. Joseph's is asking for an

1 extension. I'm going to make them pay the
2 money, \$750. It's case 5606, it's 35 Vark
3 Street, Block 493, Lot 65. I'm going to
4 make a motion we give them one-year's
5 extension, September 25, 2021, to September
6 24, 2021. Do I have a second?

7 MR. BATTISTA: Second.

8 THE CHAIRMAN: Okay. Everybody in
9 favor say aye.

10 (A chorus of ayes.)

11 THE CHAIRMAN: Anybody say no?
12 Okay. That's carried 7-0.

13 Now, we have one that was, oh, we
14 gotta get this done. Okay. Mr. Veneruso.
15 Mr. Accinelli. They paid the \$750 for each
16 property, 69 Ravine street, 76 Point
17 Street, 56 Ravine Avenue, 78 Ravine Avenue,
18 50 Point Street. Case number 5698, 99, 97,
19 5710, 5711. I'm going to make a motion
20 that we give them a year's extension from
21 August 18 2021, to August 17, 2022. Like I
22 said they paid the 750 for each property.
23 Do I have second?

24 MR. SINGH: Second.

25 THE CHAIRMAN: Okay. Everybody in

1 favor say aye.

2 (A chorus of ayes.)

3 THE CHAIRMAN: Anybody opposed?

4 Okay.

5 Make a motion to adjourn.

6 MS. KIMBALL: (Indicated.)

7 THE CHAIRMAN: Thank you.

8 (Time Noted: 6:51 p.m.)

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CERTIFICATION

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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